

SIGNIFICANT CHANGES EFFECTED IN DIRECT TAXES BY THE FINANCE ACT 2017

The Finance Act, 2017, which has made a history of being an enacted law on 31st March, 2017 (assented by President of India on 31/03/2017), has made far-reaching changes in Direct Taxes. We have listed down important changes under Income Tax Act which shall be applicable from 1st April 2017 i.e. Assessment Year 2018-2019.

1. CHANGES IN INCOME TAX RATE FOR AY 18-19 (FY 17-18):

1.1 Individual: New slab of Surcharge of 10% for Total Income of Rs. 50 Lacs to Rs. 100 Lacs introduced. On income exceeding Rs. 100 Lacs, the surcharge is 15% of total income.

1.2 Individual: Presently a tax rebate of Rs. 5000/- is allowed if the total income does not exceed Rs. 500000/-. With effect from 01/04/2017, the limit has been reduced to Rs. 2500/- up to the total income of Rs. 350000/-.

1.3 Individual: The existing rate of income tax applicable on income between 2.5 to 5 lacs is proposed to be reduced from 10% to 5%.

1.4 Companies: Where the total turnover or gross receipt does not exceed Rs. 50 Crore during FY 2015-16, the tax rate would be 25% for FY 2017-18

2. CHANGE IN TDS RATE FOR FY 2017-18:

Presently, Individual/HUF who are under Tax Audit (Turnover exceeding Rs. 1 Crore) are liable to deduct TDS on rent (whether used for business or residence) if the total rent exceeds Rs. 180000/- per annum. Now every individual/HUF, not covered by Tax Audit provisions, is liable to deduct TDS @ 5% if the monthly rent exceeds Rs. 50000/- per month.

3. CHANGES RELATED TO CAPITAL GAINS:

S.NO	TYPE OF CAPITAL ASSET	HOLDING PERIOD
a)	All Listed Shares, Units of Equity Oriented Mutual Funds and Securities	12 Months or more
b)	Land and/or Building and Unlisted Shares	24 Months or more
c)	Any other type of capital asset including Units of Debt Oriented Mutual Fund	36 Months or more

3.1 Holding Period of Capital Asset:

Now the holding period of Land and/or Building has been reduced to 24 months. Therefore the Holding period for different class of capital asset is as under:

3.2 Form AY 2018-19 onwards, exemption u/s 10(38) on sale of the Long Term Capital Gain on Equity Shares (after paying STT) would be subject to following conditions:

- a) These shares should had been purchased after paying STT if these were acquired after 01/10/2004.
- b) However such condition would not be applicable if the acquisition is out of IPO, Follow-on IPO, Right Issue or Bonus issue for which separate notification would be issued by Government. Govt. would be bringing out notification for this purpose.

3.3. Capital Gains for the Joint Development Agreement(JDA) on the Land/Building owned by Individual/HUF: FOR LAND OWNER

Presently, the [Capital Gains Liability](#) on the owner is triggered as soon as the Joint Development Agreement (JDA) is entered and possession of the

property is handed over for development to developer, though the sale of the developed property may take several years. In order to address such problems, new provisions u/s 45(5A) has been inserted laying down following conditions:

a) There should be a registered agreement between the owner of the Land or Building or both and developer, to develop the real estate in consideration of land or building or both or part in cash.

b) Capital gain shall be chargeable to tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the Competent For this purpose, the stamp duty value shall be the value on the date of issuing the completion certificate.

3.4 Shifting base year from 01/04/1981 to 01/04/2001 for computation of Capital Gains:

With effect from 01/04/2017, the assessee has the option to substitute the fair market value (FMV) as on 01/04/2001 in case of of asset acquired prior to 01/04/2001. Earlier this date was 01/04/1981.

3.5 Fair Market Value (FMV) to be deemed Consideration in the case of unquoted shares:

Under the newly introduced section 50CA wef 01/04/2017, the FMV would be deemed to be the full value of consideration if actual sale consideration is less than the FMV on the date of sale of shares. Thus, the both seller and buyers would have to pay tax on the difference if the FMV is higher than the actual consideration.

4. ACQUISITION OF ASSET WITHOUT CONSIDERATION OR INADEQUATE CONSIDERATION BY FIRMS/AOP AND WIDELY HELD COMPANIES:

Till now, firms, AOP and widely held companies were not liable to pay the tax on difference between Fair Market Value (FMV) and actual consideration.

Finance Act, 2017 now requires such assesseees also to pay the tax u/s 56(2)(x) on the difference if the Fair Market Value is higher than actual consideration of movable or immovable asset. However trusts, transactions between relatives, HUF partition etc. are still out and not liable to pay the tax on the difference amount.

5. LIMIT FIXED FOR SET OFF OF INTEREST ON HOUSING LOAN ON RENTED PROPERTIES AGAINST OTHER INCOME HEADS:

Presently, the interest on housing loans in respect of let out properties are allowed to be set off against other income without any limit. Wef 01/04/2017, the loss under the '[Income from House Property](#)' would be kept limited to Rs. 200000/- for adjustment against other income head and balance loss, if any, would be allowed to be carried forward for next 8 years for setting off against the same head of income under the '[Income from House Property](#)'. Such carried forward loss would be allowed to be setoff against '[Income From House Property](#)' without limit of Rs. 200000/-

6. CHANGES RELATED TO TRUST:

6.1 With effect from 01/04/2017, a trust registered u/s 10(23C) or 12AA can not make '[Corpus Donations](#)' out of its income to any another trust registered u/s 10(23C) or 12AA. Such donations, if made, would not be treated as '[Application](#)' of funds of '[Donor](#)' Trust. Presently also, the '[Donations](#)' out of the '[Accumulated Income](#)' are not treated as application out of such income.

6.2 If the trust registered u/s 12A/12AA modifies its objectives subsequently, then trust would be required to obtain fresh registration by filing an application within 30 days of such adoption or modification of the objectives.

6.3 Trust are required to file their Income Tax Return if their receipts (before making any deduction for application) exceeds basic exemption limit i.e. Rs. 250000/- for AY 2018-19.

With effect from 01/04/2017 , trusts would be allowed to avail the benefit u/s 11 and 12 only if they file the ITR before the due dates u/s 139(1). Any delay in filing the ITR would disentitle them from the benefits u/s 11 and 12.

7. CHANGES FOR BUILDERS/OWNERS OF THE PROPERTY:

Presently, there is a dispute regarding the `Deemed Annual Value` of vacant flats held as `Stock- in- Trade`, normally by builders, brokers, owners etc. However from AY 2018-19 onwards, if any property is held as stock-in-trade and such property is not let out during the whole (or any part) of the previous year, annual value of such property shall be taken as `Nil` for a period of 1 year from the end of the FY in which the certificate of completion of construction of the property is obtained from the competent authority.

8. CHANGES RELATING TO CASH PAYMENTS AND RECEIPTS

8.1 As per the provisions upto 31/03/2017, any revenue expenditure incurred in cash (i.e. other than Account Payee Cheque /draft, NEFT, RTGS, Credit/ Debit Card) exceeding Rs. 20,000/- per day per person (Rs. 35000 in case of a transport contractor) is not allowed as deduction u/s 40A(3). Now this limit of Rs. 20000/- has been brought down Rs. 10000/- per day per person. However, the limit of Rs. 35000/- for payment to transporter continues.

8.2 Till 31/03/2017, there was no restriction on the payment in cash for the acquisition of any asset. Now with effect from 01/04/2017, cash payment exceeding Rs. 10000/- per day person made otherwise than through Account Payee Cheque / draft, NEFT, RTGS, Credit/ Debit Card would not be considered as part of the cost of assets and accordingly such amount would not be considered

for the purpose depreciation nor would be deemed as cost at the time of sale of such asset.

8.3 Receipt of Cash in excess of Rs. 200000/- by any person:

With effect from 01/04/2017, newly introduced section 269ST restricts the receipt of cash of Rs. 200000/- in following situations:

- a) Aggregate receipt of Rs. 2 Lakhs or more from a person in a day
- b) Aggregate receipt of Rs 2 Lakhs or more in respect of a single transaction
- c) Receipt of Rs 2 Lakhs or more in relation to one event or occasion from a person

On violation of this section, a penalty equal to the amount received would be imposed on recipient (not payer).

In view of the newly introduced provisions relating to cash sales, the existing provisions (in vogue since 1.6.2016) relating to collection of TCS @ 1% on cash sales exceeding Rs.2 lakhs (Rs.5 lakhs, in the case of jewellery) are deleted. Consequently, there is no need to collect TCS on cash sales exceeding Rs.2 lakhs in cash.

10. MAINTENANCE OF BOOKS OF ACCOUNT AND AUDIT REQUIREMENT

10.1 Presently those assesseees, who are not covered by the 'Presumptive Taxation Scheme' wherein the 8% / 6% of the gross turnover or 50% of gross receipts in the profession is deemed as total income, are required to maintain the Books of Accounts or documents as specified in Income Tax Rules, 1962 , if their income is likely to exceed Rs. 120000/- or turnover is in excess of Rs. 1000000/-.

With effect from 01/04/2017, if the assessee is Individual or HUF, then these limits would be Rs. 150000/- and Rs. 2500000/- respectively and the limits for other assesseees would remain same i.e. Rs. 120000/- and Rs. 1000000/-

10.2 For the AY 2017-18, assesseees who are opting for 'Presumptive Taxation Scheme' are not liable for audit u/s 44AD, if their turnover is not in excess of Rs. 2 Crore or professional receipts are not in excess of Rs. 50 Lacs. Company /LLP are liable for audit if their turnover exceeds Rs. 1 Crore.

10.3 With effect from 01/04/2016, the rate of 'Presumptive Taxation Scheme' has been reduced to 6% of Gross Receipts/Turover in those cases where the payment of sales is received by way of account payee cheque/bank draft/use of electronic clearing system provided that such payment is received during the year or before the due date of furnishing returns u/s 139(1). Therefore assesseees falling under this scheme have to keep separate records for Bank Sale and Cash Sale.

13. NON-DISCLOSURE OF REASONS TO BELIEVE TO CONDUCT SEARCH:

Presently, the reasons to believe or reasons to suspect for conducting the 'Search' can be disclosed at the stage of commencement of assessment proceedings. A retrospective amendment has been made (with effect from 01/04/1961), section 132 /132A have been amended to provide that such reasons would not be disclosed to any person / tribunal.

15. AADHAR IS MANDATORY FOR RETURN FILING WEF 01/07/2017

Every person who is eligible to obtain AADHAR number, should quote such number, on or after 1 July 2017, in the Return of income. Furthermore, every person who has been allotted PAN as on 1st July 2017 must intimate the AADHAR number to the Tax Authority, failing which, PAN allotted to such person shall be deemed to be invalid. Kindly note that linking of AADHAR with PAN is not possible, unless name as per AADHAR and PAN match perfectly. Hence, please take steps to rectify your name as per AADHAR to match as per PAN.

16. FEES FOR DELAY IN SUBMISSION OF ITR:

ITRs are required to be filed on or before 31st July and 30th September as per the applicable to different assesseees. With effect from assessment year 2018-19, there would be following fees for delayed submission of ITR:

- a) Upto Due date: NIL
- b) Between 1st August/ 1st October upto 31st December 5000/-
- c) Between 1st January to 31st March 10000/-
- d) After 31st March Return filing is not possible

Further such fees would have to be deposited alongwith tax on the income.