

The Institute of Chartered Accountants of India

(Set up by an Act of Parliament)



NOIDA BRANCH OF CIRC



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No. – 12 (2017-2018)

FEBRUARY -2017

RESPECTED MEMBERS,



It is my mammoth pleasure to converse you through this New Letter, and happy to share the fabulous experience for the term 2016-17. Friends, I pledge my gratitude and thanks from the core of my heart for the whole hearted support from the Galaxy of Past chairman's of Noida Branch, worthy President and Vice President, worthy Central Council Members, worthy CIRC Team, senior members in profession, the whole managing committee, the branch staff, the media and all the associates who shouldered and pave my ways to accomplish the responsibility reposed with me.

Friends, we have tried our level best, to not only maintain but strived to serve value added seminars and events for the members of Noida Branch. The term of my conscientiousness as a, chairman, of Noida Branch will be upto February, 2017, AND, I, assure, to all the stake holders of the profession, to abide myself to serve the Noida Branch and Ca Fraternity, not only in consecutive 2 years of the present committee, but forever, for the responsibilities given, entrusted, assigned, and provided to me.

Friends, we have premeditated some events in the month of February also viz; "Talk on Budget" on 9th February, on 13th February "Students Fest" and a Friendly Cricket Match with Income tax Department NOIDA.

Friends, during the year we have acknowledged incredible, extended and munificent support from various Committee's of the ICAI, like Young Member Empowerment Committee (YMEC), Committee of Career Counseling (CCC), Women Member empowerment Committee (WMEC), Committee of Information Technology (CIT), Internal System Audit Board (ISAB), Indirect Tax Committee (IDT), Board of Studies (BOS), Professional Development Committee (PDC) and Worthy President and Vice President Office.

Friends, with the best support your branch get able to conduct the FAFB course for the members. The branch has worked, in each area and sphere of professional development and student activities, and each committee members has given his extended support for the well being of the branch, to carry the new heights and legacy of the worthy branch of NOIDA, with a dedication, to leave no Stone unturned.

Many thanks to the members who supported, by providing the professional write-up's continuously during the year and made alive the NOIDA Branch E-News Letter to turnout very popular among the CIRC.

With best regards
CA SANJAY SHARMA
CHAIRMAN, NOIDA BRANCH

Thank you

SECRETARY WRITES.....



Respected Professional Colleagues,

Friends, as branch secretary, this is my last communication to you as Management Committee of your branch electing new office bearers for year 2017-18 on 16th February, 2017. This is up to members of your committee to whom they give responsibility and to whom they put in peaceful rest.

Friends, January 2017 has been cool as far as your branch activities for members are concerned. Lot of compliances and lot of reporting were completed during the month for year 2016-17 to ICAI. Year 2016-17 has been good and eventful for the activities for members as well students.

Friends, we have planned lot of activities for February 2017. On 1st February, Hon'ble Finance Minister had presented general Budget for 2017-18 along with Rail Budget. So we are starting our activities from the program "Talk On Budget" on 9th February 2017 at Hotel Park Accent, Sector-62, Noida where most popular speaker on direct taxes Dr CA Girish Ahuja has consented to deliver his deliberation on Budget proposals. On 13th February, your branch is organising a fest for CA students. On 25th February, your branch is organising a friendly cricket match between Income Tax Officials and Chartered Accountants of your branch. Whom so ever member interested to play cricket or interacting with Income Tax deptt. may come and cheers for both sides.

Friends, though as branch secretary, it is my last communication to you but since I am part of Management Committee, I will be available for you at any time either on my mobile or through mail. Further, your suggestions for branch better and smooth running shall always be the source of inspiration for us.

With best regards

CA SUDHIR KUMAR

SECRETARY, NOIDA BRANCH

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*Thank
you* 

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Union Budget, 2017 – Proposed changes in Income Tax

Union Finance Minister Sh. Arun Jaitley presented Union Budget 2017-18 on February 1. The unique features of this year budget included its timing and merging of Railway Budget with Union Budget. In view proposed introduction of Goods and Service Tax during the year, no major changes have been proposed in the Indirect taxes. Proposed changes in the Income Tax are discussed hereunder:

1. Income Tax rates revised

Rates of Income tax for Assessment Year 2018-19 for Individuals and HUFs have been proposed to be reduced from 10% to 5% for income upto Rs. 5 lakhs. As the change is in the first slab, this will benefit all individuals and HUFs. However, surcharge of 10% is proposed in case of those having income exceeding Rs. 50 lakhs.

The revised tax slabs are as under:

Proposed Income Tax Rates For Assessment Year 2018-19

a) Tax rates for individual below 60 years of age, Hindu Undivided Families, Association of Persons, Body of Individuals and Every Artificial Juridical Person

(1)	where the total income does not exceed Rs.2.50 lakhs	Nil
(2)	where the total income exceeds Rs.2.5 lakhs but does not exceed Rs.5 lakhs	5 per cent of the amount by which the total income exceeds Rs.2.5 lakhs
(3)	where the total income exceeds Rs.5 lakhs but does not exceed Rs.10 lakhs	Rs.12,500 plus 20 per cent of the amount by which the total income exceeds Rs.5 lakhs
(4)	where the total income exceeds Rs.10 lakhs	Rs.1,12,500 plus 30 per cent of the amount by which the total income exceeds Rs.10 lakhs.

b) Tax rates for individuals being a resident in India, who is of the age of sixty years or more but less than eighty years of age at any time during the previous year

(1)	Where the total income does not exceed Rs. 3 lakhs	Nil;
(2)	where the total income exceeds Rs.3 lakhs but does not exceed Rs.5 lakhs	5 per cent of the amount by which the total income exceeds Rs.3 lakhs
(3)	where the total income exceeds Rs.5 lakhs but does not exceed Rs.10 lakhs	Rs.10,000 plus 20 per cent of the amount by which the total income exceeds Rs.5 lakhs
(4)	where the total income exceeds Rs.10 lakhs	Rs.1,10,000 plus 30 per cent of the amount by which the total income exceeds Rs.10 lakhs

c) Tax rates for an individuals being a resident in India, who is of the age of eighty years or more at any time during the previous year

(1)	Where the total income does not exceed Rs.5 lakhs	Nil
(2)	Where the total income exceeds Rs.5 lakhs but does not exceed Rs.10 lakhs	20 per cent of the amount by which the total income exceeds Rs.5 lakhs
(3)	Where the total income exceeds Rs.10 lakhs	Rs.1,00,000 plus 30 per cent of the amount by which the total income exceeds Rs.10 lakhs

Surcharge—10 per cent of tax payable if total income exceeds Rs. 50 lakhs but does not exceed Rs. 1 Crore and 15 per cent of tax payable if total income exceeds Rs.1 crore.

Rebate under section 87A—Every resident individual whose total income does not exceed Rs.3.5 lakhs is entitled to rebate equal to amount of income-tax or Rs.2,500, whichever is lower.

Education cess and Secondary and higher education cess will continue to be levied @ 2% and 1%, respectively on Tax payable including surcharge.

d) Tax rates for Domestic Companies

(i)	Where its total turnover or gross receipts in the previous year 2015-16 does not exceed Rs. 50 crores	25%
(ii)	Other than above	30%

Surcharge—7 per cent of tax payable if total income exceeds Rs. 1 crore but does not exceed Rs. 10 Crore and 12 per cent of tax payable if total income exceeds Rs.10 crore.

Education cess and Secondary and higher education cess will continue to be levied @ 2% and 1%, respectively on Tax payable including surcharge.

2. Capital Gains

- The base year for calculation of indexed cost of acquisition/improvement is proposed to be shifted from 01-04-1981 to 01-04-2001.
- An immovable property will be treated as long-term capital asset if it is held for more than 24 months instead of 36 months as per existing provisions.
- In case of transfer of unquoted shares of a company, fair market value will be deemed to be sale consideration, in case the consideration is less than such fair market value. The provision is similar to existing provision in section 50C for immovable property.
- Long term capital gain on transfer of shares will now be exempt only in cases where shares were STT was paid at the time of acquisition of shares. Presently, LTCG on sale of shares is exempt if STT is paid at the time sale of shares, i.e. transacted through stock exchange.
- Conversion of preference shares in equity shares will not be treated as transfer. At the time of transfer of such converted equity shares, cost of acquisition of preference shares will be treated as cost of acquisition and period of holding before conversion will also be considered as period of holding for capital gain purposes.
- In case of transfer of land or building or both by an individual or HUF under a development agreement, capital gain is proposed to be charged to tax in the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority. Further, for this purpose, the stamp duty value, on the date of issue of the said certificate, of his share, being land or building or both in the project, as increased by the consideration received in cash, if any, shall be deemed to be the full value of the consideration.

It is provided that above provisions shall not apply where the assessee transfers his share in the project on or before the date of issue of said certificate of completion, and the capital gains shall be deemed to be the income of the previous year in which such transfer takes place and the provisions of this Act, other than the provisions of this sub-section, shall apply for the purpose of determination of full value of consideration received or accruing as a result of such transfer.

3. Loss from House Property

It is proposed that the loss under the head 'Income from house property' shall only be allowed to be set off from other heads of income to the extent of Rs. 2 lakh only. Balance loss, after such set off, will be allowed to be carried forward and set off against Income from House property for subsequent 8 assessment years.

4. National Pension Scheme

It is proposed to raise the limit for deduction u/s 80CCD in case of self-employed individuals from 10% to 20% of total income.

Further, partial withdrawal from NPS by employees to the extent of 25% of contributions is proposed to be exempt.

5. Curbs on cash transactions

- a) Section 40A(3) and 40A(3A) are proposed to be amended to reduce the limit for cash payment to a person from Rs. 20,000/- to Rs. 10,000/-. Any expenditure in violation of these provisions is not disallowed and is added to the income.
- b) Similarly, section 43(1) is proposed to be amended so as to exclude amount paid in cash exceeding Rs. 10,000/- from 'actual cost' of the asset. As such, depreciation will not be allowable on such amount. Similar changes have also been made in section 35AD to exclude expenditure incurred in cash exceeding Rs. 10,000/-.
- c) Apart from restricting allowability of revenue and capital expenditure for which payment in excess of Rs. 10,000/- is made in cash, a new section 269ST has been introduced restricting receipt by a person of an amount of Rs. 3 lakh or more -
 - (a) in aggregate from a person in a day; or
 - (b) in respect of a single transaction; or
 - (c) in respect of transactions relating to one event or occasion from a person, otherwise than by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account:

If a person receives any sum in contravention of the provisions of section 269ST, he shall be liable to pay, by way of penalty, a sum equal to the amount of such receipt.

6. Maintenance of books of accounts

Individuals and HUF are now required to maintain books of accounts if their income from business or profession exceeds Rs. 2.50 lacs or turnover exceeds Rs. 25 lacs in any one of the three preceding years. The limits have been changed from Rs. 1.20 lacs and Rs. 10 lacs respectively. However, there is no change for assesses other than individual and HUF.

7. Presumptive Income

In terms of Section 44AD, 8% of total turnover or gross receipts of an eligible business or a higher sum claimed by the assessee is deemed to be income from such business.

The section is proposed to be amended to provide that the deemed profit rate shall be 6% in respect of the amount of total turnover or gross receipts which is received by an account payee cheque or an account payee bank draft or use of electronic clearing system through a bank account during the previous year or before the due date of filing of return.

The amendment is effective from Assessment year 2017-18.

8. Deductible Expenditure

Interest payable to scheduled banks is allowed as deduction u/s 43B on cash payment basis. The provision is proposed to be extended to interest payable to co-operative banks.

Deduction allowable to banks and NBFCs in respect of provision for bad and doubtful debts u/s 36 is proposed to be increased from 7.5% to 8.5%.

9. Income from Other Sources

Provisions of section 56(2) in respect of amounts and/or assets received with without adequate consideration are presently applicable to Individuals and HUFs. The provisions are now being extended for all assesses.

Expenditure incurred in respect of income from other Sources is proposed to be disallowed for non-deduction of TDS.

10. Cash

Donation

Donations u/s 80G in excess of Rs. 2,000/- made in cash will not be allowed as deduction. Presently, the limit is Rs. 10,000/-

11. Deduction

for

Startup

Section 80-IAC for startups is proposed to be amended to allow deduction in three consecutive years out of seven years instead of five years as per existing provisions.

12. Deduction for Affordable Housing

Under section 80-IBA, period allowed for completion of project is proposed to be increased from 3 years to 5 years.

The limits as to area are proposed to be changed from 'built up area' to 'carpet area'. Further, projects located in areas outside the municipal limits of the metros (Delhi, Mumbai, Kolkata and Chennai) will be at par with other areas as to minimum size of the project and maximum size of each residential unit. Presently, projects located within the distance of 25 kilometres, measured aerially from the four metros were considered at par with the metros for such conditions.

13. Advance Tax

Presently assesses covered under the provisions of section 44AD are required to deposit advance tax only in 1 installment. The relaxation is proposed to be extended to assesses covered under section 44ADA.

14. Domestic Transfer Pricing

Section 92BA is proposed to be amended from the assessment year 2018-19 so as to provide that any expenditure in respect of which payment has been made or is to be made to a person referred to in clause (b) of sub-section (2) of section 40A shall not be a specified domestic transaction.

15. Taxability of Carbon Credits

A new section 115BBF is proposed so as to tax receipts from carbon Credits at 10 percent subject to cess and surcharge. Currently, the Andhra Pradesh High Court in the case of MyHome Power Case has held that such receipts are capital in nature.

16. Taxability of Dividend Income

The provision of section 115BBDA in respect of tax on dividend income earned by individuals, HUF or Firms earning dividend income in excess of Rs. 10 lacs from domestic companies is proposed to be amended so as to extend its application to all assesses except domestic companies and certain institutions.

17. Minimum Alternate Tax

Time allowed for adjustment of MAT Credit is proposed to be increased from 10 years to 15 years. Changes in MAT calculation provisions have also been proposed considering implementation of IND-AS.

18. Filing of Income Tax Return

It is proposed that the Income Tax Return (ITR) can now be revised before close of the assessment year. Presently the return can be revised within 1 year from the close of assessment year.

If a person fails to furnish its return of income within the prescribed time, a late fee shall be payable as per following :

- | | |
|--|-------------|
| a) Total Income does not exceed Rs. 5 lacs | Rs. 1,000/- |
| b) Total Income exceeds Rs. 5 lacs and | |
| ITR furnished before Dec 31 of AY | Rs.5,000/- |
| ITR furnished after Dec 31 of AY | Rs.10,000/- |

19. Time limit for completion of Assessment

Amendments have been proposed in Section 153 so as to reduce the time limit for completion of assessment u/s 143 or 144 from 21 months to 18 months for Assessment year 2018-19. The same is proposed to be further reduced to 12 months from assessment year 2019-20 onwards.

Time limit for assessment or reassessment u/s 147 is proposed to be increased from 9 months to 12 months

20. TDS on Rent

Individuals and HUFs, who are not required to get their accounts audited u/s 44AB, will be required to deduct TDS @5% on rent paid in excess of Rs. 50,000/- for a month or part thereof. The deduction is required to be made from rent for the last month of the year or last month of the tenancy, where property is vacated during the year. However, such person is not required to obtain TAN.

21. TDS on Payment to call centre

Section 194J is proposed to be amended so as to provide that TDS u/s 194J will be deducted @ 2% instead of 10% in case the payee is in the business of operation of call centre.

22. Tax Collected at Source (TCS)

TCS @ 1% will be required to be collected u/s 206(1D) if any amount is received in cash as consideration for sale of any goods or provision of service, if such consideration exceeds Rs. 2 lacs. The existing limit of Rs. 5 lacs for jewellery is proposed to be removed.

The responsibility has now been cast on the collectee to furnish PAN to the collector. In case of non-furnishing of PAN, TCS is to be collected at the higher of twice the normal rate of TCS or 5%.

23. Penalty u/s 271J

A penalty is proposed to be levied on Chartered Accountants, merchant bankers and registered valuers for furnishing incorrect information in any report or certificate furnished under the Act. The penalty amounting to Rs. 10,000/- for each such report or certificate can be levied by Assessing Officer or Commissioner (Appeals). However, no such penalty can be levied if reasonable cause for the failure is proved.

24. Income of political parties

In terms of section 13A any income of a political party which is chargeable under the head “Income from house property” or “Income from other sources” or capital gains or any income by way of voluntary contributions received by a political party from any person shall not be included in the total income of the previous year of such political party.

One of the conditions of exemption is that in respect of each such voluntary contribution in excess of twenty thousand rupees, such political party keeps and maintains a record of such contribution and the name and address of the person who has made such contribution.

Another condition is proposed to provide that no donation exceeding two thousand rupees is received by such political party otherwise than by an account payee cheque drawn on a bank or an account payee bank draft or use of electronic clearing system through a bank account or through electoral bond.

Further, it is proposed to provide that the political party shall furnish return of income within the time allowed under section 139(4B) in order to be eligible to exemption under section 13A.

25. Charitable Institutions

Section 12A is proposed to be amended from the assessment year 2018-19 so as to provide that the Charitable Trust shall furnish return of income within the time allowed under section 139(4A) in order to be eligible to exemption under section 11.

Section 12A is proposed to be amended so as to provide that the person in receipt of the income has made an application for registration of the trust or institution, in a case where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A, and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, in the prescribed form and manner, within a period of thirty days from the date of said adoption or modification, to the Principal Commissioner or Commissioner and such trust or institution is registered under section 12AA.

Failure to comply with above conditions will result in denial of exemption under section 11.

With best regards

CA GIRISH KUMAR NARANG

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*Thank
you* 



REGISTRATION UNDER THE GOODS & SERVICE TAX ACT (GST)

As we all are aware that the implementation of GST is on the cards. The Finance Minister has already announced that in all likelihood it will be effective from 1st July, 2017. In any case the process of migration of the existing has already started. Therefore it very imperative to understand the basic provisions regarding registration under GST Act. The provisions are contained in chapter VI read with schedule V of the GST Act.

Existing Assesses: Any person who is already registered under Excise/VAT/Service Tax etc. are mandatorily required to register under GST by filling Form 20. However if any existing assessee is of the consideration that GST will not be applicable, then he can directly file Form 24 for deregistration.

New Assesses: We all are aware that now when we talk of GST, it comprises Goods & Services both. It includes all type of persons engaged in Manufacture, Trade or Service. GST is now a destination based Tax & accordingly is levied on the supply of Goods/Services. It will extend to whole of India including J & K.

State-wise Registration: Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds the threshold limit. New registration will be applied in Form 1

Taxable Person: As per section 10, it means

- a) a person who is registered or liable to be registered under Schedule V of this Act.
- b) A person who has obtained or is required to obtain more than one registration, Whether in one State or more than one State, shall, in respect of each such registration, be treated as distinct persons for the purposes of this Act.
- c) An establishment of a person who has obtained or is required to obtain registration in a State, and any of his other establishments in another State shall be treated as establishments of distinct persons for the purposes of this Act.

Threshold Limit: This is the limit when the registration for the new assessee is mandatory. That is when the Aggregate Turnover exceeds Rs.10 Lakh in the case of North Eastern states including Sikkim and Rs.20 Lakhs for all other states.

Aggregate Turnover: The aggregate turnover shall include all supplies made by the taxable person, whether on his own account or made on behalf of all his principals. The following points be kept in mind for ascertaining the Aggregate Turnover

- a) Taxable supply of both goods and services shall be included
- b) both intra state supply and inter-state supply will be included
- c) Exempted supplies will also be included which as per section 2(44) means supply of any goods and/or services which are not taxable under this Act and includes such supply of goods and/or services which attract nil rate of tax or which may be exempt from tax under section 11

Exempt/Non Taxable Supplies: The following may be categorized as Exempt/Non Taxable services

- a) Not taxable as per schedule III i.e. services of employees, court tribunal, MP/MLA etc., foreign diplomatic mission in India, services of burial and crematorium etc.
- b) Nil /Zero rated supplies will also be included. i.e. export of goods/services or supply to SEZ developer/SEZ unit
- c) Exempt supplies as per notification under section 11
- d) Agriculture if done by an agriculturist.

Compulsory Registration: Notwithstanding anything contained above, the following categories of persons shall be required to be registered under this Act irrespective of the threshold limit specified above:

- a) Persons making any inter-State taxable supply.
- b) Casual taxable persons.
- c) Persons who are required to pay tax under reverse charge.
- d) Persons who are required to pay tax under sub-section (4) of section 8.
- e) Non-resident taxable persons.
- f) persons who are required to deduct tax under section 46, whether or not separately registered under this Act; -
- g) persons who are required to collect tax under 56, whether or not separately registered under the Act; -
- h) persons who supply goods and/or services on behalf of other taxable persons whether as an agent or otherwise,
- i) input service distributor, whether or not separately registered under the Act
- j) persons who supply goods and/or services, other than supplies specified under sub-section (4) of section 8 , through such electronic commerce operator who is required to collect tax at source under section 56,
- k) every electronic commerce operator,
- l) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered taxable person; and
- m) such other person or class of persons as may be notified by the Central Government or a State Government on the recommendation of the Council.

Special Cases:

- a) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee, or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.
- b) Notwithstanding anything contained in paragraph 1 and 3 above, in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, de-merger of two or more companies by an order of a High Court, the transferee shall be liable to be registered, where required, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court.

Voluntary Registration: A non-taxable person can voluntary opt for registration under GST and there after all provisions in respect of Taxable person will apply.

Exemption from Registration: In the following cases registration is not required i.e.

- a) any person engaged exclusively in business of supplying goods/services that are not liable to be taxed or are wholly exempt from tax under the Act.
- b) an agriculturist for the purpose of agriculture

Conclusion: As per section 8(2) of GST Act, the CGST/SGST shall be paid by every taxable person in accordance with the provisions of this Act in respect of intra state supply. Further IGST is payable for the Inter-state supply. Therefore if a small service provider whose aggregate turnover is less than the threshold but if supplying inter-state supply, then not only he will require registration but will also have to pay IGST in respect of such inter-state supply of services. For the purpose of determining the place of supply it may be noted that it will be normally be taken as the registered address of the recipient of services. Therefore if a CA in Noida is billing to clients outside Noida, then even if he is below threshold limit, he will have to obtain registration and pay IGST. As of now issue regarding payment of GST remains open where the GST registration has been obtained and the intra state supply is below Rs.20 Lakhs.

With best regards

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*Thank
you* 



Benami Transactions (Prohibition) Act, 1988

Benami Transactions (Prohibition) Act, 1988 is passed by the Lok Sabha on 27th July and Rajya Sabha on 2nd August 2016 respectively. It get The President's assent on 10th August 2016. The rules and provisions of the Benami Transactions (Prohibition) Act are finally made effective from 1st November, 2016

Background

- In 1973, the Law Commission of India after studying various Acts and prevailing benami system, recommended formulating an Act to tackle the issue. Accordingly, the Benami Transactions (Prohibition) Act, 1988 was enacted by the Parliament which came into force on 19 May 1988.
- However, due to various deficiencies in the Act, the rules required for operationalizing the Act were not framed. To address these deficiencies, several years later, in 2011, the Govt of India introduced "Benami Transactions (Prohibition) Bill, 2011

In the leading case of apex court in case of “Jaydayal Poddar (Deceased) ... vs Mst. Bibi Hazra And Ors on 19 October, 1973 (S.C.)” it is observed that:

- The sources from which the purchase money came
- The nature and possession of the property, after the purchase
- Motive, if any, for giving the transaction a benami color
- The position of the parties and the relationship if any, between the claimant and the alleged benamidar
- The custody of the title-deeds after the sale and
- The conduct of the parties concerned in dealing with the property after the sale

Meaning of “Benami Transactions”

- ***“Benami”*** commonly represents “Without name” or “No name”. The act defines a ***'benami' transaction*** as any transaction in which property is transferred to one person for a consideration paid by another person. Such transactions were a feature of the Indian economy, usually relating to the purchase of property (real estate), and were thought to contribute to the Indian black money problem. The act goes on to ban all benami transactions and the right to recover property held benami.

Why Benami Transactions are common phenomenon?

In India people are tempted to get indulge in Benami transactions due to following reasons:

- To avoid certain political and social risks
- To desire to evade tax thereby committing fraud on state
- And the most common to put black money into more productive use

Some Important Meanings and Definitions incorporated under this Act

➤ **Benami Transaction**

- Purchase or holding properties in name of another.
- Source of money is not provided by the property holder.
- Person providing consideration is not traceable.
- A property transaction is carried out in fictitious name.
- No intention to give benefit to the property holder.
- Real owner is not aware of the transactions or denies ownership.
- Property is for future benefit, direct or indirect, for person paying consideration.
- Transactions include arrangements

➤ **Benami Property**

- “Benami Property” means any property which has been the subject matter of Benami Transactions and also include proceeds from such property.
- If Benami Property has changed its color or form, even then it will be considered as Benami Property.

➤ **Property**

- “Property” means any kind of assets whether movable or immovable; tangible or intangible; or corporeal or incorporeal; or includes any rights or interests in such property.

➤ **Held By**

- “Held By” as used in definition, covers property held even before 1988. Held means actual possession, legal title, right to hold or claim.

➤ **Benamidar**

- “Benamidar” means person who is the holder of property.

➤ **Beneficial Owner**

- “Beneficial Owner” means the person getting benefit from such property.

➤ **Person**

- Person means
 - Individual
 - Hindu Undivided Family

- Company
- Partnership Firm including LLP
- Association of Persons/Body of Individuals
- Artificial Judicial Person

➤ **Immovable Property**

- Land
 - Land means surface of the earth
 - River , House, ponds
- Benefits to arises out of earth
 - Sub soil ,Minerals, coals and gold mines
- Things attached to the earth
 - Things embedded in the earth
 - Things attached to what is so embedded in the earth
 - Things rooted in the earth

➤ **Movable Property**

- Standing Timbers, Growing crops and growing grass
- Plant and Machinery
- Gold and silver
- Furniture
- Bank FDRs
- Government Promissory notes
- Royalty and others as prescribed under act

Exceptions to Benami Transaction

- Property in name of Karta or member of HUF and consideration is paid from known sources of income of HUF.
- Property is name of Trustee and consideration is paid from known sources of income of Trust.
- Property held in a fiduciary capacity such as Trustee, Executor, Partner, Director, Depository, Depository's Agent and other notified by Government.
- Property acquired in name of Spouse or child and consideration is paid from known sources of income of individual.
- Property acquired in joint name of brother, sister, lineal ascendant or descendant, and consideration is paid from known sources of income of individual.

Property held through Power of Attorney- Whether a Benami Transaction?

If the purchase of property is through power of attorney(POA) and the following steps has been taken-

- Paid the consideration by beneficial owner.
- Possession in control of beneficial owner.

- Sale of Agreement/GPA in name of beneficial owner
- Lawful transfer of property

then it will not be considered as benami transaction.

Plan to Implement this Act

- Create and provide the Unique Identification Number of each property.
- Database creation by demat of property and linking with Aadhaar and PAN no.
- Collecting Information from registration authority, private builders, authorities like DDA, etc
- Comparing Source of Income from IT return
- Conducting enquiries and Inspection
- Issuing notice and Attachment of property if found suspicious.

Attachment, Adjudication And Confiscation

- If an Initiating Officer believes that a person is a benamidar, he may issue a show cause notice to benamidar asking why the property should not be treated as benami property.
- The copy of notice will also be issued to beneficial owner if his identity is known.
- The Initiating Officer may hold the property for 90 days from the date of issue of the notice, with approval from the Approving Authority.
- At the end of the notice period, the Initiating Officer may pass an order to continue the holding of the property with the approval from the Approving Authority
- If an order is passed to continue holding the property, the Initiating Officer will refer the case to the Adjudicating Authority.
- The Adjudicating Authority will examine all documents and evidence relating to the matter and then pass an order on whether or not to hold the property as benami.
- Based on an order to confiscate the benami property, the Administrator will receive and manage the property in a manner and subject to conditions as prescribed.
- The Act also seeks to establish an Appellate Tribunal to hear appeals against any orders passed by the Adjudicating Authority. Appeals against orders of the Appellate Tribunal will lie to the high court (Special Court).
- Central Government will set up the Special Court under the supervision of Chief Justice of the High Court.

Legal Structure

Authority	Functions
Initiating Officer	Notice and Attachment of the property
Approving Authority	Notice to furnish evidence
Adjudicating Authority	Confiscation and vesting of property
Administrator	Possession and Management of confiscated property
Appellate Tribunal	Hears Appeals against orders of Adjudicating Officer

Penalty

- For guilty of offence of Benami Transaction
 - Penalty upto 25% of the fair market value of the Property
 - Rigorous imprisonment for minimum 1 year upto 7 years
- For false information
 - Penalty upto 10% of the fair market value of the property
 - Rigorous imprisonment for minimum 6 months upto 5 years

Proceedings in relation to Income Tax Act

- After the issue of notice under sec. 24 of Benami transaction Property Act , transfer of the property shall be null and void.
- Notice will be issued under section 148/ 197(c).
- Time of limitation as per the notice.
- Penalty under 270A
- Tax will be recovered from sale of property which was attached.
- Proceedings will be carried under section 281 A of the Income Tax Act.

Regards

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*Thank
you* 



Impact of Union Budget 2017 on Individual Taxpayers

The main focus of the Finance Minister Mr. Arun Jaitley's budget presented on the auspicious day of *Vasant Panchami* is to push for rural and infrastructure development with job creation for the youth. The budget has also attempted to bring some relief to the middle-class, boost affordable housing, and promote cash less economy.

Some of the key budget income tax proposals for individuals are set out below:

1. Income Tax rates reduced from 10% to 5%

Finance Minister has proposed to reduce the existing rate of taxation for individual assesses (including HUF, AOP, BOI and Artificial juridical persons)between income of Rs.2,50,000 to Rs.5,00,000 to 5% from the present rate of 10%. This would reduce the tax liability of all persons below Rs.5,00,000 income either to zero (with rebate) or 50% of their existing liability. Revised tax slabs are as under:-

Individual	Tax Rates
Taxable Income up to Rs.2,50,000	Nil
Rs.2,50,001 to Rs.5,00,000	5%
Rs.5,00,001 to Rs.10,00,000	20%
Above Rs.10,00,000	30%

Senior Citizen	Tax Rates
Taxable Income up to Rs.3,00,000	Nil
Rs.3,00,001 to Rs.5,00,000	5%
Rs.5,00,001 to Rs.10,00,000	20%
Above Rs.10,00,000	30%

Super Senior Citizen	Tax Rates
Taxable Income up to Rs.5,00,000	Nil
Rs.5,00,001 to Rs.10,00,000	20%
Above Rs.10,00,000	30%

2. Reduction in rebate U/S 87A

Earlier section 87A provides a tax rebate of up to Rs.5,000 to an individual if his total income is upto Rs.5,00,000. This tax rebate is proposed to be reduced in order not to have duplication of benefit to Rs.2,500 and it is proposed to be made available to only those individuals whose total income is upto Rs.3,50,000. Therefore, the rebate will no longer be available for income of above Rs.3,50,000.

3. Surcharge on income above Rs.50 lakh

There is an existing surcharge of 15% of tax on individuals earning more than RS.1 crore. In budget it is proposed to levy a surcharge at rate of 10% of tax on individuals whose annual taxable income is between RS.50 lakh and RS.1 crore.

4. Capital Gains Taxation**a. Period of Holding**

The holding period for considering the capital gain from immovable property to be long term is 3 years now. This period is proposed to be reduced to 2 years. This will reduce the capital gains tax liability to a large extent since the exemptions under section 54 can now be claimed for all these assets when they are sold as long term.

b. Base Year

At present assesses who had purchased assets prior to 1st April 1981, were allowed to replace the cost of acquisition with the fair market value as on 1st April 1981 known as the base year. Now it has been proposed that the base year for indexation is to be shifted from 1.4.1981 to 1.4.2001 for all classes of assets including immovable property. Hence assesses can now take fair market value as on 1st April 2001 as the cost of acquisition.

5. Set-off of losses from house property restricted to Rs.2 lakh

Section 71 relating to set off of loss from one head against income from another is proposed to be amended to restrict the set-off of loss under the head 'Income from house property', in any assessment year against any other income, up to RS.2,00,000. However, the loss not so set off would be allowed to be carried forward for set off against house property income for eight assessment years.

6. Promoting Digital Economy**a. Cap on cash transactions**

No transaction above RS.3 lakh should be permitted in cash. This step is the proposal from SIT on black money towards curbing cash transactions and reduces black money.

b. Restricting cash donations to political parties and charitable institutions

Cash donations to political parties and charitable institutions will now be restricted to only RS.2,000. This move is also taken towards curbing the black money and circulation of cash through these routes.

7. TDS on Rent

A new section 194-IB is proposed to be inserted to provide that an Individual is required to deduct taxes at a rate of 5% on housing rent paid to a landlord, if the monthly rent exceeds Rs. 50,000. It is proposed that the tax could be deducted at the time of credit of rent for the last month of the previous year or last month of tenancy, as applicable.

8. Tax return filing**a. Simplified tax return form**

In order to expand tax net, a simple one-page ITR Form is to be introduced for individuals with taxable income upto Rs.5,00,000 other than business income.

b. Restricting period for revising Return

The time period for revising income tax return is being reduced to 12 months from the completion of financial year instead of 24 months in the current regime.

c. Fees for delay in filing the return

In order to ensure the timely filing of tax returns within due date, fee for delayed filing of return is proposed to be levied by introducing a new section 234F. If the return is furnished after the due date but on or before the December 31 of the assessment year, assessee shall be liable to pay fees of Rs.5,000. However, if return is filed after 31st December of the assessment year, the fees shall be of Rs.10,000. However, in a case where the total income does not exceed five lakh rupees, it is proposed that the fee shall not exceed Rs.1,000.

The Finance Minister ended his budget speech with a beautiful saying :- *“When my aim is right, when my goal is in sight, the winds favour me and I fly”*. There is no other day, which is more appropriate for this, than today.

Regards

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*Thank
you* 

SNAPS DURING REPUBLIC DAY CELEBRATION



SNAPS DURING STUDENT SEMINAR





MOTTO



Ya esa suptesu jagarti kamam kamam Puruso nirmimanah ।

Tadeva sukram tad brahma tadevamrtamucyate ।

Tasminloka sritah sarve tad natyeti Kascan । etad vai tat ॥

य एष सुप्तेषु जागर्ति कामं कामं पुरुषो निर्मिमाणः ।

तदेव शुक्रं तद् ब्रह्म तदेवामृतमुच्यते ।

तस्मिंल्लोकाः श्रिताः सर्वे तद् नात्येति कश्चन । एतद् वै तत् ॥

(That person who is awake in those that sleep, shaping desire after desire, that, indeed, is the pure. That is Brahman, that, indeed, is called the immortal. In it all the worlds rest and no one ever goes beyond it. This, verily, is that, kamam kamam : desire after desire, really objects of desire. Even dream objects like objects of waking consciousness are due to the Supreme Person. Even dream consciousness is a proof of the existence of the self.

No one ever goes beyond it : cf. Eckhart : 'On reaching God all progress ends.')

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