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# UNION BUDGET 2018

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Highlights on Union Budget 2018



APRIL 13, 2018

WIN CORPORATE ADVISORS PRIVATE LIMITED  
407, SANJAR ENCLAVE, NEAR PVR/MILAP CINEMA, KANDIVALI WEST, MUMBAI 400 067

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## 1. Income Tax Slab Rates

### a) For Non-Corporate Assessee:

Income Tax Slabs & Rates: FY 2018-19 (AY 2019-20)				
Income Slabs	General Category (non-senior citizens)	Senior Citizens (60 & above years of age, but below 80 years)	Very Citizens (80 years and above of age)	Senior
<b>Income Tax Rates</b>				
Upto Rs. 2,50,000	NIL	NIL	NIL	
Rs. 2,50,001 to Rs. 3,00,000	5%	NIL	NIL	
Rs. 3,00,001 to Rs. 5,00,000	5%	5%	NIL	
Rs. 5,00,001 to Rs. 10,00,000	20%	20%	20%	
Above Rs. 10,00,000	30%	30%	30%	

#### Note:

i) A New Cess named “Health & Education Cess” @ 4% is introduced and the existing Education cess (2%) and Secondary and Higher Education Cess (1%) have been discontinued.

ii) **Rebate u/s 87A (only applicable to Resident Individuals): (No Change)**

The amount of rebate is Rs.2500/- and available to only individual having income below Rs.3,50,000/- (after deduction under Ch-VIA).

### b) For Corporate Assessee:

Assessee	FY 2017-18	FY 2018-19	Turnover Criteria
Domestic Company	25%	25%	Turnover below <b>Rs. 50 crore</b> in <b>FY 2015-16</b>
Domestic Company	30%	25%	Turnover above Rs. 50 crore but below Rs. 250 crore in <b>FY 2016-17</b>
Domestic Company	30%	30%	Other than above

There is no change in the rate of tax for foreign company.

#### Notes:

i) A New Cess named “Health & Education Cess” @ 4% is introduced and the existing Education cess (2%) and Secondary and Higher Education Cess (1%) have been discontinued.

c) **Rates of Surcharge:**

Particulars	Taxable Income		
	50 Lakhs to 1 Crore	1 Crore to 10 Crore	Exceeding 10 Crore
Individual/HUF	10%	15%	15%
Firm/Local Authorities/ Co-operative Society	Nil	12%	12%
Domestic Company	Nil	7%	12%
Foreign Company	Nil	2%	5%

## 2. Income from Salaries

a) **Relaxation provided to Salaried Assesse:****Salaries – Section 16 & 17**

Income chargeable under the head “Salaries” would be entitled to a standard deduction of Rs. 40,000/-. This benefit is also available in case of pension.

However, as against above, the exemption of reimbursement of medical expenditure upto Rs. 15,000 has been withdrawn. The exemption of transport allowance upto Rs. 19,200 has also been withdrawn.

**WIN Comments:** This amendment reduces compliance burden of providing and maintaining records relating to medical expenditure incurred by employees. There is withdrawal of exemption amounting to Rs. 34,200 (Rs. 19,200 + Rs. 15,000) and allowing standard deduction of Rs. 40,000 which in turns results into net benefit of **Rs. 5,800.**

b) **Compensation termination or modification of any terms of the contract of employment – section 56:**

Any compensation or other payments (by whatever name called) due to or received by any person in connection with the termination of his employment or modification of the terms and condition relating to his employment will be taxed under the head “**Income from other sources**”

### 3. Income from Business and Profession

**a) Compensation for termination or modification of any terms of the contract of business – Section 28(ii)(e)**

Any Compensation or other payments, whether revenue or capital, due to or received by an assessee on termination of a contract relating to its business or on modification of any terms and condition of such contract, will now be taxed as **Business Income**.

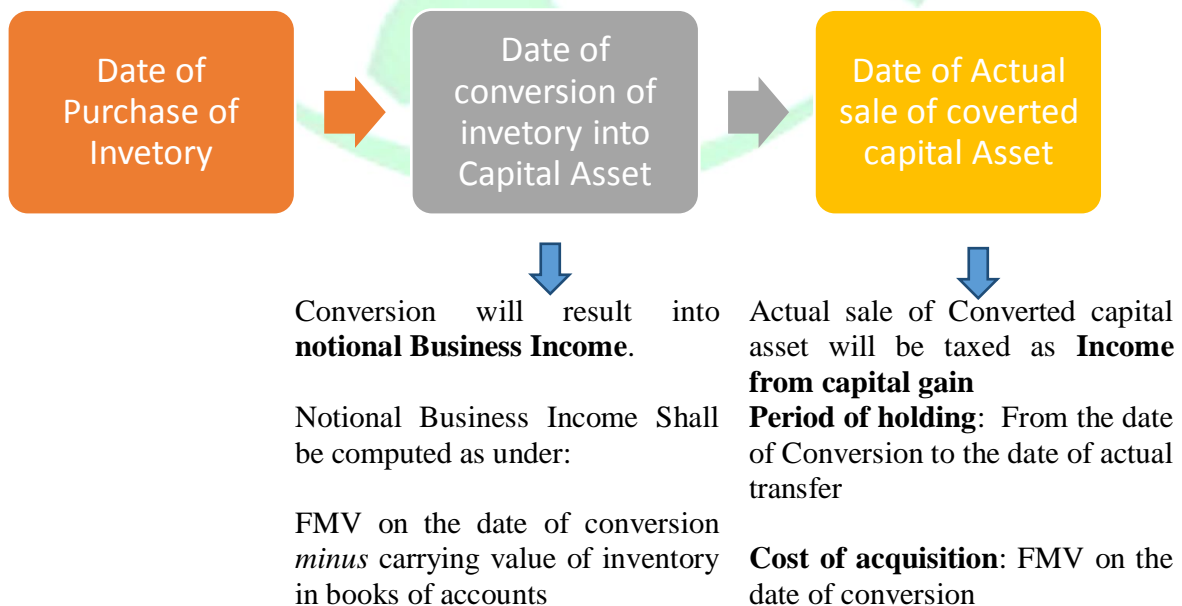
*WIN Comments: Compensation received on termination or modification of contract under current scenario was treated as Capital receipt. However, with the above amendment all the compensation received will now be treated as business income and will be taxed in the previous year in which the same is received.*

**b) Conversion of Stock-in-Trade into Capital Asset - section 28(via), section 2(24) (xiii), Section 49 (9) and Explanation 1 to section 2(42A)**

Unlike section 45 which provides for taxability on conversion of capital asset into stock-in-trade, currently there is no provision to tax conversion of stock-in-trade into Capital Asset. It is now proposed to provide symmetrical treatment by way of taxing conversion of stock-in-trade into capital asset as business income under section 28 and details of which is as under:

Taxability of Conversion of Stock-in-trade into capital asset will be divided into 2 parts and which are as follows:

- a) Income from business and profession – On the date of conversion
- b) Income from capital gain- On the date of sale



The Manner of determination of Fair Market Value (FMV) of inventory as on the date of conversion shall be prescribed by CBDT by way of rules.

**c) Validation of ICDS notified under section 145 [Section 36(1) (xviii), 40A(13), 43AA , 43CB, 145A, 145B]**

The Delhi High Court, in *chamber of tax consultants vs. Union of India (2017) 252 Taxman 77* had struck down some of the ICDS fully and read down some of the ICDS partially holding them to contrary to the judicial precedents provision of the act. In order to remove such conflicts, following amendments have been made in the Act. All the amendment relating to ICDS will be applicable retrospectively from AY 2017-18 (FY 2016-17).

**I) ICDS 1 - Marked – to – Market / expected loss –Section 36(1)(xviii) / 40A(13)**

It is proposed to insert section 36(1)(xviii) to provide that mark-to-market losses as computed applying this specific ICDS provision will be available as deduction in the computation of profits and gains of business or profession

**II) ICDS II - Valuation of inventory to be valued at lower of cost or NRV**

It is proposed to amend section 145A to provide:

- Valuation of inventory will be at cost or Net Realizable value (NRV) whichever is less as computed under this ICDS is.
- Valuation of purchase and sale and of inventory will include allied tax, duty, cess or fee which were incurred to bring the goods or services to the place of its location and condition

**III) ICDS III - Computation of income from construction and service contracts - Section 43CB**

A new section 43CB is proposed to be inserted to provide that the 'percentage completion method' is an accepted method to compute the profits arising from specific construction contracts. Further, the contract revenue will include retention money and the contract cost will not be comprised of incidental interest, dividend and capital gains

**IV) ICDS IV - Revenue Recognition read with ICDS VII on Government grants**

Type of Income	Previous year in which it shall be taxed
Interest received on compensation or enhanced compensation	Deemed to be the income of the year in which it is received
Claim for escalation price or export incentives	Year in which a reasonable certainty of realisation is achieved

**V) ICDS VI- Taxation of foreign exchange fluctuation – Section 43AA**

New section 43AA proposed to be introduced will provide that any foreign exchange gain or loss in respect of specified foreign currency transactions shall be treated as income or loss, if computed according to this ICDS.

**VI) ICDS VII – Government Grants**

Type of Income	Previous year in which it shall be taxed
Income from a subsidy, grant, cash incentive, duty drawback, waiver, concession	Taxable in the year of receipt, if not charged to tax in any earlier previous year

**VII) ICDS VIII - Valuation of Securities**

Type of Securities	Method of Valuation
Securities not listed on recognised stock exchange or listed but not quoted on a recognised stock exchange with regularity of time-to-time.	At actual cost initially recognised in accordance with the ICDS.
Securities listed and quoted on a recognised stock exchange with regularity from time-to-time	At lower of actual cost or net realisable value in accordance with the ICDS; The comparison of actual cost and net realisable value shall be made category wise.



## 4. Income from Capital Gain

### a) Restriction on scope of exemption of gains from long term capital assets upon investment in certain bonds – Section 54EC

**Current Provision:** Exemption under section 54EC is eligible on transfer of any Long term capital asset. Minimum lock in period of investment in certain **bonds was 3 years**.

**Proposed amendment:** Exemption under section 54EC is eligible on transfer of Land or building or both only. Thus, exemption under section 54EC is not eligible on transfer of any other capital asset other than Land or building or both.

For Eligible bonds issued on or after April 01, 2018 the minimum lock in period has been increased from **existing 3 years to 5 years**. In other words, if assessee sold the eligible bonds before 5 years from the date of acquisition, then the exemption provided under section 54EC shall stand to be withdrawn.

### b) Minimum lock in period of investment in certain bonds has been increased from 3 years to 5 years from April 01, 2018. Full Value of Consideration for transfer of assets etc. – Section 43CA, 50C and 56(2) (x)

Before understanding the proposed amendment in the above section, it is better to understand the basic difference between the three sections and its applicability

Section 43CA	Section 50C	Section 56(2) (x)
This section is applicable for Real Estate business who holds land or building or both as stock-in-trade	This section is applicable for any other investor who holds land or building or both as capital asset.	This section is applicable on purchasing of land or building or both.
This section is applicable on <b>seller</b> of stock-in-trade	This section is applicable on <b>seller</b> of capital asset	This section is applicable on <b>buyer</b> of land or building or both.
If value adopted by stamp valuation authority (“Stamp duty value”) is more than actual consideration, then stamp duty value shall be deemed to be Sale Price	If value adopted by stamp valuation authority (“Stamp duty value”) is more than actual consideration, then stamp duty value shall be deemed to be Full value of consideration.	In case any person receiving any immovable property on or after 01/04/2017, for a consideration less than stamp duty value of such property by an amount exceeding Rs. 50,000/- such excess of stamp duty value over consideration shall be charged to tax as Income from other sources.
Taxable under the head Income from Business and Profession	Taxable under the head Income from Capital Gain	Taxable under the head Income from Other Sources.
<b>Proposed amendment: To minimise hardship in case of such transaction, it is now provided that where the stamp duty value does not exceed the consideration received</b>		

**or accruing by more than 5% of such consideration (and Rs. 50,000 in case of section 56(2) (x)), the consideration received or accruing shall be deemed to be the full value of consideration.**

WIN Comments: In Simply terms, now government has provided that deviation of 5% of such consideration is accepted as genuine transaction. However, if the deviation between stamp duty value and actual consideration is more than 5%, then sale price (Full value of consideration for Section 50C) shall deemed to be considered as Stamp duty value as prescribed by stamp value authority.

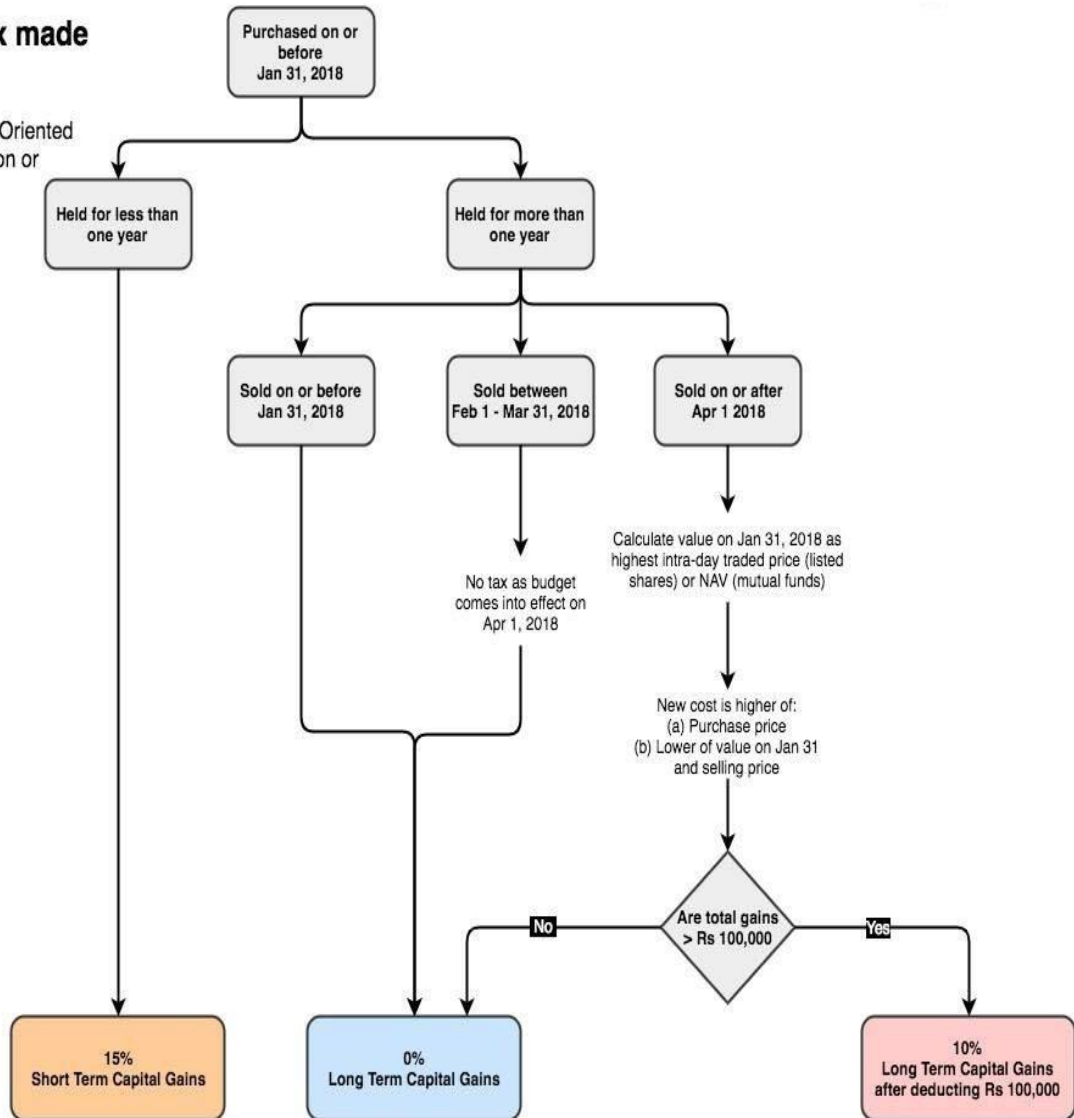


**c) Exemption in respect of long term capital gains on sale of listed equity shares, etc – Section 10(38):**

The Entire provision relating to Taxability of Long Term Capital Gain under proposed budget is summarised in below chat:

**Capital Gains Tax made easy**

Equity Shares and Equity Oriented Mutual Funds purchased on or before Jan 31, 2018



Let's understand the new provisions with some examples of trading in listed equity shares:

Particulars	Scenario 1	Scenario 2	Scenario 3	Scenario 4	Scenario 5
Sales Consideration (A)	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000
Date of Sale	31-03-18	01-04-18	01-04-18	01-04-18	01-04-19
Actual Cost of Acquisition (B)	800,000	800,000	800,000	800,000	800,000
Date of Purchase	01-01-17	01-01-17	01-01-17	01-01-17	01-03-18
Quoted Price on Stock Exchange as on 31/01/2018 (C)	850,000	750,000	900,000	1,100,000	1,100,000
Deemed Cost of Acquisition (D)*	800,000	800,000	900,000	1,000,000	800,000
Long-term Capital Gains (E = D-A)	200,000	200,000	100,000	-	200,000
Exemption for Capital Gains (F = E - 1,00,000)	200,000	100,000	100,000	-	100,000
Tax on Capital Gains (F * 10%)	-	10,000	-	-	10,000

The Finance Bill has introduced a new provision through Section 112A which provided for taxation of long-term capital gain @10% on listed equity shares, equity-oriented mutual funds and units of the business trust. The provision also provides that the benefit of indexation would not be available but the gains made up 31 January would be grandfathered.

There could be a possibility that the equity shares may not be listed on 31 January 2018 but could have been listed at the time of transfer of shares. This could arise if the Initial Public Offering (IPO) is made after 31 January. In that case, the shareholder would not be in a position to avail the benefit of grandfathering of gains up to 31 January as the shares were not listed on that day. An indexation benefit has been proposed to for such shareholders

## 5. Deduction under chapter VI-A

### a) Section 80D- Deduction of Medical Insurance premium (w.e.f. FY 2018-19)

Particulars	Old	New
<b>Limit of Deduction</b>		
Senior Citizen & Very Senior Citizen	Rs. 30,000	Rs. 50,000
Others	Rs. 30,000	Rs. 30,000

Where premium is paid for more than 1 years than the amount can be claimed in subsequent years on proportionate basis as per policy period.

E.g. If premium is paid of Rs.75000/- for 3 year policy then you can claim deduction of Rs.25000/- in each year.

Medical treatment expense incurred by Senior Citizen is also allowed as deduction besides premium paid.

### b) Deduction of medical expense in case of severe diseases - Section 80DDB

The limit of deduction for medical expenditure in respect of certain critical illnesses which is Rs. 60,000/- in case of senior citizens and Rs. 80,000/- in case of very senior citizens has been increased to Rs. 1,00,000 in respect of all senior citizens. Here too, the concept of 'Very senior citizen' has been omitted.

### c) Deduction of Interest on deposits in case of senior citizens – Section 80TTB

It is proposed that a deduction will be granted to Senior Citizen from Income on interest from deposits (including savings account) with banks or post office of Rs.50,000/- or amount of interest received whichever is lower.

Deduction u/s 80TTA shall not be available to Sr. Citizen.

Section 194A has been amended to provide that in case of senior citizen TDS shall be deducted only when the amount of such interest exceeds Rs. 50,000.

## 6. Proposed Amendment relating to company under Liquidation

### a) **Verification of Return in case of company under insolvency resolution process – Section 140**

During the resolution process under the Insolvency and Bankruptcy Code, 2016 (“IBC”), the return shall be verified by an insolvency professional appointed by the Adjudicating Authority.

### b) **Carry Forward of losses is allowed even if there is change of beneficiary ownership of the Company – Section 79**

**Existing Provision:** Carry forward of losses is allowed only if at least 51% of the voting power as on the last day of the year on which loss incurred, is continued.

**Proposed Amendment:** Third proviso to section 79 is added to provide that the set-off and carry forward of losses would be available if the change in shareholding takes place on account of a Resolution Plan approved under Insolvency and Bankruptcy Code, 2016 (IBC 2016).

### c) **Proposed Amendment for computation of Book Profit for Minimum Alternate Taxes – Section 115JB**

**Existing Provision:** According to section 115JB, a company to reduce lower of its unabsorbed depreciation or brought forward losses as per books of accounts, in computing its book profits.

**Proposed Amendment:** It is proposed to provide aggregate amount of unabsorbed depreciation **AND** loss brought forward as reduction from book profit if the company has applied for Insolvency process and its application is admitted by the adjudicating authorities.

## 7. Other Important Amendment

### a) Obtaining Permanent Account Number (PAN) in certain cases – Section 139A

With an objective of using PAN as Unique Entity Number (UEN) of financials transaction, following are the proposed amendment:

- Any Resident person not being an individual, which enters into a financial transaction of an amount aggregating to Rs. 2,50,000 or more in a financial year **is required to apply for PAN.**

It may be noted that the term “Financial transaction” has not been defined.

### b) Incentives to Start-ups: Section 80-IAC

**Present Provision:** Section 80-IAC provides for 100% deduction of profits of an eligible start up for 3 consecutive years, subject to certain conditions.

**Proposed Provision:** Amendments have been made to relax certain conditions and extend the scope of the benefits of this deduction as under:

Conditions	Existing	Proposed
<b>Incorporation of Company</b>	On or after 01/04/2016 but before 01/04/2019	On or after 01/04/2016 but before 01/04/2021
<b>Total turnover does not exceeds Rs. 25 crore</b>	In any of the previous years beginning on or after 01/04/2016 but before 01/04/2021	In any of the 7 previous years beginning from the year in which the company incorporates.

Further, the definition of “eligible business” has been substituted. The substituted definition substantially enlarges the scope by covering eligible start-ups engaged in innovation, development or improvement of products (as compared to earlier ‘new product’) or process or services or a scalable business model with a high potential of employment generation or wealth creation.

The condition of a turnover cap of Rs. 25 Crore for an eligible start-up to claim profit-linked deduction shall be checked in only in the previous years in which such a deduction is claimed and not for all the seven years beginning from the year in which the eligible start-up is incorporated.

### c) Taxation of Start-ups –Section 115BA

As per Section 115BA, a domestic company can opt to pay tax at the rate of 25% if they are engaged in the business of manufacturing or production of any article or doing research in relation thereto.

There have been disputes and uncertainty on the taxability of other income earned by these start-ups. Whether other income of such entities are taxable at the rate of 25% or as per other applicable rates.

The Finance Bill provides a retrospective clarificatory amendment (effective from 01st April, 2017) that the beneficial rate of taxation of 25% is available only in respect of income arising from the business operations of manufacturing, production, etc.

**d) No deduction of exp. even if unexplained income is determined by Assessing Officer**

*[Section 115BBE – Applicable retrospectively from Assessment Year 2017-18]*

Any sum found credited in the books of the taxpayer, for which he offers no explanation about the nature and source thereof or the Assessing Officer (AO) are not satisfied by the explanation offered by the taxpayer, **is termed as unexplained income**. Such incomes are taxed at the **flat rate of 60%** under section 115BBE. It also provides that no deduction in respect of any expenditure shall be allowed to taxpayers from such unexplained income. However, the provision was silent whether taxpayer would get any deduction if tax officer has made additions in the total income of taxpayers which is deemed as unexplained income.

The Finance Bill, 2018 proposed that taxpayer would not be eligible to deduction even in this case where additions are made by the Assessing Officer for the unexplained income.

**e) Relaxation relating to attachment of Property**

The amount standing to the credit of Public Provident Fund (PPF) shall not be liable to any attachment under any decree or order of a court in respect of any debt or liability incurred by the depositor

**f) 'Accumulated Profits' redefined for purpose of Deemed Dividend**

*[Section 2(22)(d) – Applicable from Assessment Year 2019-20]*

Currently, any distribution of accumulated profits (whether capitalized or not) to the shareholders by a company is subject to Dividend Distribution Tax. Companies with large accumulated profits used to adopt the amalgamation route to reduce accumulated profits so as to bypass the provisions of deemed dividend under Section 2(22)(d).

With a view to prevent such abusive arrangements, a new Explanation 2A is proposed to be inserted in section 2(22) to widen the scope of the term 'accumulated profits'.

As per the new Explanation, the accumulated profits/losses of an amalgamated company shall be increased by the accumulated profits of the amalgamating company (whether capitalized or not) on the date of amalgamation.

**g) Extension of Due date for furnishing the Country-by-Country Report (CbCR):**

The Finance bill has extend the deadline to furnish the Country-by-Country Report (CbCR) from 30 November to 31 March of the next year from the end of the reporting accounting year. This is proposed to be applied to:

- The parent entity or the alternate reporting entity; and
- The constituent entity of the international group if the parent entity is a resident of the country with which India does not have an agreement the or exchange of report or there has been a systemic failure of the country to provide such a report.



The due date for the entities covered by condition (b) mentioned above for furnishing CbCR report would not be 31 March but would be notified by the government which would definitely be after 31 March.



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