

## ICAI Pre-Budget Suggestions relating to Direct Tax Accepted in Finance Bill 2016



S. No.	Topic	Section	Suggestion of ICAI	Changes Proposed by Union Budget 2016-17
1.	<b>The Income Declaration Scheme, 2016</b>	NA	In respect of high no. of pending cases and to reduce litigations, ICAI had recommended a scheme on the lines of Kar Vivad Samadhan Scheme (KVSS).	<ul style="list-style-type: none"> <li>On the lines of suggestion of ICAI, the Finance Bill, 2016 had proposed 'The Income Declaration Scheme, 2016' under Chapter IX to the Finance Bill, 2016.</li> </ul>
2.	<b>System of Assessment and Appeals : Need for disconnect between the tax payer and the tax administration</b>	NA	<ul style="list-style-type: none"> <li>The ICAI had suggested that the need for personal interface between the taxpayer and the Income-tax authority should be minimised since it would help in reducing the possibility of unfair practices.</li> </ul>	<ul style="list-style-type: none"> <li>The Finance Bill, 2016 has, in line with ICAI's suggestion proposed to amend the relevant provisions of the Act like Section 282A, 143(2), 2(23C) so as to provide adequate legal framework for paperless assessment in order to enhance efficiency and reduce the burden of compliance.</li> <li>The cases selected for scrutiny are proposed to be scrutinised in e-environment whereby unless the assessee himself wants to be heard, or for special reasons to be recorded, the Assessing Officer wants to hear the party, there will be no face to face contact of IT Department with assessee.</li> </ul>

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3.	<b>Consortium of Members - treatment as an Association of Persons (AOP)</b>	2(31),4	ICAI had suggested for provision of clear guidelines regarding the situations necessitating treatment of consortium of members/contractors particularly to implement large infrastructure projects in Engineering Procurement and Construction ('EPC') contracts and Turnkey Projects as an AOP.	<ul style="list-style-type: none"> <li>In line with suggestion of ICAI, the CBDT <i>vide</i> Circular No. 7/2016, dated 07-03-2016 had provided for concrete attributes wherein the consortium arrangement may not be treated as an AOP.</li> </ul>
4.	<b>Amendment in Rule 8D</b>	14A	Computation of disallowance by applying Rule 8D has created genuine hardship for tax payers in some cases, as the calculation basis under rule 8D is quite arbitrary. The reason for hardship was that in many cases, the disallowance calculated as per rule 8D method exceeded the amount of total exempted income earned during the year. Therefore, ICAI had recommended for relook of this provision.	In this regard, the Honourable Finance Minister in his Budget Speech has proposed to rationalise the formula in Rule 8D governing specified quantification. The said Rule is being amended to provide that disallowance will be limited to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed. The said change would be brought through issue of an appropriate notification.
5.	<b>Special provisions on taxation of unrealised rent allowed as deduction when realised subsequently, unrealised rent received subsequently and arrears of rent received</b>	25A, 25AA, 25B	ICAI had recommended that Section 25AA be suitably amended to provide that unrealised rent subsequently realised shall after deducting a sum equal to thirty percent of such amount shall be deemed to be income chargeable under the head "Income from House property".	The Finance Bill, 2016 has proposed to simplify specified provisions and merge them under a single new Section 25A so as to bring uniformity in tax treatment of arrears of rent and unrealised rent. Relevant proposal provides that thirty per cent of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.
6.	<b>Depreciation on 'Oil Well'</b>	32, New Appendix I to Income-tax Rules, 1962	ICAI had recommended to classify 'Oil Well' as a plant and machinery by amending the Income-tax Rules, 1962 through issue of an appropriate notification.	The CBDT had <i>vide</i> Notification No 13/2016, dated 03-03-2016 had amended the Income-tax Rules, 1962 and included 'Oil Wells' under 'Plant and Machinery'.

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7.	<b>Rationalisation of scope of tax incentive under Section 32AC</b>	32AC	ICAI had recommended that the provisions of Section 32AC be suitably amended so that new assets acquired on or after 1.04.2014 and installed before 31.03.2017 be provided the <b><i>benefit of investment allowance in the year of installation.</i></b>	The Finance Bill, 2016 has, in line with ICAI's suggestion, proposed to amend sub-Section (1A) of Section 32AC so as to provide that the acquisition of the plant & machinery of the specified value has to be made in the previous year. However, <b><i>installation may be made by 31.03.2017 in order to avail the benefit of investment allowance of 15%.</i></b> It is further proposed to provide that where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-Section shall be allowed in the year in which the new asset is installed.
8.	<b>NPA calculation for NBFCs</b>	36(1)(viiia)	ICAI had recommended that NBFCs may also be included in Section 36(1)(viiia) so that the benefits are also extended to infrastructure financing NBFCs.	The Finance Bill, 2016 has proposed to amend the provision of clause (viiia) of sub-Section (1) of Section 36 so as to provide deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of five per cent of the total income in the case of NBFCs. This is in line with ICAI's suggestion.
9.	<b>Rationalisation of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property</b>	50C	Current Section 43CA provides that the stamp duty value may be taken as on the date of the agreement for transfer instead of the date of registration, provided at least a part of the consideration for transfer has been received by any mode other than cash on or before the date of agreement.  ICAI had recommended that a similar provision for adopting stamp duty value on the date of agreement for transfer instead of the date of registration be inserted in Section 50C also.	The Finance Bill, 2016 has proposed to amend the provisions of Section 50C in line with ICAI's suggestion so as to provide that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.  It is further proposed to provide that the said provision shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

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10.	<b>Income from other sources (Rationalisation of Section 56 of the Income-tax Act)</b>	56(2)(vii)	<p>In case of Section 56(2) (vii), it has been specifically provided that the said clause is not applicable when shares have been received by way of amalgamation covered under Section 47. No such exclusion is applicable for Section 56 (2)(vii) (c)(ii).</p> <p>ICAI had recommended that a proviso on the lines of clause (vii) be introduced for the purpose of clause (vii)(c)(ii) also.</p>	The Finance Bill, 2016 has proposed to amend Section 56 so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-Section (2) of Section 56.
11.	<b>Deductions in respect of rents paid</b>	80GG	ICAI had recommended that considering the prevailing inflationary conditions in India, the limit under Section 80GG be reviewed and enhanced accordingly.	The Finance Bill, 2016 has proposed to amend Section 80GG so as to increase the maximum limit of deduction from existing ₹2,000 per month to ₹5,000 per month.
12.	<b>Applicability of MAT to foreign companies</b>	115JB	ICAI had recommended that Section 115JB may be appropriately amended to clarify that the same does not apply to any foreign company which is not required to maintain books of account or prepare statement of profit and loss under the Companies Act, 2013.	<p>The Finance Bill, 2016 has proposed to amend the Income-tax Act so as to provide that with effect from 01.04.2001, the provisions of Section 115JB shall not be applicable to a foreign company if –</p> <p>(i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-Section (1) of Section 90 or the Central Government has adopted any agreement under sub-Section (1) of Section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such Agreement; or</p> <p>(ii) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) above and the <i>assessee is not required to seek registration under any law for the time being in force relating to companies.</i></p>

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13.	<b>Enabling revision of belated return</b>	139(5)	ICAI had recommended that Section 139(5) may be amended to provide that the revised return can be filed even in the case of belated return.	The Finance Bill, 2016 has proposed to substitute sub-Section (5) of the aforesaid Section so as to provide that if any person, having furnished a return under Section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
14.	<b>Enhancement of TDS limits</b>	194C and 194H	ICAI had recommended for enhancement of threshold limits under Section 194C and 194H.	The Finance Bill, 2016 proposes to raise the thresholds limits under Section 194C and 194H.
15.	<b>Exemption from requirement of furnishing PAN under Section 206AA to certain non-resident</b>	206AA	ICAI had recommended that that a proviso should be inserted in Section 206AA to the effect that the provisions of the said Section shall not be applicable in respect of the deductee, being a non resident who is not required to get PAN allotted in his name.	The Finance Bill, 2016 has proposed to amend Section 206AA so as to provide that the provisions of the said section shall not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.
16.	<b>Tax Collection at Source (TCS) on sale of vehicles; goods or services</b>	206C	ICAI had also suggested that tax @ 1% of ex-showroom price should be allowed to be collected by the seller of high value cars, say, cars having value above ₹10 Lakhs, from the ultimate consumer.  ICAI had recommended that TCS be collected @ 1% on luxury goods purchased in cash in excess of ₹30,000.	The Finance Bill, 2016 has proposed to amend the Section 206C to provide that the seller shall collect the tax at the rate of one per cent from the purchaser on sale of motor vehicle of the value exceeding ten lakh rupees and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding two lakh rupees.
17.	<b>Rate of Interest on Tax Refunds</b>	244A	ICAI had recommended that since the rate of interest on refund is only half than what is charged, the rate may be suitably increased to minimise this huge difference.	The Finance Bill, 2016 has proposed to provide that where a refund arises out of appeal effect being delayed beyond the time prescribed under sub-Section (5) of Section 153, the assessee shall be entitled to receive, in addition to the interest payable under sub-Section (1) of Section 244A, an additional interest on such refund amount calculated at the rate of three per cent per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-Section (5) of Section 153 to the date on which the refund is granted.