

---

## Amendments by the Finance Act, 2016 in Income Tax Act, 1961

Dr. S. P. Agrawal\*

Important amendments made by Finance Act, 2016 in Income Tax which will be applicable from the Assessment Year 2017-2018 are as follows:

1. **Rates of Income-tax:** No change except in case of domestic company whose turnover or gross receipt in the previous year 2014-2015 does not exceed Rs.5 Crore tax rate will be 29% in place of 30%.
2. **Rate of Surcharge:** Increased from 12 per cent to 15 per cent in case of individual, HUF, AOP, BOI, artificial judicial person whose total income exceeds Rs.1 Crore.
3. **Rebate U/S 87A:** In case of resident individual whose total income is up to Rs.5 Lakh, shall be entitled to a deduction under this section up to Rs.5000 instead of up to Rs.2000.
4. **Residence of a Company Sec 6(3):** A company is said to be resident in India in any previous year, if:
  - a. It is an Indian company; or
  - b. Its place of effective management, in that year, is in India instead of during that year the control and management of its affairs is situated wholly in India.
5. **Exempted Income:** Some new sections under it inserted and some amendment in existing sections is made. Detail of changes made are as follows:
  - (A) **Insertion of Sec 10(12A):** Any payment from the National Pension System Trust to an employee shall be exempt up to 40% of the total amount payable to him at the time of closer of the account or on his opting out of the pension scheme.
  - (AA) **Amendment of Section 10(13):** Transfer from approved Superannuation Fund to the account of the employee under a pension scheme u/s 80CCD shall also be exempt.
  - (B) **Amendment of Section 10(15):** Interest on the deposit certificates issued under the Gold Monetisation Scheme, 2015 shall be exempt.
  - (C) **Insertion of Section 10(48A):** Any income to a foreign company from storage of crude oil and sale to any person being resident in India shall be exempt.
  - (D) **Amendment of Section 10AA :** If an undertaking establishes a new unit in Special Economic Zone on or after 1-4-2020  
Economic Zone on or after 1-4-2020, exemption shall not be allowed to it.

---

\*Professor, Faculty of Commerce, B. H. U., Varanasi – 221 005

- 6. Amendment of Section 17(2) Under Income from Salary:** The amount of contribution to an Approved Super Annuation fund by the employer in respect of an employee shall not be included in salary income up to Rs.150000 instead of present ceiling of Rs.100000.
- 7. Income From House Property :**
- (A) Amendment in Section 24(b):** Interest on loan taken for the construction of self occupied house property shall be allowed up to Rs.200000, if the construction of the house is completed within 5 years from the end of financial year in which capital was borrowed instead of present rule of 3 years.
- (B) Amendment in Section 25AA:** Assessee will be allowed 30% of the unrealized rent as deduction of rent realized subsequently.
- 8. Income from Profit an Gains of Business or Profession:**
- (A) Amendment of Section 28:** Any sum received or receivable under an agreement for not carrying out any activity in relation to any profession shall also be income chargeable under this head.
- (B) Amendment of Section 32:** Additional depreciation @ 20% shall also be allowed to the business of transmission of power.
- (C) Following deductions is to phase out:**
- (i) Expenditure on Scientific Research (Sec.35);
  - (ii) Expenditure on eligible projects or schemes (Sec. 35AC);
  - (iii) Deduction in respect of specified business (Sec.35AD);
  - (iv) Expenditure on agricultural extension project (Sec.35CCC);
  - (v) Expenditure on skill development project (Sec.35CCD).
- (D) Insertion of Section 35ABA:** Any capital expenditure incurred and actually paid by the assessee on the acquisition of any right to use spectrum for telecommunication services shall be allowed as a deduction in equal installments over the period starting from the year in which such payment has been made and ending in the year in which the useful life of spectrum comes to an end.
- (E) Amendment of Section 43B:** Any sum payable by the assessee to the Indian Railways for the use of railway assets shall be allowed as deduction only, if it is actually paid on or before the due date of furnishing the return of income of the relevant previous year.
- (F) Amendment of Section 44AB:** A person carrying on a profession shall get his accounts audited if his gross receipt in the previous year exceeds Rs 50 lakh instead of Rs.25 lakh.
- (G) Amendment of Section 44AD:**
- a. For computing profit of business on presumptive basis absolute limit of gross receipts increased from Rs. 1 crore to Rs.2 crore.

- b. If the eligible assessee is a firm, the salary and interest paid to partners shall not be deducted from presumed profits.

**(H) Insertion of Section 44ADA: Computing profits of professions specified in Section 44AA on presumptive basis. The main provision are as follows:**

- (i) The assessee should be resident in India.
- (ii) Total Gross Receipts do not exceed Rs.50 lakh in the previous year.
- (iii) Presumed income will be treated 50% of gross receipt or more.
- (iv) If assessee accepts this section then it is presumed that all provisions regarding calculation of business income have been taken. Thus, for the purpose of computing written down value of the block of assets at the end of the previous year shall be deducted from the value of block of assets. In case of Partnership Firm, salary or any other remuneration paid to working partners and interest on capital to partners shall be given As per section 40(b).
- (v) In case assessee want to show less income then he will have to maintain proper books of accounts as per sec 44AA and has to get his books of accounts audited u/s 44AB.
- (vi) Assessee will have to submit his Income Tax Return electronically with digital signature.
- (vii) The income computed as per section 44AE shall only be profit from business of carriage of goods. In order to find out assessee's total income other income will be added in it.
- (viii) Assessee can claim deduction related to Chapter 6 (u/s 80), Losses of any other heads can also be adjusted.

**9. Capital Gains:**

**(A) Amendment of Section 2(14):** Deposit certificates issued under the Gold Monetisation Scheme, 2015 shall also not be treated capital asset with effect from assessment year 2016-2017.

**(B) Amendment of Section 47:** Redemption of Sovereign Gold Bond by an individual shall not be regarded as transfer.

**(C) Amendment of Section 48:** Indexation benefit to long – term capital gains arising on transfer of Sovereign Gold Bond shall be allowed.

**(D) Insertion of Section 54EE:**

- (i) If LTCG are invested in a unit or units, issued before 1-4-2019 of such fund, as may be notified by the Central Government in this behalf, shall be exempt.
- (ii) The new assets should be purchased within 6 months from the date of transfer of the assets.
- (iii) If the cost of new assets is not less than the amount of capital gains, the whole capital gain shall be exempted. If it is less then amount invested will be exempted.

- (iv) If new assets is transferred or converted in to cash within 3 years from the date of acquisition the exempted amount of capital gains shall be chargeable to tax as long term capital gain of the previous year in which the new asset was transferred.
- (v) If assessee has claimed exemption in respect of new asset under this section then he will not be entitle to get exemption U/S 80C.
- (vi) Maximum ceiling of investment is Rs.50 lakh.

**(E) Amendment of Section 55:** Goodwill of a profession shall also be a capital asset. Its cost and cost of improvement shall be determined in the same manner as it is determined for goodwill of a business.

#### **10. Deductions from Gross Total Income:**

**(A) Substitution of Section 80EE :**

- (i) Loan should be taken by the individual from any financial institution between 1-4-2016 to 31-3-2017 for acquiring residential property.
- (ii) He is entitled to get deduction up to Rs.50000 in respect of interest on loan.
- (iii) The amount of loan sanctioned should not exceed Rs.35 lakh.
- (iv) The value of property does not exceed Rs.50 lakh.
- (v) The assessee does not own any residential house property on the date of sanction of loan.

**(B) Amendment of Section 80GG :** The maximum amount of deduction in respect of rent paid has been increased from Rs.2000 per month to Rs.5000 per month.

**(C) Amendment of Section 80IA:** Deduction shall not be allowed to any enterprise which starts the development or operation and maintenance of the infrastructure facility on or after 1-4-2017.

**(D) Amendment of Section 80IAB :** Deduction shall not be allowed if a developer begins the development of Special Economic Zone on or after 1-4-2017.

**(E) Amendment of Section 80IB:** Deduction shall not be allowed if commercial production of mineral oil or natural gas commences on or after 1-4-2017.

**(F) Insertion of Section 80IAC:**

Deduction will be allowed from gross total income of an assessee (may be company or limited liability partnership), being an eligible start – up in respect of profit and gains derived from an eligible business, means a business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property which fulfils following conditions.

- (i) It should be incorporated on or after 1st April, 2016 but before 1st day of April, 2019.
- (ii) The total turnover should not exceed Rs.25 crore in any of the previous years.

- (iii) It holds a certificate of eligible business from the Inter – Ministerial Board of Certification as notified in the Official Gazette by the Central Government.
- (iv) It is not formed by the splitting up or the reconstruction of a business already in existence.
- (v) It is not formed by the transfer of new business of plant or machinery (exceeding 20%) previously used for any purpose.

**Quantum and period of Deduction:**

100% of the profit and gains derived from such business for three consecutive assessment years out of 5 years beginning from the year in which the eligible start – up incorporated.

**(G) Insertion of Section 80IBA:**

Deduction from profit and gains derived from housing project effective from assessment year 2017-18: 100% of the profit and gains derived from such business will be deducted. Subject to following conditions are satisfied:

- (i) Project should be approved by the competent authority (Approved by Central Government) on or after 1st April, 2016 but before 1st day of April, 2019.
- (ii) Project should be completed within a period of three years from the date of approval.
- (iii) The built up area of the shops and other commercial establishments in the housing projects does not exceed 3% of the aggregate built up area.
- (iv) Size of Plot
  - a. In metro cities within the distance measured aerially 25 kilometers from the municipal limits of these cities – Minimum 1000 square metre.
  - b. In any other places – minimum 2000 square metre.
- (v) Size of residential unit
  - a. In case of 4 (a) maximum 30 square metre.
  - b. In case of 4 (b) maximum 60 square metre.
- (vi) Allotment of a residential unit to an individual: No other residential unit in the housing project shall be allotted to the individual or spouse or the minor children of the individual.
- (vii) Utilisation of the plot:
  - a. In case 4(a) 90% of the floor area
  - b. In case 4(b) 80% of the floor area ratio permissible.  
(Here floor area ratio means the quotient obtained by dividing the total covered area of the plinth area on all the floors by the area of the plot of land.)
- (viii) Maintenance of Accounts: Assessee will maintain separate books of account in respect of the housing project.

**Profit liable to tax:** If the housing project is not completed within 3 years the total amount of deductions allowed in one or more previous years, shall be chargeable under the head profit and gains of business and profession of the previous year in which period of completion expires.

**(H) Insertion of Section 80JJAA: Deduction is in respect of employment of new employees with effect from assessment year 2017-2018:**

Assessee who derives profit and gains from business and required to get his accounts audited u/s 44AB:

**Quantum and period of Deduction:**

30% of additional employees cost incurred in the course of business in the previous year, for three assessment years relevant to previous year in which such employment is provided.

**Conditions for Deduction:**

- (i) The business is not formed by splitting up or reconstruction of the existence business.
- (ii) The business is not acquired by way of transfer from any other person or as a result of any business reorganization.
- (iii) Assessee furnishes along with the return of income the audit report giving the prescribed particulars.
- (iv) Emolument should be paid vide account payee cheque or draft or any other electronic clearing system through a bank account.

**Additional Employee means:** It means an employee who has been employed during the previous year and whose employment has the effect of increasing the total number of employees employed by the employer as on the last day of preceding year but does not include:

- (a) An employee whose total emoluments are more than Rs.25000 per month.
- (b) An employee for whom the entire contribution is paid by the Government under the Employees Pension Scheme notified under Employees Provident Fund Act, 1952. Or
- (c) An employee employed for a period of less than 240 days during the previous year.
- (d) An employee who does not participate in Recognised Provident Fund.

**Additional Employee Cost:**

- (a) New Business: First year of new business emoluments paid or payable to employees employed during that previous year.

- (b) Existing Business: If there is no increase in the number of employees from the total number of employees employed as on the last day of preceding year - Nil.

**Emoluments:** It means any sum paid or payable to an employee in lieu of his employment by whatever name called, but does not include:

- (a) Any contribution paid or payable by the employer to any pension fund or provident fund or any other fund for the benefit of the employee, and  
(b) Any lump sum payment paid or payable to an employee at the time of termination of his service or superannuation or voluntary retirement, such as gratuity, severance pay, leave encashment, voluntary retrenchment benefit, commutation of pension etc.

**11. Insertion of Section 115BBDA:** If an individual, HUF or a firm resident in India, receives dividend in aggregate exceeding Rs.10 lakh from a domestic company or companies, shall pay tax on this income @10%. It is important to note that any expenditure or allowance or set-off of loss shall not be allowed.

**12. Insertion of Section 115BA:** A domestic company may pay tax @ 25% (+ Surcharge, if any along with education cess and SHEC) at its option, if it fulfils following conditions:

- a. The company is set up and registered on or after 1-3-2016.  
b. It 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.  
c. It does not claim certain specified expenses in computing business income and deductions from its gross total income.

### 13. Procedure of Assessment

(A) Amendment in Section 139:

- (i) Belated Return for any previous year may be filed at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.  
(ii) Revised Return: After filing a belated return a revised return can be filed w.e.f. assessment year 2017-2018.

(B) Amendment of Section 153 (w. e. f. 1-6-2016):

- (i) No order of assessment shall be made (u/s 143 or u/s 144) after the expiry of twenty –one months from the end of the assessment year in which the income was first assessable.  
(ii) No order of assessment or reassessment (u/s147) shall be made after the expiry of nine months from the end of the financial year in which the notice u/s 148 was served.

- (iii) An order of fresh assessment on an order of appeal or revision shall be made before the expiry of nine months from the end of the financial year in which the order of appeal is received or revision order is passed.

#### 14. Amendment in Tax Deduction at Source (w. e. f. 1-6-2016):

(A) Threshold limit of Deduction of Tax at source on various payments increased:

S.No.	Section	Particulars of Heads	Existing Limit	New Limit
(i)	192A	Payment of accumulated balance of TPF	30000	50000
(ii)	194BB	Winning from horse race	5000	10000
(iii)	194C	Aggregate Annual Payment to contractors	75000	100000
(iv)	194D	Insurance Commission	20000	15000
(v)	194G	Commission on sale of lottery tickets	1000	15000
(vi)	194H	Commission or brokerage	5000	15000
(vii)	194LA	Payment of compensation on acquisition of immovable property	200000	250000

(B) Revision in rate of deduction of tax at source on various payments:

S. No.	Section	Particulars of Heads	Existing Rate	New Rate
(i)	194D	Insurance Commission		
		(a) Payee is a company	10%	10%
		(b) Payee is other than a company	10%	5%
(ii)	194DA	Payment in respect of Life Insurance Policy	2%	1%
(iii)	194EE	Payment in respect of NSS Deposits	20%	10%
(iv)	194G	Commission on sale of lottery tickets	10%	5%
(v)	194H	Commission or brokerage	10%	5%



**15. Amendment in Tax collection at source of Section 206C (w. e. f. 1-6-2016):**

(A) Tax shall be collected at source on sale of motor vehicle, value exceeding Rs.10 lakh @1%.

(B) If sale consideration is received in cash, tax shall be collected at source:

S. No.	Particulars of Heads	Consideration exceeding Rs.	Rate of TCS
(i)	Bullion	2 lakh	1%
(ii)	Jewellery	5 lakh	1%
(iii)	Other Goods	2 lakh	1%
(iv)	Any service	2 lakh	1%

**16. Amendment in Advance Tax of Section 211 (w. e. f. 1-6-2016):**

(A) Advance tax shall be paid as under:

S. No.	Due Date of Installment	Amount Payable
(1)	On or before 15 <sup>th</sup> June	Not less than 15% of advance tax
(2)	On or before 15 <sup>th</sup> September	Not less than 45% of advance tax. It means 45% of advance tax, less the amount paid in earlier installment.
(3)	On or before 15 <sup>th</sup> December	Not less than 75% of advance tax. It means 75% of advance tax, less the amount paid in earlier installments.
(4)	On or before 15 <sup>th</sup> March	100% of advance tax as reduced by the amount paid in earlier installments.

(B) An eligible assessee in respect of eligible business (Refer Section 44AD) shall pay the whole amount of advance tax on or before 15<sup>th</sup> March of the relevant previous year.

**17. Appeals (w. e. f. 1-6-2016):**

- (A) Amendment of Section 254: The Appellate Tribunal may amend its order to rectify any mistake apparent from the record within 6 month from the end of the month in which order was passed instead of within 4 years from the date of order.
- (B) Amendment of Section 255: Procedure of Appellate Tribunal: A single member Bench may dispose of a case where the total income computed by the assessing officer does not exceed Rs.50 lakh instead of Rs.15 lakh.

**18. Penalties:**

- (A) The provisions of Section 271 shall not apply in relation to any assessment for the assessment year commencing on or after 1-4-2017. However, penalty for under reporting and misreporting of income shall be levied u/s 270A.
- (B) Amendment of Section 271AAB (1)(C): Penalty in case of search shall be levied @60% instead of minimum 3)% and maximum 90% of undisclosed income.

Aforesaid amendments were made by Finance Act, 2016 which will be applicable from the Assessment Year 2017-2018.

**Reference:**

**Finance Act, 2016**