Northern India Chartered Accountants Students' Association

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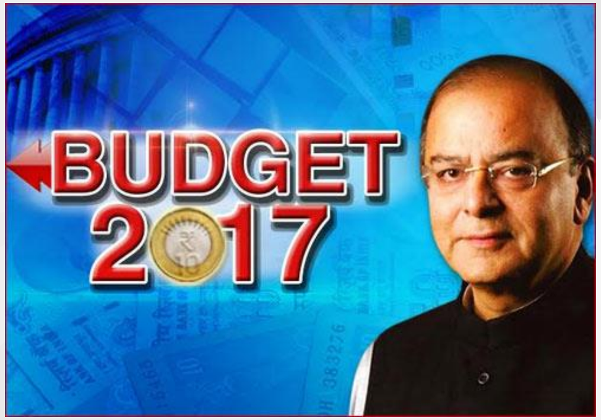
NIRC of the ICAI

SEMINAR ON DIRECT TAX PROPOSALS IN FINANCE BILL, 2017

05-02-2017



Presented by

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WHY UNION BUDGET 2017 WAS UNIQUE ?

- Merger of Rail Budget and General Budget
- Budget presented on 1st of February
- First budget after demonetisation
- Last budget before implementation of GST

DIRECT TAX PROPOSALS
IN
FINANCE BILL, 2017

TAX RATES

- **Tax rates reduced from 10% to 5%**

  [Applicable for Assessment Year 2018-19]

  - Tax rates for the lowest slab of Rs. 2,50,000 to Rs. 5,00,000 reduced from existing 10% to 5%.

- **Sec 87A Rebate amended; Quantum and Threshold revised**

  [Applicable from Assessment Year 2018-19]

  - Proposal to reduce the rebate from Rs. 5000/- to Rs. 2500/-.
  - Rebate only if income of resident individual does not exceed Rs. 3,50,000/- (Earlier the limit was Rs.5 lakhs)

- **Surcharge on income above Rs. 50 lakhs**

  [Applicable for Assessment Year 2018-19]

  - 10% Surcharge on Individual/HUF – Income in excess of Rs. 50 lakhs

TAX RATES

- **<u>Domestic Company Tax Rate</u>**

  [Applicable for Assessment Year 2018-19]

  - Tax Rate reduced from 30% to is 25%
    - If turnover or gross receipt doesn’t exceed Rs. 50 crore
    - In the previous year 2015-16

- **<u>Sec. 115BBDA - Dividend exceeding Rs. 10 lakhs</u>**

  [Applicable from Assessment Year 2018-19]

  - Sec. 115BBDA to apply to all resident assessees except domestic company and specified trust/institutions
  - Until now applicable only in case of a resident individual, HUF or firm
  - Therefore, AOP, BOI and Artificial Jusidical persons to be covered

INCOME FROM HOUSE PROPERTY

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- **Sec 71 - Set-off of losses from HP in a year restricted to 2 lakhs**

  [Applicable from Assessment Year 2018-19]

  - Proposed to restrict the set-off of loss under the head ‘Income from HP’, in any assessment year against any other income, up to Rs 2,00,000.
  - The unabsorbed loss to be carried forward for set-off in subsequent years.

- **Sec 23 - No Notional income for house property held as stock-in-trade**

  [Applicable from Assessment Year 2018-19]

  - Proposed to amend the Sec. 23 (dealing with determination of ALV) to provide exemption to property held as stock in trade from provisions requiring the treatment of second house as “deemed to be let out property”.
  - The benefit available - Up to 1 year from the end of the FY in which the certificate of completion of construction of the property is obtained from the competent authority.

INCOME FROM PGBP

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- **Sec 40A(3) - Reduced threshold limit for cash payments**

  [Applicable from Assessment Year 2018-19]

  - The current threshold limit under Section 40A(3) for making cash payment is proposed to be reduced from Rs. 20,000 to Rs. 10,000.

- **Sec 43 and 35AD - No cash payments for capital expenditure**

  [Applicable from Assessment Year 2018-19]

  - Currently no provision in the Act to disallow the capital expenditure incurred in cash.
  - Therefore, it is proposed that cash payments of capital expenditure above Rs. 10,000 shall not be considered to determine actual cost of asset under Section 43(1).
  - Similarly, no deductions shall be available under section 35AD for any capital expenditure in cash in excess of Rs. 10,000.

INCOME FROM PGBP

- **Sec 44AD - Tax Incentive for digital payments**
  [Applicable from Assessment Year 2017-18]

  - Income deemed at 6% of amount received through A/c payee cheque or draft or ECS
  - Amount should be received during
    - the previous year or
    - before the due date for filing of return of income u/s 139(1)

  - Income deemed at 8% of amount received by way of any other mode.

- **Section 44AA - Increase in threshold limit of maintenance of books**
  [Applicable from Assessment Year 2018-19]

  - Proposed to increase monetary limits for maintenance of books of accounts in case of every person carrying on any business or profession (other than specified professions)

    - Income – From Rs.1,20,000 to Rs. 2,50,000
    - Total sales/turnover - From Rs. 10 lakhs to Rs. 25 lakhs

INCOME FROM PGBP

- **Sec 44AB - Increase in threshold limit for audit for assessees opting for presumptive taxation**

  [Applicable from Assessment Year 2017-18]

  - Proposed that an eligible person opting for presumptive taxation scheme as per section 44AD(1) shall not be required to get his accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed two crore rupees.

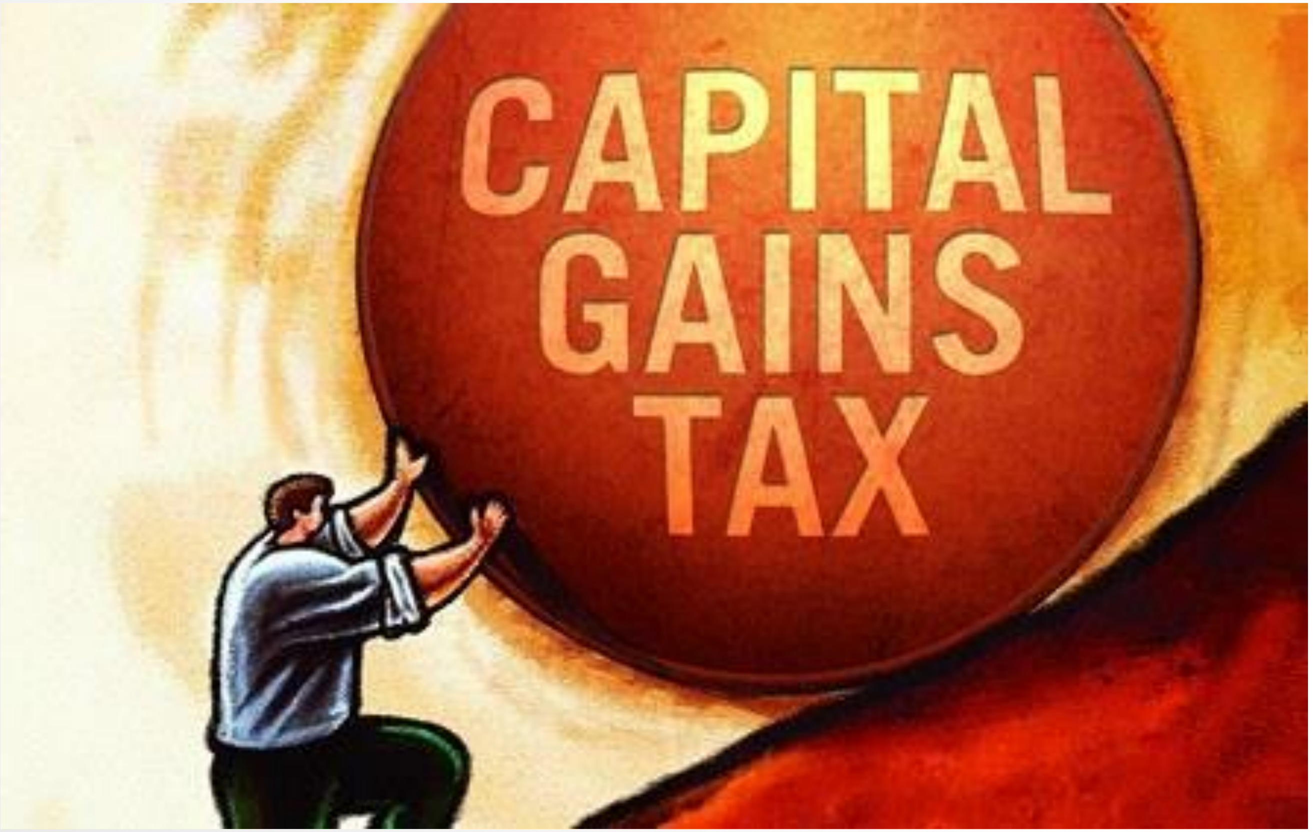
- **Sec 115JAA & 115JD - Increase in time limit to carry forward MAT and AMT credit**

  [Applicable from Assessment Year 2018-19]

  - Proposed to extend time period for carry forward of MAT credit from 10 to 15 AYs.

  - Similarly, proposed to extend time period for carry forward of AMT credit from 10 to 15 AYs

INCOME FROM CAPITAL GAIN



INCOME FROM CAPITAL GAIN

- **<u>Sec 48 and 55 - Shifting base year from 1981 to 2001 for Indexation</u>**

  [Applicable from Assessment Year 2018-19]

  - As per existing provision, capital gain for assets acquired before 01.04.1981, the assessee is allowed to take either the FMV of the asset as on 01.04.1981 or the actual cost of the asset as cost of acquisition.

  - As the base year for computing the indexed cost has become 36 years old and assessee are facing genuine difficulties due to non-availability of relevant information for computation of FMV) of such asset as on 01.04.1981.

  - Base year is now shifted from 1981 to 2001.

  - In other words, COA of an asset acquired before 01.04.2001 shall be allowed to be taken as FMV as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.

INCOME FROM CAPITAL GAIN

- **Sec 2(42A) - Immovable property held for 24 months is a long-term capital asset**

  [Applicable from Assessment Year 2018-19]

  - It is proposed that the period of holding of an immovable property, to qualify as long-term capital asset, shall be reduced from existing 36 months to 24 months.

- **Sec. 10(38) exemption only if share purchase suffered STT**

  [Applicable from Assessment Year 2018-19]

  - Proposed to restrict section 10(38) exemption only for income from transfer of equity share acquired or on after 01-10-2004 only if the acquisition of share is chargeable to STT.
  - However, exemption shall continue in genuine cases where the STT could not have been paid (Govt. to notify these cases)
  - Some egs - acquisition of share in IPO, FPO, bonus or right issue by a listed company, acquisition by non-resident in accordance with FDI policy, etc.

INCOME FROM CAPITAL GAIN

- **Sec 45(5A) - Taxability in case of Joint Development Agreements**

  [Applicable from Assessment Year 2018-19]

  - Sec. 45(5A) inserted to provide that cap gain tax in case individual / HUF who enters into a JDA/ specified agreement
  - Capital gains chargeable to tax in year in which certificate of completion for the whole or part of the project is issued by the competent authority.
  - Full Value of Consideration = Stamp duty value property transferred

    (plus) Monetary consideration received, if any
  - Cost of Acquisition for buyer = Full Value of Consideration computed above
  - Sec 45(5A) shall not apply if transfer on or before the date of issue of certificate of completion.
  - Sec. 194IC to be inserted to provide TDS at 10% on monetary consideration payable under JDA

INCOME FROM CAPITAL GAIN

- **Sec 47 - No capital gains on conversion of preference shares into equity**

  [Applicable from Assessment Year 2018-19]

  - It is proposed that conversion of preference share of a company into equity share of that company shall not be regarded as transfer
  - Corresponding amendments in section 49 and section 2(42A) in respect of cost of acquisition and period of holding for such converted equity shares..

- **Sec. 50CA – Unquoted shares taxable at fair market value**

  [Applicable from Assessment Year 2018-19]

  - Section 50CA inserted to provide that where the consideration declared for transfer of unquoted shares of a company is less than the Fair Market Value of such share, the FMV of such shares shall be deemed to be the Full Value of Consideration for the purpose of computing the capital gains.

INCOME FROM CAPITAL GAIN

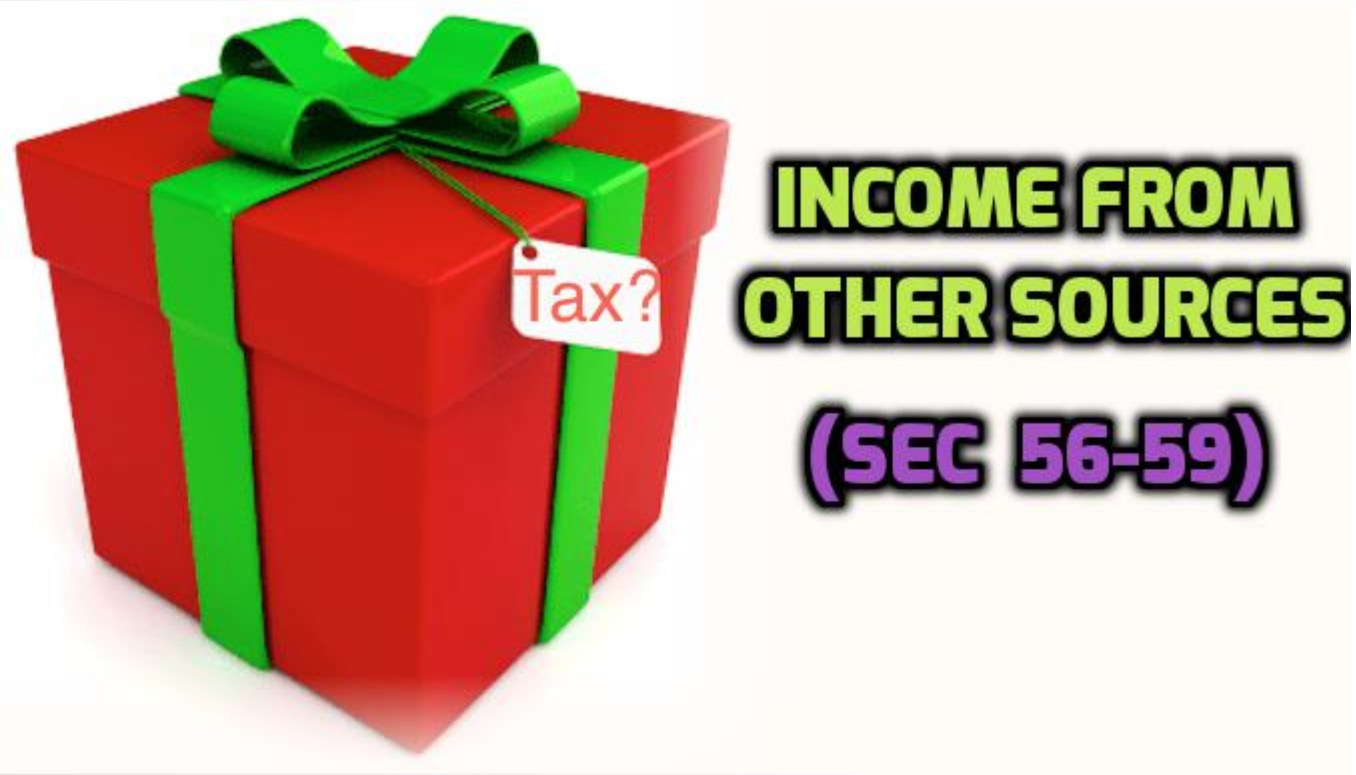
- **Sec 54EC - Scope expanded**

  [Applicable from Assessment Year 2018-19]

  - The existing section 54EC allows exemptions to the extent of Rs. 50 lakhs in respect of long-term capital gain invested in in bonds issued by NHAI or RECL.

  - It is proposed that investment in any notified bonds which are redeemable after three years shall also be eligible for this exemption.

INCOME FROM OTHER SOURCES



INCOME FROM OTHER SOURCES

- **Sec 56 – Gifts taxable in hands of every person not only individual or HUF**

  [Applicable from Assessment Year 2017-18]

  - Sec. 56(2)(vii) and sec. 56(2)(viia) shall not apply from AY 2017-18
  - Sec 56(2)(x) inserted so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources".

- **Sec 58 - Disallowance for TDS default in case of income from other sources**

  [Applicable from Assessment Year 2018-19]

  - Proposed to amend Sec 58 to provide that provisions of section 40(a)(ia) shall, so far as they may be, apply in computing income chargeable under the head "income from other sources" as they apply in computing income chargeable under the head "Profit and gains of business or Profession".

DEDUCTIONS & EXEMPTIONS

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- **Sec 80G - Restricting cash donations**

  [Applicable from Assessment Year 2018-19]

  - Currently, no deduction is allowed for the cash donations in excess of Rs. 10,000.
  - This threshold limit is proposed to be reduced to Rs. 2,000.

- **Sec 80CCG - Deducation under Rajiv Gandhi Equity Saving Scheme (RGESS) withdrawn**

  [Applicable from Assessment Year 2018-19]

  - No deduction under section 80CCG shall be allowed from assessment year 2018-19.
  - However, an assessee who has claimed deduction under this section for assessment year 2017-18 and earlier assessment years shall be allowed to claim deduction under this section as per the provision of this section

DEDUCTIONS & EXEMPTIONS

- **Sec 80-IAC - Extending the period for claiming deduction by start-ups**

  [Applicable from Assessment Year 2018-19]

  - Currently, 100% deductaion available in respect of income derived by eligible start-up for three consecutive assessment years out of five years
  - It is proposed that this deduction can be claimed by an eligible start-up for any three consecutive assessment years out of seven years beginning from the year in which such eligible start-up is incorporated.

- **Sec 10(12B) - Tax-exemption to partial withdrawal from National Pension System (NPS) up to 25%**

  [Applicable from Assessment Year 2018-19]

  - Sec 10(12A) amended to provide that tax exemption for NPS withdrawal extended to cover partial withdrawal not exceeding 25% of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund Regulatory and Development Authority Act, 2013.

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RESTRICTING CASH

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- **<u>Sec. 269ST & 271DA - Transaction in cash above Rs. 3 lakhs is prohibited</u>** [Applicable from Assessment Year <u>2017-18</u>]

  - Sec. 269ST inserted to provide that no person shall receive an amount of Rs. 3 lakhs or more,

    (i) in aggregate from a person in a day, or

    (ii) in respect of a single transaction, or

    (iii) in respect of transactions relating to one event or occasion from a person;

    in cash.
  - This restriction shall not apply to
    - Government,
    - any banking company, post office savings bank or co-operative bank.
    - Such other persons or class of persons or receipts may be notified by the Central Government
    - Transactions of the nature referred to in Sec. 269SS
  - Sec. 271DA to be inserted to provide for levy of penalty on a person who receives a sum in contravention of Sec.269ST.
  - Penalty is proposed to be a sum equal to the amount of such receipt.
  - The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention.
  - It is also proposed that any such penalty shall be levied by the JCIT.
  - Retrospective levy of penalty - Whether possible ?

RESTRICTING CASH

- **<u>Sec 13A - Transparency in funding to political parties</u>**
  [Applicable from Assessment Year 2018-19]

  - Section 13A provides tax exemption to registered political parties.

  - In order to discourage cash transactions and bring transparency in source of funding of political parties, additional conditions have been proposed for claiming tax exemptions, which are as under:

    (a) No donations in excess of Rs. 2,000 shall be received by the political parties in cash.

    (b) Political parties shall furnish the return of income in accordance with provisions of Section 139(4B).

TDS / TCS

TDS / TCS

- **<u>Sec 194-IB - TDS on Rent by individual/HUF (other than those covered u/s 44AB)</u>**

  [Applicable from <u>01-06-2017</u>]

  - Section 194-IB is proposed to be inserted to provide that every individual or HUF (not liable to tax audit under Section 44AB) paying monthly rent above Rs. 50,000 shall now be liable to deduct tax at the rate of 5%.

  - Tax shall be deducted at the time of
    - making payment or
    - at the time of credit of rent to the account of landlord,

    for the last month of the previous year or the last month of tenancy (if property is vacated during the year), whichever is earlier.

  - In order to reduce the compliance burden, the tenants shall not be required to obtain TAN.

  - Where PAN of the landlord is not available, the tax required to be deducted as per Section 206AA shall not exceed the amount of rent payable for the last month of the previous year or the last month of the tenancy.

TDS / TCS

- **<u>Sec 197A - Exemption from TDS on insurance commission</u>**
  [Applicable from <u>01-06-2017</u>]

  - In order to reduce compliance burden in the case of Individuals and HUFs, it is proposed to amend Section 197A so as to allow the agent to file Form. No. 15G/15H to receive the insurance commission without deduction of tax at source.

- **<u>Section 194J - Lower TDS from payment to call center</u>**
  [Applicable from <u>01-06-2017</u>]

  - TDS rate has been proposed to be reduced from 10% to 2%.

- **<u>Section 206CC - Furnishing of PAN in TCS</u>**
  [Applicable from Assessment Year 2017-18]
  - Where TCS applicable and payer fails to furnish, tax shall be collected at higher of
    - twice of the specified rate or
    - 5%.

INCOME TAX RETURN / REFUND

INCOME TAX RETURN / REFUND

- **Sec 234F - Fees for delay in filing of return**

  [Applicable from Assessment Year 2018-19]

  - Sec 234F introduced to levy fee on delay in filing of return which shall be-
    - Delay upto 31 December – Rs. 5,000
    - Delay beyond 31 December – Rs. 10,000
  - However, where total income does not exceed Rs. 5,00,000 – Rs. 1,000
- **Sec 139(5) - Time limit for filing revised return reduced by one year**

  [Applicable from Assessment Year 2018-19]

  - Time for furnishing of revised return reduced up to the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

INCOME TAX RETURN / REFUND

- **Sec 244A - Interest on refund due to deductor**

  [Applicable from Assessment Year 2017-18]

  - Currently, no interest is paid to the deductor if he inadvertently deducts and deposits the excess TDS.
  - Therefore, it is proposed that, where refund is due to a deductor, he shall be entitled to receive simple interest on such refund, calculated at the rate of 0.5% per month or part of the month, for the period beginning from the date on which claim is made and ending on the date on which refund is granted.
  - In case of an appeal, the interest shall be payable for the period beginning from the date on which tax is paid and ending on the date on which refund is granted.

ASSESSMENT / SEARCH

ASSESSMENT / SEARCH

- **Sections 143 and 241A - Processing of return is mandatory**

  [Applicable from Assessment Year 2017-18]

  - Section 143(1D) which provides processing of return shall not be necessary in case a notice is issued under section 143(2) for scrutiny assessment removed
  - Section 241A inserted to authorize the Assessing Officer to withhold the payment of refund amount, if such grant of refund may adversely affect the recovery of revenue.

- **Sections 150 of Finance Act, 2017 and section 153A and 153C**

  [Applicable from 01-06-2016]

  - Section 197(c) of the Finance Act, 2016 provided that where any income has accrued, arisen or been received or any asset has been acquired out of such income prior to commencement of the Income Declaration Scheme, 2016 (the Scheme), and no declaration in respect of such income is made under IDS, then, such income shall be deemed to have accrued, arisen or received, as the case may be, in the year in which a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or section 148 or section 153A or section 153C of the Income-tax Act is issued by the Assessing Officer.
  - IT is proposed to delete Sec 197 (c) to avoid hardship to assessee.

ASSESSMENT / SEARCH

- **Section 153A and 153C - and seizure beyond 6 year**

  [Applicable from Assessment Year 2017-18]

  - Section 153A relating to search assessments is proposed to be amended to provide that notice can be issued for an assessment year or years beyond 6th assessment year but up to 10th assessment year if:

    (a)Assessing Officer has evidences to reveal that the income which has escaped assessment exceeds Rs. 50 lakh in one year or in aggregate in the relevant 4 assessment years (falling beyond the 6th year);

    (b) such income escaping assessment is represented in the form of asset;

    (c) the income escaping assessment or part thereof relates to such year or years

  - It is also proposed to consequentially amend section 153C to provide a reference to the relevant assessment year or years as referred to in section 153A.

ASSESSMENT / SEARCH

Time period for completion of assessment

Section	Particulars	Applicable from	Time limit
139(5)	Time limit for furnishing revised return	Assessment year 2018-19 and onwards	Up to the end of the relevant assessment year or before the completion of assessment, whichever is earlier
153(1)	Time limit for making assessment under section 143 or 144	Assessment year 2017-18 or before	21 months from the end of the assessment year in which the income was first assessable.
		Assessment year 2018-19	18 months from the end of the assessment year in which the income was first assessable.
		Assessment year 2019-20 and onwards	12 months from the end of the assessment year in which the income was first assessable.
153(2)	Time limit for making assessment under section 147	Assessment year 2017-18 and onwards	9 months from the end of the financial year in which the notice under section 148 was served (if notice is served before 01-04-2019)
		Assessment year 2017-18 and onwards	12 months from the end of the financial year in which notice under section 148 is served (if notice is served on or after 01-04-2019)

ASSESSMENT / SEARCH

Time period for completion of assessment

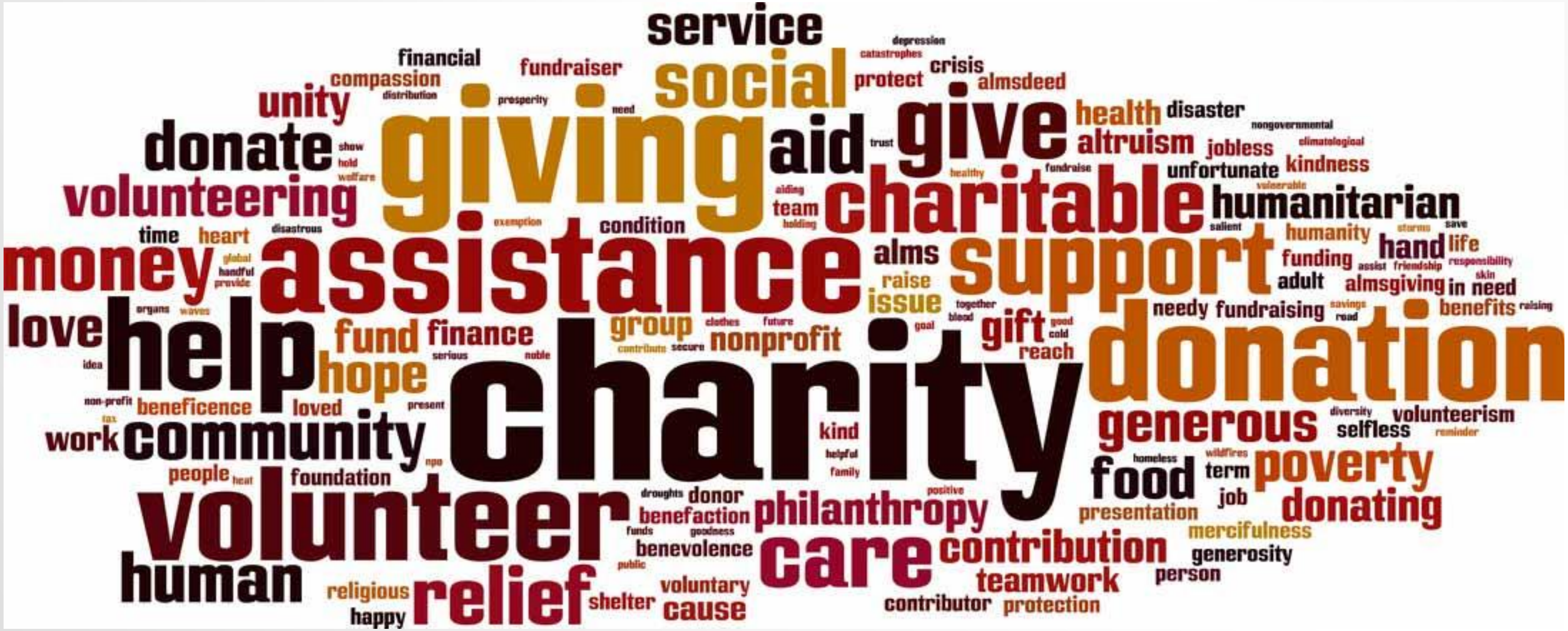
153(3)	Time limit for making a fresh assessment in pursuance of an order passed under section 254 or 263 or 264	Assessment year 2017-18 and onwards	9 months from the end of the financial year in which order under section 254 is received or order under section 263 or 264 is passed by the authority (if order is passed before financial year 2019-20)
		Assessment year 2017-18 and onwards	12 months from the end of the financial year in which order under section 254 is received or order under section 263 or 264 is passed by the authority (if order is passed on or after financial year 2019-20)
153(5)	Time limit for making fresh assessment where an order under section 250 or 254 or 260 or 262 or 263 or 264 requires verification of any issue by way of submission of any document or where an opportunity of being heard is to be provided to the assessee.	With effect from the 1st day of June, 2016	Order shall be made within the time specified in 153(3)

ASSESSMENT / SEARCH

Time period for completion of assessment

153B	Time limit for completion of assessment in case of search or requisition	Assessment year 2017-18 and onwards	21 months from end of the financial year in which last of authorisations for search or requisition under section 132A was executed (if search conducted in the financial year 2017-18 or before).
		Assessment year 2017-18 and onwards	18 months from end of the financial year in which last of authorisations for search or requisition under section 132A was executed (if search conducted in the financial year 2018-19).
		Assessment year 2017-18 and onwards	12 months from end of the financial year in which last of authorisations for search or requisition under section 132A was executed (if search conducted in the financial year 2019-20 or onwards).
	Time limit for assessment or reassessment in case of other person referred to in section 153C.	Assessment year 2017-18 and onwards	Period available to make assessment or reassessment in case of person on whom search is conducted or 9 months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over, whichever is later (if search is conducted in financial year 2017-18 or before)
		Assessment year 2017-18 and onwards	Period available to make assessment or reassessment in case of person on whom search is conducted or 12 months from the end of the financial year in which books of account or documents or assets seized or requisitioned are handed over, whichever is later (if search is conducted in financial year 2018-19 or after)

SOCIETY / TRUST



SOCIETY / TRUST

- **Section 11 - No exemption for corpus donation by exempt entities to other exempt entities**

  [Applicable from Assessment Year 2018-19]

  - A new Explanation is proposed to be inserted in section 11 to provide that any corpus donation made by a charitable institution to another charitable institution shall not be treated as application of income.
  - Similar amendment are proposed for large religious trust, charitable trust, educational university and hospitals registered under section 10(23C).

- **Sec 12A – Filing of return mandatory**

  [Applicable from Assessment Year 2018-19]

  - Return filing is proposed to be made mandatory for the trust registered under sections 12AA to claim benefits of section 11 and 12.

PENALTY ON CA

- **<u>Section 271J - Penalty on professionals for furnishing incorrect reports or certificates</u>**

  [Applicable from Assessment Year 2017-18]

  - It is proposed to insert a new Sec 271J so as to provide that if an accountant or a merchant banker or a registered valuer, furnishes
    - incorrect information in a report or
    - certificate

    under any provisions of the Act or the rules made thereunder, the AO or the CIT (Appeals) may direct him to pay a sum of Rs. 10,000 for each such report or certificate by way of penalty.

  - However, immunity from penalty shall be available u/s 273B, if the person proves that there was reasonable cause for the failure.

SOME OTHER CHANGES

- Sec 92BA - Domestic Transfer Pricing not applicable in in case of sec 40A(2)(b) transactions
- Sec 155 - Foreign tax credit in cases of disputes
- Sec 211 and 234C – Advance Tax on professionals covered under section 44ADA
- Sec 132 and 132A - Reason to believe to conduct a search not to be disclosed
- Sec 36(1)(viia) - Deduction limit in respect of provision for bad and doubtful debts available to banks increased from 7.5% to 8.5%
- Sec 115JB - MAT applicability on cos. preparing financials under IND-AS
- Sec 115BBG - Income from transfer of Carbon credits taxable at the concessional rate of 10%

SOME OTHER CHANGES

- Sec 132 (9A),(9B) & (9D) - Power of provisional attachment and to make reference to Valuation Officer to authorized officer
- Sec 133 -Power to call for information u/s 133 extended to Joint /Deputy/Assistant Director
- Sec 133A - Power to survey extended to include any place, at which an activity for charitable purpose is carried on.
- Sec 79 - Loss carry forward restriction u/s 79 due to shareholding change rationalized for startups

THANK YOU

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