

Amendments to the Finance Bill, 2018 as passed by the Lok Sabha

March 16, 2018

In brief

The Finance Bill, 2018 (Bill) was passed by the Lok Sabha on 14 March 2018, with 18 amendments in respect of Direct Tax provisions and couple of amendments in other provisions of the Bill. This news alert explains the major changes relating to Direct Tax passed by the Lok Sabha.

In detail

Clause No. as per the Finance Bill, 2018	Section in Income-tax Act, 1961	Amendment as tabled in Lok Sabha on 1 Feb, 2018	Amendment as passed by Lok Sabha on 14 March, 2018	Comments
Clause 4	Section 9(1)	Concept of “Significant Economic Presence” (SEP) was introduced, which states that the transactions or activities shall constitute SEP in India, whether or not the non-resident has a residence or place of business in India or renders services in India	SEP under section 9(1)(i) shall be constituted in India, whether or not: (i) The agreement for such transactions or activities is entered in India; (ii) The non-resident has a residence or place of business in India; or (iii) The non-resident renders service in India.	Earlier, the Finance Bill referred only to point (ii) and (iii) and not the place of agreement. However, the scope has been enlarged.
Clause 12	Section 43		Explanation 1A to section 43(1) has been inserted to provide that where a capital asset referred to in section 28(via) [i.e. inventory converted into capital asset] is	The Finance Bill had proposed that any profit or gains arising from conversion/ treatment of inventory into/ as a capital asset shall be charged to tax as

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			used for the purposes of business or profession, the actual cost of such asset to the assessee shall be the fair market value that has been taken into account for the purposes of the said clause.	business income based on the Fair Market Value (FMV) (determined in a prescribed manner) of the inventory on the date of such conversion or treatment. However, no corresponding amendment was proposed for computing the cost of such capital asset used for the purpose of business. Now, this amendment has brought certainty by prescribing the method for arriving at the cost of such converted capital asset.
New Clause 17A	Section 48		A new proviso has been inserted into section 48 after the first and second proviso as follows: “Provided that nothing contained in the first and second proviso shall apply to the capital gains arising from the transfer of a long-term capital asset being an equity share in a company or a unit of an equity oriented fund or a unit of a business trust referred to in section 112A.”	The third proviso has been inserted into section 48 to provide that the indexation benefit and benefit of exchange rate to be adopted for reconverting gains into Indian currency, shall not be applicable to capital gains arising from the transfer of equity share or equity-oriented mutual fund or unit of a business trust referred in newly inserted section 112A.
Clause 20	Section 54EC		A proviso has been inserted into section 54EC(2) to provide that the lock-in period for the long-term capital asset [as defined by substituted clause (ba) of the Explanation] shall be increased from three years to five years.	This is a consequential amendment, as the substituted clause (ba) of the Explanation provides that long-term specified asset, for making any investment under the said section on or after 1 April, 2018 shall mean any bond, redeemable after five years.
New Clause 20A	Section 55		New clause (ac) under section 55(2) to define “cost of acquisition” and FMV in relation to long term capital asset referred to in newly inserted section 112A. While	Indexation benefit provided in certain cases.

			part of the provision is similar to the definition of FMV under section 112A (as originally proposed), there is now a separate definition of FMV in case of (i) equity shares not listed on a stock exchange as on 31 January, 2018, but listed at the time of transfer and (ii) listed on a stock exchange at the time of transfer, but acquired in consideration of shares that were unlisted as on 31 January, 2018 by way of transaction not regarded as transfer under section 47. In such cases, indexation benefit would be available.	
Clause 26	Section 80IAC	It was proposed that the requirement of total turnover up to INR 250mn for the eligible business for a “start-up” should apply for seven tax years, beginning from the year in which the start-up is incorporated.	The same has been amended to mean the requirement of total turnover up to INR 250mn for the eligible business shall apply for previous year relevant to the assessment year for which the deduction under section 80-IAC(1) is claimed.	The threshold of INR 250mn to qualify for eligible “start-up” shall be seen for every assessment year for which the deduction is claimed.
Clause 42	Section 139A	It was proposed to amend section 139A of the Act to provide that entities other than individuals, which enter into a financial transaction amounting to INR 0.25mn or more would be required to obtain a PAN.	Now, it has been amended to provide that only those residents (other than individuals) who enter into a financial transaction amounting to INR 0.25mn or more must obtain PAN. Further, the requirement to issue the PAN card in laminated form is deleted.	Big relief to non-residents who enter into financial transactions in India but does not have any taxable income in India.
Clause 45	Section 145A		Insertion of proviso stating the following: “Provided that inventory being securities held by a scheduled bank or public financial institution shall be valued in accordance with Income Computation and Disclosure Standard notified under section 145(2) after taking into account the extant Reserve Bank of India guidelines. Further, it inserts the definition of a public	This amendment has been introduced to provide for computation of income in line with ICDS provisions.

			financial institution and scheduled bank.	
Clause 53	Section 286	In sub section 4, after the words “reporting accounting year,” the words “within the period specified in that sub-section” shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2017	For “within the period specified in that sub-section” shall be substituted by “within the period as may be prescribed”	It amends section 286(4) to provide that the time limit for furnishing Country by Country reporting (CbCR) by Indian entity who is part of International group, is to be prescribed (as against 12 months from the end of reporting accounting year proposed earlier). This may provide more flexibility to Indian taxpayers to file group CbCR, if required.
		In sub section 9, for clause (b), the following clause shall be substituted and shall be deemed to have been substituted with effect from the 1st day of April, 2017, namely:— ‘(b) “agreement” means a combination of all of the following agreements, namely:— — (i) an agreement entered into under sub-section (1) of section 90 or sub-section (1) of section 90A; and (ii) an agreement for exchange of the report referred to in sub-sections (2) and (4) and notified by the Central Government	For “sub-sections (2) and (4)” in clause (b)(ii) shall be substituted by “sub-section (2)”	This amendment has been made to refine the original Bill and has no impact as regard filing position for Indian outbound and inbound companies.

Another key amendment

In addition to the above amendments, an important amendment through the insertion of section 14A to Government Savings Bank Act, 1873 has been proposed to provide protection to Public Provident Fund amount against attachment under any decree or order of any court in respect of any debt or liability incurred by the depositor.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact your local PwC advisor

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