

## 2 Budget 2016– Important provisions : At a Glance

### Personal Taxation

#### 2.1 The basic exemption limit from income tax, slab and rate of income tax remains unchanged -

The rate of income tax as applicable for Individual, HUF, AOP and BOI are detailed as below:

Assessee Category	Applicable for Financial year 2015-16 Assessment Year 2016-17		Applicable for Financial year 2016-17 Assessment Year 2017-18	
<b>Individual/ HUF/ AOP/ BOI</b>	Taxable Income up to Rs. <b>2,50,000</b>	NIL	Taxable Income up to Rs. <b>2,50,000</b>	NIL
	From 2,50,001 to 5,00,000	10%	From 2,50,001 to 5,00,000	10%
	From 5,00,001 to 10,00,000	20%	From 5,00,001 to 10,00,000	20%
	Above 10,00,000	30%	Above 10,00,000	30%
<b>Sr citizen Age &gt; 60 years</b>	Taxable Income up to Rs. <b>3,00,000</b>	NIL	Taxable Income up to Rs. <b>3,00,000</b>	NIL
	From 3,00,001 to 5,00,000	10%	From 3,00,001 to 5,00,000	10%
	From 5,00,001 to 10,00,000	20%	From 5,00,001 to 10,00,000	20%
	Above 10,00,000	30%	Above 10,00,000	30%
<b>Very Sr citizen Age &gt; 80 Y</b>	Taxable Income up to Rs. <b>5,00,000</b>	NIL	Taxable Income up to Rs. <b>5,00,000</b>	NIL
	From 5,00,001 to 10,00,000	20%	From 5,00,001 to 10,00,000	20%
	Above 10,00,000	30%	Above 10,00,000	30%

#### 2.1 Surcharge increased for individual, HUF etc –

Surcharge increased from 12% to 15% in case of individuals, HUFs, AOPs, BOIs and artificial juridical persons, having income above Rs 1 crore from FY 2016-17, therefore the amount of tax payable shall be increased by surcharge calculated at rate prescribed as following –

SN	Category of assessee	Threshold limit	Rate of Surcharge	
			for FY 15-16	for FY 16-17
1.	Non Corporate – like Individual, HUF, AOP, BOI etc.	if total income exceeds Rs. 1 Cr.	12%	15%
2.	Partnership firms, Local bodies etc.	if total income exceeds Rs. 1 Cr.	12%	12%
2.	Corporate – Domestic companies	if total income exceeds Rs. 1 Cr.	7%	7%
		if total income exceeds Rs. 10 Cr.	12%	12%
3.	Corporate –Foreign companies	if total income exceeds Rs. 1 Cr.	2%	2%
		if total income exceeds Rs. 10 Cr.	5%	5%

Marginal relief (if the amount of surcharge is more than the difference of amount of total income and threshold limit, then the chargeable surcharge shall be minimum from both the amounts) is to be allowed for surcharge calculations.



- 2.3 **NPS: Receipt from NPS shall be tax free**  
 (i) 40% of amount received by an employee from National Pension System Trust at the time of closure of account/opting out of scheme to be exempt. [Sec 10(12A)]  
 (ii) Amount received by nominee on the death of the account holder under notified pension scheme (NPS etc), shall not be taxable. [Sec. 80CCD]
- 2.4 **NPS: Contribution to NPS from superannuation fund be tax free**  
 Payment from superannuation fund transferred to the employee's account in a pension scheme notified u/s 80CCD to be exempt. [Sec 10(13)]
- 2.5 **NPS: Contribution to NPS from recognized provident fund be tax free**  
 Payment of way of transfer of accumulated balance in a recognized provident fund to the employee's account in a pension scheme notified u/s 80CCD to be exempted. [Sec. 10(12) read with schedule IV part A Rule 8]
- 2.6 **NPS: Limit of tax free prerequisites increased**  
 From FY 16-17, exemption in respect of employer's contribution to an approved superannuation fund (NPS etc) raised from Rs. 1 lakh to Rs.1.5 Lakh. [Sec 17(2)(vii)]
- 2.7 **Gold Monetization Scheme, 2015**  
 (i) Interest on deposit certificate, under Gold Monetisation Scheme, 2015 to be exempt from tax. [Sec. 10(15)]  
 (ii) Deposit certificates under Gold Monetisation Scheme, 2015 not to be treated as 'capital asset' thus after sale no capital gain tax shall be levied. [Sec.2 (14)]
- 2.8 **Sovereign Gold Bonds**  
 (i) Redemption of Sovereign Gold Bonds held by an individual assessee not to be treated as transfer. [Sec. 47]  
 (ii) Benefit of indexation to be allowed in respect of transfer of Sovereign Gold Bonds. (Sec.48)
- 2.9 **Deduction towards interest on house loan**  
 (i) Interest on loan for a house property (being self-occupied) to be allowed if acquired or constructed within 5 years from the end of the financial year in which loan is taken. [Sec. 24]  
 (ii) Deduction for interest on housing loan ( up to Rs.35 Lakh) taken during financial year 16-17 for the first residential house of value up to Rs. 50 lakh, to be allowed up to a maximum of Rs. 50,000. This deduction is allowed in addition to the deduction of Rs.2 lakh allowed u/s 24 towards interest due house loan. [Sec. 80EE]
- 2.10 **Arrears of house rent received and unrealized rent received**  
 (i) Arrears of rent and unrealized rent to be taxable in the year of receipt.  
 (ii) 30% deduction to be allowed from the amount of arrears of rent and unrealized rent realized subsequently. [Sec. 25A]
- 2.11. **Limit of deduction for house rent increased**  
 Maximum limit of deduction towards payment of house rent increased from Rs.2000 p.m. to Rs.5000 p.m. for a person, who is residing in rented house and not getting HRA, may be salaried or self employed person. [Sec.80GG]
- 2.12 **Estimated income scheme for small professionals introduced**  
 Estimate Income scheme for small professionals introduced having gross receipts in a financial year up to Rs. 50 lakh and Income to be estimated at 50% of the gross receipts. [ S e c . 44ADA]
- 2.13. **Estimated income scheme for business man: Limit of annual turnover increased**  
 (i) Estimated income scheme for all business assesses to cover business having gross turnover up to Rs. 2 cr.  
 (ii) Small business assesses having declared their income for a year under Estimated Income scheme (Sec.44AD), declaring income in a subsequent year at less than the specified percentage to become disentitled for the benefit of the scheme for 5 years. [Sec. 44AD]
- 2.14 **Tax Audit**

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- (i) Small businessmen covered u/s 44AD, shall be required to maintain prescribed account books, and shall be subject to tax-audit, on becoming disentitled for the benefit of section 44AD and having income exceeding the exemption limit. [Sec. 44AA and 44AB]
- (ii) Professional assesses shall be subject to tax-audit if-
  - (a) Gross receipts exceed Rs. 50 lakhs or
  - (b) Covered U/s 44ADA but declare their income at less than 50% of gross receipt and having income exceeding basic exemption limit. [Sec.44AB]

### 2.15 Capital Gain related provisions

- (i) Transfer of units in a plan of a mutual fund scheme in consideration for units in the consolidated plan of such scheme, shall not be deemed as transfer. [Sec.47(xix)]
- (ii) Cost of acquisition of an asset declared under Income Declaration Scheme, 2016, to be deemed to be its fair market value declared under the Scheme. [Sec. 49(5)]
- (iii) Exemption to be allowed for long-term capital gains invested in the units of a notified fund for financial start-ups. [Sec. 54EE]
- (iv) Exemption to be allowed for long term capital gains from transfer of a residential property, effected up to 31.3.2019., and invested in an eligible start-up. [Sec.54GB]
- (v) Cost of acquisition of a right to carry on a profession, to be the purchase price paid to the previous owner, or nil if self-generated. Cost of improvement to be nil. [Sec.55]
- (vi) Period of holding, for being reckoned as long-term in case of unlisted shares reduced from 36 months to 24 months. [Sec 2(42A)]

### 2.16 Income tax return related

- (i) A belated return may be furnished before the end of the relevant assessment year or before completion of assessment, whichever is earlier. A belated return may also be revised. [Sec. 139]
- (ii) Carry forward of a loss from a business specified u/s 35AD to be allowed only if return of income filed before the due date. [Sec.80]
- (iii) The revised criteria for residential status of a company to be effective from A. Y. 2017-18 (instead of A.Y. 2016-17) [Sec. 6(3)]

### 2.17 Tax on Dividend income

Dividend income from company/companies, in aggregate exceeding Rs.10 lakh, of a resident individual/HUF/Firm, to be taxable @ 10%. [Sec. 10(34) and 115BBDA]

- 2.18 Any amount received under an agreement for not carrying out an activity in relation to a profession to be taxable as income from profession. [Sec. 28(VA)]

## Corporate Taxation

### 2.19 Amendments regarding Tax Rates:

- (i) The Finance Minister in last budget speech had promised to reduce corporate tax rate from 30% to



25% by phasing out various incentives. Accordingly in case of domestic companies where its total turnover or the gross receipt in the previous year 2014-15, does not exceed five crore rupees; tax shall be charged @ 29% for FY 2016-17.

- (ii) Special rate of Tax @ 10% on income from worldwide exploitable on patents developed and registered in India. [Sec. 115BBF]
- (iii) MAT to be levied @ 9% in case of a unit located in an International Financial Services Center and deriving income solely in convertible foreign exchange. [Sec. 115JB]
- (iv) Charitable trusts converting into/merging with a non charitable body, to pay additional income tax @ 30% on their accreted income (in the form of net assets) as on the date of conversion/merger. [Sec. 115TD to 115TF]

### 2.20 Tax Incentive of 5% to new domestic manufacturing companies

A new section 115BA has been incorporated for domestic manufacturing companies (including the companies engaged in research in relation to or distribution of article or thing manufactured or produced by it) set up and registered on or after 01-03-2016, where in income tax at the option of company [exercisable before due date u/s 139(1)] shall be computed @ 25% w.e.f AY 2017-18 subject to foregoing of following incentives:

1. Deduction u/s 10AA e. Deduction for units in SEZ
2. Deduction u/s 32(1)(iia) i.e. Additional Depreciation @ 20%
3. Deduction u/s 32AC for investment in new plant & machinery exceeding 100 cr./25 cr.
4. Deduction u/s 32AD for Investment in Plant and Machinery in notified areas in Bihar, Telangana, West Bengal
5. Deduction u/s 33AB for Tea Development, Coffee Development etc
6. Deduction u/s 35AD for capital expenditure in specified businesses
7. Deduction u/s 35AC for expenditure on eligible projects
8. Deduction u/s 35(2AA) and (2AB) for research and development
9. Expenditure on agriculture extension projects u/s 35CCC
10. Expenditure on skill development project u/s 35CCD
11. Chapter VI-A Deductions **other than deduction u/s 80JJAA for additional wages to empl.**
12. Loss of earlier year's attributable to above sections is not set off.

Provided that once the option to avail of benefit of concessional tax rate has been exercised by the company for any previous year, it cannot subsequently withdraw the same or for any other previous year. [Sec. 115BA]

### 2.21 Profit Linked Deduction for Startups: 100 % tax free

Following business are eligible for 100% deduction of profits and gains under newly introduced section 80IAC w.e.f. AY 2017-18 for any three consecutive assessment years out of five years beginning from the year in which the eligible start-up is incorporated:

- a) Businesses involving:
  - i. Technology or Intellectual property driven processes or services or
  - ii. Innovation, Development, Deployment or commercialization of new products
- b) Incorporated as company from 01-04-16 to 31-03-2019. The benefit extended to LLP also
- c) Turnover not exceeding Rs. 25 crores in any previous year from 01-04-2016 to 31-03-2021
- d) Holding certificate of eligible business from Inter Ministerial Board

Other conditions of not formed by splitting up or reconstruction of existing business; transfer of old machinery and applicability of 80IA (7) to 80IA (11) are also applicable [Sec. 80IAC]

### Capital gain exemption if invested for start ups

Capital gain exemption for Investment in fund to finance start ups u/s 54EE up to 50 lacs made in six



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months from date of transfer of Long term capital assets in one or two financial years on the line of S.54EC. No transfer of investment in three years and no loan to be subscribed in three years on security of investment. [Effective from AY 2017-18]

Exemption u/s 54GB available to Individual/HUF assessee against sale of residential house for investment in 50% or more share capital of manufacturing Company in MSME sector up to 31-03-2017 extended to start up company u/s 80-IAC and that too for extended period up to 31-03-2019 [Effective from AY 2017-18] While in case of company in MSME sector investment in computer or computer software does not qualify for investment by MSME company, an exception has been drawn for startup company and investment in computer and computer software shall also qualify as investment by startup company.

### 2.22 100% Profit Linked Deduction for Affordable Housing Projects u/s 80IBA

A deduction of 100% of profits and gains from such housing projects are admissible to any assessee engaged in the business developing and building affordable housing projects approved by the competent authority after 1<sup>st</sup> June 2016 to 31<sup>st</sup> March 2019 subject to following conditions:

#### 1. Approval:

Project should be approved by competent authority means the authority empowered to approve the building plan by or under any law for the time being in force. Where project is approved more than once, the project shall be deemed to have been approved on the date on which the building plan of the housing project was first approved by the competent authority;

#### 2. Completion

Project is completed within 3 years from date of approval by competent authority

The project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority If project is not completed in three years, deduction already claimed shall be deemed to be PGBP income of the previous years in which period of completion expires.

#### 3. Area

Min. plot area	1000 sq mts=10763 sq ft
Max residential unit area	30 sq mts i.e. 322.91 sq ft
Utilization of permissible Floor Area ratio	Min. 90%

c) Project on land in other cities should adhere following:

Min. plot area	2000 sq mts=21527 sq ft
Max residential unit area	60 sq mts i.e. 645 .83sq ft
Utilization of permissible Floor Area ratio	Min. 80%

#### 4. Accounting:

- Separate Books of Accounts of Housing Project are maintained
- The deduction u/s 80-IBA is not available to assessee who is works contractor of such housing project.
- For Affordable Housing Project there is also a deduction u/s 35AD for capital expenditure @ 150% which has been brought down to 100% w.e.f. AY 2018-19 and no other deduction is available for such profits under any other section [Sec. 80IBA]



**2.23 Incentive for Employment Generation:**

As per existing provisions of 80JJAA, manufacturing company enjoys deduction of 30% of additional wages paid to new regular workmen in excess of 100 employees and employed for at least 300 days in a previous year, if increase in number of employees is at least 10% of number on last day of preceding year in case of existing factory.

Provisions of section 80JJAA have now been revamped w.e.f AY 2017-18: as under:

- a) Benefit of 30% on additional employee cost shall now be available for a period of three year
- b) Additional Employee Cost:
  - i) Means additional emoluments paid or payable to additional employees employed during the previous years.
  - ii) Additional Employee does not include an employee
    - a. whose total emoluments are more than Rs. 25000 per month
    - b. An employee whose contribution paid by Govt under EPF Act 1952
    - c. An employee employed for less than 240 days in previous year.
    - d. An employee not participating in RPF
  - iii) Additional Emoluments do not include:
    - a. Contribution by employer to PF, EPF any other fund for benefit of employee under the law
    - b. Lump sum payments paid / payable on termination, superannuation or voluntary retirement, like gratuity, leave encashment, VRS, severance pay, commuted pension and like
  - iv) Additional employee cost shall be NIL if
    - a. No increase in number of employees from number on last day of preceding year
    - b. Emoluments paid in cash
    - c. For new business, employee cost of first year shall be additional employee cost eligible for deduction.
    - d) 80JJAA is applicable to assessee covered by 44AB i.e. all assessee including those getting accounts audited because of provisions of presumptive taxation.
    - e) Requirement of company assessee or manufacturing unit done away.
    - f) Also condition of at 100 employee and increase in number being more than 10% done away.
    - g) Condition of being employed for 300 days lowered to 240 days.

[Sec. 80 JJAA]

**2.24 Weighted Deduction on Capital Expenditure u/s 35AD cut down**

For some business deduction @ 150% of capital expenditure was available by virtue of S. 35AD (1A) which has been omitted w.e.f. AY 2018-19, Thus now 100% deduction for capital expenditure incurred on developing or maintaining and operating or developing, maintaining and operating a new infrastructure facility, on or after 1.4.17 shall be available for specified Businesses for FY 16-17 and onwards.

**2.25 Changes related to TDS w.e.f. 01-06-2016:**

- a. Limit of Rs. 5000/- for Winnings from Horse Races enhanced to Rs. 10,000/- Limit for winning from Lotteries u/s 194B was enhanced to Rs. 10,000/- .
- b. Aggregate Annual limit of payment of Rs. 75000/- increased to Rs 100000/- for works contract u/s 194C.
- c. Monetary Limit of Rs. 20,000/- for Insurance Commission u/s 194D reduced to Rs. 15000/-. TDS rate on Insurance Commission is 5% as per Part II of First Schedule.
- d. Monetary Limit for Commission u/s 194H enhanced from Rs. 5000/- to Rs. 15000/- and rate reduced from 10% to 5% to bring parity with Insurance Commission.
- e. Monetary Limit for Commission on Lottery Tickets u/s 194G enhanced from Rs. 1000/- to Rs. 15000/- and rate reduced from 10% to 5% .



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- f. TDS rate on withdrawal of NSS Deposits reduced from 20% to 10% u/s 194EE.
- g. TDS on LIC Maturities exceeding Rs. 1,00,000/- not exempt u/s 10(10D) was charged @2% by Finance Act 2014 w.e.f. 01-10-2014 . TDS rate lowered to 1%.
- h. TDS @10% for compulsory acquisition of immovable property other than agriculture land where aggregate payments during financial year exceed Rs. 2 L now enhanced to Rs 2.50L.
- i. Insertion of New section 194LBC Income in respect of investment in securitization trust with effect from the 1st day of June, 2016, namely:-  
'194LBC. (1) Where any income is payable to an investor, being a resident, in respect of an investment in a securitization trust specified in clause (d) of the *Explanation* occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon, at the rate of—  
(i) **twenty-five per cent (25%), if the payee is an individual or a Hindu undivided family;**  
(ii) **thirty per cent (30%), if the payee is any other person**

### 2.26 Advance Tax to be deposited by ALL at same installment

Earlier there was different slab of instalment for individual HUF and corporate but now it is same for all except assessee who has opted estimated income scheme u/s 44AD. Advance tax is to be calculated on the basis of expected tax liability of the year and then is to be paid in instalments as given below, if tax liability is more than Rs. 10000:-

- a) In case of all the assessee (other than the eligible assessee as referred to in section 44AD) :
  - i) Not less than 15 per cent – On or before 15th June
  - ii) Not less than 45 per cent – On or before 15th September
  - iii) Not less than 75 per cent – On or before 15th December
  - iv) Not less than 100 per cent – On or before 15th March
- b) In case of eligible assessee as referred to in Sec. 44AD opted estimated income scheme:  
Up to 100 per cent – On or before 15th March

Note: Any advance tax paid on or before 31st day of March shall also be treated as paid during the same financial year. The deposit of advance tax is made through challan ITNS 280 by ticking the relevant column, i.e., advance tax. [Sec. 211 (1)]

### 2.27 No Interest if Refund lesser than 10% of determined tax [w.e.f. 01-06-2016]

No interest on refund arising out of TCS, TDS, advance tax or self assessment tax shall be payable, if the amount of refund is less than ten percent of the tax as determined under sub-section (1) of section 143 or on regular assessment.

### 2.28 Return shall not be defective for non-payment of tax and interest

Finance Act 2013 w.e.f. 01-06-2013 had inserted clause (aa) in section 139(9) to provide that a return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A, has been paid on or before the date of furnishing of the return, Now clause (aa) has been removed, Hence return shall not be defective for non-payment of tax and interest on or before date of furnishing return of income.



### Miscellaneous Provisions

- 2.29 Income of a non-resident from any specified service, subjected to equalisation levy, to be exempt.  
[Sec. 10(50)]
- 2.30 Income of new SEZ units to be exempt only if they start production up to 1/4/2021.  
[Sec. 10AA]
- 2.31 Investment allowance to be allowed if plant and machinery installed up to 31.3.2017.  
[Sec. 32AC]
- 2.32 Deduction for research to be limited to 150% w.e.f. 1.4.2017 and 100% w.e.f. 1.4.2020.  
[Sec 35]
- 2.33 Capital expenditure on acquiring spectrum rights to be deductible in equal installments over the period of their validity.  
[35ABA]
- 2.34 Provision for bad and doubtful debts to be deductible in case of a non-banking financial company up to 5% of its total income.  
[Sec. 36]
- 2.35 Consideration for a specified service, subject to equalization levy, to be deductible only if such levy has been deducted and deposited before the due date for filing of return.  
[(Sec. 40(a)(ib)]
- 2.36 Amount payable to Indian Railways for use of railway assets, to be deductible only if paid before the due date for filing of return.  
[Sec. 43B]
- 2.37 Deduction for enterprises engaged in infrastructural development to be allowed if it starts operating and maintaining infrastructural facility up to 31.03.2017.  
[Sec.80IA]
- 2.38 Deduction for SEZ developer to be allowed if development of SEZ begins up to 31.3.2017.  
[Sec.80IAB]
- 2.39 Deduction for undertaking engaged in commercial production of mineral oil or natural gas to be allowed, if production begins up to 31.3.2017.  
[Sec. 80IB]
- 2.40 (i) Certain more adjustments allowed to be made in an intimation u/s 143(1)  
(ii) Notice for scrutiny u/s 143(2) may be issued electronically through a centralized agency.  
[Sec. 143]
- 2.41 Time limit for completion of regular assessment, assessment on remand, reassessment and assessment in search cases, reduced by 3 months in each case.  
Appeal effect to be allowed within 3 months of the date of order.  
[Sec. 153 and 153B]
- 2.42 Tax to be deducted at source on income credited or paid to an investor, in respect of an investment in a securitization trust.  
[Sec. 194LBC]
- 2.43 Loss of Specified Business u/s 35AD** where capital expenditure is allowed as deduction to be carried forward only if return is filed in time.  
[S.80 and Sec.139(3)]
- 2.44 Filing of Return for Long Term capital Gain from equity shares or equity oriented mutual funds exempt u/s 10(38) w.e.f. AY 2017-18.** By amending sixth proviso to S.139(1), return of filing made compulsory even if income of the assessee without claiming exemption exceeds maximum amount not chargeable to tax. However no such requirement for long term capital loss covered by 10(38).





### 2.45 Equalization Levy: [Chapter VIII of Finance Act 2016]

Internet advertising is rapidly growing both in terms of revenue and share in the total advertising market. The volume of internet advertising reached USD 135.4 billion in 2014. The market for internet advertising is projected to grow at a rate of 12.1% per year during the period 2014 to 2019. As the stakes started rocketing, taxing such virtual transactions attained prominence. The existing provisions of the income-tax statute were unable to tie the noose around these transactions. Perhaps the reason is Indian income-tax legislation is still governed physical presence test. Hence the concept of Equalization levy introduced.

Equalization Levy:

- a. Applicable from date to be notified by Central Government
- b. It extends to whole of India except the state of J&K
- c. Introduced vide Chapter VIII of Finance Bill 2016. Vide S. 160 to S.177 of Finance Bill 2016
- d. Rate @6% as per S.162(1) of Finance Bill
- e. Services covered by Equalization Levy:
  - i. Online Advertisement
  - ii. any provision for digital advertising space
  - iii. any other facility or service for the purpose of online advertisement
  - iv. and includes any other service as may be notified by the Central Government in this behalf
- f. Charge of tax is on amount of consideration received or receivable by Non Resident from:
  - i. a person resident in India and carrying on business or profession; or
  - ii. a non-resident having a permanent establishment in India.
- g. Amount chargeable to equalization levy has been exempted u/s 10(50).
- h. Equalization levy shall not apply where
  - i. Where service recipient is non-resident having PE in India and service is effectively connected with such PE.
  - ii. Consideration does not exceed Rs. One lakh.
  - iii. Payment is not for the purpose of business or profession
- i. Equalization Levy shall operate like TDS and shall be deducted from payment to non resident and to be deposited by 7<sup>th</sup> of following calendar month .
- j. 1% Interest for delayed payment u/s 167.
- k. Even if equalization levy not deducted, it shall be deposited by service recipient out of his own pocket. S. 163(3)
- l. Disallowance u/s 40(a)(ib) shall be attracted for failure to deduct levy or deposit after deducting till due date of return on amount paid or payable to nonresident. Allowance of expenditure only in the year of deposit.
- m. Statements to be filed within prescribed time after end of financial year. Belated/Rectified statements may be filed within 2 years from end of financial year [Here no requirement to file revised return only if original filed in time]. AO may also give notice to file the return. [S.164] Penalty for belated return @ Rs. 100/- per day u/s 169
- n. Intimation and processing of intimation within one year from the end of financial year in which statement is filed. [However u/s 143(1) it is one year from the end of assessment year.]
- o. Rectification of intimation by AO/assessee within one year from end of financial year in which intimation issued.[Not served]S.166
- p. Penalty for failure to deduct = Equal to equalization levy
- q. Penalty for failure to deposit = Rs. 1000/- per day Max. Equalization levy.
- r. Penalty is subject to pleading reasonable cause and after providing opportunity of being heard[S. 170]
- s. Appeal to CIT A u/s 171; ITAT u/s 172; Prosecution for false statement u/s 173; Applicability of certain provisions regarding summons u/s 131; survey u/s 133A etc
- t. Rule making power is u/s 176 and power to remove difficulties u/s 177

### 2.46 Tax shall be collected at source (TCS) for Transaction exceeding Rs.2 Lakh, in cash,

From 1st June 2016, the scope of TCS has been increased. Now the provision of TCS is applicable on sale or purchase in cash of every product and some limits are specified for the applicability of this provision. Due to this, the government would be able to trace the transactions of large amount in cash and it will curb black money.

If any of transaction effected is covered under TCS provision, then the purchaser will have to give 1% TCS to the seller and the seller will have to deposit the same with the government and file return of TCS. For e.g. If a person purchases any item say furniture/cloth/car/bullion etc costing Rs. 2,10,000/- and makes payment in cash, then he will have to pay 1% TCS on 2,10,000/- i.e. Rs. 2,100/- extra to the seller and the seller will have to deposit the same and file its return. Every person can take the credit of TCS deposited in his name while filling income tax return. This means that he has to subtract TCS from income tax liability then have pay income tax or obtain refund.

Earlier TCS was applicable on alcoholic liquor, scrape, tendu leaves, toll plaza and parking lot charges but the government has now made it applicable on the sale of following products or services u/s 206C:

1. If jewellery is sold above Rs. 5 lakh in cash, then TCS will have to be collected on it @ 1%.
2. If any other product or service is sold for above Rs. 2 lakh in cash, then TCS will have to be collected on it @ 1%.
3. If motor car is sold for above Rs.10 lakh and payment is made in any mode i.e. be it in cash or through bank, TCS will have to be collected on it @ 1% of total transaction amount.

#### Conditions

- (i) The provision of TCS will not be applicable on the products or services on which TDS is applicable.
- (ii) here SELLER means – Central Govt., State Govt., Corporation, Company, Partnership firm, Co-operative society, Local authority, and individual (whose annual turnover immediately preceding previous financial year was more than limit prescribed u/s 44AB i.e. Rs. 1 crore or more) [explanation C to section 206 C]

**Question 1:** Whether tax collection at source under section 206C(1D) at the rate of 1% will apply in cases where the sale consideration received is partly in cash and partly in cheque and the cash receipt is less than two lakh rupees.

**Answer:** No. Tax collection at source will not be levied if the cash receipt does not exceed two lakh rupees even if the sale consideration exceeds two lakh rupees.

**Illustration:** Goods worth Rs. 5 lakhs is sold for which the consideration amounting to Rs.4 lakhs has been received in cheque and Rs.1 lakh has been received in cash. As the cash receipt does not exceed Rs.2 lakh, no tax is required to be collected at source as per section 206C (1D).

**Question 2:** Whether tax collection at source under section 206C (1D) will apply only to cash component or in respect of whole of sales consideration.

**Answer:** Under section 206C (1D), the tax is required to be collected at source on cash component of the sales consideration and not on the whole of sales consideration.

**Illustration:** Goods worth Rs. 5 lakhs is sold for which the consideration amounting to Rs.2 lakhs has been received in cheque and Rs.3 lakh has been received in cash. Tax is required to be collected under section 206C (1 D) only on cash receipt of Rs.3 lakhs and not on the whole of sales consideration of Rs.5 lakh.

TCS is applicable to the retailer of motor car. The TCS provision of sale above Rs. 10 lakh is not applicable to manufacturer or distributor. For example: The provision of TCS is applicable if a seller sells car to customer.

If the provision of TCS is not followed then:

- (i) If the seller does not collect TCS, then he may have to pay 100% penalty on it.
- (ii) If the TCS return is not filed, then a penalty up to Rs. 10,000/- can be levied.
- (iii) If TCS is deposited late, then interest will be levied on it.
- (iv) Late fees of Rs.200/- per day will be levied if TCS return is not filed within time.

### 2.47 Salient feature of The Income Declaration Scheme, 2016

The Income Declaration Scheme, 2016 incorporated as Chapter IX of the Finance Act 2016 provides an opportunity to all persons who have not declared income correctly in earlier years to come forward and declare such undisclosed income(s).

- a. Under the Scheme, such income as declared by the eligible person, would be taxed at the rate of 30% plus a '*Krishi Kalyan Cess*' of 25% on the taxes payable and a penalty at the rate of 25% of the taxes payable, thereby totaling to 45% of the income declared under the scheme.
- b. **Time line** - The scheme shall remain in force for a period of 4 months from **1<sup>st</sup> June, 2016 to 30<sup>th</sup> September, 2016** for filing of declarations and payments towards taxes, surcharge & penalty must be made latest by **30<sup>th</sup> Sept, 2017**. The revised time schedule for making payments under the Scheme are as under:
  - (i) a minimum amount of 25% of the tax, surcharge and penalty to be paid by 30.11.2016;
  - (ii) a further amount of 25% of the tax, surcharge and penalty to be paid by 31.3.2017; and
  - (iii) the balance amount to be paid on or before 30.9.2017.
- a. Declarations can be filed online or with the jurisdictional Principal Commissioners of Income-tax across the country.
- b. The scheme shall apply to undisclosed income whether in the form of investment in assets or otherwise, pertaining to Financial Year 2015-16 or earlier.
- c. Where the declaration is in the form of investment in assets, the Fair Market Value of such asset as on 1<sup>st</sup> June 2016 shall be deemed to be the undisclosed income under the Scheme. However, foreign assets or income to which the Black Money Act 2015 applies are not eligible for declaration under this scheme.
- d. What can be covered in the declaration?  
The declaration can be made in respect any income or income in the form of investment in any asset located in India and acquired from income chargeable to tax under the Act for any financial year (FY) prior to the FY 2016- 17 [assessment year (AY) 2017- 18] for which the declarant had either:
  - failed to furnish a return under section 139 of the Act, or
  - failed to disclose such income in a return furnished before the date of commencement of the Scheme i.e., 1 June 2016, or
  - where the income has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Act, or
  - failed to disclose fully and truly all material facts necessary for the assessment or otherwise.
- e. Assets specified in the declaration shall be exempt from Wealth tax.
- f. No Scrutiny and enquiry under the Income-tax Act or the Wealth tax Act shall be undertaken in respect of such declarations.
- g. Immunity from prosecution under the Income-tax Act and Wealth Tax Act is also provided along with immunity from the Benami Transactions (Prohibition) Act, 1988 subject to transfer of asset to actual owner within the period specified in the Rules.
- h. Non-payment of total taxes, surcharge & penalty in time or declaration by misrepresentation or suppression of facts shall render the declaration void.
- i. The circumstances in which the Scheme shall not apply or where a person is held to be ineligible are specified in section 196 (Chapter IX) of the Finance Act, 2016.
- j. Non declaration of undisclosed income under the Scheme will render such undisclosed income liable to tax in the previous year in which it is detected by the Income tax Department. Other penal consequences will also follow accordingly.