

**PROFESSIONAL PROGRAMME**

**SUPPLEMENT**

**FOR**

**ADVANCED TAX LAWS AND PRACTICE**

**(DIRECT TAX)**

**(Relevant for Students appearing in June, 2019 Examination)**

**MODULE 3- PAPER 7**

*Disclaimer-*

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**Students appearing in June, 2019 Examination shall note the following:**

- 1. For Direct taxes, Finance Act, 2018 is applicable.*
- 2. Applicable Assessment year is 2019-20 (Previous Year 2018-19).*
- 3. For Indirect Taxes: Goods and Services Tax 'GST' & Customs Law is applicable for Professional Programme (Old Syllabus)*
- 4. Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before six months prior to the date of the examination.*

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## PART I – DIRECT TAXATION

### INCOME TAX ACT, 1961 & RULES 1962

#### CIRCULARS

**CIRCULAR NO. 1/2018 DATED: 10TH JANUARY, 2018**

#### **PROCESSING OF INCOME TAX RETURNS UNDER SECTION 143(1) OF THE INCOME-TAX ACT WHICH WERE FILED IN FORMS ITR-L TO 6 & APPLICABILITY OF SECTION 143(1)(A)(VI)**

As per section 143(1)(vi)(a) of the Income-tax Act, 1961 ('Act') introduced vide Finance Act, 2016, w.e.f. 01.04.2017 prescribes that the total income or loss shall be computed after making adjustment for addition of income appearing in Form 26AS or Form 16A or Form 16 (the three Forms) while processing the return of income, which has not been included in computing the total income in the return. In this regard, CBDT has issued Instruction No. 9/2017 dated 11.10. 2017 & 10/2017 dated 15.11.2017 for identification of instances in which section 143(1)(a)(vi) of the Act may be invoked by CPC-ITR, Bengaluru on the basis of information contained in the ITR Forms 1 to 6.

As intimations proposing adjustments in identified returns under section 143(1)(a)(vi) of the Act would be shortly issued by the CPC-ITR, Bengaluru, the process to be followed by the taxpayers for filing the response is as under:

Since section 143(1)(a)(vi) of the Act is being applied for the first time while processing the returns, it has been decided that before issuing an intimation of the proposed adjustment, initially an awareness campaign would be carried out to draw the attention of the taxpayer to such differences. This would be in form of an e-mail and SMS communication to the concerned taxpayer informing him about the variation in the tax-return vis-a-vis the information available in the three Forms and requesting him to submit response to the variation within one month of receiving the communication electronically. In case the taxpayer does not respond within the available time-frame or the response is not satisfactory, a formal intimation u/s 143(1)(a)(vi) proposing adjustment to the returned income would be issued to him.

As per the second proviso to section 143(1)(a)(vi) of the Act, in a case where no response is received from the taxpayer within thirty days of issue of such an intimation, the proposed adjustment shall be made to the returned income. Therefore, it is of utmost necessity that the concerned taxpayer files a prompt, timely and satisfactory response to the awareness campaign or subsequent intimation proposing adjustment u/s 143(1)(a)(vi) of the Act.

The manner for furnishing response by the taxpayer is as under:

For furnishing the response electronically, taxpayer is required to login in his account in the e-filing site and choose the option (View>Returns/Forms). In a case where communication/intimation has been issued to the taxpayer u/s 143(1)(a)(vi) of the Act, the status will be displayed in the dashboard as 'Response to Communication/Intimation u/s 143(1)(a) is pending'. The taxpayer can click on the same and submit his response.

The scenario for furnishing response are as under:

I. If the taxpayer fully agrees with the proposed adjustment, he is required to file a revised return in

response.

II. If the taxpayer partially agrees with the proposed adjustment, he is required to

- (i) file a revised return for the part of the proposed adjustment with which he is in agreement &
- (ii) file a reconciliation statement (in the format to be provided by CPC-ITR on the e-filing site) for the part of the proposed adjustment with which he is not in agreement.

III. If the taxpayer disagrees with the proposed adjustment, he is required to file a reconciliation statement (in the format to be provided by CPC-ITR on the e-filing site) in support of his contention.

Based upon response of the taxpayer and the information so available with the CPC-ITR, thereafter, such returns shall be taken up for processing by CPC-ITR as per provisions of section(s) 143(1), 143(1)(a)(vi) read with Instruction No.9 & 10/2017 of CBDT.

**CIRCULAR NO. 2/2018 DATED: 15TH FEBRUARY, 2018**

**EXPLANATORY NOTES TO THE PROVISIONS OF THE FINANCE ACT, 2017**

For details please refer: [https://www.incometaxindia.gov.in/communications/circular/circular2\\_2018.pdf](https://www.incometaxindia.gov.in/communications/circular/circular2_2018.pdf)

**CIRCULAR NO. 3/2018 DATED: 11TH JULY, 2018**

**REVISION OF MONETARY LIMITS FOR FILING OF APPEALS BY THE DEPARTMENT BEFORE INCOME TAX APPELLATE TRIBUNAL, HIGH COURTS AND SLPs/APPEALS BEFORE SUPREME COURT-MEASURES FOR REDUCING LITIGATION**

Reference is invited to Board's Circular No. 21 of 2015 dated 10.12.2015 wherein monetary limits and other conditions for filing departmental appeals (in Income-tax matters) before Income Tax Appellate Tribunal, High Courts and SLPs/ appeals before Supreme Court were specified.

In supersession of the above Circular, it has been decided by the Board that departmental appeals may be filed on merits before Income Tax Appellate Tribunal and High Courts and SLPs/ appeals before Supreme Court keeping in view the monetary limits and conditions specified below. Henceforth, appeals/ SLPs shall not be filed in cases where the tax effect does not exceed the monetary limits given hereunder:

| S. No. | Appeals/ SLPs in Income-tax | Monetary Limit (Rs.) |
|--------|-----------------------------|----------------------|
| 1.     | Before Appellate Tribunal   | 20,00,000            |
| 2.     | Before High Court           | 50,00,000            |
| 3.     | Before Supreme Court        | 1,00,00,000          |

It is clarified that an appeal should not be filed merely because the tax effect in a case exceeds the monetary limits prescribed above. Filing of appeal in such cases is to be decided on merits of the case.

For this purpose, 'tax effect' means the difference between the tax on the total income assessed and the tax that would have been chargeable had such total income been reduced by the amount of income in respect of the issues against which appeal is intended to be filed (hereinafter referred to as 'disputed issues') Further, 'tax effect' shall be tax including applicable surcharge and cess. However, the tax will not include any interest thereon, except where chargeability of interest itself is in dispute. In case the chargeability of interest is the issue under dispute, the amount of interest shall be the tax effect. In cases where returned

loss is reduced or assessed as income, the tax effect would include notional tax on disputed additions. In case of penalty orders, the tax effect will mean quantum of penalty deleted or reduced in the order to be appealed against.

The Assessing Officer shall calculate the tax effect separately for every assessment year in respect of the disputed issues in the case of every assessee. If, in the case of an assessee, the disputed issues arise in more than one assessment year, appeal can be filed in respect of such assessment year or years in which the tax effect in respect of the disputed issues exceeds the monetary limit specified in para 3. No appeal shall be filed in respect of an assessment year or years in which the tax effect is less than the monetary limit specified in para 3. In other words, henceforth, appeals can be filed only with reference to the tax effect in the relevant assessment year. However, in case of a composite order of any High Court or appellate authority, which involves more than one assessment year and common issues in more than one assessment year, appeals shall be filed in respect of all such assessment years even if the tax effect is less than the prescribed monetary limits in any of the year(s), if it is decided to file appeal in respect of the year(s) in which tax effect exceeds the monetary limit prescribed. In case where a composite order / judgement involves more than one assessee, each assessee shall be dealt with separately.

Further, where income is computed under the provisions of section 115JB or section 115JC, for the purposes of determination of 'tax effect', tax on the total income assessed shall be computed as per the following formula:

$(A - B) + (C - D)$  where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of the disputed issues under general provisions;

C = the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = the total income that would have been chargeable had the total Income assessed as per the provisions contained in section 115JB or section 115JC was reduced by the amount of disputed issues under the said provisions:

However, where the amount of disputed issues is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.

In a case where appeal before a Tribunal or a Court is not filed only on account of the tax effect being less than the monetary limit specified above, the Pro Commissioner of Income-tax/ Commissioner of Income Tax shall specifically record that "even though the decision is not acceptable, appeal is not being filed only on the consideration that the tax effect is less than the monetary limit specified in this Circular". Further, in such cases, there will be no presumption that the Income-tax Department has acquiesced in the decision on the disputed issues. The Income-tax Department shall not be precluded from filing an appeal against the disputed issues in the case of the same assessee for any other assessment year, or in the case of any other assessee for the same or any other assessment year, if the tax effect exceeds the specified monetary limits.

In the past, a number of instances have come to the notice of the Board, whereby an assessee has claimed relief from the Tribunal or the Court only on the ground that the Department has implicitly accepted the

decision of the Tribunal or Court in the case of the assessee for any other assessment year or in the case of any other assessee for the same or any other assessment year, by not filing an appeal on the same disputed issues. The Departmental representatives/ counsels must make every effort to bring to the notice of the Tribunal or the Court that the appeal in such cases was not filed or not admitted only for the reason of the tax effect being less than the specified monetary limit and, therefore, no inference should be drawn that the decisions rendered therein were acceptable to the Department. Accordingly, they should impress upon the Tribunal or the Court that such cases do not have any precedent value and also bring to the notice of the Tribunal/ Court the provisions of sub section (4) of section 268A of the Income-tax Act, 1961 which read as under :

"(4) The Appellate Tribunal or Court, hearing such appeal or reference, shall have regard to the orders, instructions or directions issued under sub-section (1) and the circumstances under which such appeal or application for reference was filed or not filed in respect of any case."

As the evidence of not filing appeal due to this Circular may have to be produced in courts, the judicial folders in the office of Pr.CsIT / CsIT must be maintained in a systemic manner for easy retrieval.

Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

- (a) Where the Constitutional validity of the provisions of an Act or Rule IS under challenge, or
- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or
- (d) Where the addition relates to undisclosed foreign assets/ bank accounts.

The monetary limits specified in para 3 above shall not apply to writ matters and Direct tax matters other than Income tax. Filing of appeals in other Direct tax matters shall continue to be governed by relevant provisions of statute and rules. Further, in cases where the tax effect is not quantifiable or not involved, such as the case of registration of trusts or institutions under section 12A/ 12AA of the IT Act, 1961 etc., filing of appeal shall not be governed by the limits specified in para 3 above and decision to file appeals in such cases may be taken on merits of a particular case.

It is clarified that the monetary limit of Rs. 20 lakhs for filing appeals before the ITAT would apply equally to cross objections under section 253(4) of the Act. Cross objections below this monetary limit, already filed, should be pursued for dismissal as withdrawn/ not pressed. Filing of cross objections below the monetary limit may not be considered henceforth. Similarly, references to High Courts and SLPs/ appeals before Supreme Court below the monetary limit of Rs. 50 lakhs and Rs. 1 Crore respectively should be pursued for dismissal as withdrawn/ not pressed. References before High Court and SLPs/ appeals below these limits may not be considered henceforth.

This Circular will apply to SLPs/appeals/ cross objections/ references to be filed henceforth in SC/HCs/Tribunal and it shall also apply retrospectively to pending SLPs/ appeals/cross objections/ references. Pending appeals below the specified tax limits in para 3 above may be withdrawn/ not pressed.

**CIRCULAR NO. 4/2018 DATED: 14TH AUGUST, 2018**

**COMPUTATION OF ADMISSIBLE DEDUCTION ULS LOA OF THE INCOME TAX ACT,1961**

As per the provisions of sub-section (4) of section 10A of the Income Tax Act, 1961 (the' Act'), the profits derived from export of articles or things or computer software shall be the amount which bears to the profits of the business of the undertaking, the same proportion as the export turnover in respect of such

articles or things or computer software bears to the total turnover of the business carried on by the undertaking.

Further as per clause (iv) to Explanation 2 to section 10A of the Act, "export turnover" means the consideration in respect of export by the undertaking of articles or things or computer software received in, or brought into, India by the assessee in convertible foreign exchange in accordance with sub-section (3), but does not include freight, telecommunication charges or insurance attributable to the delivery of the articles or things or computer software outside India or expenses, if any, incurred in foreign exchange in providing the technical services outside India.

The issue whether freight, telecommunication charges and insurance expenses are to be excluded from both "export turnover" and "total turnover" while working out deduction admissible under section 10A of the Act on the ground that they are attributable to delivery of articles or things or computer software outside India has been highly contentious. Similarly, the issue whether charges for providing technical services outside India are to be excluded both from "export turnover" and "total turnover" while computing deduction admissible under section 10A of the Act on the ground that such charges are relatable towards expenses incurred in convertible foreign exchange in providing technical services outside India has also been highly contentious.

The controversy has been finally settled by the Hon'ble Supreme Court vide its judgement dated 24.4.2018 in the case of Commissioner of Income Tax, Central-III Vs. M/s HCL Technologies Ltd. 1 While deciding the issue the Apex Court has held as under:

"17) The similar nature of controversy, akin to this case, arose before the Karnataka High Court in CIT vs. Tata Elxsi Ltd (2012) 20-1 TcLY/nan 32111 7. The issue before the Karnataka High Court was whether the Tribunal was correct in holding that while computing relief under Section 10A of the IT Act, the amount of communication expenses should be excluded from the total turnover if the same are reduced from the export turnover.' While giving the answer to the issue, the High Court, inter-alia, held that when a particular word is not defined by the legislature and an ordinary meaning is to be attributed to it, the said ordinary meaning is to be in conformity with the context in which it is used. Hence, what is excluded from 'export turnover' must also be excluded from 'total turnover', since one of the components of 'total turnover' is export turnover. Any other interpretation would run counter to the legislative intent and would be impermissible.

Accordingly the formula for computation of the deduction under Section 10A of the Act would be as follows:

Export Profit = Total Profit of the Business \* Export turnover as defined in Explanation 2(IV) of Section 10A of IT Act / (Export turnover as defined in Explanation 2(IV) of Section 10A of the IT Act + domestic sale proceeds)

In the instant case, if the deductions on freight, telecommunication and insurance attributable to the delivery of computer software under Section 10A of the IT Act are allowed only in Export Turnover but not from the Total Turnover then, it would give rise to inadvertent, unlawful, meaningless and illogical result which would cause grave injustice to the Respondent which could have never been the intention of the legislature.

Even in common parlance, when the object of the formula is to arrive at the profit from export business, expenses excluded from export turnover have to be excluded from total turnover also. Otherwise any other interpretation makes the formula unworkable and absurd. Hence, we are satisfied that such deduction shall be allowed from the total turnover in same proportion as well.



On the issue of expenses on technical services provided outside, we have to follow the same principle of interpretation as followed in the case of expenses of freight, telecommunication etc. otherwise the formula of calculation would be futile. Hence, in the same way, expenses incurred in foreign exchange for providing the technical services outside shall be allowed to exclude from the total turnover. "

The issue has been examined by the Board and it is clarified that freight, telecommunication charges and insurance expenses are to be excluded both from "export turnover" and "total turnover", while working out deduction admissible under section 10A of the Act to the extent they are attributable to the delivery of articles or things or computer software outside India.

Similarly, expenses incurred in foreign exchange for providing the technical services outside India are to be excluded from both "export turnover" and "total turnover" while computing deduction admissible under section 10A of the Act.

Thus, all charges/expenses specified in Explanation 2(iv) to section 10A of the Act, are liable to be excluded from total turnover also for the purpose of computation of deduction u/s 10A of the Act.

**CIRCULAR NO. 5/2018 DATED: 16TH AUGUST, 2018**

**CLARIFICATION ON THE IMMUNITY PROVIDED U/S 270AA OF THE INCOME-TAX ACT, 1961**

Section 270AA of the Income-tax Act, 1961 (the Act) inter alia provides that w.e.f. 1st April, 2017, the Assessing Officer, on an application made by an assessee, may grant immunity from imposition of penalty under section 270A (not being penalty for misreporting) and initiation of proceedings under section 276C or section 276CC, subject to the conditions specified therein.

Apprehensions have been raised that where an assessee makes an application seeking immunity under section 270AA of the Act, and in the earlier year(s) penalty under section 271(1)(c) of the Act has been initiated on the same issue, the Income-tax Authority may contend that the assessee has acquiesced on the issue in such earlier year (s), by seeking immunity under section 270AA of the Act and therefore, take an adverse view in the proceedings for penalty under section 271(1)(c) of the Act.

In this matter, it is hereby clarified that where an assessee makes an application seeking immunity under section 270AA of the Act, it shall not preclude such assessee from contesting the same issue in any earlier assessment year. Further, the Income-tax Authority, shall not take an adverse view in the proceedings for penalty under section 271(1)(c) of the Act in earlier assessment years merely on the ground that the assessee has acquiesced on the issue in any later assessment year by preferring an immunity on such issue under section 270AA of the Act.

**CIRCULAR NO. 6/2018 DATED: 17TH AUGUST, 2018**

**ORDER UNDER SECTION 119 OF THE INCOME-TAX ACT, 1961**

Section 44AB of the Income-tax Act, 1961 ('the Act') read with rule 6G of the Income-tax Rules, 1962 ('the Rules') requires prescribed persons to furnish the Tax Audit Report along with the prescribed particulars in Form No. 3CD. The existing Form No. 3CD was amended vide notification no. GSR 666(E) dated 20th July, 2018 with effect from 20th August, 2018.

Representations have been received by the Board that the implementation of reporting requirements under

the proposed clause 30C (pertaining to General Anti-Avoidance Rules (GAAR) and proposed clause 44 (pertaining to Goods and Services Tax (GST) compliance) of the Form No. 3CD may be deferred.

The matter has been examined and it has been decided by the Board that reporting under the proposed clause 30C and proposed clause 44 of the Tax Audit Report shall be kept in abeyance till 31st March, 2019. Therefore, for Tax Audit Reports to be furnished on or after 20th August, 2018 but before 1st April, 2019, the tax auditors will not be required to furnish details called for under the said clause 30C and clause 44 of the Tax Audit Report.

**CIRCULAR NO. 7/2018 DATED: 20TH AUGUST, 2018**

**AMENDMENT TO PARA 10 OF THE CIRCULAR NO. 3 OF 2018 DATED 11.07.2018**

The monetary limits for filing of appeals by the Department before Income Tax Appellate Tribunal, High Courts and SLPs/appeals before Supreme Court have been revised by Board's Circular No.3 of 2018 dated 11.07.2018.

Para 10 of the said Circular provides that adverse judgments relating to the issues enumerated in the said para should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 thereof or there is no tax effect. Para 10 of the Circular No.3 of 2018 dated 11.07.2018 is hereby amended as under:

10. Adverse judgments relating to the following issues should be contested on merits notwithstanding that the tax effect entailed is less than the monetary limits specified in para 3 above or there is no tax effect:

- (a) Where the Constitutional validity of the provisions of an Act or Rule is under challenge, or
- (b) Where Board's order, Notification, Instruction or Circular has been held to be illegal or ultra vires, or
- (c) Where Revenue Audit objection in the case has been accepted by the Department, or
- (d) Where addition relates to undisclosed foreign income/ undisclosed foreign assets (including financial assets)/ undisclosed foreign bank account.

**INCOME TAX ACT, 1961 & RULES 1962**

**NOTIFICATIONS**

**NOTIFICATION NO. 97/2017 DATED 12<sup>TH</sup> DEC, 2017**

The Central Government hereby notifies, for the purposes of the clause 46 of Section 10 of the Income Tax Act, 1961, 'Manipur State Rural Road Development Agency', a body established by Government of Manipur, in respect of the following specified income arising to the body, namely:

- a) fund received for PMGSY from Ministry of Rural Development, Government of India; and
- b) interest received from Bank on above fund.

This notification shall be effective subject to the conditions that Manipur State Rural Road Development Agency,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial

years; and

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial years 2015-2016, 2016-2017 and shall apply with respect to the financial years 2017-2018, 2018-2019 and 2019-2020.

**NOTIFICATION NO. 98/2017 DATED 20<sup>TH</sup> DEC, 2017**

The Central Board of Direct Taxes hereby makes the (25th Amendment) Rules, 2017 further to amend the Income-tax Rules, 1962. They shall come into force from the date of their publication in the Official Gazette.

In the Income-tax Rules, 1962, in rule 127, in sub-rule (2), after the proviso, the following proviso shall be inserted:

“Provided further that where the communication cannot be delivered or transmitted to the address mentioned in item (i) to (iv) or any other address furnished by the addressee as referred to in first proviso, the communication shall be delivered or transmitted to the following address:

- i. the address of the assessee as available with a banking company or a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of the said Act); or
- ii. the address of the assessee as available with the Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898); or
- iii. the address of the assessee as available with the insurer as defined in clause (9) of section 2 of the Insurance Act, 1938 (4 of 1938); or
- iv. the address of the assessee as furnished in Form No.61 to the Director of Income-tax (Intelligence and Criminal Investigation) or to the Joint Director of Income-tax (Intelligence and Criminal Investigation) under sub-rule (1) of rule 114D; or
- v. the address of the assessee as furnished in Form No.61A under sub-rule (1) of rule 114E to the Director of Income-tax (Intelligence and Criminal Investigation) or to the Joint Director of Income tax (Intelligence and Criminal Investigation); or
- vi. the address of the assessee as available in the records of the Government; or (vii) the address of the assessee as available in the records of a local authority as referred to in the Explanation below clause (20) of section 10 of the Act.”

**NOTIFICATION NO. 99/2017 DATED 22<sup>ND</sup> DEC, 2017**

The Central Government hereby notifies, for the purposes of the clause 46 of Section 10 of the Income Tax Act, 1961, the SEEPZ Special Economic Zone Authority, an authority constituted under the Special Economic Zone Act, 2005 by the Government of India, in respect of the following specified income arising to that authority, namely:

- a) lease rentals/Service charges from various units operating in the SEZ at rates prescribed by the SEZ Authority;
- b) income by way of Gate Pass Entry Fees, Fine & Penalties from various units and other misc. income (Sale of garbage); and
- c) interest on Bank Deposits and Investments.

This notification shall be effective subject to the conditions that SEEPZ Special Economic Zone Authority:

- a) shall not engage in any commercial activity;
- b) its activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) it files return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2015-2016, 2016-2017 and shall apply with respect to the financial Years 2017-2018, 2018-2019 & 2019-2020.

#### **NOTIFICATION NO. 100/2017 DATED 22<sup>ND</sup> DEC, 2017**

The Central Government hereby notifies, for the purposes of the clause 46 of Section 10 of Income Tax Act, 1961, the 'Himachal Pradesh Computerization of Police Society', a body established by the Government of Himachal Pradesh, in respect of the following specified income arising to that body, namely:

- a. amount received in the form of Grant-in-aid; and
- b. interest accrued on CCTNS fund.

This notification shall be effective subject to the conditions that Himachal Pradesh Computerization of Police Society,-

- a. shall not engage in any commercial activity;
- b. activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c. shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2013-2014, 2014- 2015, 2015-2016, 2016-2017 and shall apply with respect to the financial year 2017-2018.

#### **NOTIFICATION DATED 2ND JANUARY, 2018**

In exercise of the powers conferred by sub-section (3) of Section 31 of the Reserve Bank of India Act, 1934 (2 of 1934), the Central Government hereby makes the Electoral Bond Scheme, 2018. It shall come into force on the date of its publication in the Official Gazette.

Definition – In this Scheme, unless the context otherwise requires,

- (a) "electoral bond" means a bond issued in the nature of promissory note which shall be a bearer banking instrument and shall not carry the name of the buyer or payee;
- (b) "authorised bank" means the State Bank of India authorised to issue and encash the bonds in the branches;
- (c) "issuing branch" means a designated branch of the authorised bank specified in Annexure I for issuing electoral bonds;
- (d) "person" includes-
  - (i) an individual;

- (ii) a Hindu undivided family;
- (iii) a company;
- (iv) a firm;
- (v) an association of persons or a body of individuals, whether incorporated or not;
- (vi) every artificial juridical person, not falling within any of the preceding sub-clauses; and
- (vii) any agency, office or branch owned or controlled by such person.

**Eligibility for purchase and encashment of electoral bond:**

- 1) The Bond under this Scheme may be purchased by a person, who is a citizen of India or incorporated or established in India.
- 2) A person being an individual can buy bonds, either singly or jointly with other individuals.
- 3) Only the political parties registered under section 29A of the Representation of the People Act, 1951 (43 of 1951) and secured not less than one per cent of the votes polled in the last general election to the House of the People or the Legislative Assembly, as the case may be, shall be eligible to receive the bond.
- 4) The bond shall be encashed by an eligible political party only through a bank account with the authorised bank.

**Applicability of Know Your Customer Norms:** The extant instructions issued by the Reserve Bank of India regarding Know Your Customer norms of a bank's customer shall apply for buyers of the bonds. The authorised bank may call for any additional Know Your Customer documents, if it deems necessary.

**Denomination:** The bonds shall be issued in the denomination of Rs.1000, Rs.10,000, Rs.1,00,000, Rs. 10,00,000 and Rs. 1,00,00,000.

**Validity of Bond:** The bond shall be valid for fifteen days from the date of issue and no payment shall be made to any payee political party if the bond is deposited after expiry of the validity period. The bond deposited by any political party to its account shall be credited on the same day.

**Procedure for making application for purchase of bonds:** Every buyer desirous of purchasing bond can apply with a physical or through online application in the format specified. Every application shall contain particulars as per the format in Annexure-II and shall be accompanied with the specified documents.

On receipt of an application, the issuing branch shall issue the requisite bond, if all the requirements are fulfilled. The information furnished by the buyer shall be treated confidential by the authorised bank and shall not be disclosed to any authority for any purposes, except when demanded by a competent court or upon registration of criminal case by any law enforcement agency.

A non-Know Your Customer compliant application or an application not meeting the requirements of the scheme shall be rejected. The bond shall be issued to the buyer on non-refundable basis.

**Periodicity of issue of bonds:** The bonds under this Scheme shall be available for purchase by any person for a period of ten days each in the months of January, April, July and October as may be specified by the Central Government. An additional period of thirty days shall be specified by the Central Government in the year of general elections to the House of People.

**Interest:** No interest shall be payable on the bond.

**Issuing offices and commission payable:** No commission, brokerage or any other charges for issue of bond shall be payable by the buyer against purchase of the bond.

**Payment options:** All payments for the issuance of the bond shall be accepted in Indian rupees, through

demand draft or cheque or through Electronic Clearing System or direct debit to the buyer's account. Where payment is made through cheque or demand draft, the same shall be drawn in favour of the issuing bank at the place of issue such bond.

**Encashment of the bond:** The bond can be encashed only by an eligible political party by depositing the same in their designated bank account. The amount of bonds not encashed within the validity period of fifteen days shall be deposited by the authorized bank to the Prime Minister Relief Fund.

**Tax treatment:** The face value of the bonds shall be counted as income by way of voluntary contributions received by an eligible political party, for the purpose of exemption from Income-tax under section 13A of the Income tax Act, 1961.

**Trading of bonds:** The bonds shall not be eligible for trading.

#### **NOTIFICATION NO.1/2018 DATED 18<sup>TH</sup> JANUARY, 2018**

The Central Government hereby notifies for the purposes of the clause 46 of Section 10 of Income Tax Act, 1961, 'West Bengal Electricity Regulatory Commission', Kolkata, a commission constituted by the Government of West Bengal, in respect of the following specified income arising to that commission, namely:

- a) income from the fund maintained in accordance with the provisions of the West Bengal Electricity Regulatory Commission (Manner of application of Fund) Rules, 2006; and
- b) income from the fees collected in accordance with the provisions of the West Bengal Electricity (fees for application for grant of license) Rules, 2005, notified by the Government of West Bengal.

This notification shall be effective subject to the conditions that West Bengal Electricity Regulatory Commission, Kolkata:

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2016-2017 and shall apply with respect to the Financial Years 2017-2018, 2018-2019, 2019-2020 and 2020-2021.

#### **NOTIFICATION NO.2/2018 DATED 18<sup>TH</sup> JANUARY, 2018**

In exercise of the powers conferred by clause (39) of the section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby makes the following amendments in the notification of the Government of India, Ministry of Finance, Department of Revenue, Central Board of Direct Taxes, number S.O. 3129(E), dated the 26th September, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 26th September, 2017, namely:—

In the said notification, in clause (c),

(A) for clause (i), the following clause shall be substituted, namely:—

“(i) Income arising from the receipt from National supporters namely Hero Motocorp Ltd., Bank of Baroda, Coal India Ltd., Think and Learn Private Limited, Dalmia Cement Bharat Limited and NTPC Limited.—rupees thirty-nine crore, thirty-nine lakhs, fifty two thousand and two hundred fifty (Rs. 39,39,52,250).”.

(B) sub-clause (ii) shall be omitted with effect from 26th September, 2017.

#### **NOTIFICATION NO.3/2018 DATED 18TH JANUARY, 2018**

The Central Government hereby notifies for the purposes of the clause 46 of Section 10 of Income Tax Act, 1961, the Central Registry for Securitization Asset Reconstruction and Security Interest of India, a body set up under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act, 2002, in respect of the following specified income arising to that body, namely:

1. fee income from Security Interest transactions;
2. fee income from transactions on Central KYC (CKYC) Records Registry;
3. interest income on fixed deposits and on saving bank account; and
4. RTI application fee.

This notification shall be effective subject to the conditions that Central Registry for Securitization Asset Reconstruction and Security Interest of India:

- a. shall not engage in any commercial activity;
- b. activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c. shall file return of income in accordance with the provision of clause (g) of subsection (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial Years 2013-2014, 2014-2015, 2015-2016, 2016-2017 and shall apply with respect to the financial year 2017-2018.

#### **NOTIFICATION NO.4/2018 DATED 19<sup>TH</sup> JANUARY, 2018**

In exercise of the powers conferred by sub-section (1) of Section 139B of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the Tax Return Preparer (Amendment) Scheme, 2018 further amendments in the Tax Return Preparer Scheme, 2006, namely:

It shall come into force from the date of its publication in the Official Gazette. In the Tax Return Preparer Scheme, 2006 (hereinafter referred to as the said Scheme), for paragraph 3, the following paragraph shall be substituted, namely:

“3. An individual, who holds a bachelor degree from a recognised Indian University or institution, or has passed the intermediate level examination conducted by the Institute of Chartered Accountants of India or the Institute of Company Secretaries of India or the Institute of Certified Management Accountants of India, shall be eligible to act as Tax Return Preparer.”

In the said Scheme, in paragraph 4,-

(1) for clause (i), the following clauses shall be substituted, namely:-

“(i) It shall invite application from persons,-

- (a) having requisite educational qualifications specified in paragraph 3 or having appeared in the final year examination of the qualifying examination; and
- (b) who is not below the age of twenty one years or more than forty-five years as on the 1st day of October of the year immediately preceding the date on which applications are invited.

(ia) It shall require that the application under clause (i) shall be accompanied by a fee of two hundred and fifty rupees, and failing which the application shall be invalid.”.

(2) for clause (v), the following clauses shall be substituted, namely-

“(v) It shall enrol the persons who qualify the test for enrolment for each training centre separately.

(va) It shall not enrol any person under clause (v), unless –

(a) he makes a deposit of an amount of seven hundred and fifty rupees, which shall be nonrefundable; and

(b) he produces a proof of having passed the qualifying examination as specified in paragraph 3.”.

(3) clause (ix) shall be omitted.”.

In the said Scheme, in paragraph 9, for sub-paragraph (1), the following sub-paragraphs shall be substituted, namely:-

“(1) The Board may authorise the Resource Centre or the Partner Organisation to disburse to a Tax Return preparer, the following amount, namely:-

(a) five per cent. of the tax paid on the income declared in the return of income for First Eligible Assessment Year which has been prepared and furnished by him;

(b) three per cent. of the tax paid on the income declared in the return of income for the Second Eligible Assessment Year which has been prepared and furnished by him;

(c) two per cent. of the tax paid on the income declared in the return of income for the Third Eligible Assessment Year which has been prepared and furnished by him.

(1A) The amount of disbursement for any eligible person in relation to an eligible year shall not exceed,-

(a) five thousand rupees in case of First Eligible Assessment Year;

(b) three thousand rupees in case of Second Eligible Assessment Year; and

(c) two thousand rupees in case of Third Eligible Assessment Year.”.

#### **NOTIFICATION NO.8/2018 DATED 16<sup>TH</sup> FEBRUARY, 2018**

The Central Government hereby notifies for the purposes of the clause 46 of Section 10 of Income Tax Act, 1961, the ‘Maharashtra Electricity Regulatory Commission’, a Commission constituted by the State Government of Maharashtra, in respect of the following specified income arising to that Commission, namely:

- 1) Fees for Annual Licence;
- 2) Interest on Fixed Deposit and Savings Account;
- 3) Fees for Application / Petition filed;
- 4) Grants from Government of Maharashtra;
- 5) Fees for Documents;
- 6) Penalty for delayed payment of Annual Licence Fees;
- 7) Fees for RTI;
- 8) Sale of scrap.

This notification shall be deemed to have been applied for the period 01.06.2011 to 31.03.2012 and for the financial years 2012-13 to 2014-15.

This Notification shall be effective subject to the following conditions, namely:

(a) the ‘Maharashtra Electricity Regulatory Commission’ does not engage in any commercial activity;

(b) the activities and the nature of the specified income of ‘Maharashtra Electricity Regulatory



Commission' remain unchanged throughout the financial years; and

(c) the 'Maharashtra Electricity Regulatory Commission' files returns of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Act, Income-tax Act, 1961.

**NOTIFICATION NO.9/2018 DATED 16<sup>TH</sup> FEBRUARY, 2018**

The Central Government hereby notifies the Contributory Health Service Scheme of the Department of Atomic Energy for the purposes of the clause (a) of sub-section (2) of section 80D of the Income-tax Act, 1961 for the assessment year 2018-2019 and subsequent years.

**NOTIFICATION NO.10/2018 DATED 19<sup>TH</sup> FEBRUARY, 2018**

In exercise of the powers conferred by clause (aa) and clause (ab) of sub-section (1) of section 12A read with section 295 of the Income tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the Income-tax (First Amendment) Rules, 2018 further to amend the Income-tax Rules, 1962. They shall come into force from the date of its publication in the Official Gazette.

In the Income-tax Rules, 1962, in Part IV, for 'rule 17A', the following rule shall be substituted, namely:

“Application for registration of charitable or religious trusts, etc.

17A (1). An application under clause (aa) or clause (ab) of sub-section (1) of section 12A for registration of a charitable or religious trust or institution shall be made in Form No. 10A and accompanied by the following documents, namely:

- a) where the trust is created, or the institution is established, under an instrument, self-certified copy of the instrument creating the trust or establishing the institution;
- b) where the trust is created, or the institution is established, otherwise than under an instrument, self-certified copy of the document evidencing the creation of the trust, or establishment of the institution;
- c) self-certified copy of registration with Registrar of Companies or Registrar of Firms and Societies or Registrar of Public Trusts, as the case may be;
- d) self-certified copy of the documents evidencing adoption or modification of the objects, if any;
- e) where the trust or institution has been in existence during any year or years prior to the financial year in which the application for registration is made, self certified copies of the annual accounts of the trust or institution relating to such prior year or years (not being more than three years immediately preceding the year in which the said application is made) for which such accounts have been made up;
- f) note on the activities of the trust or institution;
- g) self-certified copy of existing order granting registration under section 12A or section 12AA, as the case may be; and
- h) self-certified copy of order of rejection of application for grant of registration under section 12A or section 12AA, as the case may be, if any.

Form No. 10A shall be furnished electronically,

- i. under digital signature, if the return of income is required to be furnished under digital signature;
- ii. through electronic verification code in a case not covered under clause (i).

Form No. 10A shall be verified by the person who is authorised to verify the return of income under section 140, as applicable to the assessee.

The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems), as the case may be, shall specify the data structure, standards and procedure of furnishing and verification of Form No. 10A and be responsible for formulating and implementing appropriate security, archival and retrieval policies in relation to the said form so furnished.”

**NOTIFICATION NO.12/2018 DATED 22<sup>ND</sup> FEBRUARY, 2018**

The Central Board of Direct Taxes hereby makes the Centralized Communication Scheme, 2018 for centralized issuance of notice. It shall come into force on the date of its publication in the Official Gazette.

**Definitions-** In this scheme, unless the context otherwise requires,

- (a) “Act” means the Income-tax Act, 1961 (43 of 1961);
- (b) “Director General” means the Director General of Income-tax appointed under sub-section (1) of section 117 of the Act and authorised by the Board in this behalf;
- (c) “Principal Director General” means the Principal Director General of Income-tax appointed under subsection (1) of section 117 of the Act and authorised by the Board in this behalf;
- (d) “Designated authority” means the income-tax authority prescribed under sub-section (1) of Section 133C of the Act who is in charge of the Centralised Communication Centre;
- (e) “Portal” means the web portal of the Centralised Communication Centre.

The words and expressions used herein but not defined and defined in the Act shall have the meaning respectively assigned to them in the Act.

**Issue and service of notice**

- 1) The Centralised Communication Centre shall issue notice to any person requiring him to furnish information or documents for the purpose of verification of information in his possession.
- 2) The notice shall be issued under digital signature of the designated authority.
- 3) The notice shall be served by delivering a copy by electronic mail, or by placing a copy in the registered account on the portal followed by an intimation by Short Message Service.
- 4) The information or documents called for under sub-paragraph (1) shall be furnished on or before the date specified in the notice as specified in paragraph 4.
- 5) The designated authority shall also run sustained campaign to ensure compliance by way of sending electronic mails, Short Message Service, reminders, letters and outbound calls.

**Response to notice:** The Centralised Communication Centre may prescribe a machine readable structured format for furnishing the information or documents by the person in response to the notice issued under subparagraph (1) of paragraph 3. The Principal Director General of Income-tax (Systems) or the Director General of Income-tax (Systems) shall specify the procedure, formats and standards for furnishing response to the notices.

**No personal appearance:** No person shall be required to appear personally or through authorised representative before the designated authority at the Centralised Communication Centre in connection with any proceedings.

**Power to specify procedure and processes:**The Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems) shall specify from time to time, procedures and processes for effective functioning of the Centralised Communication Centre, including the following matters, namely:

- a) format and procedure for issue of notice;
- b) receipt of any information or document from the addressee in response to notice;
- c) mode and format for issue of acknowledgment of the response furnished by the addressee;
- d) provision of web portal facility including login facility, tracking status of verification, display of relevant details, and facility of download;
- e) call centre to answer queries and provide support services, including outbound calls and inbound calls seeking information or clarification;
- f) managing administration functions such as receipt, scanning, data entry, storage and retrieval of information and documents in a centralised manner;
- g) grievance redressal mechanism in the Centralised Communication Centre.

**NOTIFICATION NO. 16/2018 DATED 3<sup>RD</sup> APRIL, 2018**

The Central Board of Direct Taxes hereby makes the Income-tax (Second Amendment) Rules, 2018 further to amend the Income-tax Rules, 1962. They shall be deemed to have come into force with effect from the 1st day of April, 2018.

In the Income-tax rules, 1962 in rule 12,

(a) in sub-rule (1),-

- (I) for the figures “2017”, the figures “2018” shall be substituted;
- (II) in clause (a),—

(i) for the words “an individual”, the words “an individual who is a resident other than not ordinarily resident and” shall be substituted;

(ii) in sub-clause (ii), after the words “brought forward loss”, the words “or loss to be carried forward” shall be inserted;

(iii) in the proviso, for item (I), the following shall be substituted, namely:-

- “(I) has assets (including financial interest in any entity) located outside India;
- (IA) has signing authority in any account located outside India;
- (IB) has income from any source outside India;
- (IC) has income to be apportioned in accordance with provisions of section 5A;”;

(III) in clause (c), for the words “derived from a proprietary”, the words “under the head” shall be substituted;

(IV) in clause (d), for the words “deriving income from a proprietary”, the words “having income under the head” shall be substituted;

(b) in sub-rule (5), for the figures “2016”, the figures “2017” shall be substituted. 3. In the principal rules, in Appendix II, for Forms “Forms Sahaj (ITR-1), Form ITR-2, Form ITR-3, Form Sugam (ITR-4), Form ITR-5, Form ITR-6, Form ITR-7 and Form ITR-V”, the following Forms shall be respectively substituted.

**NOTIFICATION NO. 1/2018 DATED 5<sup>TH</sup> APRIL, 2018**

**PROCEDURE FOR SUBMISSION OF FORM NO. 60 BY ANY PERSON WHO DOES NOT HAVE A PERMANENT ACCOUNT NUMBER AND WHO ENTERS INTO ANY TRANSACTION SPECIFIED IN RULE 114B OF THE INCOME-TAX RULES, 1962**

As per second proviso of Rule 114B (Transactions in relation to which Permanent Account Number is to be quoted in all documents for the purpose of clause (c) of sub section (5) of section 139A of the Income-tax Rules, 1962 (hereunder referred to as the Rules), any person who does not have a Permanent Account Number and who enters into any transaction specified in this rule, shall make a declaration in Form No. 60 giving therein the particulars of such transaction either in paper form or electronically under the electronic verification code.

As per sub-rule (1) of Rule 114D (Time and manner in which persons referred to in Rule 114C shall furnish a statement containing particulars of Form No. 60), the persons referred to in clauses (a) to (k) of sub-rule (1) of Rule 114C and sub-rule (2) of Rule 114C shall furnish a statement in Form 61 containing particulars of declarations received in Form 60 to the Director of Income-tax (Intelligence and Criminal Investigation) or the Joint Director of Income-tax (Intelligence and Criminal Investigation) through online transmission of electronic data to a server designated for this purpose and obtain an acknowledgement number.

Rule 114B of the Income-tax Rules, 1962, provides that the declaration in Form No.60 can be submitted either in paper form or electronically under the electronic verification code in accordance with the procedures, data structures, and standards specified by the Principal Director General of Income-tax (Systems) or Director General of Income-tax (Systems).

In exercise of the powers delegated by Central Board of Direct Taxes ('Board') under Rule 114B of the Income-tax Rules, 1962, the Principal Director General of Income-tax (Systems) hereby lays down the following procedures for submitting Form No. 60.

An individual or a person (not being a company or firm) who does not have a permanent account number and who enters into any transaction specified in under Rule 114B of the Income-tax Rules, 1962, shall either submit Form No. 60 physically in paper form as per the existing procedure or electronically using electronic verification as per any of the procedure stated in para 6.

Under electronic verification, the individual or a person (not being a company or firm) who does not have a permanent account number and who enters into any transaction specified in under Rule 114B of the Income-tax Rules, 1962, shall make a declaration in Form No. 60 giving therein the particulars of such transaction electronically using electronic verification.

- a) The electronic verification can be enabled using electronic portal/application approved for transactional facility by the regulator.
- b) The electronic verification can also be enabled using any of the following specified Aadhaar Authentication methods:
  - i. Type 2 Authentication - Authentication of residents through One Time-Password (OTP) delivered to resident's mobile number and/or e-mail address present in CIDR.
  - ii. Type 3 Authentication - Authentication of residents using one of the biometric modalities, either iris or fingerprint.
  - iii. Type 4 Authentication - Authentication of residents using 2-factor authentication with OTP as one factor and biometrics (either iris or fingerprint) as the second factor.

- iv. Type 5 Authentication - Authentication of residents using OTP, fingerprint & iris together.

The person using electronic method of submitting Form No. 60 and electronic verification using any of the methods listed above, may submit Form No. 60 in paper form where electronic verification is not possible due to Information Technology related issues.

The person responsible for collecting Form No. 60 for specified transactions under Rule 114B of Income-tax Rules, 1962 shall follow the below mentioned procedure:

- a) In cases where the requirement for furnishing of a PAN or Form No. 60 are triggered in multiple transactions during a financial year relating to the same person, the person responsible for collecting Form No. 60 may collect only incremental information provided the linkage of subsequent transaction is established with the earlier captured information for which an initial consent shall be obtained from the declarant of Form No. 60. Details of each such transaction shall be reported in form no. 61 as per rule 114D of the Income Tax Rules, 1962.
- b) Every declaration in Form No. 60 should be assigned a unique number.
- c) In case of multiple form no. 60 submitted during the financial year, and the person / transaction becomes reported in form no. 61A, the acknowledgement no. of the last submitted form no. 60 shall be mentioned in form 61A.
- d) In case of specified transaction is handled by more than one regulatory entity, the electronic transmission of form no. 60 from the first regulated entity to the second regulated entity will be considered a valid submission to the second regulated entity provided it is transmitted with the consent of the declarant of form no. 60.

**Security, archival and retrieval policies:** The reporting person is required to document and implement appropriate information security policies and procedure with clearly defined roles and responsibilities to ensure security of submitted information and related information / documents. The reporting person is also required to document and implement appropriate archival and retrieval policies and procedure with clearly defined roles and responsibilities to ensure that submitted information and related information / documents are available promptly to the competent authorities.

#### **NOTIFICATION NO. 2/2018 DATED 5<sup>TH</sup> APRIL, 2018**

#### **PROCEDURE FOR REGISTRATION AND SUBMISSION OF FORM NO. 61 AS PER RULE 114D OF INCOME-TAX RULES, 1962**

Rule 114D of the Income Tax Rules, 1962 (hereunder referred to as the “Rules”) specifies that every person referred to in clauses (a) to (k) of sub-rule (1) of rule 114C; and sub-rule (2) of rule 114C and who is required to get his accounts audited under section 44AB of the Income Tax Act, 1961 (hereunder referred to as the “Act”) who has received any declaration in Form No. 60, in relation to a transaction specified in rule 114B, shall furnish a statement in Form No. 61.

As per sub-rule (1)(i) and sub-rule (4) of Rule 114D, the statement in Form No. 61 shall be furnished through online transmission of electronic data to a server designated for this purpose and in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems). The statement shall be furnished:

- i. Where the declarations are received till 30th September, by the 31st October of that year; and
- ii. Where the declarations are received till 31st March, by the 30th April of the financial year immediately following the financial year in which the form is received

**Modification/ changes in the schema / data structure of Form No. 61:** The values under Statement

Type of Form No. 61 have been modified / enhanced. The detailed list of modification / changes in schema / data structure of Form No.61 is attached as Annexure A.

In exercise of the powers delegated by Central Board of Direct Taxes ('Board') under sub-rule (4) of Rule 114D of the Income tax Rules 1962, the Principal Director General of Income-tax (Systems) hereby lays down the following procedure:

- a) **Already registered reporting persons/entities on e-filing portal:** The registration details of already registered reporting persons/entities have been migrated from e-filing portal to Reporting Portal. The registered users of such reporting persons/entities shall be communicated of their new login credentials through registered e-mail to be used at Reporting Portal. There is no need of registering again for such persons/entities.
- b) **New Registration, Generation of Income Tax Department Reporting Entity Identification Number (ITDREIN):**The reporting person/entity is required to get registered with the Income Tax Department by logging in to the e-filing website (<https://incometaxindiaefiling.gov.in/>) with the log in ID used for the purpose of filing the Income Tax Return of the reporting person/entity. The reporting person/entity needs to click on "Reporting Portal" link under "My Account" tab at e-filing portal to access 'Reporting Portal' for first time registration. The reporting person/entity will mandatorily be required to enter the details of form type, category and address of reporting person/entity along with details of Principal Officer. On successful submission, the ITDREIN is generated and the Principal Officer will receive a confirmation e-mail on his/her registered e-mail address and SMS at his/her registered mobile number. There will be no option to de-activate ITDREIN, once it is generated.
- c) **Submission of Form No. 61:** Every reporting person/entity is required to submit the Statement in Form No. 61. The prescribed schema, Report Generation and Validation Utility for Form No. 61 and Generic Submission Utility can be downloaded from the Reporting Portal under "Resources" tab. The prepared Statement to be filed is required to be digitally signed by and uploaded at the Reporting Portal or through Generic Submission Utility through the login credentials (PAN and password) of the Principal Officer.
- d) **Submission of correction statement:** In case, the reporting person/entity comes to know or discovers any inaccuracy in the information provided in the statement or the defects have been communicated to the reporting person/entity through Data Quality Report (DQR) after submission of Statement, it is required to remove the defects by submitting a correction statement. The number of "Reports Requiring Correction (RRC)" will be visible against the original statement on Reporting Portal under the 'Statement Pending for Correction' tab. The user can download the DQR file from the DQR column under 'Statements Pending for Correction' Tab of Reporting Portal, which can then be opened on the Report Generation utility to find and fix the errors. The reporting person/entity needs to rectify all the defects till the number of "Reports Requiring Correction (RRC) becomes zero within the specified period.
- e) **Deletion of Submitted Reports in a statement:** In case, the reporting person/entity wishes to delete the inadvertently filed reports within a statement, it can choose the statement type as "Deletion Statement" and file all such reports within a single statement to be deleted with exact previously filed values against within a single statement to be deleted with exact previously filed values against each field. The manner of filing deletion statement shall be similar to submission of correction statement.
- f) **Modification / changes in the schema / data structure in Form No. 61:** The values under statement type of Form No. 61 have been modified / enhanced.

- g) **Security, archival and retrieval policies:** The reporting person / entity is required to document and implement appropriate information security policies and procedure with clearly defined roles and responsibilities to ensure security of submitted information and related information / documents. The reporting person is also required to document and implement appropriate archival and retrieval policies and procedure with clearly defined roles and responsibilities to ensure that submitted information and related information / documents are available promptly to the competent authorities.

**NOTIFICATION NO. 3/2018 DATED 5<sup>TH</sup> APRIL, 2018**

**PROCEDURE FOR REGISTRATION AND SUBMISSION OF STATEMENT OF FINANCIAL TRANSACTIONS (SFT) AS PER SECTION 285BA OF INCOME-TAX ACT, 1961 READ WITH RULE 114E OF INCOME-TAX RULES, 1962.**

Section 285BA of the Income Tax Act, 1961 (hereunder referred to as the “Act”) requires specified reporting persons to furnish statement of financial transaction. Rule 114E of the Income Tax Rules, 1962 (hereunder referred to as the “Rules”) specifies that the statement of financial transaction required to be furnished under sub-section (1) of section 285BA of the Act shall be furnished in Form No. 61A. The nature and value of transaction to be furnished by the reporting person under Rule 114 E is as per Annexure A.

As per sub rule (6)(a) of Rule 114E, every reporting person/entity shall communicate to the Principal Director General of Income-tax (Systems) the name, designation, address and telephone number of the Designated Director and the Principal Officer and obtain a registration number. The procedure for registration for statement of financial transactions (SFT) was specified in Notification No. 13 dated 30th December, 2016. The functionality for submission of statement of financial transactions had been enabled on e-filing portal vide Notification No.1 of 2017 dated 17th January 2017 and the earlier instruction is being updated in the light of newly launched “Reporting Portal” (<https://report.insight.gov.in>).

As per sub rule (4)(a) of Rule 114E, the statement of financial transactions shall be furnished through online transmission of electronic data to a server designated for this purpose under the digital signature of the person specified in sub-rule (7) and in accordance with the data structure specified in this regard by the Principal Director General of Income tax (Systems). The Post Master General or a Registrar or Sub-registrar or an Inspector General have the option to furnish the statement in a computer readable media, being a Compact Disc or Digital Video Disc (DVD), along with verification in Form-V on paper. The statement of financial transactions shall be furnished on or before the 31st May, immediately following the financial year in which the transaction is registered or recorded.

As per sub-rule (4)(b) of Rule 114E Principal Director General of Income-tax (Systems) shall specify the procedures, data structures and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.

The values under Statement Type & Person Type and field number in Part B of Form No. 61A have been modified / enhanced in exercise of the power delegated under sub-rule (4)(b) of Rule 114E by the Principal Director general of Income-tax (Systems). The detailed list of modification / changes in schema / data structure of the Form No.61A is as per Annexure D.

In exercise of the powers delegated by Central Board of Direct Taxes (‘Board’) under sub rule (4)(a) and (4)(b) of Rule 114E of the Income tax Rules 1962, the Principal Director General of Income-tax (Systems) hereby lays down the following procedures:

- a) **Already registered reporting persons/entities on e-filing portal:** The registration details of already registered reporting persons/entities have been migrated from e-filing portal to reporting

portal. The registered users of such reporting persona/entities shall be communicated of their new login credentials through registered email to be used at Reporting Portal. There is no need of registering again for such persons/entities.

- b) **New Registration, Generation of Income Tax Department Reporting Entity Identification Number (ITDREIN) and Principal Officer:** The reporting person/entity is required to get registered with the Income Tax Department by logging in to the e-filing website (<https://incometaxindiaefiling.gov.in/>) with the log in ID used for the purpose of filing the Income Tax Return of the reporting person/entity. The reporting person/entity needs to click on “Reporting Portal” link under “My Account” tab at e-filing portal to access ‘Reporting Portal’ for first time registration. The reporting person/entity will be required to enter the details of form type, category and address of reporting person/entity along with details of Principal Officer mandatorily. On successful submission, the ITDREIN is generated and the principal officer will receive a confirmation e-mail on his/her registered e-mail address and SMS at his/her registered mobile number. There will be no option to de-activate ITDREIN, once it is generated.
- c) **Addition of Designated Director:** The reporting person/entity is required to submit the details of designated director either at the time of new registration or at later stage, but before any statement is submitted on reporting portal. The designated director will receive a confirmation e-mail with login credentials for login into reporting portal (<https://report.insight.gov.in>) at his/her registered email address. Only, the designated director of the reporting person/entity can digitally sign and upload the Statement of Financial Transaction (SFT) and the corresponding correction statements, if any through his/her own login credentials at the reporting portal or through Generic submission Utility.
- d) **Submission of Form No. 61A:** Every reporting person/entity is required to submit the Statement of Financial Transaction (SFT) in Form No. 61A. The prescribed schema, Report Generation and Validation Utility for Form No. 61A and Generic Submission Utility can be downloaded from the reporting portal under “Resources” tab. General and transaction specific guidelines for preparation of SFT in the specified format is enclosed as Annexure B and Annexure C respectively. The prepared SFTs to be filed is required to be digitally signed by and uploaded at the reporting portal or through Generic Submission Utility through the login credentials (PAN and password) of the designated director.
- e) **Submission of correction statement:** In case, the reporting person/entity comes to know or discovers any inaccuracy in the information provided in the statement or the defects have been communicated to the reporting person/entity through Data Quality Report (DQR) after submission of Statement, it is required to remove the defects by submitting a correction statement. The number of “Reports Requiring Correction (RRC)” will be visible against the original statement on reporting portal under the ‘Statement Pending for Correction’ tab. The user can download the DQR file from the DQR column under ‘Statements Pending for Correction’ Tab at Reporting Portal, which can then be opened on the Report Generation utility to find and fix the errors. The reporting person/entity needs to rectify all the defects till the number of “Reports Requiring Correction (RRC) becomes zero within specified time.
- f) **Deletion of Submitted Reports in a statement:** In case, the reporting person/entity wishes to delete the inadvertently filed reports within a statement, it can choose the statement type as “Deletion Statement” and file all such reports within a single statement to be deleted with exact previously filed values against each field. The manner of filing Deletion Statement shall be similar to submission of correction statement.
- g) **Security, archival and retrieval policies:** The reporting person/entity is required to document



and implement appropriate information security policies and procedures with clearly defined roles and responsibilities to ensure security of submitted information and related information/documents. The reporting person/entity is also required to document and implement appropriate archival and retrieval policies and procedures with clearly defined roles and responsibilities to ensure that submitted information and related information/documents are available promptly to the competent authorities.

**NOTIFICATION NO. 4/2018 DATED 5TH APRIL, 2018**

**PROCEDURE FOR REGISTRATION AND SUBMISSION OF STATEMENT OF REPORTABLE ACCOUNT AS PER SECTION 285BA OF INCOME-TAX ACT, 1961 READ WITH RULE 114G OF INCOME-TAX RULES, 1962.**

Section 285BA of the Income Tax Act, 1961 (hereunder referred to as the “Act”), requires prescribed reporting financial institution to furnish Statement of Reportable Account. Rule 114G of the Income Tax Rules, 1962 (hereunder referred to as the “Rules”) specifies that the Statement of Reportable Account required to be furnished under clause (k) of sub section (1) of section 285BA shall be furnished by a reporting financial institution in respect of each account which has been identified, pursuant to due diligence procedure specified in rule 114H, as a reportable account in Form No. 61B.

As per sub rule (10)(a) of Rule 114G, every reporting financial institution shall communicate to the Principal Director General of Income-tax (Systems) the name, designation, address and communication details of the Designated Director and the Principal Officer and obtain a registration number. Procedure for registration for submission of Statement of Reportable Account has been published on e-filing portal (<https://incometaxindiaefiling.gov.in/>) vide Notification No.4 of 2016 dated 06thApril, 2016 and this is being modified in view of the newly launched “Reporting Portal”(<https://report.insight.gov.in>).

As per sub rule (9)(a) of Rule 114G, the Statement of Reportable Account shall be furnished through online transmission of electronic data to a server designated for this purpose under the digital signature of the person specified in sub-rule (10)(b) and in accordance with the data structure specified in this regard by the Principal Director General of Income-tax (Systems). The statement of Reportable Account shall be furnished on or before the 31st May, immediately following the calendar year in which the transaction is registered or recorded.

As per sub-rule (9)(b) of Rule 114G Principal Director General of Income-tax (Systems) shall specify the procedures, data structures and standards for ensuring secure capture and transmission of data, evolving and implementing appropriate security, archival and retrieval policies.

**Modification/ changes in the schema / data structure of Form No. 61B:** The values under Statement Type of Form No. 61B have been modified / enhanced in exercise of power under sub rule 9(b) of Rule 114G by Principal Director General of Income Tax (Systems). The detailed list of modification / changes in schema / data structure of the Form No.61B is attached as Annexure A.

In exercise of the powers delegated by Central Board of Direct Taxes (‘Board’) under sub rule (9)(a) and (9)(b) of Rule 114G of the Income tax Rules 1962, the Principal Director General of Income-tax (Systems) hereby lays down the following procedure:

- a) **Already registered reporting financial institution on e-filing portal:** The registration details of already registered reporting financial institution have been migrated from e-filing portal to reporting portal. The registered users of such reporting financial institution shall be communicated of their new login credentials through registered email to be used at Reporting Portal. There is no

need of registering again for such financial institution.

- b) **New Registration, Generation of Income Tax Department Reporting Entity Identification Number (ITDREIN):** The reporting financial institution is required to get registered with the Income Tax Department by logging in to the e-filing website (<https://incometaxindiaefiling.gov.in/>) with the log in ID used for the purpose of filing the Income Tax Return of the reporting financial institution. The reporting financial institution needs to click on “Reporting Portal” link under “My Account” tab at e-filing portal to access ‘Reporting Portal’ for first time registration. The reporting financial institution will mandatorily be required to enter the details of form type, category and address of reporting financial institution alongwith details of Principal Officer. On successful submission, the ITDREIN is generated and the principal officer will receive a confirmation e-mail on his/her registered e-mail address and SMS at his/her registered mobile number. There will be no option to de-activate ITDREIN, once it is generated.
- c) **Addition of Designated Director:** The reporting financial institution is required to submit the details of Designated Director either at the time of new registration or at a later stage, but before any statement is submitted on Reporting Portal. The Designated Director will receive a confirmation e-mail with login credentials for login into reporting portal (<https://report.insight.gov.in>) at his/her registered e-mail address. Only, the Designated Director of the reporting financial institution can digitally sign and upload the Statement of Reportable Account and the corresponding correction statements, if any, through his/her own login credentials at the Reporting Portal or through Generic Submission Utility.
- d) **Submission of Form No.61B:** Every reporting financial institution is required to submit the Statement of Reportable Account in Form No.61B. The prescribed schema, Report Generation and Validation Utility for Form No.61B and Generic Submission Utility can be downloaded from the Reporting Portal under “Resources” tab. The prepared Statement to be filed is required to be digitally signed by and uploaded at the Reporting Portal or through Generic Submission Utility through the login credentials (PAN and password) of the Designated Director.
- e) **Submission of correction statement:** In case, the reporting financial institution comes to know or discovers any inaccuracy in the information provided in the statement or the defects have been communicated to the reporting financial institution through Data Quality Report (DQR) after submission of Statement, it is required to remove the defects by submitting a correction statement. The number of “Reports Requiring Correction” (RRC) will be visible against the original statement on Reporting Portal under the ‘Statement Pending for Correction’ tab. The user can download the DQR file from the DQR column under ‘Statements Pending for Correction’ Tab of Reporting Portal, which can then be opened on the Report Generation utility to find and fix the errors. The reporting financial institution needs to rectify all the defects till the number of “Reports Requiring Correction (RRC) becomes zero within the specified period.
- f) **Deletion of Submitted Reports in a statement:** In case, the reporting financial institution wishes to delete the inadvertently filed reports within a statement, it can choose the statement type as “Deletion Statement” and file all such reports within a single statement to be deleted with exact previously filed values against each field. The manner of filing Deletion Statement shall be similar to submission of correction statement.
- g) **Security, archival and retrieval policies:** The reporting person/entity is required to document and implement appropriate information security policies and procedures with clearly defined roles and responsibilities to ensure security of submitted information and related information/documents. The reporting person/entity is also required to document and implement

appropriate archival and retrieval policies and procedures with clearly defined roles and responsibilities to ensure that submitted information and related information/documents are available promptly to the competent authorities.

**NOTIFICATION NO. 17/2018 DATED 6<sup>TH</sup> APRIL, 2018**

The Central Board of Direct Taxes hereby makes the Income-tax (Third Amendment) Rules, 2018 further to amend the Income-tax Rules, 1962. They shall come into force on the 1st day of April, 2019 and shall apply to the assessment year 2019-2020 and subsequent assessment years.

In the Income-tax Rules, 1962, in rule 2BB, in sub-rule (2), in the Table, against serial number 10, the entries under columns (2) to (4) shall be omitted.

**NOTIFICATION NO. 19/2018 DATED 11<sup>TH</sup> APRIL, 2018**

The Central Board of Direct Taxes hereby makes the Income-tax (5th Amendment) Rules further to amend the Income-tax Rules, 1962. They shall come into force from the date of their publication in the Official Gazette.

In the Income-tax Rules, 1962, in rule 10VA, in sub-rule (2), for the words and brackets “Member (Income-tax), Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi”, the words, “the Member, Central Board of Direct Taxes, Department of Revenue, Ministry of Finance, North Block, New Delhi having supervision and control over the work of Foreign Tax and Tax Research (FT&TR) Division” shall be substituted.

**NOTIFICATION NO. 22/2018 DATED 8<sup>TH</sup> MAY, 2018**

In exercise of the powers conferred by clause (ii) of the proviso to clause (48A) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government, having regard to the national interest, hereby notifies the following foreign companies and agreement, for the purposes of the said clause, namely:

(i) Abu Dhabi National Oil Company, ADNOC Marketing International Limited, and ADNOC Marketing International (India) RSC Limited, as the foreign companies; and

(ii) the Oil Storage and Management Agreement, dated the 25th of January, 2017, entered into by and between Indian Strategic Petroleum Reserves Limited and Abu Dhabi National Oil Company read with the Amended and Restated Oil Storage and Management Agreement, dated the 10th of February 2018, entered into by and between Indian Strategic Petroleum Reserves Limited, Abu Dhabi National Oil Company and ADNOC Marketing International (India) RSC Limited, as the agreements.

This notification shall come into force from the date of its publication in the Official Gazette.

**NOTIFICATION NO. 23/2018 DATED 24<sup>TH</sup> MAY, 2018**

The Central Government hereby makes the Income-tax (6th Amendment), Rules, 2018 further to amend the Income-tax Rules, 1962. They shall come into force from the date of their publication in the Official Gazette.

In the Income-tax Rules, 1962 (hereinafter referred to as the principal rules), in rule 11U, clause (a) shall be omitted. Further, In the principal rules, in rule 11UA, in sub-rule (2), in clause (b), the words “or an accountant” shall be omitted.

**NOTIFICATION NO. 24/2018 DATED 24<sup>TH</sup> MAY, 2018**

The provisions of clause (viib) of sub-section (2) of section 56 of the Income Tax Act, 1961 shall not apply to consideration received by a company for issue of shares that exceeds the face value of such shares, if the consideration has been received for issue of shares from an investor in accordance with the approval granted by the Inter-Ministerial Board of Certification under clause (i) of sub-para (3) of para 4 of the notification number G.S.R. 364(E), dated 11th April, 2018 and published in the Gazette of India, Extraordinary, Part-II, Section 3, Sub-section (i) dated the 11th April, 2018 issued by the Department of Industrial Policy and Promotion.

This notification shall be deemed to have come into force retrospectively from the 11th April, 2018.

**NOTIFICATION NO. 25/2018 DATED 30<sup>TH</sup> MAY, 2018**

The organization M/s Indian Institute of Science Education and Research, Kolkata (PAN:- AAAAI2170E) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 read with Rules 5C and 5E of the Income-tax Rules, 1962, from Assessment year 2018-2019 and onwards under the category of "University, College or other Institution" engaged in research activities subject to the following conditions, namely:

- (i) The sums paid to the approved organization shall be utilized for scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under subsection (1) of section 139 of the said Act;
- (iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization:

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or

**NOTIFICATION NO. 26/2018 DATED 13<sup>TH</sup> JUNE, 2018**

The Central Government has notified the Cost Inflation Index "280" for the Financial Year 2018-19 i.e. Assessment Year 2019-20.

**NOTIFICATION NO. 27/2018 DATED 18<sup>TH</sup> JUNE, 2018**

In exercise of the powers conferred by clause (iib) of the proviso to section 193 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies the “Power Finance Corporation Limited 54EC Capital Gains Bond” issued by Power Finance Corporation Limited for the purpose of the said clause.

Provided that the benefit under the said proviso shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs Power Finance Corporation Limited by registered post within a period of sixty days of such transfer.

**NOTIFICATION NO. 28/2018 DATED 18<sup>TH</sup> JUNE, 2018**

In exercise of the powers conferred by clause (iib) of the proviso to section 193 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies the “Indian Railway Finance Corporation Limited 54EC Capital Gains Bond” issued by Indian Railway Finance Corporation Limited for the purpose of the said clause. Provided that the benefit under the said proviso shall be admissible in the case of transfer of such bonds by endorsement or delivery, only if the transferee informs Indian Railway Finance Corporation Limited by registered post within a period of sixty days of such transfer.

**NOTIFICATION NO. 29/2018 DATED 22<sup>ND</sup> JUNE, 2018**

In exercise of the powers conferred by sub-section (1) of section 115JH of the Income-tax Act, 1961 (43 of 1961) (hereinafter referred to as the Act), the Central Government hereby notifies that,

in a case where a foreign company is said to be resident in India on account of its Place of Effective Management (hereinafter referred to as PoEM) being in India under sub-section (3) of section 6 of the Act in any previous year and such foreign company has not been resident in India in any of the previous years preceding the said previous year, then, notwithstanding anything contained in the Act, the provisions of the Act relating to the computation of total income, treatment of unabsorbed depreciation, set off or carry forward and set off of losses, collection and recovery and special provisions relating to avoidance of tax shall apply to the foreign company for the said previous year with exceptions, modifications and adaptations specified here under:

(i) If the foreign company is assessed to tax in the foreign jurisdiction, and,—

(a) where it is required to take into account depreciation for the purpose of computation of its taxable income, the written down value (hereinafter referred to as WDV) of the depreciable asset as per the tax record in the foreign country on the 1st day of the previous year shall be adopted as the opening WDV for the said previous year,

(b) in cases not covered by (a), the WDV shall be calculated in the manner, as though the asset was installed, utilised and the depreciation was actually allowed as per the provisions of the laws of that foreign jurisdiction and the WDV so arrived at as on the 1st day of the previous year, shall be adopted to be the opening WDV for the said previous year.

(ii) If the foreign company is not assessed to tax in the foreign jurisdiction, then WDV of the depreciable asset as appearing in the books of account as on the 1st day of the previous year maintained in accordance with the laws of that foreign jurisdiction shall be adopted as the opening WDV for the said previous year.

(iii) If the foreign company is assessed to tax in the foreign jurisdiction, its brought forward loss and unabsorbed depreciation as per the tax record shall be determined year wise on the 1st day of the said previous year.

(iv) If the foreign company is not assessed to tax in the foreign jurisdiction, its brought forward loss and unabsorbed depreciation as per the books of account prepared in accordance with the laws of that country shall be determined year wise on the 1st day of the said previous year.

(v) The brought forward loss and unabsorbed depreciation of the foreign company as arrived at paras (iii) or (iv), as the case may be, shall be deemed as loss and unabsorbed depreciation brought forward as on the 1st day of the said previous year and shall be allowed to be set off and carried forward in accordance with the provisions of the Act for the remaining period calculated from the year in which they occurred for the first time taking that year as the first year

Provided that the losses and unabsorbed depreciation of the foreign company shall be allowed to be set off only against such income of the foreign company which have become chargeable to tax in India on account of it becoming Indian resident.

(vi) In cases where the brought forward loss and unabsorbed depreciation referred to in para (iii) or (iv), as the case may be, originally adopted in India are revised or modified in the foreign jurisdiction due to any action of the tax or legal authority, the amount of the loss and unabsorbed depreciation shall be revised or modified for the purposes of set off and carry forward as referred to in para (v).

(vii) In cases where the accounting year does not end on 31st March, the foreign company shall be required to prepare profit and loss account and balance sheet for the period starting from the date on which the accounting year immediately following said accounting year begins, upto 31st March of the year immediately preceding the period beginning with 1st April and ending on 31st March during which the foreign company has become resident. The foreign company shall also be required to prepare profit and loss account and balance sheet for succeeding periods of twelve months, beginning from 1st April and ending on 31st March, till the year the foreign company remains resident in India on account of its PoEM.

(viii) For the purpose of carry forward of loss and unabsorbed depreciation in cases where the accounting year followed by the foreign company does not end on 31st March and the period starting from the date on which immediately following year begins upto 31st March of the year, immediately preceding the period beginning with 1st April and ending on 31st March during which it has become resident, is,—

(a) less than six months, it shall be included in that accounting year;

(b) equal to or more than six months, that period shall be treated as a separate accounting year. Thus, if the accounting year followed by the foreign company is calendar year, the accounting year immediately preceding the accounting year in which the foreign company is held to be resident in India, shall be increased by three months, i.e., 1st January to 31st March; and if the accounting year followed by the foreign company is from 1st July to 30th June, the accounting year immediately preceding the accounting year in which the foreign company is held to be resident in India, shall be of nine months from 1st July to 31st March.

(ix) In cases covered under para (viii), loss and unabsorbed depreciation as per tax record or books of account, as the case may be, of the foreign company shall, be allocated on proportionate basis.

(x) Where more than one provision of Chapter XVII-B of the Act applies to the foreign company as resident as well as foreign company, the provision applicable to the foreign company alone shall apply.

(xi) Compliance to those provisions of Chapter XVII-B of the Act as are applicable to the foreign company prior to its becoming Indian resident shall be considered sufficient compliance to the provisions of said Chapter.

(xii) The provisions contained in sub-section (2) of section 195 of the Act shall apply in such manner so as to include payment to the foreign company.

(xiii) The foreign company shall be entitled to relief or deduction of taxes paid in accordance with the provisions of section 90 or section 91 of the Act.

(xiv) In a case where income on which foreign tax has been paid or deducted, is offered to tax in more than one year, credit of foreign tax shall be allowed across those years in the same proportion in which the income is offered to tax or assessed to tax in India in respect of the income to which it relates and shall be in accordance with the provisions of rule 128 of the Income-tax Rules, 1962.

Explanation.— For the purposes of this notification,—

(i) the term “Foreign jurisdiction” would mean the place of incorporation of the foreign company.

(ii) the rate of exchange for conversion into rupees of value expressed in foreign currency, wherever applicable, shall be in accordance with provision of rule 115 of the Income-tax Rules, 1962. B. the exceptions, modifications and adaptations referred to in para A shall not apply in respect of such income of the foreign company becoming Indian resident on account of its PoEM being in India which would have been chargeable to tax in India, even if the foreign company had not become Indian resident.

C. in a case where the foreign company is said to be resident in India during a previous year, immediately succeeding a previous year during which it is said to be resident in India; the exceptions, modifications and adaptations referred to in para A shall apply to the said previous year subject to the condition that the WDV, the brought forward loss and the unabsorbed depreciation to be adopted on the 1st day of the previous year shall be those which have been arrived at on the last day of the preceding previous year in accordance with the provisions of this notification.

D. any transaction of the foreign company with any other person or entity under the Act shall not be altered only on the ground that the foreign company has become Indian resident.

E. subject to the above, the foreign company shall continue to be treated as a foreign company even if it is said to be resident in India and all the provisions of the Act shall apply accordingly.

Consequently, the provisions specifically applicable to,— (i) a foreign company, shall continue to apply to it; (ii) non-resident persons, shall not apply to it; and (iii) the provisions specifically applicable to resident, shall apply to it.

F. in case of conflict between the provision applicable to the foreign company as resident and the provision applicable to it as foreign company, the later shall generally prevail. Therefore, the rate of tax in case of foreign company shall remain the same, i.e., rate of income-tax applicable to the foreign company even though residency status of the foreign company changes from non-resident to resident on the basis of PoEM.

This notification shall be deemed to have come into force from the 1st day of April, 2017.

**NOTIFICATION NO. 36/2018 DATED 31<sup>ST</sup> JULY, 2018**

In exercise of the powers conferred under clause (ii) of Explanation 1 of clause (d) of proviso to sub-section (5) of Section 43 of the Income-tax Act, 1961 (43 of 1961) read with sub-rule (4) of Rule 6DDB of the Income-tax Rules, 1962, the Central Government hereby notifies NSE IFSC limited, Gandhinagar, Gujarat (PAN: AAFCN4161P) as a 'recognised stock exchange' for the purpose of said clause with effect from the date of publication of this notification in the Official Gazette, subject to fulfilment of following conditions in respect of trading in derivatives, namely:

- (i) the stock exchange shall have the approval of the Securities and Exchange Board of India established under the Securities and Exchange Board of India Act, 1992 (15 of 1992) in respect of trading in derivatives and it shall function in accordance with the guidelines or conditions laid down by the Securities and Exchange Board of India;
- (ii) it shall ensure that the particulars of the client (including unique client identity number and PAN) are duly recorded and stored in its databases;
- (iii) it shall maintain a complete audit trail of all transactions (in respect of derivative market) for a period of seven years on its system;
- (iv) it shall ensure that transactions (in respect of derivative market) once registered in the system are not erased;
- (v) it shall ensure that the transactions (in respect of derivative market) once registered in the system are modified only in cases of genuine error and maintain data regarding all transactions (in respect of derivative market) registered in the system which have been modified and submit a monthly statement in Form No. 3BB to the Director General of Income-tax (Intelligence and Criminal Investigation), New Delhi within fifteen days from the last day of each month to which such statement relates .

**NOTIFICATION NO. 38/2018 DATED 10<sup>TH</sup> AUGUST, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Insolvency and Bankruptcy Board of India', New Delhi, a board established by the Central Government, in respect of the following specified income arising to that board, namely:-

- (a) Grants-in-aid received from Central Government;
- (b) Fees received under the Insolvency and Bankruptcy Code, 2016 (31 of 2016);
- (c) Fines collected under the Insolvency and Bankruptcy Code, 2016 (31 of 2016); and
- (d) Interest income accrued on (a), (b) and (c) above.

This notification shall be effective subject to the conditions that Insolvency and Bankruptcy Board of India, New Delhi-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial year 2017-2018 and shall apply with respect to the financial years 2018-2019, 2019-2020, 2020-2021 and 2021-2022.

**NOTIFICATION NO. 39/2018 DATED 10<sup>TH</sup> AUGUST, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961),



the Central Government hereby notifies for the purposes of the said clause, Madhya Pradesh Real Estate Regulatory Authority, a body constituted by Government of Madhya Pradesh, in respect of the following specified income arising to that body, namely:-

- (a) registration fees received under the Real Estate (Regulation and Development) Act, 2016;
- (b) application fees received under the Real Estate (Regulation and Development) Act, 2016;
- (c) penalties for violation of provisions contained in the Real Estate (Regulation and Development) Act, 2016;
- (d) late fee and compounding charges received under the Real Estate (Regulation and Development) Act, 2016;
- (e) grants-in-aid received from government; and
- (f) interest accrued on above amounts as per clause 75(1)(c) of the Real Estate (Regulation and Development) Act, 2016.

This notification shall be effective subject to the conditions that Madhya Pradesh Real Estate Regulatory Authority,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the financial year 2017-2018 and shall apply with respect to the financial years 2018-2019, 2019-2020, 2020-2021 and 2021-2022.

#### **NOTIFICATION NO. 41/2018 DATED 30<sup>TH</sup> AUGUST, 2018**

In exercise of the powers conferred by the clause (22B) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby specifies the "The Press Trust of India Limited, New Delhi" as a news agency set up in India solely for collection and distribution of news, for the purpose of the said clause for three assessment years 2019-2020 to 2021-2022.

The notification is subject to the condition that the news agency applies its income or accumulates it for application solely for collection and distribution of news and does not distribute its income in any manner to its members.

#### **NOTIFICATION NO. 42/2018 DATED 30<sup>TH</sup> AUGUST, 2018**

In exercise of the powers conferred by clause (via) of section 28 read with section 295 of the Income-tax Act, 1961 (43 of 1961), hereinafter referred to as the Income-tax Act, the Central Government hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:

- (1) These rules may be called the Income-tax (9th Amendment), Rules, 2018.
- (2) They shall come into force from the 1st day of April, 2019 and shall apply in relation to assessment year 2019-20 and subsequent years.

In the Income-tax Rules, 1962,

- (a) in rule 11U, in clause (b), for sub-clause (ii), the following sub-clause shall be substituted, namely:—

“(ii) in any other case,—

(A) in relation to an Indian company, the balance-sheet of such company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date which has been audited by the auditor of the company appointed under the laws relating to companies in force; and

(B) in relation to a company, not being an Indian company, the balance-sheet of the company (including the notes annexed thereto and forming part of the accounts) as drawn up on the valuation date which has been audited by the auditor of the company, if any, appointed under the laws in force of the country in which the company is registered or incorporated;”;

(b) after rule 11UAA, the following rule shall be inserted, namely:

“11UAB. Determination of fair market value for inventory.(1) For the purposes of clause (via) of section 28 of the Act, the fair market value of the inventory,—

(i) being an immovable property, being land or building or both, shall be the value adopted or assessed or assessable by any authority of the Central Government or a State Government for the purpose of payment of stamp duty in respect of such immovable property on the date on which the inventory is converted into, or treated, as a capital asset;

(ii) being jewellery, archaeological collections, drawings, paintings, sculptures, any work of art, shares or securities referred to in rule 11UA, shall be the value determined in the manner provided in sub-rule (1) of rule 11UA and for this purpose the reference to the valuation date in the rule 11U and rule 11UA shall be the date on which the inventory is converted into, or treated, as a capital asset;

(iii) being the property, other than those specified in clause (i) and clause (ii), the price that such property would ordinarily fetch on sale in the open market on the date on which the inventory is converted into, or treated, as a capital asset.”.

#### **NOTIFICATION NO. 44/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘Uttar Pradesh Electricity Regulatory Commission’, Lucknow, a commission constituted under the Uttar Pradesh Electricity Reforms Act, 1999 (UP Act No.24 of 1999), in respect of the following specified income arising to the said Commission, namely:--

- (a) amount received in the form of Government grants;
- (b) amount received as licence fees & fines; and
- (c) interest on Government grants, licence fees & fines.

This notification shall be effective subject to the conditions that Uttar Pradesh Electricity Regulatory Commission, Lucknow,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment years 2017-2018 and 2018-2019 and shall apply with respect to the assessment years 2019-2020, 2020-2021 and 2021-2022.

**NOTIFICATION NO. 45/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Petroleum and Natural Gas Regulatory Board', New Delhi, a Board constituted by the Government of India, in respect of the following specified income arising to the said Board, namely:--

- (a) Grant received from Central Government;
- (b) All other grants, fees, penalty charges received;
- (c) All sums received from such other sources as may be approved by the Central Government as per section 38 and 39 of the Petroleum and Natural Gas Regulatory Board Act, 2006; and
- (d) Interest earned on deposits.

This notification shall be effective subject to the conditions that Petroleum and Natural Gas Regulatory Board, New Delhi,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of subsection (4C) of section 139 of the Income-tax Act, 1961.

This notification shall apply with respect to the assessment years 2019-2020, 2020- 2021, 2021-2022, 2022-2023 and 2023-2024.

**NOTIFICATION NO. 46/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Rajasthan State Dental Council', Jaipur, a body constituted by the Government of Rajasthan, in respect of the following specified income arising to that body, namely:—

- (a) sale of application form;
- (b) renewal fees of Dentists, Dental Hygienists and Dental Mechanics;
- (c) fees of good standing;
- (d) Dentist provisional registration fees;
- (e) Additional qualification fees;
- (f) late fees;
- (g) no objection certificate fees;
- (h) re-issue of certificate fees (duplicate certificate fees);
- (i) Continuing Dental Education Programme fees; and
- (j) interest income accrued on above.

This notification shall be effective subject to the conditions that Rajasthan State Dental Council, Jaipur,—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the assessment years; and (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment years 2017-2018 and 2018-2019 shall apply with respect to the assessment years 2019-2020, 2020-2021 and 2021-2022.

**NOTIFICATION NO. 47/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Kandla Special Economic Zone Authority', Kutch, an authority constituted by the Central Government, respect of the following specified income arising to that authority, namely:-

- (a) Lease rent (charged as per Government prescribed rate) including interest and penalty;
- (b) Receipts from I-Card and permit fees/ gate pass;
- (c) Auction/Bid amount in respect of Plots/Buildings which fall vacant;
- (d) Transfer charges in respect of Plot/Building;
- (e) Processing fee for approval of Building Plans;
- (f) Site Usage charges from Service providers including user charges & water charges (including interest and penalty thereon);
- (g) License fee for Staff Quarters; and
- (h) Interest accrued on (a) to (g) above.

This notification shall be effective subject to the conditions that Kandla Special Economic Zone Authority, Kutch,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2018-2019, and shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022 and 2022-2023.

**NOTIFICATION NO. 48/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Gujarat Water Supply and Sewerage Board', Gandhinagar, a Board constituted by Government of Gujarat, in respect of the following specified income arising to that board, namely:-

- (a) Grant received from state government;
- (b) Deposits received from Local Bodies;
- (c) Centage at rates prescribed by the Government of Gujarat;
- (d) Water charges (tariff fixed by the Govt. of Gujarat) collected from local bodies, farmer for Water supply;
- (e) Rent collected as per the provisions of Gujarat Water Supply and Sewerage Act, 1978; and
- (f) Interest on (a) to (e) above.

This notification shall be effective subject to the conditions that the Gujarat Water Supply and Sewerage Board,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income remain unchanged throughout the financial years; and

(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment years 2017-18 and 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21 and 2021-22.

**NOTIFICATION NO. 49/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Tripura Electricity Regulatory Commission', a commission constituted by the State Government of Tripura, in respect of the following specified income arising to the said Commission, namely:--

- (a) Grants received from State Government;
- (b) Annual License fee under Electricity Act, 2003;
- (c) Petition fees under Electricity Act, 2003;
- (d) Tender fee/Earnest money; and .
- (e) Interest on (a) to (d) above.

This notification shall be effective subject to the conditions that Tripura State Electricity Regulatory Commission –

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21, 2021-22 and 2022-23.

**NOTIFICATION NO. 50/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'West Bengal State Council of Science & Technology', Kolkata, a society constituted by the Government of West Bengal, in respect of the following specified income arising to that Society, namely:--

- (a) Grants received from Central & State Governments;
- (b) Course fees from Research Fellow;
- (c) Receipts from Sale of Maps & Patent searching report;
- (d) Receipts from Sale of plants; and
- (e) Interest earned on (a) to (d) above.

This notification shall be effective subject to the conditions that West Bengal State Council of Science & Technology, Kolkata,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of subsection (4C) of section

139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment years 2016-17, 2017-18 and 2018-19 and shall apply with respect to the assessment years 2019-20 and 2020-21.

**NOTIFICATION NO. 51/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Jharkhand State Electricity Regulatory Commission', Ranchi, a commission constituted by the State government of Jharkhand, in respect of the following specified income arising to the said Commission, namely:—

- (a) Grants-in-aid from the State government of Jharkhand;
- (b) Petition fees;
- (c) License fees from Licensee under the Electricity Act 2003;
- (d) Application fees;
- (e) Fees for documents;
- (f) Fees received under the provisions of the Right to Information Act, 2005; and
- (g) Interest income on (a) to (f) above.

This notification shall be effective subject to the conditions that Jharkhand State Electricity Regulatory Commission, Ranchi,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the assessment years; and (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024.

**NOTIFICATION NO. 52/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Tamil Nadu Water Supply and Drainage Board', a board constituted under the Tamil Nadu Water Supply and Drainage Board Act, 1970 (Tamil Nadu Act 4 of 1971), in respect of the following specified income arising to that board, namely:-

- (a) Grant from Government/Local Bodies (Deficit on Operation and Maintenance of CWSS);
- (b) Investigation Charges for Water Supply Scheme and Under Ground Sewerage Scheme;
- (c) Centage at rates prescribed by the Government of Tamil Nadu;
- (d) Water charges (Water Tariff fixed by the Govt. of Tamil Nadu) collected from local bodies for bulk water supply;
- (e) Receipts from Pension and gratuity contribution;
- (f) Receipts from Hire Charges, sale of Tender Schedule, Geological Survey Income, Contractor/Firm Registration fees, Fine for slow progress, Forfeiture of Security Deposit, Supervision charges, Sale of Waste Papers, Sale of used Assets, Publication Subscription, Field Testing Kits, Water Testing Charges, Material Testing Charges, Fuel Charges from Local bodies for operation of Generator for CWSS ;
- (g) Interest earned on (a) to (f) above.

This notification shall be effective subject to the conditions that Tamil Nadu Water Supply and Drainage

Board –

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall apply with respect to the Assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024.

**NOTIFICATION NO. 53/2018 DATED 14<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, the State Load Dispatch Centre Unscheduled Interchange Fund- West Bengal State Electricity Transmission Company Limited (PAN AAIAS0980J), a trust constituted under the Electricity Act, 2003 (36 of 2003) in respect of the following specified income arising to that trust, namely:-

- (a) Residual money in the unscheduled interchange pool balance account;
- (b) Income incidental to or related to unscheduled interchange; and
- (c) Interest on fixed deposits and auto-sweep accounts.

This notification shall be effective subject to the conditions that the State Load Dispatch Centre Unscheduled Interchange Fund- West Bengal State Electricity Transmission Company Limited (PAN AAIAS0980J),-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2018-2019 and shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022 and 2022-2023.

**NOTIFICATION NO. 54/2018 DATED 18<sup>TH</sup> SEPTEMBER, 2018**

It is hereby notified for general information that the organization M/s Indian Council of Medical Research (PAN:- AAEAT4818Q) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from Assessment year 2019-2020 and onwards under the category of “Other Institution” engaged in research activities subject to the following conditions, namely:-

- (i) The sums paid to the approved organization i.e. M/s Indian Council of Medical Research shall be utilized for scientific research. The Grants/Donations for undertaking scientific research which are extended to Non-ICMR Institutes by the approved organization shall not be eligible for benefit under section 35(1)(ii) of the said Act. However, any collaborative research activity carried out by an ICMR-institute by utilizing the Grants/Donations received by the approved organization shall not be covered under the said exclusion.

(ii) The approved organization shall carry out scientific research through its faculty members or its enrolled students;

(iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (1) of section 139 of the said Act;

(iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization:-

- (a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or
- (b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph 1; or
- (c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or
- (d) ceases to carry on its research activities or its research activities are not found to be genuine; or
- (e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (1) of section 35 of the said Act read with rules 5C and 5E of the said Rules.

**NOTIFICATION NO. 55/2018 DATED 26<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (a) of sub section (2) of section 80D of the Income Tax Act, 1961 (43 of 1961), the Central Government hereby notifies the Ex-Servicemen Contributory Health Scheme of the Department of Ex-Servicemen Welfare, Ministry of Defence, for the purposes of the said clause for the assessment year 2019-20 and subsequent assessment years.

**NOTIFICATION NO. 56/2018 DATED 26<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Chhattisgarh State Electricity Regulatory Commission', Raipur, a Commission constituted by the Government of Chhattisgarh, in respect of the following specified income arising to that Commission, namely:—

- (a) Grants received from State Government;
- (b) Annual License fee under Electricity Act, 2003;
- (c) Petition fees under Electricity Act, 2003;
- (d) Penalty imposed under Electricity Act, 2003.

This notification shall be effective subject to the conditions that 'Chhattisgarh State Electricity Regulatory Commission', Raipur —

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and



(c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment years 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21, 2021-22 and 2022-23.

**NOTIFICATION NO. 57/2018 DATED 26<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Uttarakhand Real Estate Regulatory Authority', Dehradun, an authority constituted by the Government of Uttarakhand, in respect of the following specified income arising to that authority, namely:-

- (a) Grants-in-aid received from Government;
- (b) Registration fees received under the Real Estate (Regulation and Development) Act, 2016;
- (c) Application fees received under the Real Estate (Regulation and Development) Act, 2016;
- (d) Penalties for violation of provisions contained in the Real Estate (Regulation and Development) Act, 2016;
- (e) Late fees received under the Real Estate (Regulation and Development) Act, 2016;
- (f) Fees received under the Right to Information Act, 2005;
- (g) Interest accrued on above amounts as per clause 75(1)(c) of the Real Estate (Regulation and Development) Act, 2016.

This notification shall be effective subject to the conditions that Uttarakhand Real Estate Regulatory Authority, Dehradun,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment years 2018-2019 and shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022 and 2022-2023.

**NOTIFICATION NO. 58/2018 DATED 26<sup>TH</sup> SEPTEMBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Tamil Nadu Pollution Control board', a Board constituted by the State Government of Tamil Nadu, in respect of the following specified income arising to the said Board, namely:--

- (a) Consent fees;
- (b) Analysis fees or air ambient quality survey fees or noise level survey fees;
- (c) Reimbursement of the expense received from Central Pollution Control Board towards National Air Monitoring Programmes, Global Environment Monitoring Systems and Monitoring of Indian National Aquatic resources and like schemes;
- (d) Authorization fees (Bio Medical Waste Management Fees);
- (e) Cess re-imburement and cess appeal fees;

- (f) Fees collected for training conducted by the Environment Training Institute of the Board where no profit element is involved and the activity is not commercial in nature;
- (g) Fees received under the Right to Information Act, 2005(22 of 2005);
- (h) Public hearing fees;
- (i) Sale of law books where no profit element is involved and the activity is not commercial in nature;
- (j) Interest on loans and advances given to staff of the Board;
- (k) Miscellaneous income such as sale of old or scrap items, tenders fees and other matters relating thereto; and
- (l) Interest on deposits.

This notification shall be effective subject to the conditions that ‘Tamil Nadu Pollution Control board, Chennai –

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall apply with respect to the assessment years 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24.

**NOTIFICATION NO. 60/2018 DATED 1<sup>ST</sup> OCTOBER, 2018**

In exercise of the powers conferred by sub-section (4) of section 112A of the Income-tax Act, 1961 (43 of 1961) hereinafter referred to as the Income-tax Act, the Central Government, with a view to specify the nature of acquisition in respect of which the provision of sub-clause (a) of clause (iii) of sub-section (1) of section 112A of the Income-tax Act shall not apply, hereby notifies the transactions of acquisition of equity share entered into

- (I) before the 1st day of October, 2004; or
- (II) on or after the 1st day of October, 2004 which are not chargeable to securities transaction tax under Chapter VII of the Finance (No. 2) Act, 2004 (23 of 2004), other than the following, namely:

- (a) where acquisition of existing listed equity share in a company whose equity shares are not frequently traded in a recognised stock exchange of India is made through a preferential issue:

Provided that nothing contained in this clause shall apply to acquisition of listed equity shares in a company;

- (i) which has been approved by the Supreme Court, High Court, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;
- (ii) by any non-resident in accordance with foreign direct investment guidelines issued by the Government of India;
- (iii) by an investment fund referred to in clause (a) of Explanation 1 to section 115UB of the Income-tax Act or a venture capital fund referred to in clause (23FB) of section 10 of the Income-tax Act or a Qualified Institutional Buyer; and
- (iv) through preferential issue to which the provisions of chapter VII of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009 does not apply.

(b) where transaction for acquisition of existing listed equity share in a company is not entered through a recognised stock exchange in India:

Provided that nothing contained in this clause shall apply to the acquisition of listed equity shares in a company which has been made in accordance with the provisions of the Securities Contracts (Regulation) Act, 1956 (42 of 1956), and is—

- (i) through an issue of share by a company other than the issue referred to in clause (a);
- (ii) by scheduled banks, reconstruction or securitisation companies or public financial institutions during their ordinary course of business;
- (iii) approved by the Supreme Court, High Courts, National Company Law Tribunal, Securities and Exchange Board of India or Reserve Bank of India in this behalf;
- (iv) under employee stock option scheme or employee stock purchase scheme framed under the Securities and Exchange Board of India (Employee Stock Option Scheme and Employee Stock Purchase Scheme) Guidelines, 1999;
- (v) by any non-resident in accordance with foreign direct investment guidelines of the Government of India;
- (vi) in accordance with Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulation, 2011;
- (vii) from the Government;
- (viii) by an investment fund referred to in clause (a) to Explanation 1 to section 115UB of the Income-tax Act or a venture capital fund referred to in clause (23FB) of section 10 of the income-tax Act or a Qualified Institutional Buyer; and
- (ix) by mode of transfer referred to in section 47 or section 50B or sub-section (3) of section 45 or subsection (4) of section 45 of the Income-tax Act, if the previous owner or the transferor, as the case may be, of such shares has not acquired them by any mode referred to in clause (a) or clause (b) or clause (c) [other than the transactions referred to in the proviso to clause (a) or clause (b)].

(c) acquisition of equity share of a company during the period beginning from the date on which the company is delisted from a recognised stock exchange and ending on the date immediately preceding the date on which the company is again listed on a recognised stock exchange in accordance with the Securities Contracts (Regulation) Act, 1956 read with Securities and Exchange Board of India Act, 1992 (15 of 1992) and the rules made thereunder;

Explanation: For the purposes of this notification,

(a) “frequently traded shares” means shares of a company, in which the traded turnover on a recognised stock exchange during the twelve calendar months preceding the calendar month in which the acquisition and transfer is made, is at least ten per cent. of the total number of shares of such class of the company: Provided that where the share capital of a particular class of shares of the company is not identical throughout such period, the weighted average number of total shares of such class of the company shall represent the total number of shares;

(b) ‘listed’ means listed in a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and the rules made thereunder;

(c) “preferential issue” and “Qualified Institutional Buyer” shall have the meanings respectively assigned to them in sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue of Capital and Disclosure Requirements) Regulations, 2009;

(d) "public financial institution" and "scheduled bank" shall have the meanings respectively assigned to

them in Explanation to clause (viiia) of sub-section (1) of section 36 of Income-tax Act;

(e) “recognised stock exchange” shall have the same meaning assigned to it in clause (f) of section 2 of the Securities Contracts (Regulation) Act, 1956; and

(f) “reconstruction company” and “securitisation company” shall have the meanings respectively assigned to them in sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002).

This notification shall come into force with effect from the 1st day of April, 2019 and shall accordingly apply in relation to the assessment year 2019-20 and subsequent assessment years.

#### **NOTIFICATION NO. 61/2018 DATED 8<sup>TH</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, “Hyderabad Metropolitan Water Supply and Sewerage Board”, Hyderabad, a board constituted by Government of Andhra Pradesh in respect of the following specified incomes arising to that board, namely.—

- (a) Grants received from state government;
- (b) Water Cess;
- (c) Sewerage Cess;
- (d) Receipts from New connection charges, reconnection charges and disconnection charges;
- (e) Interest and penalty on delayed payment of water cess;
- (f) Receipts from supply of water via tankers;
- (g) Income through sale of tender forms;
- (h) Centage income;
- (i) Rental income from renting of buildings and hoardings;
- (j) Interest on consumption deposits with power companies, and
- (k) Interest on fixed deposits with banks.

This notification shall be effective subject to the conditions that Hyderabad Metropolitan Water Supply and Sewerage Board –

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the Assessment year 2017-2018 and 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21 and 2021-22.

#### **NOTIFICATION NO. 62/2018 DATED 8<sup>TH</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, ‘Karnataka State Unorganised Workers Social Security Board’, Bengaluru, a board constituted by the Government of Karnataka, in respect of the following specified income arising to that board, namely.—

- a) Grant-in-Aid released by State Government;

b) Interest earned on (a) above.

This notification shall be effective subject to the conditions that Karnataka State Unorganised Workers Social Security Board, Bengaluru –

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2017-18 and 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21 and 2021-22.

**NOTIFICATION NO. 63/2018 DATED 8<sup>TH</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Kerala State Electricity Regulatory Commission', Thiruvananthapuram, a commission established by the Government of Kerala, in respect of the following specified income arising to that commission, namely:—

- (a) Grants and loans received from State Government of Kerala;
- (b) License fee under Electricity Act, 2003;
- (c) Petition fees under Electricity Act, 2003;
- (d) Interest earned from investment.

This notification shall be effective subject to the conditions that Kerala State Electricity Regulatory Commission –

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21, 2021-22 and 2022-23.

**NOTIFICATION NO. 64/2018 DATED 8<sup>TH</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Madhya Pradesh Electricity Regulatory Commission', Bhopal, a Commission constituted by the State Government of Madhya Pradesh, in respect of the following specified income arising to the said Commission, namely:--

- (a) Amount received as petition fees;
- (b) Amount received as fines and charges;
- (c) Other incidental income received from sale of tender documents, processing fees, certified copying fees, sale of old newspapers, license fee, distribution of Tariff book, vehicle rent, interest on loans to staff; and
- (d) Interest earned on (a) to (c) above.

This notification shall be effective subject to the conditions that Madhya Pradesh Electricity Regulatory Commission, Bhopal,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall apply with respect to the assessment year 2020-2021, 2021-2022, 2022-2023, 2023-2024 and 2024-25.

**NOTIFICATION NO. 65/2018 DATED 8<sup>TH</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Real Estate Regulatory Authority, Punjab', an authority constituted by the Government of Punjab, in respect of the following specified income arising to that authority, namely:-

- (a) Grants received from Government;
- (b) Levy collected under the Real Estate (Regulation and Development) Act, 2016 and the Punjab State Real Estate (Regulation and Development) Rules, 2017;
- (c) Interest earned on (a) and (b) above.

This notification shall be effective subject to the conditions that Real Estate Regulatory Authority, Punjab,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2018-2019 and shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022 and 2022-2023.

**NOTIFICATION NO. 66/2018 DATED 8<sup>TH</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Uttaranchal Board of Technical Education, a board constituted by the State Act Uttaranchal Board of Technical Education Act, 2003, in respect of the following specified income arising to the said Board, namely:—

- a) Grants/subsidies received from Government/government bodies;
- b) Fees, Fines and Penalties collected as per the provisions of Uttaranchal Board of Technical Education Act, 2003;
- c) Receipts from sale of printed application forms and educational Material;
- d) Receipts from Disposal of assets and sale of Scrap;

- e) Rent received from let out of properties;
- f) Royalty or License Fees for providing technical knowledge and infrastructure;
- g) Interest earned on (a) to (f) above.

This notification shall be effective subject to the conditions that Uttaranchal Board of Technical Education –

- a) shall not engage in any commercial activity;
- b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2018-19 and shall apply with respect to the assessment years 2019-20, 2020-21, 2021-22 and 2022-23.

#### **NOTIFICATION NO. 68/2018 DATED 22<sup>ND</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Kozhikode District Sports Council, Kozhikode', a body constituted under Section 9 of the Kerala Sports Act, 2000 (Act 2 of 2001), in respect of the following specified income arising to that body, namely:—

- (a) Grants from Government and State Sports Council;
- (b) Rent Collected from Stadium and shop rooms housed in Koyilandy stadium and VKK Mendon Indoor stadium;
- (c) Interest earned on (a) & (b) above.

This notification shall be effective subject to the conditions that Kozhikode District Sports Council, Kozhikode—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment years 2016-17, 2017-18 and 2018-19 and shall apply with respect to the assessment years 2019-20 and 2020-21

#### **NOTIFICATION NO. 69/2018 DATED 22<sup>ND</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'West Bengal Unorganised Sector Workers Welfare Board', Kolkata, a board constituted by the Government of West Bengal, in respect of the following specified income arising to that board, namely:—

- (a) Grant-in-Aid received from Government;
- (b) Registration fee and Monthly/yearly Subscription collected from the registered workers; and
- (c) Interest earned on (a) and (b) above.

This notification shall be effective subject to the conditions that West Bengal Unorganised Sector Workers Welfare Board, Kolkata,-

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall be deemed to have been applied for the assessment year 2018-2019 and shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022 and 2022-23.

**NOTIFICATION NO. 71/2018 DATED 22<sup>ND</sup> OCTOBER, 2018**

In exercise of the powers conferred by clause (46) of section 10 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies for the purposes of the said clause, 'Gujarat Real Estate Regulatory Authority', Gandhinagar, a body constituted by the Government of Gujarat, in respect of the following specified income arising to that body, namely:—

- (a) Grants and loans received from the State Government;
- (b) All fees received under the Real Estate (Regulation and Development) Act, 2016 and the Gujarat Real Estate (Regulation and Development) (General) Rules, 2017;
- (c) Sums realized by way of penalties under sub-section (2) of the section 76 of the Real Estate (Regulation and Development) Act, 2016; and
- (d) Interest accrued on (a) to (c) above.

This notification shall be effective subject to the conditions that Gujarat Real Estate Regulatory Authority, Gandhinagar,—

- (a) shall not engage in any commercial activity;
- (b) activities and the nature of the specified income shall remain unchanged throughout the financial years; and
- (c) shall file return of income in accordance with the provision of clause (g) of sub-section (4C) of section 139 of the Income-tax Act, 1961.

This notification shall apply with respect to the assessment years 2019-2020, 2020-2021, 2021-2022, 2022-2023 and 2023-2024.

**NOTIFICATION NO. 75/2018 DATED 31<sup>ST</sup> OCTOBER, 2018**

It is hereby notified for general information that the organization M/ s Charutar Arogya Mandai, Gujarat (PAN:- AAA TC1264G) has been approved by the Central Government for the purpose of clause (ii) of sub-section (1) of section 35 of the Income tax Act, 1961 (said Act), read with Rules 5C and 5E of the Income-tax Rules, 1962 (said Rules), from Assessment year 2019-2020 onwards in the category of 'University, College or other Institution', engaged in research activities, subject to the following conditions, namely:-

- (i) The sums paid to the approved organization shall be used to undertake scientific research;
- (ii) The approved organization shall carry out scientific research through its faculty members or enrolled



students;

(iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section (I) of section 139 of the said Act;

(iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research, such donations shall be used exclusively for core scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

(v) Donations being received by the organization under clause (ii) of sub-section (I) of section 35 of the Act, shall be used exclusively for core scientific research only and not for hospital activities, activities related to treatment of patients, general educational activities (other than research) or any other object of the organization.

(vi) The approved organization shall, by the due date of furnishing the return of income under sub-section (1) of section 139, furnish a statement to the Commissioner of Income-tax or Director of Income-tax containing

a detailed note on the research work undertaken by it during the previous year;  
a summary of research articles published in national or international journals during the year;  
any patent or other similar rights applied for or registered during the year;  
programme of research projects to be undertaken during the forthcoming year and the financial allocation for such programme.

The Central Government shall withdraw the approval if the approved organization:- fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph 1; or fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph I ; or fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph 1; or ceases to carry on its research activities or its research activities are not found to be genuine; or ceases to conform to and comply with the provisions of clause (ii) of sub-section (I) of section 35 of the said Act read with rules 5C and 5E of the said Rules.

#### **NOTIFICATION NO. 83/2018 DATED 26<sup>TH</sup> NOVEMBER, 2018**

It is hereby notified for general information that the organization M/s Centre for Brain Research, Bangalore (pAN:AABTC7082K) has been approved by the Central Government for the purpose of clause (ii) of sub section (I) of section 35 of the Income tax Act, 196 1 (said Act), read with Rules 5C and 5D of the Income tax Rules, 1962 (said Rules), from Assessment year 2018-2019 onwards in the category of 'Scientific Research Association ', subject to the following conditions, namely:-

- (i) The sole objective of the approved 'Scientific Research Association' shall be to undertake scientific research;
- (ii) The approved organization shall carry out scientific research by itself;
- (iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act

and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under subsection (I) of section 139 of the said Act;

(iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization fails to maintain separate books of accounts referred to in sub-paragraph (ii i) of paragraph I; or fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph I; or fails to furnish its statement of the donations received and sums applied for scientific research referred to in sub-paragraph (iv) of paragraph I; or ceases to carry on its research activities or its research activities are not found to be genuine; or ceases to conform to and comply with the provisions of clause (ii) of sub-section (I) of section 35 of the said Act read with rules 5C and 5D of the said Rules.

#### **NOTIFICATION NO. 84/2018 DATED 26<sup>TH</sup> NOV, 2018**

It is hereby notified for general information that the organization M/s Thalassemia and Sickle Cell Society (PA AAATR4038K) has been approved by the Central Government for the purpose of clause (ii) of sub-section (I) of section 35 of the Income-tax Act, 1961 (said Act), read with Rules 5C and 5D of the Income-tax Rules, 1962 (said Rules), from Assessment year 2018- 2019 onwards in the category of ' Scientific Research Association', subject to the following conditions, namely:-

(i) The sole objective of the approved ' Scientific Research Association' shall be to undertake scientific research;

(ii) The approved organization shall carry out scientific research by itself;

(iii) The approved organization shall maintain separate books of accounts in respect of the sums received by it for scientific research, reflect therein the amounts used for carrying out research, get such books audited by an accountant as defined in the explanation to sub-section (2) of section 288 of the said Act and furnish the report of such audit duly signed and verified by such accountant to the Commissioner of Income-tax or the Director of Income-tax having jurisdiction over the case, by the due date of furnishing the return of income under sub-section ( I) of section 139 of the said Act;

(iv) The approved organization shall maintain a separate statement of donations received and amounts applied for scientific research and a copy of such statement duly certified by the auditor shall accompany the report of audit referred to above.

The Central Government shall withdraw the approval if the approved organization:-

(a) fails to maintain separate books of accounts referred to in sub-paragraph (iii) of paragraph I; or

(b) fails to furnish its audit report referred to in sub-paragraph (iii) of paragraph I; or

(c) fails to furnish its statement of the donations received and sums applied for scientific research referred to in subparagraph (iv) of paragraph I; or

(d) ceases to carry on its research activities or its research activities are not found to be genuine; or

(e) ceases to conform to and comply with the provisions of clause (ii) of sub-section (I) of section 35 of the said Act read with rules 5C and 5D of the said Rules.

## AMENDMENTS MADE BY FINANCE ACT, 2018

The amendments under the Income tax Act, 1961 (“the Act”) are as under:

- Rates of Income tax (FY 2017-18 v/s FY 2018-19)
- Amendments relating to Corporates
- Amendments relating to Individuals
- Amendments relating to Trusts
- Amendments relating to ICDS
- Amendments having impact on Foreign Currency Inflows
- Common Amendments

### RATES OF INCOME TAX (FY 2017-18 V/S FY 2018-19)

#### INDIVIDUALS:

| Persons  | FY 2017-18 | FY 2018-19 | Change    |
|--|------------|------------|-----------|
| <b>Individuals (&lt; 60 years – Resident) &amp; Non-Resident</b> |            |            |           |
| 0 – 2,50,000   | 0%         | 0%         | No Change |
| 2,50,001 – 5,00,000  | 5%         | 5%         | No Change |
| 5,00,001 – 10,00,000   | 20%        | 20%        | No Change |
| Above 10,00,000  | 30%        | 30%        | No Change |
|  |            |            |           |
| <b>RESIDENT Individuals (&gt;= 60 years)</b>                     |            |            |           |
| 0 – 3,00,000   | 0%         | 0%         | No Change |
| 3,00,001 – 5,00,000  | 5%         | 5%         | No Change |
| 5,00,001 – 10,00,000   | 20%        | 20%        | No Change |
| Above 10,00,000  | 30%        | 30%        | No Change |
|  |            |            |           |
| <b>RESIDENT Individuals (&gt;= 80 years)</b>                     |            |            |           |
| 0 – 5,00,000   | 0%         | 0%         | No Change |
| 5,00,001 – 10,00,000   | 20%        | 20%        | No Change |
| Above 10,00,000  | 30%        | 30%        | No Change |

**Important Points:**

- Rebate under Section 87A is available to a **RESIDENT INDIVIDUAL** having **total income upto Rs. 3.50 lakhs**. The amount of rebate shall be 100% of tax or Rs. 2,500 whichever is lower. Further, **rebate shall be given before charging any Cess**.
- Cess for FY 2017-18 is 3% (EC & SHEC) and **for FY 2018-19 is 4% (HEC)**.
- TDS is required to be deducted including Surcharge & Cess in case of Non-Resident.

**Rates of Surcharge:**

| Particulars                          | Surcharge (FY 17-18) | Surcharge (FY 18-19) | Change    |
|--------------------------------------|----------------------|----------------------|-----------|
| Income upto Rs. 50 lakhs             | 0%                   | 0%                   | No Change |
| Income > Rs. 50 lakhs <= Rs. 1 crore | 10%                  | 10%                  | No Change |
| Income > Rs. 1 crore                 | 15%                  | 15%                  | No Change |

- **Surcharge** is chargeable on Tax whereas **Cess** is to be charged on Tax plus surcharge.
- **Surcharge** is used by the Government for construction of National Highways.
- Income here means Total Income and not Gross Total Income.
- Marginal Relief is available from the Surcharged tax.

**COMPANIES:**

| Persons  | F.Y. 2017-18 | F.Y. 2018-19 | Change |
|--|--------------|--------------|--------|
| <b>Domestic Companies</b>                                      |              |              |        |
| Turnover > Rs. 50 cr. in FY 15-16 & > Rs. 250 cr. in FY 16-17  | 30%          | 30%          | No     |
| Turnover > Rs. 50 cr. in FY 15-16 & <= Rs. 250 cr. in FY 16-17 | 30%          | 25%          | Yes    |
| Turnover < Rs. 50 cr. in FY 15-16 & > Rs. 250 cr. in FY 16-17  | 25%          | 30%          | Yes    |
| Turnover < Rs. 50 cr. in FY 15-16 & <= Rs. 250 cr. in FY 16-17 | 25%          | 25%          | No     |
| <b>Foreign Companies</b>                                       |              |              |        |
| Tax Rate   | 40%          | 40%          | No     |

(irrespective of turnover)

**Domestic Company** means a Company which is an Indian Company **OR** any other Company which has made prescribed arrangements for declaration and payment of dividend in India.

## COMPANIES

### Rates of Surcharge:

| Particulars                                   | Surcharge (FY 17-18) | Surcharge (FY 18-19) | Change    |
|---|----------------------|----------------------|-----------|
| <b>Domestic Company</b>                       |                      |                      |           |
| Income exceeds Rs. 1 crore upto Rs. 10 crores | 7%                   | 7%                   | No Change |
| Income exceeds Rs. 10 crores                  | 12%                  | 12%                  | No Change |
| <b>Foreign Company</b>                        |                      |                      |           |
| Income exceeds Rs. 1 crore upto Rs. 10 crores | 2%                   | 2%                   | No Change |
| Income exceeds Rs. 10 crores                  | 5%                   | 5%                   | No Change |

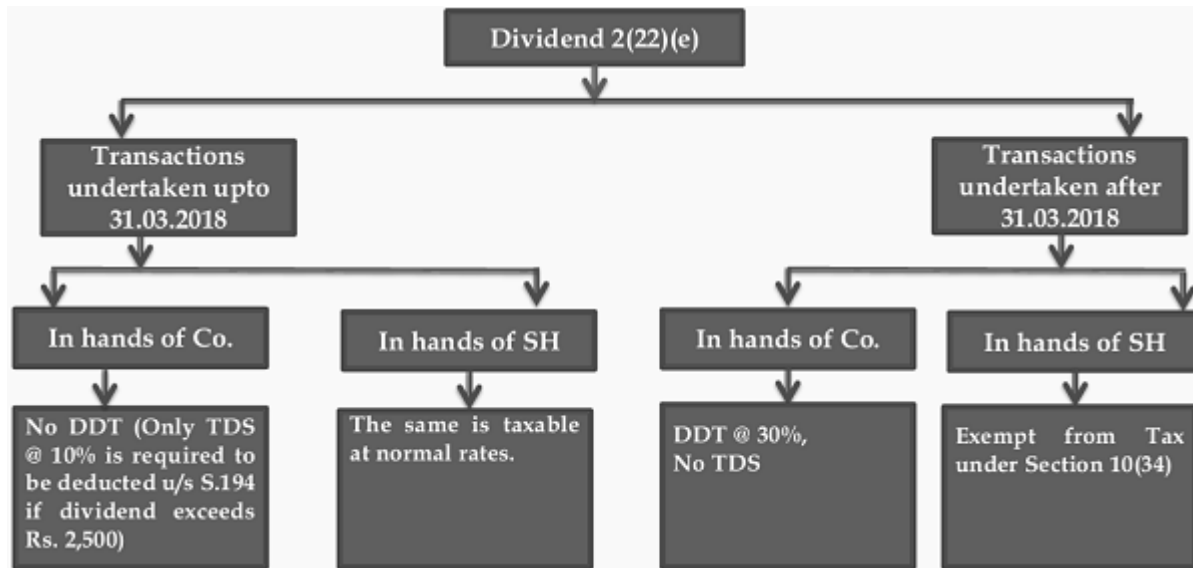
- **Surcharge** is chargeable on Tax whereas **Cess** is to be charged on Tax plus surcharge.
- **Surcharge** is used by the Government for construction of National Highways.
- Marginal Relief is available from the Surcharged tax.
- Tax rate of 30% is applicable to Partnership Firms and LLPs.
- Surcharge @ 12% of tax is chargeable in case of Firms, LLPs if income > INR 1 crore.
- HUF/ AOP/ BOI/ AJP/ Trusts are chargeable at same rates as applicable to Individuals.
- No Change in rates of tax except Cess which has been increased from 3% in F.Y. 2017-18 to 4% in F.Y. 2018-19 in case of all assesseees.
- Income received by member of HUF from HUF is exempt from tax in hands of member under Section 10 since the same is appropriation of profits.
- Income received by Partner from Firm (except salary, interest, fee, commission etc.) is exempt from tax in hands of Partner under Section 10 since the same is appropriation of profits.

## AMENDMENTS RELATING TO CORPORATES

### 1) APPLICATION OF DDT TO DEEMED DIVIDENDS

Section 115-O and related sections have been amended in order to provide that dividends referred to in Section 2(22)(e) of the Act are also part of Section 115-O and chargeable to DDT @ 30% (instead of 20.5553%). However, no change has been made in Section 115BBDA and Section 10(34) of the Act.

Post Amendment, It can be inferred that, Deemed Dividend u/s 2(22)(e) is chargeable to DDT @ 30% in hands of closely held company. Since Section 115BBDA of the Act do not cover above dividend, hence the same is wholly exempt from tax under Section 10(34) of the Act even exceeds Rs. 10 lakhs. Further, TDS under Section 194 of the Act is not required to be deducted since such dividend is now covered under Section 115-O of the Act.



## 2. PLUGGING OF LACUNA IN CASE OF AMALGAMATION

The same can be understood with the help of following example:



Now, Suppose Amalgamated Company say “A Ltd.” has taken over Amalgamating Company say “B Ltd” in the scheme of Amalgamation.

Since, B Ltd. is a profit making Company and hence, there will arise “Goodwill” (in most situation) to A Ltd. post amalgamation (assuming in the nature of purchase). Now, while reducing of capital by A Ltd., Section 2(22)(d) do not arise since A Ltd. is having losses even after amalgamating B Ltd.

Before amendment, the shareholders of A Ltd. enjoy cash by reduction of capital without implying Section 2(22)(d) of the Act.

**Finance Act, 2018** has made the amendment and provided that at the time of reduction of capital by amalgamated company, accumulated profits of amalgamating company on amalgamation date will also be included.

## 3. DEDUCTIONS FROM INCOME OF FARM PRODUCER COMPANIES

**New Section inserted for 100% deduction:** A new Section 80PA has been inserted under the Act in order to provide that 100% of the gross total income of Producer Company shall be exempt if following conditions are satisfied:

- Turnover in the relevant previous year is less than Rs. 100 crores;
- Such Producer Company shall be engaged in marketing, processing of agricultural produce of members, purchase of agricultural implements, seeds, livestock for the use of members.
- Deduction can be taken from FY 2018-19 to FY 2024-25.

**Important Points:** Producer Company means a body corporate having objects or activities in relation to production, marketing, selling, export of agriculture produce of member, providing machinery, education, consultancy to members in relation to production activities.

#### 4. EXEMPTION ON SALE OF STOCK OF CRUDE OIL BY FOREIGN COMPANY

The provisions of Section 10(48), 10(48A) and 10(48B) of the Income tax Act, 1961 exempts the following Incomes of a foreign company:

- Income received in India on account of Sale of crude oil as per the agreement approved by the Central Government – Section 10(48).
- Income accrue or arise in India on account of storage of crude oil in India and sale of crude oil therefrom in India as per the agreement approved by Central Government – Section 10 (48A).
- Income accrue or arise in India on account of Sale of leftover stock after the expiry of agreement approved by Central Government – Section 10 (48B).

*Now Finance Act, 2018 has made the amendment that even in case of termination of agreement, exemption benefit under Section 10(48B) will be available to such foreign company.*

#### 5. BENEFITS TO COMPANIES UNDER INSOLVENCY PROCEEDINGS

##### Provisions before Amendment

- The provisions of Section 79 of the Income tax Act, 1961 provides that NO LOSS can be carried forward and set off in case of change in shareholding by more than 51% from the loss year to set off year. For Example, If Loss relates to FY 2015-16 which is tested for set off in FY 2018-19, at least 51% of the voting power of shareholders must be same in both years.
- Further, Section 115JB allows the benefit of brought forward losses **OR** Unabsorbed depreciation (as per books), whichever is lower from the Book Profits computed under the provisions of Minimum Alternate Tax (MAT).
- Companies which are under the Insolvency proceedings are under a lose-lose situation due to above two provisions since upon taken over by others, losses will be lapsed. Further, if any of the loss or unabsorbed depreciation as per books is NIL, then there would be no benefit under MAT.

##### Amendment made by Finance Act, 2018

- Section 79 of the Act has been amended in order to provide that the provisions of Non Carry forward of loss will not be applicable in case of a Company whose resolution plan has been approved under Insolvency and Bankruptcy Code, 2016 (IBC, 2016).
- For Example, If Loss relates to FY 2015-16 which is tested for set off in FY 2018-19, no testing is required to be made for 51% criteria in case of Companies under Insolvency.
- Section 115JB of the Act has been amended in order to provide that in place of “Lower of Brought Forward Loss or Unabsorbed Depreciation”, “Aggregate of Brought Forward Loss **and** Unabsorbed Depreciation” will be allowed to a Company whose resolution plan has been approved. This will benefit the acquisitions of Companies which are under the proceedings of IBC, 2016.

#### AMENDMENTS IN RELATION TO INDIVIDUALS

**1. Amendments made under the head Salaries [Section 16 and Section 17]:** Finance Act, 2018 has introduced Standard Deduction amounting to INR 40,000 from Gross Salary as a benefit to the Salaried Employees. Now, total three deductions are available under the head Salaries:

It has further **withdrawn** the benefit of medical reimbursement which was earlier available to the extent of INR 15,000. Further, Exemption upto INR 19,200 w.r.t. transportation allowance for commuting

between office and residence has also been withdrawn. The above amendments will apply for Salary Income earned from F.Y. 2018-19 onwards.

**2. Enhancement of quantum of deduction of Medical Insurance:** Section 80D of the Act has been amended in order to provide that the deduction in respect of Senior Citizen will now be available with a new cap of INR 50,000 instead of INR 30,000. Further, the benefit of deduction in respect of medical expenditure is also available in case of Senior Citizen having age  $\geq 60$  years.

◆ For HUF also, the deduction has been increased from INR 30,000 to INR 50,000. However, the limit of INR 25,000 is intact for Individuals and family members in case the age is  $< 60$  years.

◆ Post Amendment, the maximum deduction which can be allowed under this section can be INR 1,00,000 if all the insured persons are Senior Citizens. Further, amount paid for insurance taken for more than one year will now be allowed proportionately.

### **3. Enhancement of quantum of deduction for specified disease**

Section 80DDB of the Act provides for a deduction to a resident Individual and HUF for medical treatment of specified disease of dependent amounting to INR 60,000 in case of Senior Citizen and INR 80,000 in case of Very Senior Citizen. Post Amendment, the deduction which can be allowed under this section can be INR 1,00,000 for any type of Senior Citizen.

**4. Interest Income of Senior Citizens:** Section 80TTA of the Act provides that deduction amounting to INR 10,000 (maximum) is allowed to an Individual or HUF for Interest Income earned on saving account. Section 80TTA is not applicable on Interest Income earned on Fixed Deposits/ Time Deposits.

Now, **Finance Act, 2018** has inserted a new Section 80TTB in order to provide that Senior Citizens are allowed a deduction of upto INR 50,000 in respect of Income earned by such Senior Citizens from Deposits (Saving Account, Fixed Deposits and Time Deposits). Further, in case of Senior Citizens, TDS will be deducted if the Income exceeds INR 50,000. (Amendment made in Section 194A). No deduction under Section 80TTA shall be allowed to such Senior Citizens. Only those deposits are covered which are held with Banking Company, Post Office or Cooperative Societies.

### **5. Amendments in relation to Trust:**

**Applicability of Section 40A(3), 40A(3A) and Section 40(a)(ia) in case of Trusts:** Income of a religious and charitable trust registered under the Act is taxable under the head "Other Sources". Now, **Finance Act, 2018** has made an amendment in order to provide that provisions of Section 40A(3), 40A(3A) and 40(a)(ia) shall also apply to religious or charitable trusts.

Accordingly, no deduction is allowable for any expenditure:

- Exceeding INR 10,000 made to a person in a day by cash mode; or
- Payment of Outstanding Balance exceeding INR 10,000 to a person in a day by cash mode;
- 30% of the amount of expense will be disallowed in case such trust do not deduct any TDS on payments being made to residents.

The same applies to trusts governed by Section 10(23C) and Section 11 & 12 of the Act.

### **AMENDMENTS RELATING TO ICDS**

Income Computation and Disclosure Standards (ICDS) provides the accounting treatment to be given to certain transactions under the head "PGBP" and "Other Sources".



The provisions of ICDS have overruled certain judicial precedents given by Hon'ble Supreme Court and various High Courts. Hon'ble Delhi High Court in the case of writ petition filed by Chamber of Tax Consultants (CTC) have struck down certain provisions of the ICDS ruling that the same cannot overrule the landmark judgments given by various courts. The reason for such struck down is that the provisions of ICDS have been introduced vide Rules which have been framed by Central Board of Direct Taxes (CBDT) and do not have any statutory backing from parliament.

**Finance Act, 2018** has made some amendments under the Income tax Act, 1961 in order to give the statutory backing to the treatment prescribed by ICDS. Some new sections and provisions have been inserted which have concluded the treatments as below:

1. Mark to Market loss computed in accordance with ICDS shall be allowed as deduction from the Income under PGBP – **Section 36(1)(xviii)**.
2. Foreign Exchange Gains/Losses arising on account of change in rates of exchange shall be allowed as deduction in accordance with ICDS. This means that loss and gains of capital nature other than Section 43A are also taxed or allowed as deduction in the year of realization or restatement, as the case may be - **Section 43AA**.
3. Income from Construction Contracts or Service Incomes shall be determined as per percentage of completion method (PCM) (except service contracts for a period of upto 90 days which can be recognized on full completion)– **Section 43CB**;
4. Inventory shall be valued at Cost or NRV whichever is lower computed in manner as per ICDS – **Section 145A**.
5. Listed Securities shall be valued at Cost or NRV whichever is lower (in case held as stock) – **Section 145A**
6. Unlisted/ Unquoted Securities shall be valued at initial cost – **Section 145A**.
7. Interest on compensation or enhanced compensation shall be taxable on receipt basis – **Section 145B**
8. Escalation claims and Export incentives shall be recognized as Income when reasonable certainty is achieved – **Section 145B**.
9. Subsidy, Grant, Cash Incentives, Duty Drawback etc. are recognized as Income of the year in which such amount is received – **Section 145B**.

The amendments are retrospective and applicable from FY 2016-17 onwards.

#### **AMENDMENTS HAVING IMPACT ON FOREIGN CURRENCY INFLOWS**

**1. Amendment relating to Presence of Digital Companies and Dependent Agents:** Before Amendment, what we see is only **physical presence** of Non-resident or his dependent agent for the purpose of determining Income accruing or arising in India.

**Finance Act, 2018** has made an amendment under Section 9 of the Act in order to provide that significant economic presence will also be deemed as “Business Connection” for the purpose of Section 9.

**Significant Economic Presence** means transactions in respect of goods, services or property carried out by a non-resident in India including downloading of software etc. if such transactions exceed the prescribed amount **OR** by way of soliciting or interacting with prescribed users by digital means.

Amendment has been made for extending the dependency of agent not only who concludes contracts but also who substantially negotiates contracts on behalf of Nonresident.

**2. Long-term Capital Gain to FIIs:** Before Amendment, Section 10(38) exempts the income of any person arising from long term capital gains on sale of listed shares, units of equity oriented fund etc. The same also includes LTCG of FIIs from such securities.

**Finance Act, 2018** has made an amendment under Section 115AD of the Act in order to provide that 10% tax will be levied in case such LTCG exceeds Rs. 1 lakh.

**OTHER AMENDMENTS**

**1. Introduction of LTCG tax on Sale of Listed Securities:** Before amendment, Section 10(38) of the Act provides that LTCG arising on transfer of listed equity shares or units of equity oriented fund is exempt from tax provided:

- STT has been paid; and
- transaction of both purchase and sale has been taken on recognized stock exchange.

In order to take the same under tax net, **Finance Act, 2018** has introduced **Section 112A** of the Act in order to provide that:

- Tax @ 10% of the LTCG shall be charged.
- The tax will be charged only if LTCG of such nature exceeds Rs. 1 lakh.
- No Benefit of indexation shall be allowed on such gains.

No tax will be levied if the sale has been made till March 31, 2018 since the budget is applicable from April 01, 2018. If the asset is acquired on or after February 01, 2018, actual cost will be considered for the purpose of calculation.

If the asset is acquired on or before January 31, 2018, then cost of acquisition shall be

- Actual Cost of Acquisition; **OR**
- Lower of Sale Value or Fair Market Value;

**Whichever is higher.**

The restriction upto “lower of sale value” is provided so that no long term capital loss shall arise on such computation.

**Example:**

| Investment Amount | Investment Date | Redemption Amount | Redemption Date | Taxability           |
|-------------------|-----------------|-------------------|-----------------|----------------------|
| 2,00,000          | 31.01.2017      | 3,60,000          | 28.03.2018      | Not Taxable          |
| 2,00,000          | 31.03.2017      | 4,00,000          | 03.04.2018      | 10% of Gain          |
| 1,00,000          | 25.06.2017      | 1,90,000          | 30.06.2018      | Not Taxable          |
| 2,00,000          | 15.01.2018      | 3,50,000          | 31.08.2018      | 15% u/s Section 111A |
| 3,00,000          | 10.12.2017      | 4,20,000          | 15.12.2018      | 10% of Gain          |

**2. DDT on dividend paid by MF on Equity Oriented Units:** Section 115R of the Income tax Act, 1961 provides that a Mutual Fund is required to pay DDT on dividend distributed by it to the unit holders at the rate of 38.83% (25% plus Surcharge plus Cess after grossing up) on Income distributed to Individual or HUF and 49.92% (30% plus Surcharge plus Cess after grossing up) on Income distributed to any other person.

Section further provides that no DDT is required to be paid in respect of amounts paid to holders of units of equity oriented funds.

Finance Act, 2018 has made an amendment under the Act in order to provide that the amount paid to holders of units of equity oriented funds shall be chargeable to DDT @ 12.94%. (i.e. 10% plus Surcharge plus cess after grossing up).

**3. Incentives for Employment Generation:** Deduction is allowed @ 30% of the additional employee cost incurred during the previous year for 3 consecutive years i.e. total 90% deduction will be allowed under this Section. Deduction is allowed only if the following conditions are satisfied:

- There should be an increase in number of employees in current year vis-à-vis preceding financial year.
- Salary or wage shall be paid other than cash mode.
- Only those employees will be treated as additional employees whose salary is upto INR 25,000; **AND** Contributing in provident fund; **AND** Employed for 240 days or more in the year (150 days or more for apparel industry).

**Finance Act, 2018** has made an amendment to Section 80JJAA of the Act in order to provide that benefit of 150 days or more will also be available to **shoes and leather industry**. Further, Employed days (240/150) can be completed subsequent to joining year also.

#### **4. Rationalization of Section 43CA, Section 50C and Section 56**

♦ **Section 43CA:** It provides that in case the consideration for transfer of stock in trade, being land or building, is less than the stamp duty value, then Stamp Duty Value shall be deemed to be the sale price of such stock – **Section for PGBP**.

♦ **Section 50C:** It provides that in case the consideration received or receivable from transfer of a capital asset, being land or building, is less than the stamp duty value, then Stamp Duty Value shall be deemed to be the full value of consideration – **Section for Capital Gains**.

♦ **Section 56(2)(x):** It provides that in case a person receives any immovable property at a value less than the stamp duty value by INR 50,000, then the balance shall be treated as Income from other sources – **Section for Other Sources**.

**Finance Act, 2018** has made an amendment under the above sections in order to provide that difference upto 5% between actual consideration and stamp duty value shall be ignored. The amendments are effective from F.Y. 2018-19 onwards.

**5. Provisions relating to conversion of stock into capital asset:** Income tax law currently provides provisions for conversion of capital asset into stock in trade. The taxability in such cases shall be as under:

- Fair Market Value on the date of conversion shall be the full value of consideration to be taken for capital gains purpose.
- Actual Cost of capital asset shall be taken as the cost of acquisition of such stock.
- Period of holding will be the period starting from acquisition date to conversion date.
- The Capital Gains are taxable in the year in which stock will be sold.

New Provisions have been introduced for the vice-versa cases of conversion of stock-in-trade into capital assets. The taxability in such cases shall be the Fair Market Value on the date of conversion shall be deemed to be the Sale price under the head PGBP. Cost will be considered as actual cost of purchase of stock-in trade.

**6. Amendment under presumptive taxation scheme in case of Goods Carriage – Section 44AE:** Section 44AE of the Act provides a presumptive taxation scheme for the transporters having upto ten (10) vehicles at any time during the previous year. It provides that such transporters have an option to declare Income @ 7,500 per month or part thereof per vehicle.

**Finance Act, 2018** has made an amendment in Section 44AE of the Act in order to provide that for vehicles **having more than 12MT gross weight**, then instead of INR 7,500 per month per vehicle, INR 1,000 per tonne capacity per month per vehicle shall be deemed as Income.

**7. Measures to Promote Start-ups:** Section 80-IAC of the Income tax Act, 1961 provides 100% deduction to start-ups for 3 consecutive years out of seven years if it is incorporated between 01.04.2016 to 31.03.2018 and the turnover is upto INR 25 crores per year between 01.04.2016 to 31.03.2021.

**Finance Act, 2018** has made an amendment in order to provide that start-ups **incorporated between 01.04.2019 to 31.03.2021** can also avail the benefit of this Section. Further, turnover limit of INR 25 crores is applicable for first seven years from start date. Start-up can be of such type which can generate employment or create wealth substantially.

**8. Mandatory Application of PAN in certain cases:** Section 139A of Act has been amended in order provide that PAN is mandatory for such non-individual entities which enters into financial transaction valuing more than INR 2.50 lakhs. Further, PAN is also mandatory for the authorized signatories of such entities irrespective of their financial transactions and income.

**9. Trading in Agriculture Commodities:** Amendment has been made under Section 43(5) of the Act in order to provide that trading in agriculture commodities will also be considered as non-speculative transaction instead of speculative transaction. Post Amendment, loss from trading in agricultural commodities can also be set off from other non-speculative business losses. Further, such loss can now be carried forward for 8 AYs instead of 4 AYs.

**10. New Scheme for Scrutiny Assessment:** The Government is introducing e-assessment scheme for all assessment proceedings under the Act.

**11. Prosecution relating to failure to furnish return of income:** Section 276CC of the Act provides that in case an assessee fails to furnish Return of Income upto the end of assessment year, then he shall be liable to following:

- Imprisonment of 6 Months – 7 Years with fine: If tax evaded exceeds INR 25 lakhs;
- Imprisonment of 3 Months – 2 Years with fine: If tax evaded is upto INR 25 lakhs.

The above provisions are not applicable if tax amount is less than INR 3,000. Finance Act, 2018 has made an amendment under the Act in order to provide that the limit of INR 3,000 is not applicable to a Company in order to mandate all companies to file Return of Income.

**Note:** Copy of the Amendments made by the Finance Act, 2018 is available at following weblink: <http://egazette.nic.in/writereaddata/2018/184302.pdf>. Students are advised to go through the detailed amendment made by Finance Act, 2018 applicable for June, 2019 examination.