


INCOME TAX – KEY CHANGES AND ACTION POINTS FOR THE FY 2017-18 (AY 2018-19)



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INCOME TAX – KEY CHANGES AND ACTION POINTS FOR THE FY 2017-18

- Restrictions on Cash Transactions
- Restrictions on Cash Receipts
- Restriction on in House property loss
- Changes in Capital gains
- Cap on Depreciation
- Presumptive tax concession for cheque transactions
- Income from unexplained sources-consequences
- Tax on deemed gifts (Sale/purchase lower than Fair Market Value)
- Stiff penalties including for late filing of IT Returns
- Annual Information Reporting and Compulsory quoting of PAN
- Changes in Tax & Sur charge rates

Finance Act 2017

- ▶ Finance Bill 2017 has been passed by both the houses of parliament and received assent from the President of India on 31st March, 2017 and became Finance Act 2017
- ▶ Far reaching changes have been made in the Finance Act and Income Tax (Amendment) Act, 2016
- ▶ Imposed huge penalties followed by prosecution for contravention
- ▶ We would like to bring few important highlights for your attention and further compliance

RESTRICTION ON CASH TRANSACTIONS

- ▶ Limit for disallowance of business expenditure made in cash is reduced from Rs 20,000 to **Rs 10,000** made to a person per day. (Limit of Rs 35,000 for payment made to transporters however continues)
- ▶ Above disallowance is extended on capital expenditure also by restricting depreciation and Capital Expenditure on R & D.
 - ▶ If you have purchased a two wheeler by paying Rs 15,000 in cash and Balance Rs 30,000 in Cheque – Depreciation eligibility will be only on Rs 30,000/-.
- ▶ No deduction allowed for donation U/s 80G in excess of Rs 2000/- if paid in cash.

RESTRICTION ON CASH TRANSACTIONS

- Prohibition for accepting loan other than by A/c payee Cheque / Draft /ECS in excess of Rs 20,000/- continues (269SS).
- Prohibition for repaying loan other than by an A/c payee Cheque / Draft /ECS in excess of Rs 20,000/- continues (269T).
- W.e.f 01.06.2015 above restrictions extended to acceptance of advance towards sale of immovable property and repayment of such advance.

RESTRICTION ON CASH RECEIPTS

- **No person shall receive Rs 2 lacs or more**
 - a. in aggregate from a person in a day; or
 - b. Per Transaction; or
 - c. Per event/occasion from a person,**other than by an A/c Payee Cheque/draft/ECS (Sec 269 ST)**
- Penalty at 100% of the amount involved
- Covers all cash receipts be it cash sales, advance for sales, lease advance, etc. (Loans received are not covered since they are covered by Sec 269SS where restriction is up to Rs 20,000/- only)

RESTRICTION ON CASH RECEIPTS

- Following cash transactions amount to Violation of Sec 269ST attracting penalty –

Accepting cash \geq Rs 2 Lacs	Instance
In a Day Per Person	If you receive Rs 70,000 each against 5 invoices from same customer on one single date.
Against one Bill Per Person	If you collect against one bill of Rs 4,00,000 at Rs 20,000 on 20 different days .
Against one event or occasion per person	If you collect Rs 1,00,000 on one day and Rs 1,50,000 on another day towards lease deposit.

RESTRICTION ON CASH RECEIPTS

Following cash transactions amount to Violation of Sec 269ST attracting penalty –

- Any cash is deposited directly into your bank accounts by others (including customers) of Rs.2 lakhs or more in a day or with respect to a single transaction or event or occasion would also amount to violation.

FINANCE Act, 2017 – HOUSE PROPERTY INCOME

- House Property Loss can be set off against other head of Income only up to Rs 2 lacs in the same year, balance loss has to be C/f to 8 AY`s for set off against house property income only.

		FY 2016-17			FY 2017-18
Business Income		5,00,000	Business Income		5,00,000
Rental Income	60,000		Rental Income	60,000	
Interest on HL	<u>(4,50,000)</u>	(3,90,000)	Interest on HL	<u>(4,50,000)</u>	(2,00,000)
Net Income		1,10,000	Net Income		3,00,000
Loss c/f		-			1,90,000

FINANCE Act, 2017 – HOUSE PROPERTY INCOME

- No notional income from House Property held as stock-in-trade for the period upto 1 year from the end of the FY in which the certificate of completion of construction of property is obtained from competent authority.
- **For Example:** X Developers completes construction of 5 flats on 01.04.2017, obtains certificate of completion from BBMP and the flats remains unsold, then tax treatment would be as under:

FY 2017-18	FY 2018-19	FY 2019-20
No tax on notional income	No tax on notional income	Tax based on Fair Rent

FINANCE Act, 2017 – CAPITAL GAINS

- ▶ In case of immovable properties Holding period reduced from 36 months to 24 months to qualify as long term capital asset .(please note that other capital assets like jewellery holding period should be 3 years for claiming Long Term)

Particulars	Earlier Treatment	Post Amendment Treatment
Sold on 16.04.2017	90,00,000/-	90,00,000/-
Purchased on 16.01.15	60,00,000/-	60,00,000/-
Indexed Cost	NA	68,57,143/-
Capital Gain	30,00,000/- (Short Term)	21,42,857/- (Long Term)
Tax Amount	7,46,750/-	4,41,428/-
Reinvestment Option U/s 54 & 54EC	Not Available	Available

FINANCE Act, 2017 – CAPITAL GAINS

- ▶ Joint Development agreements will be chargeable to tax in the year of receipt of completion certificate in the hands of the Individual or HUF.
- ▶ In case asset sold before issue of certificate by competent authority capital gains tax shall be charged in the year in which such transfer takes place.
- ▶ TDS @ 10% would attract on payments made under JDA

JD Agreement Entered on	30.04.2017 (FY 2017-18)
Construction Work Completed	31.12.2018 (FY 2018-19)
Completion Certificate from BBMP obtained on	30.04.2019 (FY 2019-20)
Capital Gains Taxable for the FY	2019-20

FINANCE Act, 2017 – CAPITAL GAINS

- Shift in the base year from 1981 to 2001 for computation of Capital Gains. That is for assets purchased prior to 01.04.2001 indexation benefit will be available on Cost or FMV whichever is higher as on 01.04.2001.
- Tax exemption will be available on reinvestment of capital gains in any other notified redeemable bonds (in addition to investment in NHAI and REC)
- However maximum amount that can be invested continues to be Rs 50 Lacs.
- Exemption of Long Term Capital gain on sale of listed company shares through Stock exchange if STT is paid is amended, that such shares acquired on or after 1st Oct 2004, exemption will be available only if STT is paid at the time of acquisition. Also, List of exceptions is expected to be notified soon.
- One must establish that either shares were purchased prior to 1st Oct 2004 or produce evidence that STT was paid at the time of purchase.

FINANCE Act, 2017 – CAPITAL GAINS

- Fair Market Value (FMV) deemed to be full value of consideration for arriving at Capital Gains where consideration for transfer of unquoted company is lower than FMV of such shares.

A sells 1 Share of Face Value Rs 100/- at Rs 100/- per Share (FMV of Shares is Rs 120/-) to B

Tax Treatment in Hands of

Seller A

20 Rs taxable under Capital Gains (FMV Rs 120 – Cost of Acquisition Rs 100)

Purchaser B

20 Rs taxable under Income from Other Sources (FMV Rs 120 – Purchase Price Rs 100)

Cap on Depreciation

- CBDT issued a Notification on 7th March, 2017 imposing cap on depreciation rates as under:
- Highest rate of Depreciation has been restricted to 40 per cent w.e.f financial year 2017-18. Impact can be understood as under:

Asset	Depr Rate FY 2016-17	Depr Rate FY 2017-18
Computer, Laptops, Software etc.,	60%	40%
Renewable Energy Devices, etc.,	80%	40%
Air Pollution Control Equipments, etc	100%	40%

FINANCE Act, 2017 – OTHER SOURCES

- Dividend Received From Domestic Companies by all resident assesseees (other than dividend received by Domestic Companies and Charitable Trusts) in excess of Rs 10 lacs chargeable to tax at 10% in the hands of the receiver.
- Disallowance of expenditure such as rent, interest, etc. is extended to “Income from Other Sources” also if TDS is not deducted from payments made to residents.
- **Example:** Ravi Enterprises earns interest income of Rs 1,00,000/- under Income from Other Sources and incurs an expenditure of Rs 60,000/- towards interest paid. In case Ravi Enterprises does not deduct TDS on the interest paid of Rs 60,000/-, 30% of Rs 60,000/- = Rs 18,000/- will be disallowed expenditure.

Tax incentive for employment generation

Nature of deduction	Eligible Assesseees	Condition for claiming deduction
<p>Deduction of 30% of the additional employee cost is allowed for 3 assessment years from AY: 2017-18.</p> <p><u>Additional employment cost</u> means salary and other payments made to <i>additional (new)</i> employees.</p> <p><i>(the deduction is in addition to the employee cost allowed under the Income Tax)</i></p>	<p>-The Assessee has income from 'business'</p> <p>- And is subject to Tax audit u/s 44AB</p> <p>- CA Certificate to be submitted in Form 10DA</p>	<p><u>Eligible additional/ new employees:</u></p> <p>a) the salary of the employees is less than or equal to Rs.25,000</p> <p>b) employed for a period of atleast 240 days in a year (180 days in case of manufacture of apparel business).</p> <p>c) Employee should participate in the recognised PF.</p> <p><u>In case of existing businesses:</u></p> <p>a) the new employees are lower of:</p> <p>i) new joinees during the year</p> <p>ii) Increase in the total no. of employees as on previous year end & current year end.</p> <p>b) the payments are made only by way of A/c payee cheque/draft or electronic transfers.</p>

FINANCE Act, 2017 – TDS/TCS CHANGES

- ▶ Non Tax Audit individuals/ HUF Assesses paying rent exceeding Rs 50,000/- to deduct TDS @ 5% once in a year through Challan cum return statement, without procuring TAN.
- ▶ Any person paying consideration (other than in kind) under Joint Development Agreement shall deduct tax @ 10 %.
- ▶ In case of TCS:
 - ▶ Person paying – [Payer], to give PAN Number to person responsible for collecting TCS [Collector], failing which tax shall be collected @ twice the rate or at 5% Which ever is High.
 - ▶ Declaration filed U/s.206C(1A) [TCS not to be made for specified goods – If it is not for trading purposes] is invalid unless payer furnishes his PAN
 - ▶ Mandatory quoting of PAN by both collector and payer in all correspondence, bills and vouchers

TAX ON PRESUMPTIVE BASIS

- In case of businesses opting for taxing on presumptive basis, existing rate of deemed total income of 8% reduced to 6% of turnover received by an A/c payee cheque/ Draft/ ECS during the PY or before due date of filing of return of income. (This is effective even for Sales during the FY 2016-17)

Total Turnover in 2016-17	150 Lacs
Amount Collected Through Cheque by 31.03.2017	90 Lacs
Amount Collected Through cheque from 01.04.17 to 31.07.17	30 Lacs
Presumptive Income on Banking Channel Turnover	120 Lacs x 6% = Rs 7.2 Lacs
Presumptive Income on Balance turnover	30 Lacs x 8% = Rs 2.4 Lacs
Total Presumptive Income	9.6 Lacs

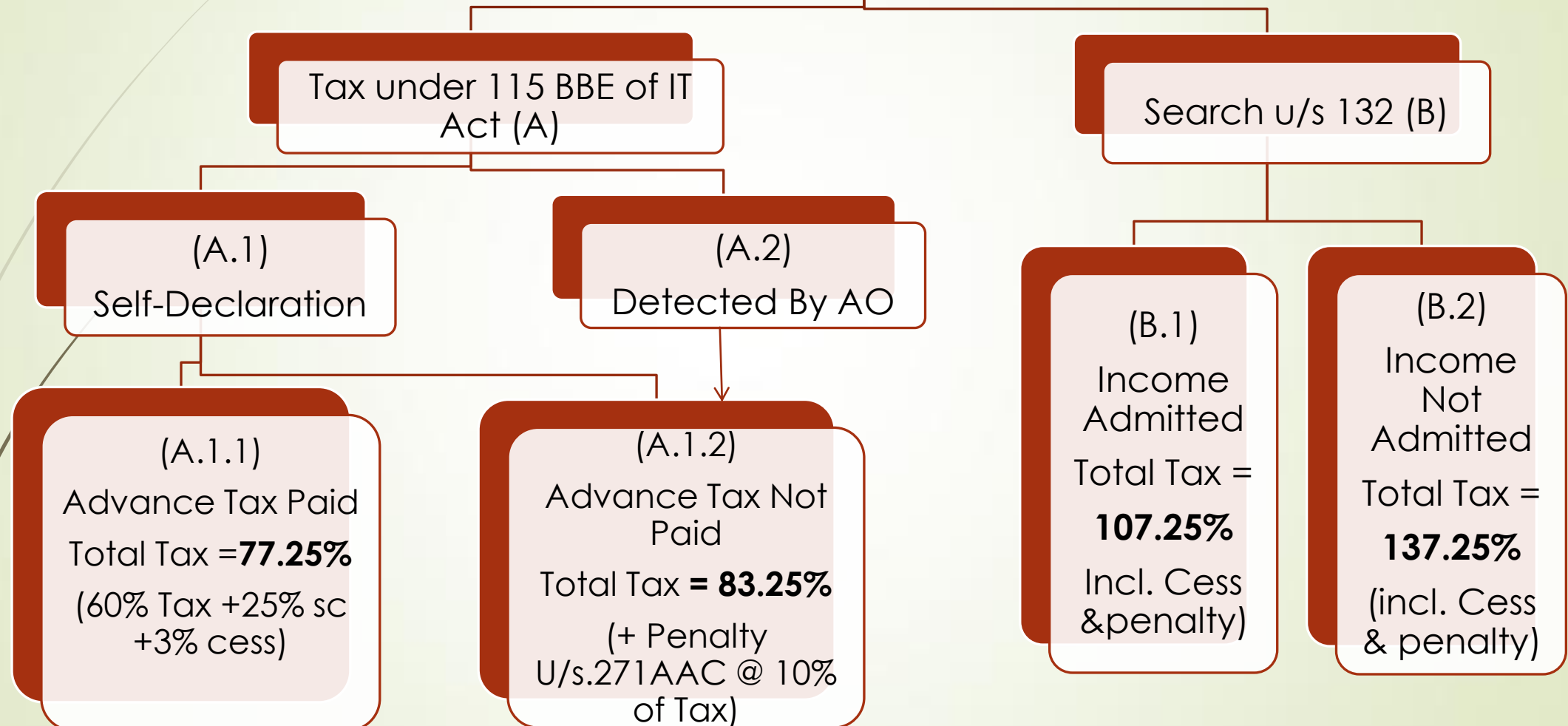
UNEXPLAINED INCOME

- Following are Income from unexplained sources:
 - Unexplained Credit [Liability side of BS is not justified].
 - Unexplained Investments [Asset being money's worth not recorded in BS].
 - Unexplained money etc. [Asset being money not recorded in BS]
 - Investments, etc.. not fully disclosed in Books Of Accounts [Asset being money's worth not fully recorded in BS]
 - Unexplained expenditure [P&L debit not recorded leading to source not being taxed]
 - Amount borrowed / repaid on hundi other than A/c Payee Cheque

UNEXPLAINED INCOME - CONSEQUENCES

- Increase in rate of tax & SC on income from unexplained sources from 30% to 60% + 25% Penalty on income
- Assessee now permitted to disclose such income on his own in ITR. Earlier, it was considered AO's prerogative to invoke this provision.
- Penalty in case of income from unexplained source –10% of tax payable u/s.115BBE may be levied by AO.
- NA if assessee voluntarily declares such income & pays required advance tax.
- Tax implications under different situations are depicted in pictorial diagram in the next slide.

Implications of unaccounted income



AIR/SFTR REPORTING

- Annual Information reporting (AIR) renamed as Specified Financial Transaction Reporting (SFTR). Earlier applicable to banks, MF`s etc. , now extended even to tax audit assesseees.
- Receipt of cash of Rs 2 Lacs or more against sale of goods or services of any nature. Clarification from GOI the limit is per transaction.
- Return to be filed in Form 61A. Return for FY ended March 31,2017 to be filed on or before May 31,2017.
- Penalty of Rs 100/day for not filing the SFTRA within time prescribed.

COMPLUSORY QUOTING OF PAN – KEY CHANGES

- ▶ W.e.f 01.01.2016 certain transaction require PAN to be compulsorily quoted:
 - ▶ Sale or purchase by any person of goods or services of any nature other than immovable properties, shares, motor vehicle in excess of Rs 2 Lacs per transaction, irrespective of mode of payment.
 - ▶ Hotel/Restaurant bills in excess of Rs 50,000/- paid by cash (increased from Rs 25,000/-).
 - ▶ Sale or purchase of immovable property exceeding Rs 10 lacs (increased from Rs 5 Lacs)
 - ▶ Purchase or Sale of unlisted shares Rs 1 Lac (increased from Rs 50000/-)

TAXATION OF GIFTS/ DEEMED GIFTS

- ▶ Following Gifts/Deemed Gifts chargeable to tax in the hands of the receiver of gifts (**any person including individual, HUF, firm etc.**):
 - ▶ Cash gift in excess of Rs 50,000/-
 - ▶ Immovable Property in excess of Rs 50,000 as a gift
 - ▶ Immovable property at a consideration which is lesser than Stamp Duty value of Property by more than Rs 50,000.
 - ▶ Other than immovable Property (.i.e. shares, jewellery, paintings, etc.) in excess of Rs 50,000 as a gift
 - ▶ Other than immovable Property at a consideration which is lesser than Stamp Duty value of Property by more than Rs 50,000.
 - ▶ If cash gifts of Rs 2 lakhs or more are received, apart from tax penalty u/s 269ST would attract equivalent to the amount involved. Even cash gifts received from parents on the occasion of marriage would attract above penalty.

TAXATION OF GIFTS/ DEEMED GIFTS

- Gifts from relatives, on occasion of marriage, under a will, in contemplation of death by donor, by any trust are not regarded as gifts for purpose of taxation.
- Care to be taken especially at the time of purchase of immovable properties, time of sale of shares as stamp duty value or FMV is to be determined for computation of capital gains.
- FMV of such shares are to be determined using net assets method or based on valuation report.

PENALTY PROVISIONS u/s 270A

- ▶ Underreporting of Income – Penalty leviable at 50%
 - a. Income assessed > Income declared in returns which are processed u/s 143(1)(a)
 - b. Income assessed > Maximum amount not chargeable to tax, if no ITR filed
 - c. Income reassessed > Income assessed or reassessed
 - d. MAT / AMT Income assessed > Income declared in returns
 - e. MAT / AMT Income assessed > Maximum amount not chargeable to tax, if no ITR filed
 - f. MAT Income reassessed > Income assessed or reassessed
 - g. Income assessed/ reassessed leads to reduction of loss/ converting loss to income
- Immunity from penalty of 50% is possible subject to conditions

PENALTY PROVISIONS u/s 270A - Continued

- Heavy Penalty of 200% in cases of misreporting of income:
- In following cases, under-reporting of income is considered as misreporting:
 - Misrepresentation or suppression of facts
 - Failure to record investments in books of account;
 - Claim of expenditure not substantiated by any evidence;
 - Recording of any false entry in the books of account;
 - Failure to record any receipt in books of account having a bearing on TI;
 - Failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction.

Penalties – In search cases: 271AAB

<i>Nature of default</i>	<i>Penalty liveable</i>
Search has been initiated and undisclosed income found - assessee <u>admits income</u> and specified the manner in which such income is derived	30% of Undisclosed Income
Where search has been initiated and undisclosed income found - assessee <u>does not admit</u> income or specify the manner in which such income is derived	60% of Undisclosed Income

Section	Nature of default	Penalty leviable
271A	Failure to keep, maintain, or retain books of account, documents, etc., as required under section 44AA	Rs. 25,000
271B	Failure to keep, maintain, or retain books of account, documents, etc..	Rs 25,000/-
271BA	Failure to furnish a report from an accountant as required by section 92E	Rs. 1,00,000

Penalty/Fees for delay in filing the Return:

Sec 271 F – Penalty (upto AY:2018-19) – (271 F)	Amt. Payable
Delay in filing the return after the AY	Rs. 5,000/-

- Fees for late filing of ITR introduced (to be paid before filing) –
- Such fees to be paid under self-assessment- mandatorily irrespective of cause

Sec 234 F – Fees (from AY:2018-19) – (234 F)	Amt. Payable
Where TI < 5 Lacs	
Any delay in filing of return	Rs 1,000/-
Where TI >= 5 Lacs	
ITR furnished after due date but before 31 st December of AY	Rs 5,000/-
In all other cases	Rs 10,000/-

Section	Nature of default	Penalty leviable
271H	<p>-Failure to deliver/cause to be delivered a statement within the time prescribed in section 200(3) / 206C(3), or</p> <p>-furnishes incorrect information in the statement</p>	<p>-Not less than Rs. 10,000 -upto Rs. 1,00,000</p>
271-I	<p>As per section 195(6) of the Act, any person responsible for paying to a non-resident or to a foreign company, any sum (whether or not chargeable to tax),</p> <p>-shall furnish the information relating to such payment in Form 15CA and 15CB. - penalty shall be levied in case of any failure.</p>	<p>Rs. 1,00,000</p>

Section	Nature of default	Penalty leviable
272A(1)	Refusal or failure to: answer questions, sign statement, summons & notices u/s 143(2) etc compliance.	Rs. 10,000 for each failure/default
272AA(1)	Failure to comply with section 133B (collection of information)	Not exceeding Rs. 1,000
272B	Failure to quote PAN in specified transactions	Rs. 10,000
272BB (1) / (1A)	Failure to : <ul style="list-style-type: none"> - obtain TAN - quote TAN wherever required (as per Sec 203A) 	Rs. 10,000 for each failure/default

FINANCE Act, 2017 – TAX SLABS FOR INDIVIDUALS

RATES	INDIVIDUAL	RESIDENT SENIOR CITIZEN (60 TO 79 YEARS)	RESIDENT SUPER SENIOR CITIZEN (80 YEARS AND ABOVE)
Nil	2.50 Lacs	3 Lacs	5 Lacs
5%	2.50 Lacs To 5 Lacs	3 Lacs To 5 Lacs	-----
20%	5 Lacs To 10 Lacs (12,500 + 20%)	5 Lacs To 10 Lacs (10,000 + 20%)	5 Lacs To 10 Lacs
30%	>10 Lacs (1,25,000 +30%)	>10 Lacs (1,10,000 +30%)	>10 Lacs (1,00,000 +30%)
Rebate upto Rs 2500/- to resident individuals whose total income (TI) < Rs 3.50 lacs			
Surcharge @ 10% if TI > Rs 50 lacs and 15% if TI > Rs 1 Crore			
Cess @ 3% For All Assesses Continues			

FINANCE Act, 2017 – TAX SLABS

- Tax Rate For Firms/LLP`S – 30% + Surcharge At 12% For TI In Excess Of 1 Crore
- Tax Rates For Domestic Companies
 - 25% If Total Turnover Or Gross Receipts < 50 Crores In 2015-16
 - 30% In Case Of Turnover Or Gross Receipts > 50 Crores In 2015-16
 - Surcharge Of 7% In Case Of TI In Excess Of 1 Crore But Less Than 10 Crores, at 12% In Case Of TI In Excess Of 10 Crores
 - MAT Rate Continues At 18.5% but tax credit for MAT extended from 10 to 15 years
 - DDT Rate @ 20.358% [(15%+12% Surcharge) X 3% Cess with Grossing Up]

FINANCE Act, 2017 – ADVANCE TAX PAYMENTS

ADVANCE TAX (OTHER THAN PRESUMPTIVE INCOME CASES)		ADVANCE TAX (ON PRESUMPTIVE INCOME CASES)	
Due Date	% Of Total Advance Tax Payable	Due Date	% Of Total Advance Tax Payable
15 th June	15%	15 th March	100%
15 th September	45%		
15 th December	75%		
15 th March	100%		

THANK YOU

This circulation is purely for informative purposes only.
In case of any clarifications please contact us.

Dagliya & Co