

**Analysis of major (select) direct tax changes made while passing the Finance bill 2016 in Parliament on May 05, 2016.**

Section Ref	As per Finance Bill, 2016	As per Finance Act, 2016	Analysis														
2(42A)	No such amendment	<p>In clause (42A), after the second proviso and before explanation 1, following shall be inserted wef April 01, 2017, namely:-</p> <p>Provided also in the case of a share of a Company (not being a share listed in a recognised stock exchange of India), the provisions of this clause shall have effect as if for the words "thirty six months", the words "twenty four months" had been substituted.</p>	<p>As per the amended provisions, the period of holding for shares of an unlisted company to be treated as a long term capital asset has been reduced from 36 months to 24 months. The position is summarized below:-</p> <table border="1" data-bbox="1050 703 1410 1682"> <thead> <tr> <th data-bbox="1050 703 1230 853">Asset class</th> <th data-bbox="1230 703 1410 853">If transfer takes place after April 1, 2016</th> </tr> </thead> <tbody> <tr> <td data-bbox="1050 853 1230 994">Listed shares where STT is paid</td> <td data-bbox="1230 853 1410 994">12 months</td> </tr> <tr> <td data-bbox="1050 994 1230 1066">Unlisted shares</td> <td data-bbox="1230 994 1410 1066">24 months</td> </tr> <tr> <td data-bbox="1050 1066 1230 1245">Units of equity oriented mutual funds</td> <td data-bbox="1230 1066 1410 1245">12 months</td> </tr> <tr> <td data-bbox="1050 1245 1230 1424">Units of debt oriented mutual funds</td> <td data-bbox="1230 1245 1410 1424">36 months</td> </tr> <tr> <td data-bbox="1050 1424 1230 1496">Zero coupon bonds</td> <td data-bbox="1230 1424 1410 1496">12 months</td> </tr> <tr> <td data-bbox="1050 1496 1230 1682">Other capital assets like land, jewellery</td> <td data-bbox="1230 1496 1410 1682">36 months</td> </tr> </tbody> </table>	Asset class	If transfer takes place after April 1, 2016	Listed shares where STT is paid	12 months	Unlisted shares	24 months	Units of equity oriented mutual funds	12 months	Units of debt oriented mutual funds	36 months	Zero coupon bonds	12 months	Other capital assets like land, jewellery	36 months
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10(12)	The exemption on withdrawal of accumulated balances from a recognized PF is proposed to be reduced from 100% to 40% to the extent it relates to contributions made by the employee (other than excluded employee) after 1 April 2016. Excluded employee is an employee	Proposed amendment in section 10(12) has been dropped.	The position reverts back to that prevailing prior to the Finance Bill, 2016. Consequently, there would be no tax on withdrawals from recognized provident fund, if the conditions in rule 8 of part A of the fourth schedule to the Act are fulfilled.														

	whose monthly salary doesn't exceed an amount of Rs.15,000/-. Tax is proposed to be calculated at 60% on the interest component relatable to employee's contribution.		
10(13)(ii)	<p>This section exempted any payment from an approved superannuation fund made to an employee in lieu of or in commutation of an annuity on his retirement at or after a specified age or on his becoming incapacitated prior to such retirement.</p> <p>A proviso was proposed to be inserted in this sub section to bring to tax any payment in lieu of or in commutation of an annuity purchased out of contributions made on or after April 1, 2016 where it exceeds 40% of the annuity.</p>	This proviso has been omitted.	The position reverts back to that prevailing prior to the Finance Bill, 2016. Consequently, there would be no tax on any payment from an approved superannuation fund in lieu of or in commutation of an annuity purchased out of such contributions.
35ABA	Any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force. Passover provisions to permit benefit of remaining deduction have been provided in the cases of transfer of license by way of demerger and amalgamation.	<p>A further sub section 3 to 35ABA has now been inserted to provide that—where, in a previous year, any deduction has been claimed and granted to an assessee under sub-section (1), and, subsequently, there is failure to comply with any of the provisions of this section, then,—</p> <p>(a) the deduction shall be deemed to have been wrongly allowed;</p> <p>(b) the Assessing Officer may, notwithstanding anything contained in this Act, re-compute the total income of the assessee for the said previous year and make the necessary rectification;</p> <p>(c) the provisions of section 154 shall, so far as may be, apply and the period of four years specified in sub-section (7) of that section being reckoned from the end</p>	

		of the previous year in which the failure to comply with the provisions of this section takes place.	
35CCC	It was proposed to reduce the weighted deduction from 150% to 100% wef April 1, 2018 in respect of expenditure incurred on an agricultural extension project.	It is now decided to reduce the weighted deduction from 150% to 100% wef AY 2020-21 onwards in respect of expenditure incurred on an agricultural extension project.	Sun set period extended
49(5)	No such amendment	A new clause (5) has been inserted - Where the capital gain arises from the transfer of an asset declared under the Income Declaration Scheme, 2016, and the tax, surcharge and penalty have been paid in accordance with the provisions of the Scheme on the fair market value of the asset as on the date of commencement of the Scheme, the cost of acquisition of the asset shall be deemed to be the fair market value of the asset which has been taken into account for the purposes of the said Scheme".	Applies only in cases where an asset is declared under the Income Declaration Scheme, 2016
80 IAC	Special provision in respect of specified business. Wherein the definition of "eligible start-up" means a company engaged in eligible business.	Now "eligible start-up" definition includes company and limited liability Partnership (LLP) also.	Benefits extended to LLPs too in addition to companies.
111A	-	In section 111A of the Act with effect from the 1st day of April, 2017,— (i) in section 111A(1) a second proviso has been inserted, namely:— "Provided further that nothing contained in clause (b)[transactions which are chargeable to STT] shall apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such	The concessional rate of tax on short term capital gains from equity shares in a company or an unit of an equity oriented fund or a unit of a business trust shall apply to a transaction undertaken on a recognised stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency even when no STT is paid

		<p>transaction is paid or payable in foreign currency.”</p> <p>(ii) for the Explanation below section 111A (3), has been inserted namely:—</p> <p>(a) “equity oriented fund” shall have the meaning assigned to it in the Explanation to clause (38) of section 10;</p> <p>(b) “International Financial Services Centre” shall have the same meaning as assigned to it in clause (q) of section 2 of the Special Economic Zones Act, 2005;</p> <p>(c) “recognised stock exchange” shall have the meaning assigned to it in clause (ii) of Explanation 1 to sub-section (5) of section 43.’</p>	
115BA	<p>A new section 115BA was proposed to be inserted to provide for tax on income at the rate of 25% on certain domestic companies setup and registered on or after 1st day of March, 2016 and the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;</p> <p>Sub section 4 of section 115BA further provided that the above option should be exercised by assessee on or before the due date specified under section 139(1).</p>	<p>The conditions earlier proposed have now been modified and read as below: the company is not engaged in any business other than the business of manufacture or production of any article or thing and research in relation to, or distribution of, such article or thing manufactured or produced by it;</p> <p>Further, a proviso has been inserted to sub section 4 of section 115BA that once the option has been exercised for any previous year, it cannot be subsequently withdrawn for the same or any other previous year.</p>	The benefit of lower tax extended marginally extended
115BBDA	A new section was proposed to tax individual, HUF or firms resident in India whose income included any income exceeding 10 lakh rupees, by way of dividends declared,	Words “any income in aggregate exceeding 10 lakh rupees” has been inserted.	This redrafting has been done to bring in clarity so that dividend income in excess of Rs. 10 lakhs only will be taxed.

	distributed or paid by a domestic company at the rate of 10% of such dividends;		
115BBF	Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, the income-tax payable shall be payable at the rate of 10% of such income and subject other conditions as mentioned in section 115BBF.	<p>The definition of 'developed' has been modified to require an eligible assessee to incur at least 75% of the expenditure (for any invention in respect of which patent is granted under the Patents Act, 1970) in India, to be eligible for the concessional taxation regime.</p> <p>Further, sub clause (3) and (4) have been added to section 115BBF which read as below:</p> <p>(3) The eligible assessee <b>may exercise the option</b> for taxation of income by way of royalty in respect of a patent developed and registered in India in accordance with the provisions of this section, in the prescribed manner, on or before the due date specified under sub-section (1) of section 139 for furnishing the return of income for the relevant previous year.</p> <p>(4) Where an eligible assessee opts for this option for any previous year and the assessee offers the income for taxation for any of the 5 assessment years (AY) relevant to the previous year (PY) succeeding the PY not in accordance with the provisions of sub-section (1), then, the assessee shall not be eligible to claim the benefit of the provisions of this section for 5 AY subsequent to the AY relevant to the previous year in which such Income has not been offered to tax in</p>	

		accordance with the provisions of sub-section (1).	
115JB(7)	Proposed to reduce the MAT rate to 9% for assessee if unit is located in an International Financial Services Centre (IFSC) and derives its income solely in convertible foreign exchange. One of the condition was that such unit was established in an International Financial Services Centre, on or after the 1st day of April, 2016	The condition of IFSC being established on or after 1st day of April, 2016 have been removed.	The benefits of concessional rate of MAT tax has been extended to existing units in IFSC.
115TD	New chapter XII-EB has been proposed containing Special provisions relating to tax on accreted income of certain trusts and institutions.	<p>Additional two provisos have been added to section 115TD(2)  Provided that so much of the accreted income as is attributable to the following assets and liabilities, if any, related to such asset shall be ignored for the purposes of subsection (1), namely:—</p> <p>(i) any asset which is established to have been directly acquired by the trust or institution out of its income of the nature referred to in clause (1) of section 10;</p> <p>(ii) any asset acquired by the trust or institution during the period beginning from the date of its creation or establishment and ending on the date from which the registration under section 12AA became effective, if the trust or institution had not been allowed any benefit of sections 11 and 12 during the said period:</p> <p>Provided further that where due to the first proviso to sub-section (2) of section 12A, the benefit of sections 11 and 12 have been allowed to the trust or the institution</p>	Certain assets and related liabilities are excluded from computation of accreted income.

		in respect of any previous year or years beginning prior to the date from which the registration under section 12AA is effective, then, for the purposes of clause (ii) of the first proviso, the registration shall be deemed to have become effective from the first day of the earliest previous year:	
143(1D)	A proviso to section 143(1D) has been proposed to provide that such return shall be processed before the issuance of an order under section 143(3).	Now the existing subsection (1D) of section 143 has been replaced along with the proviso: Notwithstanding anything contained in section 143(1), the processing of a return shall not be necessary before the expiry of the period specified in the second proviso to section 143(1), where a notice has been issued to the assessee under section 143(2) : Provided that such return shall be processed before the issuance of an order under section 143(3).”.	Time limit of one year (from end of financial year in which return was made) not to be applicable for processing of returns, where notice has been issued under section 143(2).
206C	Proposed that the seller has to collect TCS at the rate of 1% on sale of motor vehicles exceeding 10 lakh rupees wef June 01, 2016 under section 206C (1) at the time of debiting the amount payable by the buyer to his account or at the time of receipt of such amount from the buyer, whichever is earlier	Now such amendment has been made through a separate sub section (1F) – Every person, being a seller, who receives any amount as consideration for sale of a motor vehicle of the value exceeding ten lakh rupees, shall, at the time of receipt of such amount, collect from the buyer, a sum equal to one per cent of the sale consideration as income-tax.”;	Sub section 1(F) provides the seller to collect the TCS only at the time of receipt of consideration on sale of motor vehicle exceeding the value of Rs 10 lakhs
276C	No such amendments	Section 276C has been amended to cover cases of under-reporting of income cases as per section 270A.	

Part A of the Fourth Schedule to the Income Tax Act	Proposed to amend the fourth schedule to the Income Tax Act, to provide that contributions made by employer to recognised PF over 12% of employee's salary or Rs. 150,000 whichever is less is taxable in employee's hands.	The ceiling limit of Rs. 150,000 has been removed	Only contributions made by an employer in excess of 12% of salary shall be included in the total income of an employee.
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***NOTE: THE ABOVE AMENDMENTS HAVE BEEN FURNISHED TO OUR CUSTOMERS FOR GENERAL UNDERSTANDING. IN VIEW OF THE INTRICACIES INVOLVED IN THE AMENDMENTS, THEY ARE REQUESTED TO TAKE SPECIFIC PROFESSIONAL ADVICE BEFORE ACTING ON ANY MATTER. WHILE DUE CARE HAS BEEN TAKEN IN PREPARING THIS DOCUMENT, INADVERTENT INACCURACIES CANNOT BE RULED OUT. THIS DOCUMENT IS NOT EXHAUSTIVE. THE CONTENTS OF THIS DOCUMENT IS NOT TO BE CONSIDERED AS LEGAL OR PROFESSIONAL ADVICE.***