

**Key Amendments to the  
Finance Bill, 2018 passed by  
Lok Sabha**

## **PRELUDE**

We have great pleasure of announcing association between Vispi T. Patel & Associates (VTPA) and D. Arvind and Associates (DAA). This association will be a unique combination of two like-minded professional firms with specialisation in Direct Tax Services, Indirect Tax Services, Economic Consulting, Transfer Pricing, International Tax, Tax Litigation and Corporate Tax Advisory.

The firms are very similar in culture with practice strengths that are highly complementary and will enable us to provide a new and broader set of services to you. We have combined together to create innovative and insightful solutions to resolve complex business and tax challenges.

VTPA specialises in Direct Taxes, Transfer Pricing, International Tax, Advisory and Litigation services. DAA specializes in Indirect Taxes, the newly implemented Goods & Service Tax, Foreign Trade Policy, Indirect Tax optimization (tax efficient supply chain) and corporate laws advisory, etc.

Our team consists of experienced qualified professionals i.e. 20 Chartered Accountants, 1 Cost Accountant, 2 Advocates and over 60 Semi qualified professionals, with presence in Mumbai, Chennai and Bangalore. We, together as an association are a team of dedicated professionals, aiming for the best quality of providing services and advice.

We will continue to endeavour to bring you insightful updates on developments in direct and indirect taxes in the future.

**The Lok Sabha has introduced the Notice of Amendments to the Finance Bill, 2018 on 12 March 2018. Please find below an analysis of the amendments which are effective from Financial Year 2018-19 (i.e. Assessment Year 2019-20), except as provided otherwise:**

	<b>Amendments as introduced by Finance Bill, 2018</b>	<b>Amendments as passed by Lok Sabha</b>
<p><b>Significant economic presence shall constitute business connection</b></p> <p><b>[Section 9(1)(i)]</b></p>	<ul style="list-style-type: none"> <li>- Section 9(1)(i) is amended to provide that ‘significant economic presence’ in India shall also constitute ‘business connection’.</li> <li>- Further, ‘significant economic presence’, shall mean - <ul style="list-style-type: none"> <li>○ 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 such transaction or transactions during the previous year exceeds the amount as may be prescribed; or</li> <li>○ systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India through digital means.</li> </ul> </li> <li>- Income attributable to such transactions or activities shall be deemed to accrue or arise in India.</li> <li>- <u>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.</u></li> </ul>	<ul style="list-style-type: none"> <li>- The scope of ‘significant economic presence’ in India is expanded</li> <li>- The transactions or activities shall constitute significant economic presence in India, whether or not: <ul style="list-style-type: none"> <li>○ <u>the agreement for such transactions or activities is entered into in India, or</u></li> <li>○ the non-resident has a residence or place of business in India, or</li> <li>○ the non-resident renders services in India</li> </ul> </li> </ul>

	Amendments as introduced by Finance Bill 2018	Amendments as passed by Lok Sabha
<p><b>Conversion of stock-in-trade into capital asset</b> [Section 2(24)(xiia), 2(42A) and 28(via)]</p>	<ul style="list-style-type: none"> <li>- In cases where the inventory is converted into, or treated as, capital asset: <ul style="list-style-type: none"> <li>o any profit or gains arising from conversion of inventory into capital asset or its treatment as capital asset shall be charged to tax as business income.</li> <li>o fair market value of the inventory on the date of conversion or treatment, shall be deemed to be the full value of the consideration;</li> <li>o fair market value on the date of conversion shall be the cost of acquisition;</li> <li>o period of holding of such capital asset shall be reckoned from the date of conversion or treatment.</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>- A new 'Explanation 1A' is inserted to Section 43, to provide that the fair market value of the inventory as on the date of conversion shall be deemed to be the actual cost of capital asset</li> </ul>
<p><b>Capital Gain not to be charged on investment in certain bonds</b> [Section 54EC]</p>	<ul style="list-style-type: none"> <li>- Capital gain arising from the transfer of a long-term capital asset, <i>only being land or building or both</i>, invested in the long-term specified asset at any time within a period of six months after the date of such transfer, shall not be charged to tax subject to certain conditions specified in the said section</li> <li>- Long-term specified asset, for making any investment: <ul style="list-style-type: none"> <li>o on or after 1 April 2007 and before 1 April 2018: shall mean any bond, issued and redeemable after three years;</li> <li>o on or after 1 April 2018: shall mean any bond, issued and redeemable after five years</li> </ul> <p>by National Highways Authority of India or by Rural Electrification Corporation Limited or any other bond notified by the Central Government</p> </li> </ul>	<ul style="list-style-type: none"> <li>- A new proviso is inserted in section 54EC(2) which provides that the exemption shall be withdrawn if bonds issued on or after 1 April 2018 are transferred or redeemed within 5 years</li> </ul>

	Amendments as introduced by Finance Bill 2018	Amendments as passed by Lok Sabha
<p><b>Long-term capital gains on sale of equity shares, etc.</b></p> <p><b>[New Section 112A]</b></p>	<ul style="list-style-type: none"> <li>- Insertion of new section 112A, to tax long-term capital gains in case of transfer of equity shares, etc.</li> <li>- Cost of acquisition, in respect of assets acquired before 1 February 2018, shall be higher of: <ul style="list-style-type: none"> <li>o Actual cost of acquisition of such assets or</li> <li>o Lower of <ul style="list-style-type: none"> <li>• fair market value of such assets or</li> <li>• full value of consideration received or accruing as result of transfer of the capital asset</li> </ul> </li> </ul> </li> </ul> <p><b>Fair market value</b> means:</p> <ul style="list-style-type: none"> <li>o in a case where the capital asset is listed on any recognised stock exchange, the highest price of the capital asset quoted on such exchange on 31 January 2018 or</li> <li>o in a case where the capital asset is a unit and is not listed on a recognised stock exchange, the net asset value of such asset as on 31 January 2018</li> </ul>	<ul style="list-style-type: none"> <li>- The method of computation of cost of acquisition of listed equity shares or units as explained in Section 112A and meaning of 'fair market value' is now <u>inserted in Section 55 and omitted from section 112A</u></li> <li>- The meaning of 'fair market value' is expanded to include a situation <ul style="list-style-type: none"> <li>o where shares were unlisted as on January 31, 2018 but are listed on the date of transfer or</li> <li>o the shares were listed on the date of transfer but unlisted on January 31, 2018, and such shares became the property of the assessee in consideration of a share, in lieu of any transaction specified in section 47</li> </ul> </li> </ul> <p>In the above scenario, the taxpayer is also allowed to take the benefit of indexation of cost of acquisition for FY 2017-18 of such unlisted equity shares</p>

	Amendments as introduced by Finance Bill 2018	Amendments as passed by Lok Sabha
<p><b>Long-term capital gains on sale of equity shares, etc.</b> (Contd...) [New Section 112A]</p>	<p>- <b>Other Conditions:</b></p> <ul style="list-style-type: none"> <li>○ <u>Long-term capital gains will be computed without giving effect to the first and second proviso to section 48</u></li> <li>○ The benefit of deduction under Chapter VI-A shall not be allowed from such capital gains.</li> <li>○ Rebate under section 87A shall not be allowed from income-tax payable on such capital gains.</li> </ul>	<ul style="list-style-type: none"> <li>- Section 112A(5) provides that the long-term capital gains shall be computed without giving effect to the first proviso (asset acquired in foreign currency) and second proviso (indexation benefit) of Section 48</li> <li>- The provision of this sub-section is inserted in Section 48 and omitted from section 112A</li> </ul>
<p><b>Rationalisation of provisions relating to Country-by-country (CbC) report</b> [Section 286]</p>	<p>Following amendments are proposed to be made in section 286:</p> <ul style="list-style-type: none"> <li>- A constituent entity resident in India, having a non-resident parent, shall also be required to furnish CbC report, in case its parent entity outside India has no obligation to file the report in the parents' country or territory.</li> <li>- The due date for furnishing of CbC report by a constituent entity referred under section 286(4) is <u>proposed to be twelve months from end of the reporting accounting year</u></li> <li>- The definition of the term 'agreement' is proposed to also include an agreement as may be notified by the Central Government for exchange of the <u>CbC report referred to in section 286 (2) and 286 (4)</u></li> <li>- This amendment will take effect retrospectively from AY 2017-18</li> </ul>	<ul style="list-style-type: none"> <li>- The due date for furnishing of CbC report by a constituent entity referred to in section 286(4) <u>shall be within the period as may be prescribed</u></li> <li>- The definition of the term 'agreement' is substituted to include an agreement as may be notified by the Central Government for exchange of the <u>CbC report referred to in section 286 (2)</u></li> </ul>

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The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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