

# HIGHLIGHTS OF INDIAN UNION BUDGET 2018

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## 1. Tax Rates for AY 2018-19 & 2019-20

For Individuals under 60 years of age, Hindu Undivided family, Association of persons, Body of individual and artificial juridical person:

Income Limit	For AY 2018-19	For AY 2019-20
Upto Rs. 2,50,000	NIL	No Change in slab rates & income limit for AY 2019-20
Rs. 2,50,001 to Rs. 5,00,000	5% of income exceeding Rs. 2,50,000	
Rs. 5,00,001 to Rs. 10,00,000	Rs. 12,500 + 20 % of income exceeding Rs. 5,00,000	
Above Rs. 10,00,000	Rs. 1,12,500 + 30 % of income exceeding Rs. 10,00,000	

For Resident Senior Citizens (assessee between the age of 60 years - 79 years):

Income Limit	For AY 2018-19	For AY 2019-20
Upto Rs. 3,00,000	NIL	No Change in slab rates & income limit for AY 2019-20
Rs. 3,00,001 to Rs. 5,00,000	5% of income exceeding Rs. 3,00,000	
Rs. 5,00,001 to Rs. 10,00,000	Rs. 10,000 + 20 % of income exceeding Rs. 5,00,000	
Above Rs. 10,00,000	Rs. 1,10,000 + 30 % of income exceeding Rs. 10,00,000	

For Resident, Very Senior Citizens (assesses above 80 years of age):

Income Limit	For AY 2018-19	For AY 2019-20
Upto Rs. 5,00,000	NIL	No Change in slab rates & income limit for AY 2019-20
Rs. 5,00,001 to Rs. 10,00,000	20 % of income exceeding Rs. 5,00,000	
Above Rs. 10,00,000	Rs. 1,00,000 + 30 % of income exceeding Rs. 10,00,000	

For a Co-operative Society:

Income Limit	For AY 2018-19	For AY 2019-20
Upto Rs. 10,000	10 % of the Total Income	No Change in slab rates & income limit for AY 2019-20
Rs. 10,001 to Rs. 20,000	Rs. 1,000 + 20 % of income exceeding Rs. 10,000	
Above Rs. 20,000	Rs. 3,000 + 30 % of income exceeding Rs. 20,000	

For Firms & Companies:

Turnover	Firms		Domestic Company		Foreign Company	
	AY 2018-19	AY 2019-20	AY 2018-19	AY 2019-20	AY 2018-19	AY 2019-20
Upto Rs. 50 Crore	30%	30%	25% <sup>1</sup>	25% <sup>2</sup>	40%	40%
Rs. 50 Crore to Rs. 250 Crores	30%	30%	30%	25% <sup>2</sup>	40%	40%
Above Rs. 250 Crores	30%	30%	30%	30%	40%	40%

<sup>1</sup>Lower rate of 25% Eligible only if Turnover for FY 15- 16 is less than Rs. 50 Crore.  
<sup>2</sup>Lower rate of 25% Eligible only if Turnover for FY 16-17 is less than Rs. 250 Crore.

\* 1 Crore = 10 million

For New Domestic Companies set up and registered on or after 01.03.2016 and engaged in the business of manufacturing or production – can opt for a lower tax rate of 25%. However, this is subject to fulfilment of certain conditions.

### Surcharge (As a % of Income Tax)

Income Limit	Indl., HUF, AOP & BOI		Firm & Co-op Society		Domestic Company		Foreign Company	
	AY 2018-19	AY 2019-20	AY 2018-19	AY 2019-20	AY 2018-19	AY 2019-20	AY 2018-19	AY 2019-20
Upto Rs. 50 Lakhs	NIL	NIL	NIL	NIL	NIL	NIL	NIL	NIL
Rs. 50 Lakhs to Rs. 1 Crore	10%	10%	NIL	NIL	NIL	NIL	NIL	NIL
Above Rs. 1 Crore to Rs. 10 Crores	15%	15%	12%	12%	7%	7%	2%	2%
More than Rs. 10 Crores	15%	15%	12%	12%	12%	12%	5%	5%

\* 1 Crore = 10 million

## 2. Health and Education Cess:

Educational Cess of 2% and Higher Education Cess of 1% continue to apply for AY 2018-19. However, for AY 2019-20 and onwards, Education Cess and Higher Education Cess are discontinued and a new cess called Health and Education Cess shall be levied at the rate of 4% cent of income tax including surcharge.

### **3. Entities to apply for Permanent Account Number in certain cases**

It is proposed that every non individual entity who enters into a financial transaction aggregating to Rs. 2,50,000/- or more shall be required to apply for PAN and use the PAN as Unique Entity Number (UEN).

It is also proposed that persons in managerial positions (Whether Managing Director, Karta, Partner, CEO etc. by whatever name called) competent to act on behalf of such entities are also required to apply for PAN.

This amendment will take effect from 1st April 2018 and shall apply to A.Y 2018- 19 and onwards.

### **4. New regime for taxation of long-term capital gains on sale of equity shares**

Presently, Capital Gains arising on transfer of long term capital assets being listed equity shares of company or a unit of an equity-oriented fund or a unit of business trusts traded through the recognized stock exchange, is exempt from tax u/s 10(38), if the same are liable for levy of Securities Transaction Tax.

In order to increase the tax base, it is now proposed to withdraw the section and introduce a new section i.e. 112A in the Act which provides for levy of such Long-term capital gains at a concessional rate of 10% on gains exceeding one lakhs rupees.

The above-mentioned rate of 10% is applicable on fulfillment of below mentioned conditions:

- Benefit of Indexation in respect of Cost of Acquisition / Improvement shall not be available.
- The LTCG at the rate of 10% is also applicable to Foreign Institutional Investors in case the said gain exceeds Rs.1,00,000 /-
- Benefit of computation of Capital Gains in Foreign Currency in the case of a non-resident shall not be available.
- No deduction u/chap VIA shall be available in respect of such gains.
- Gains accrued on such assets upto 31.01.2018 shall be grandfathered and the tax shall be levied only on future appreciation (beyond 31.01.2018). The example of the said concept is as under:

Particulars	Pre Budget	Post budget
Date of Purchase	01-January-2016	01-January-2016
Date of Sale	01-February-2018	01-February-2018
Purchase Price per Unit	Rs. 200	Rs. 200
Sales Per unit	Rs. 300	Rs. 300
Fair Market Unit as on 31st January,2018 (As explained in next Para)	Rs. 250	Rs. 250
<b>Computation of Long Term Capital Gain</b>		
Sales Consideration	Rs. 300	Rs. 300
Less: Cost of Acquisition	Rs. 200	Rs. 250 (Higher of Cost or FMV)
Gain	Rs. 100	Rs. 50
Tax Liability	Exempt u/s 10 (38)	Rs. 5 (10%on Rs. 50)

These amendments will take effect from 1st April 2019 and will, accordingly, apply in relation to the A.Y 2019-20 and subsequent assessment years.

As the provisions are applicable to transactions executed on or after 01.04.2018, it appears that the gains generated during the period 01.02.2018 to 31.03.2018 shall continue to be exempt u/s 10(38). Also, the carry forward and set off of Long Term Capital Loss which was hitherto not available as the gains were exempt u/s 10(38) shall now be available.

## 5. Relief from liability of Minimum Alternate Tax (MAT)

Generally, while computing the book profits for the purpose of MAT a deduction of brought forward loss or unabsorbed loss whichever is lower is allowed. Therefore, where the loss or unabsorbed depreciation is NIL no deduction is allowed. It is now proposed to grant relief to rehabilitating companies under the insolvency proceedings. Accordingly, for companies whose application for corporate insolvency resolution process under the Insolvency and Bankruptcy Code, 2016 has been admitted by the Adjudicating Authority it is proposed to provide that the deduction of an aggregate amount of unabsorbed depreciation and brought forward loss shall be allowed to be reduced from the book profit for the purpose of MAT.

This amendment will take effect from 1st April 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent assessment years.

Further a clarificatory amendment is also proposed in Section 115JB to clarify that the provisions of section 115JB shall not be applicable to a foreign company, if they are involved in the businesses as referred to in section 44B or section 44BB or section 44BBA or section 44BBB and such income has been offered to tax at the rates specified in the said sections.

This amendment will take effect, **retrospectively from 1st April 2001**.

## 6. Tax deduction at source and manner of payment in respect of certain exempt entities

Earlier, Charitable/Religious trusts or institutions were not subject to disallowance for default of non-deduction of tax deducted at source and payment of cash for expenses in excess of specified limits.

With a view to encourage a less cash economy and reduce the generation of black money, it is hereby proposed to insert a new Explanation to the section 11 to provide for disallowance of expenses as application of income to the tune of 30% in case the trusts/institutions fails to deducted the tax at source.

Further, any payment by trusts/institutions in excess of Rs. 10,000 /- in cash towards any expenditure shall not be considered as application of income.

These amendments will take effect from 1st April 2019 and will, accordingly, apply in relation to the A.Y. 2019-20 and subsequent years.

## 7. Measures to promote startups

Presently under Section 80-IAC of the Act, new startups can avail benefit of deduction of 100% profits in any three consecutive years out of seven years on fulfillment of certain conditions. In order to improve the effectiveness of the scheme for promoting startups in India, it is proposed to make following changes in the conditions as stipulated for deduction of the start-ups:

Particulars	Existing	Proposed
Condition of Incorporation	Start-ups incorporated on or after 1st April 2016 but before 1st April 2019.	Extension of incorporation date to 31st March 2021. Thus, Startups incorporated on or after 1st April 2019 but before 31st March 2021 to be benefitted.
Turnover Condition	Not exceeding Rs. 25 Crores in any of the 5 years starting from 1st April 2016 to 31st March 2021.	Turnover criterion has now been extended to 7 years after date of incorporation of startup instead of 5 years.



Eligible Business	Companies engaged in businesses which involve innovation, development, deployment or commercialization of new products or services driven by technology or intellectual property.	The definition of eligible business has been expanded to provide that the benefit would be available if it is engaged in innovation, development or improvement of products or processes or services, or a scalable business model with a high potential of employment generation or wealth creation.
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The amendments will take effect, from 1st April 2018 and will accordingly apply in relation to the assessment year 2018-19 and subsequent assessment years.

## 8. Scope of Business Connection in relation to PE extended

Presently the scope of Business Connection as defined u/s 9 of the Act is similar to the Provisions of Double Tax Avoidance Agreements (DTAAs). Accordingly, if any person acting on behalf of the non-resident, is habitually authorised to conclude contracts for the non-resident, then such agent would constitute PE in the source country. However, if the person acting on the behalf of the non-resident, negotiates the contract but does not conclude the contract, is an independent agent and outside scope of PE as per Article 5(5) and Section 9.

Further, under paragraph 4 of Article 5 of the DTAAs, a PE is deemed not to exist when a place of business is engaged solely in certain activities such as maintenance of stocks of goods for storage, display, delivery or processing, purchasing of goods or merchandise, collection of information. This exclusion applies only when these activities are preparatory or auxiliary in relation to the business as a whole.

The OECD has also highlighted the above scenarios and has reported that the treaties are being abused to shift the tax base to resident countries. To plug the gap in avoidance of payment of tax by circumventing the existing PE definition, it is hereby proposed to amend the definition of business connection. The new proposed definition is based on the BEPS Action plan 7 recommendations for modifications to paragraph (5) of Article 5 to the DTAAs that hereby provides that "business connection" shall also include any business activities carried through a person, who acting on behalf of the non-resident, habitually concludes contracts or habitually plays a principal role leading to the conclusion of contracts by the non-resident. It is further proposed that the contracts should be-

- in the name of the non-resident; or
- for the transfer of the ownership of, or for the granting of the right to use, property owned by that non-resident or that the non-resident has the right to use; or
- for the provision of services by that non-resident.

## **9. Business connection “to include” Significant Economic presence**

In order to tackle the issues of digitized businesses which do not require physical presence of itself or any agent in India and the same being not covered within the scope of Section 9(1)(i) of the Act, it is now proposed that the significant economic presence would also include -:

i) any transaction in respect of any goods, services or property carried out by a non-resident in India including provision of download of data or software in India if the aggregate of payments arising from transaction or transactions during the previous year exceeds the amount as may be prescribed; or

(ii) Systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as maybe prescribed, in India through digital means.

It is further proposed to provide that only such income which is attributable to such transactions or activities shall be deemed to accrue or arise in India. It is further proposed to provide that the transactions or activities shall constitute significant economic presence in India, whether or not the non-resident has a residence or place of business in India or renders services in India.

This amendment will take effect from 1st April 2019 and shall apply for AY 2019- 20 and onwards.