

THE POWER OF BEING UNDERSTOOD

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**NEWSFLASH - CERTAIN SIGNIFICANT AMENDMENTS MADE TO THE
FINANCE BILL, 2016**

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Background

The Finance Bill, 2016 ('the Bill') was introduced in the Parliament on 29th February 2016. Certain amendments have been carried out during the passage of the Bill in the Lok Sabha on 5th May 2016. A gist of certain significant amendments to the Bill is as under:

Sr.	The Finance Bill, 2016	Amendment to the Finance Bill, 2016
1.	Minimum Holding Period for Unlisted shares reduced from 3 years to 2 years to qualify as Long Term Capital Asset	
	It was announced in the budget speech, however, no such proposal found place in the Bill.	The period of holding in a case of unlisted shares shall be more than 2 years to qualify as long term capital asset
2.	Tax Benefits for start-ups extended to LLP	
	As per the initially proposed provisions of section 80-IAC, only a Company was an eligible start up entity to claim 100% deduction for 3 years subject to fulfillment of other conditions.	Similar benefit now is being extended to LLP registered between 1 April 2016 and 31 st March 2019.
3.	Certain Amendments - Lower corporate tax rate of 25% in case of certain domestic manufacturing company	
	The Bill had proposed to provide an option to certain domestic companies to claim lower corporate tax rate of 25% subject to fulfillment of certain conditions. One of the conditions was that company should be engaged in the business of manufacturing or production of any article or thing.	In this regard, it is now being proposed that Company should not be 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. Further, it seeks to clarify that option for availing the concessional rate of 25% should be exercised on or before the furnishing of first of the return of income which the person is required to furnish under the provisions of this Act. Moreover, it seeks to clarify that the once the said option is exercised, it cannot be subsequently withdrawn for the same or any other previous year.
4.	Tax on certain dividend received from domestic companies- Limit of Rs.10 lacs to be considered in aggregate and taxability is in respect of dividend income exceeding Rs. 10 lacs.	
	An additional tax @ 10% was proposed on dividend income in excess of Rs. 10 lacs in the hands of an individual, Hindu undivided family (HUF) or a firm who is resident in India.	It is now clarified that the threshold of Rs.10 lacs is to be considered in aggregate and not company wise. Further, it is now clarified that dividend income exceeding Rs.10 lacs to be taxable @10% and not the entire dividend income.

Sr.	The Finance Bill, 2016	Amendment to the Finance Bill, 2016
5.	Rollback of Proposal to tax the withdrawal amount of recognized provident fund and superannuation fund	
I.	Proposal to Tax 60% of withdrawal from Recognized Provident Fund dropped	
	The Bill had proposed to tax 60% of withdrawal from corpus created out of contributions made on or from 1.4.2016, unless utilized for annuity.	The Budget proposal to tax 60% of withdrawals from RPF in respect of contributions made after April 1, 2016 to be dropped
II.	Upper cap on employers' contribution to RPF also dropped	
	The Finance Bill had proposed to provide an upper ceiling of Rs. 1.50 lacs on employers' contribution to RPF along with the ceiling of 12% of salary of employee per annum.	The upper cap of Rs. 1.50 lacs on employer contribution to be withdrawn
III.	Proposal to tax 60% of the withdrawal from superannuation fund account	
	The Bill had sought to tax 60% of the payment in lieu of or in commutation of an annuity purchased out of contributions made on or after April 1, 2016.	It is now proposed to withdraw such proposal.
6.	Cost of acquisition of asset declared under Income Declaration Scheme, 2016 shall be the Fair Market Value (FMV)	
	No such proposal existed in the Finance Bill 2016	It has now been proposed that while computing capital gain on transfer of assets declared under the Income Declaration Scheme, 2016, cost of acquisition of such asset shall be deemed to be the FMV taken into account for purposes of Income Declaration Scheme, 2016.
7.	Certain Clarification - Section 80-IBA - Profit linked deduction on housing projects	
	<p>New section 80-IBA was Introduced to provide 100% deductions in respect of profits and gains from housing projects.</p> <p>Sub-section (2) of the proposed section provides that for the purposes of sub-section (1) of the said section, a housing project shall fulfill the conditions specified therein.</p> <p><i>** (a) the project is approved by the competent authority after 1 June 2016 but on or before 31 March 2019, in accordance with such guidelines as may be prescribed</i></p>	<p>The Finance Bill, 2016 as passed by Lok Sabha seeks to amend the specified conditions as under:</p> <ol style="list-style-type: none"> a. The requirement that the housing project has to be in accordance with prescribed guidelines has been removed**. b. The distance of 25 km from the municipal limits is to be measured aerially. c. Additional condition is now being imposed is that the project should be the only housing project on the specified plot of land.

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8.	Certain Implications for failure to comply with any of the conditions relating to amortization of spectrum fee	
	A new section 35ABA was proposed in the Bill to provide for amortization of Spectrum fees.	It is now proposed to provide the implication for failure to comply with any specified conditions which shall be as under: a. deduction shall be treated as wrongly allowed b. It will allow the AO to re-compute the total income of the assessee by making rectification within 4 years from the end of the year in which the assessee fails to comply with the provisions of the section.
9.	Period of Weighted Deduction benefit-for expenditure incurred on notified agricultural extension project got extended till FY 2019-20	
	The Bill had proposed to restrict the weighted deduction from 150% to 100 % from FY 2017-18 onwards.	The period of proposed phase out of weighted deduction for expenditure incurred on notified agricultural extension project got extended to FY 2020-21 from FY 2017-18 which was initially proposed. Further, from the FY 2020-21 onwards the weighted deduction shall be reduced from 150% to 100%.
10.	Short term capital gain exemption in transaction undertaken in foreign currency on a recognised stock exchange located in an International Financial Services Centre	
	The Bill had proposed to provide long term capital gain exemption in respect of transaction undertaken in foreign currency on a recognised stock exchange located in IFSC even when STT was not paid in respect of such transactions. However, no such amendment was proposed to with respect to short-term capital gain (STCG)	It has now proposed that concessional rate of tax@15% under section 111A shall be available in respect of STCG arising from transaction undertaken in foreign currency on a recognised stock exchange located in IFSC even though STT is not paid.
11.	Unit in IFSC need not be set up on or after 1 April 2016 to claim benefit of lower MAT rate of 9%	
	Lower MAT rate of 9% was proposed in case of unit located in IFSC by the Bill. One of the conditions in this regard was that unit should be established on or after 1 April 2016.	It is now proposed to drop the condition that unit must be established on or after 1 April 2016. As such, the benefit shall be available to all units irrespective of the year in which it was established.
12.	Minimum 75% of expenditure incurred in India to qualify for lower rate of tax @ 10% in case of patent income	
	The Bill had proposed to introduce new section 115BBF to tax royalty income in respect of a patent developed and registered in India at the rate of 10%. For this purpose, the word 'developed' was proposed to mean the expenditure incurred by the assessee for any invention in respect of which patent is granted under the Patents Act, 1970.	It is now proposed to make following amendments: a. Meaning of the word 'developed' has been changed. The word 'developed shall now mean at least 75% of the expenditure incurred in India by the eligible assessee for any invention in respect of which patent is granted under the Patents Act, 1970.

Sr.	The Finance Bill, 2016	Amendment to the Finance Bill, 2016
		<p>b. To avail the special rate of 10%, the eligible assessee should exercise the option on or before the due date of filing of return of income.</p> <p>c. Where the assessee opts for taxation at the concessional tax of 10% for any year, but he offers his income in any 5 year succeeding such tax year not in compliance with the provisions of section 115BBF, then he shall not be eligible for lower rate of 10% for next 5 years starting from the year in which the assessee offered his income in non-compliance with section 115BBF.</p>
13.	Penalty in cases of under reporting and misreporting of income - Section 270A	
I.	Cases of under-reporting of income	
	Earlier six instances of under-reported income were proposed	<p>Additional case of under reported income is now sought to be included</p> <p>a case where the amount of total income re-assessed as per the provisions of MAT /AMT is greater than the deemed income computed under MAT/ AMT assessed or reassessed immediately for such assessment.</p>
II.	Calculation of tax payable on under-reported income	
	The tax payable on under-reported income was calculated as if such under-reported income was the total income in case of a company, firm or local authority, and at the rate of 30% of under-reported income in any other case (Individuals, HUF, AOP, BOI, Artificial Juridical person).	<p>The detailed procedure for computing tax payable in case of under-reported income has now been proposed as under:</p> <p>a. Case where return is not filed: Where return of income has not been furnished and the income has been assessed for the first time, the tax shall be calculated on underreported income as increased by the basic exemption Limit.</p> <p>b. In case of loss: Where the total income determined under section 143 (1)(a) or assessed or re-assessed is a loss, the tax shall be calculated on underreported income as if it was the total income.</p> <p>c. In other case: the difference between the amount of tax computed on the under-reported income as increased by income assessed or re-assessed initially and the amount of tax computed on income assessed or re-assessed initially.</p>

Sr.	The Finance Bill, 2016	Amendment to the Finance Bill, 2016
14.	Grant of immunity from prosecution for failure to furnish the return of Income	
	The Bill had proposed to provide that an assessee may make an application under section 270AA for grant of immunity from imposition of penalty under section 270A and initiation of prosecution proceedings under section 276C, provided he pays tax and interest and does not file an appeal.	It is now proposed that the assessee may also make an application under section 270AA for granting immunity from prosecution for willful failure to furnish the return of Income
15.	Under reporting of income may be punishable as willful attempt to evade tax	
	No such proposal was there in the Finance Bill	It is now proposed to amend section 276C which deals with willful attempt to evade tax etc., to cover cases of under-reported income.
16.	No TDS under section 194LBB (Income in respect of units of investment fund) if income is not chargeable to tax	
	At present, any income credited or paid by the investment fund to its investor is subject to deduction at source (TDS) under Section 194LBB @ 10%. To enable the non-resident investor to claim the DTAA benefit, the Bill had proposed amendment in section 194LBB to provide that payer shall deduct tax @10% or the rate as per the DTAA, whichever is more beneficial to the non-resident.	In this regard, it is now clarified that no TDS under section 194LBB is deductible, if income is not chargeable to tax under the Income Tax Act where the payee is a non-resident
17.	TCS on sale of Motor Vehicle to be collected only the time of receipt	
	The Bill had proposed that the seller shall either at the time of debit payable by the buyer or at the time of receipt, collect TCS @ 1% from the purchaser on sale of motor vehicle of the value exceeding Rs. 10 lacs. As the aforesaid amendment was proposed in Section 206C (1), exemption from TCS was possible if the purchase was for personal use or it was to be utilized for the purposes of manufacturing, processing or producing articles or things.	It is now proposed to bring the provisions relating to TCS on sale of Motor Vehicle by inserting a new sub-section (1F) of section 206C. This has ruled out the cases of claiming exemption and thus, shall be applicable to all buyers irrespective of whether buyer is a manufacturer, trader or purchase is for personal use. Further, it is now proposed that TCS on sale of motor vehicle shall be collected by the seller only at the time of receipt of amount.
18.	Processing of returns where notice has been issued for scrutiny	
	Currently, processing of a return is not necessary where a notice has been issued for scrutiny assessment. This means that there is no processing of tax refunds, if return is selected for scrutiny and thus, results in hardship. To provide relief to the assessee, the Bill had proposed that the return shall be processed before passing assessment order under section 143(3).	It is now proposed that in a case where notice has been issued for scrutiny, the processing of return shall not be necessary before the expiry of 1 year from the end of the financial year in which return is filed.

Sr.	The Finance Bill, 2016	Amendment to the Finance Bill, 2016
19.	Levy of tax where the charitable institution ceases to exist or converts into a non-charitable organization.	
	The Bill had proposed to provide that an assessee may make an application under section 270AA for grant of immunity from imposition of penalty under section 270A and initiation of prosecution proceedings under section 276C, provided he pays tax and interest and does not file an appeal.	It is now proposed that the assessee may also make an application under section 270AA for granting immunity from prosecution for willful failure to furnish the return of Income
I.	Certain exclusion from Quantum of Accreted income for payment of Exit Tax by Trusts	
	<p>A levy in the form of exit tax on the Trust (i.e. tax on accreted income) was proposed by the Bill, when such trust gets converted into / gets merged with a non-charitable organization.</p> <p>While computing the accreted income, the Bill sought to exclude the asset & the liability of the trust which have been transferred to another charitable organisation within specified time.</p>	<p>It is now proposed to exclude the following from the quantum of accreted income:</p> <ul style="list-style-type: none"> • Any asset acquired out of agricultural income. • Any asset acquired before getting registered under section 12AA and no exemption has been claimed under section 11 or 12
II.	New time line for payment of tax on accreted income	
	It was provided that the amount of tax shall be remitted within 14 days from date of receipt of order cancelling registration or date of order rejecting application for fresh registration.	<p>The 14 days for payment of tax on accreted income shall be counted from:</p> <ol style="list-style-type: none"> a. the date on which the period for filing an appeal before the Tribunal against the order cancelling the registration (or order rejecting the application) gets expired and no appeal has been filed by the trust b. the date on which the order in any appeal, confirming the cancellation of the registration (or application), is received by the trust or institution.

For further information please contact:

RSM Astute Consulting Pvt. Ltd.

13th Floor, Bakhtawar, 229, Nariman Point, Mumbai - 400 021.

T: (91-22) 6108 5555 / 6121 4444

F: (91-22) 6108 5556 / 2287 5771

E: emails@rsmindia.in

W: www.rsmindia.in

Offices: Mumbai, New Delhi - NCR, Chennai, Kolkata, Bengaluru, Surat, Hyderabad, Ahmedabad, Pune, Gandhidham and Jaipur.



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This newsflash is general in nature. In this publication, we have endeavoured to summarise certain significant amendments to the Finance Bill, 2016 during its passage in the Lok Sabha on 5th May 2016. The Finance Bill is yet to receive the President's assent to become an Act. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analysed to ascertain applicability or otherwise of the topics covered in this newsflash. Appropriate professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

9 May 2016

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