

**Presentation**  
**on**  
**Demonetization, 2016**  
*{with special reference to Income Tax Laws}*

**Reserve Bank of India Act, 1934**

**Section 24**

**Denominations of notes**

(1) Subject to the provisions of sub-section (2), **bank notes** shall be of the denominational values of **two rupees, five rupees, ten rupees, twenty rupees, fifty rupees, one hundred rupees, five hundred rupees, one thousand rupees, five thousand rupees and ten thousand rupees** or of such other denominational values, not exceeding ten thousand rupees, as the Central Government may, on the recommendation of the Central Board, specify in this behalf.

(2) The Central Government may, on the recommendation of the Central Board, direct the non-issue or the discontinuance of issue of bank notes of such denominational values as it may specify in this behalf.

**Section 25**

**Form of bank notes**

The **design, form and material** of **bank notes** shall be such as may be approved by the Central Government after consideration of the recommendations made by Central Board.

**Section 26**

**Legal tender character of notes**

(1) Subject to the provisions of sub-section (2), every **bank note** shall be **legal tender** at any place in India **in payment or on account** for the amount expressed therein, **and** shall be **guaranteed** by the Central Government

(2) On recommendation of the Central Board the Central Government may, by notification in the Gazette of India, declare that, with effect from such date as may be specified in the notification, any series of **bank notes** of any denomination shall cease to be **legal tender save** at such office **or** agency of the Bank **and** to such extent as may be specified in the notification.

**Section 26A**

**Certain bank notes to cease to be legal tender**

Notwithstanding anything contained in section 26, no **bank note** of the denominational value of **five hundred rupees, one thousand rupees or ten thousand rupees** issued before the 13th day

of January, 1946, shall be **legal tender in payment or on account** for the amount expressed therein.

**Table of Gazette Notifications**  
**Issued by the Department of Economic Affairs**  
**Ministry of Finance, Government of India**  
**On Demonetization, 2016**

SN	Gazette Notification No.	Notification No.	Dated
1	2652	S.O. No. 3407(E)	8.11.2016
2	2653	S.O. No. 3408(E)	8.11.2016
3	2654	S.O. No. 3409(E)	8.11.2016
4	2661	S.O. No. 3416(E)	9.11.2016
5	2662	S.O. No. 3417(E)	9.11.2016
6	2663	S.O. No. 3418(E)	9.11.2016
7	2671	S.O. No. 3429(E)	10.11.2016
8	2682	S.O. No. 3445(E)	11.11.2016
9	2683	S.O. No. 3446(E)	13.11.2016
10	2684	S.O. No. 3447(E)	13.11.2016
11	2685	S.O. No. 3448(E)	14.11.2016
12	2717	S.O. No. 3480(E)	17.11.2016
13	2724	S.O. No. 3488(E)	18.11.2016
14	2725	S.O. No. 3489(E)	18.11.2016
15	2726	S.O. No. 3490(E)	20.11.2016
16	2773	S.O. No. 3543(E)	24.11.2016
17	2774	S.O. No. 3544(E)	24.11.2016
18	2819	S.O. No. 3598(E)	30.11.2016
19	2820	S.O. No. 3599(E)	30.11.2016

**Gazette Notification No. 2654 dated 8.11.2016**

*{Issue of new bank notes of the value of Rs. 2000/-}*

**S.O. 3409(E).**— In exercise of the powers conferred by **sub-section (2) of section 24** of the Reserve Bank of India Act, 1934 (2 of 1934) and on the recommendations of the Central Board of Directors of the Reserve Bank of India, the Central Government hereby **specifies** the **denomination of bank notes of the value of two thousand rupees.**

**Gazette Notification No. 2662 dated 9.11.2016**

*{Issue of new bank notes of the value of Rs. 2000/- - corrigendum of S.O. 3409(E)}*

**S.O. 3417(E).**—In the notification of the Government of India, Ministry of Finance, Department of Economic Affairs published *vide* number **S.O. 3409(E)** dated the 8th November, 2016 in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii) dated the 8th November, 2016, **for “sub-section (2)” read “sub-section (1)”.**

**Gazette Notification No. 2652 dated 8.11.2016**

*{Existing series of bank notes of Rs. 500/- and Rs. 1000/- ceased to be legal tender}*

**S.O. 3407(E).**— Whereas, the Central Board of Directors of the Reserve Bank of India (hereinafter referred to as the Board) has recommended that bank notes of denominations of the **existing series** of the value of **five hundred rupees and one thousand rupees** (hereinafter referred to as **specified bank notes**) shall be **ceased to be legal tender**;

And whereas, it has been found that **fake currency** notes of the specified bank notes have been largely in circulation and it has been found to be difficult to easily identify genuine bank notes from the fake ones and that the use of fake currency notes is causing adverse effect to the economy of the country;

And whereas, it has been found that **high denomination bank notes** are used for **storage of unaccounted wealth** as has been evident from the large cash recoveries made by law enforcement agencies;

And whereas, it has also been found that **fake currency** is being used for **financing subversive activities such as drug trafficking and terrorism**, causing damage to the economy and security of the country and the Central Government after due consideration has decided to implement the recommendations of the Board;

Now, therefore, in exercise of the powers conferred by **sub-section (2) of section 26 of the Reserve Bank of India Act, 1934 (2 of 1934)** (hereinafter referred to as the said Act), the Central Government hereby declares that the **specified bank notes** shall **cease to be legal tender** with effect from the 9th November, 2016 **to the extent specified below**, namely:—

**RBI CIRCULARS**

**Department of Payment and Settlement Systems (DPSS) and Department of Currency Management (DCM)** of Reserve Bank of India has issued several **Circulars** by way of Notifications under the Scheme of Demonetization, 2016 brought out by the 'Department of Economic Affairs' of the 'Ministry of Finance' of the 'Government of India' under section 24(1) and 26(2) of the Reserve bank of India Act, 1934 (2 of 1934). A complete list of the notifications issued by the Reserve Bank of India from 8.11.2016 to 25.11.2016 with regards to Demonetization, 2016 is as follows, which has been prepared to consolidate them for conveyance of making reference:

**RBI/2016-17/111**  
**DPSS. CO. PD. No./02.10.002/2016-2017**  
**November 8, 2016**

**ATMs –Non-dispensing of Old High Denomination Notes – Closure of operations**

The Government of India has withdrawn from immediate effect (midnight of November 8, 2016) the legal tender character of the **existing and any older series** banknotes in the denominations of Rs. 500 and RS. 1000. As such, dispensing of these Old High Denomination (OHD) banknotes by banks through their ATMs has to be stopped from midnight of November 8, 2016.

**FREQUENTLY ASKED QUESTIONS**

Q 3. Does the scheme apply to **pre 2005 banknotes** of Rs. 500 and Rs. 1000?

Yes. specified banknotes (SBN) include **pre 2005 banknotes** in the denominations of Rs.500 and Rs.1000. Banks should accept for **exchange as well** as for **deposit**, pre 2005 bank notes in the denominations of Rs. 500 and Rs. 1000 under the scheme.

**List of**  
**Circulars issued by RBI by way of**  
**Notifications**  
**on Demonetization, 2016**

SN	Date	File No.	Circular No.	Subject
1	8.11.2016	RBI/2016-17/111 DPSS.CO.PD. No./02.10.002/ 2016-2017	RBI Circular No. 111	ATMs – Non-dispensing of Old High Denomination Notes – Closure of operations.  Withdrawn from immediate effect (midnight of November 8, 2016) the <b>legal tender character</b> of the <b>existing and any older series</b> banknotes in the denominations of Rs. 500 <b>and</b> Rs. 1000. As such, dispensing of these Old High Denomination (OHD)

				banknotes by banks through their ATMs has to be stopped from midnight of November 8, 2016.
2	8.11.2016	RBI/2016-17/112 DCM (Plg) No.1226/10.27.00/ 2016-17	RBI Circular No. 1226	Withdrawal of Legal Tender Character of existing Rs. 500/- and Rs. 1000/- Bank Notes – <b>Detailed Circular with Forms.</b>
3	9.11.2016	RBI/2016-17/115 DCM (Plg) No. 1241/10.27.00/ 2016-17	RBI Circular No. 1241	Reopening of ATMs from 11.11.2016 <i>etc.</i>
4	9.11.2016	RBI/2016-17/113 A.P. (DIR Series) Circular No. 16 November	RBI Circular No. 16	Withdrawal of the legal tender character of the existing and any older series banknotes in the denominations of Rs. 500 and Rs. 1000 - <b>Exchange facility at international airport and for foreign tourists.</b>
5	10.11.2016	RBI/2016-17/123 DCM (Plg) No.1251/10.27.00/ 2016-17	RBI Circular No. 1251	Limit for withdrawal of Cash - <b>from bank accounts over the counters.</b>
6	11.11.2016	RBI/2016-17/124 DCM (Plg) No.1256/10.27.00/ 2016-17	RBI Circular No. 1256	Limit for withdrawal of Cash - <b>for Government Departments.</b>
7	11.11.2016	RBI/2016-17/125 DCM (Plg) No.1264/10.27.00/ 2016-17	RBI Circular No. 1264	Reporting and Monitoring - <b>Consolidated Report - 6A should be mailed by close of business in the next day.</b>
8	12.11.2016	RBI/2016-17/128 DCM (Plg) No.1268/10.27.00/ 2016-17	RBI Circular No. 1268	Bank Notes – <b>Reporting and Monitoring – Information on issuance of banknotes over the counters / ATMs</b>
9	13.11.2016	RBI/2016-17/129 DCM (Plg) No. 1272 /10.27.00/ 2016-17	RBI Circular No. 1272	Bank Notes – Revision in limits for <ul style="list-style-type: none"> <li>• <b>exchange</b></li> <li>• <b>withdrawal from ATM</b></li> <li>• <b>withdrawal from bank accounts</b></li> </ul>
10	14.11.2016	RBI/2016-17/130	RBI Circular No. 1273	Applicability of the Scheme

		DCM (Plg) No.1273/10.27.00/ 2016-17		to District Central Cooperative Banks (DCCBs)
11	14.11.2016	RBI/2016-17/131 DCM (Plg) No. 1274/10.27.00/ 2016-17	RBI Circular No. 1274	<b>Expanding the distribution locations</b> for deposit <b>and withdrawal of cash.</b>
12	14.11.2016	RBI/2016-17/132 DPSS.CO.PD. No.1240/02.10.004/ 2016-2017	RBI Circular No. 1240	Usage of ATMs – <b>Waiver of customer charges.</b>
13	15.11.2016	RBI/2016-17/133 DCM (Plg) No.1280/10.27.00/ 2016-17	RBI Circular No. 1280	Standard Operating Procedure (SOP) for <b>putting indelible ink</b> on the finger of the customers coming to a bank branch for SBNs
14	16.11.2016	RBI/2016-17/135 DCM (Plg) No.1287/10.27.00/ 2016-17	RBI Circular No. 1287	Compliance with provisions of <b>Rule 114B</b> of the Income Tax Rules, 1962
15	16.11.2016	RBI/2016-17/136 DCM (Plg) No.1291/10.27.00/ 2016-17	RBI Circular No. 1291	<b>Daily Reporting -</b> The banks are, therefore, advised to send daily data in <b>Annex. 6A</b> before 2300 hrs everyday by email to RBI, DCM, CO.
16	17.11.2016	RBI/2016-17/139 DCM (Plg) No.1302/10.27.00/ 2016-17	RBI Circular No. 1302	<b>Exchange over the counters - Rs. 2000/- only once per person</b>
17	18.11.2016	RBI/2016-17/140 DPSS.CO.PD. No.1280/02.14.003/ 2016-17	RBI Circular No. 1280	Cash withdrawal at Point-of-Sale (POS) - Withdrawal limits and customer fee/charges - <b>Relaxation</b>
18	20.11.2016	RBI/2016-17/141 DCM (Plg) No.1304/10.27.00/ 2016-17	RBI Circular No. 1304	<b>Revision in limits -</b> Retain the daily limit of withdrawal from recalibrated ATMs at Rs. 2500/- per day
19	21.11.2016	RBI/2016-17/142 DCM (Plg) No.1317/10.27.00/ 2016-17	RBI Circular No. 1317	<b>Cash withdrawal limit -</b> Holders of - <ul style="list-style-type: none"> <li>• <b>current accounts</b></li> <li>• <b>overdraft accounts</b></li> <li>• <b>cash credit accounts,</b> wick are operational for the last three</li> </ul>

				months or more, may now withdraw upto Rs. 50000 in cash, in a week. This enhanced limit for weekly withdrawal is not applicable for personal overdraft accounts.
20	21.11.2016	RBI/2016-2017/145 DCM (Plg) No.1320/10.27.00/ 2016-17	RBI Circular No. 1320	<b>Cash withdrawal for purpose of celebration of wedding.</b>
21	21.11.2016	RBI/2016-17/146 DCM (Plg) No.1323/10.27.00/ 2016-17	RBI Circular No. 1323	<b>Revisions for farmers and traders registered with APMC markets and mandis.</b>
22	22.11.2016	RBI/2016-17/147 DCM (Plg) No.1341/10.27.00/ 2016-17	RBI Circular No. 1341	<b>Fraudulent Practices.</b>
23	22.11.2016	RBI/2016-17/148 DCM (Plg) No.1345/10.27.00/ 2016-17	RBI Circular No. 1345	<b>Making cash available for Rabi Crop Season – Advisory to banks.</b>
24	22.11.2016	RBI/2016-17/149 DCM (Plg) No.1346/10.27.00/ 2016-17	RBI Circular No. 1346	<b>Cash withdrawal for purpose of celebration of wedding – Modification.</b>
25	22.11.2016	RBI/2016-17/150 DPSS.CO.PD. No.1288/02.14.006/ 2016-17	RBI Circular No. 1288	<b>Special measures to incentivise Electronic Payments –</b>  (i) Enhancement in issuance limits for Pre-Paid Payment Instruments (PPIs) in India  (ii) Special measures for merchants
26	23.11.2016	RBI/2016-17/151 DCM (Plg) No.1351/10.27.00/ 2016-17	RBI Circular No. 1351	<b>Deposit of specified banknotes (SBN) in Small Savings Schemes -</b> Banks are, therefore, advised not to accept SBNs for deposits in Small Saving

				Schemes with immediate effect.
27	24.11.2016	RBI/2016-17/154 DCM (Plg) No.1384/10.27.00/ 2016-17	RBI Circular No. 1384	Withdrawal of Specified Banknotes : <b>Cash requirements of pensioners and Armed Forces Personnel</b>
28	24.11.2016	RBI/2016-17/155 DCM (Plg) No.1391/10.27.00/ 2016-17	RBI Circular No. 1391	<b>Discontinuation of over the Counters Exchange of SBN</b> - Withdrawal of Legal Tender Character of existing ` 500 and ` 1000 Bank Notes – Exchange over the counters.
29	25.11.2016	RBI/2016-17/158 DCM (Plg) No. 1424/10.27.00/ 2016-16	RBI Circular No. 1424	Withdrawal of cash – <b>Weekly limit</b> of Rs. 24000/- per week and RS. 2500 / 2000 per day from ATM shall continue till further instructions.
30	25.11.2016	RBI/2016-17/157 A.P. (DIR Series) Circular No. 20	RBI Circular No. 20	<b>Exchange facility to foreign citizens – (i.e.</b> foreign passport holders) can exchange foreign exchange for Indian currency notes up to a limit of Rs. 5000/- per week till December 15, 2016 subject to the tenderer submitting a self-declaration that this facility has not been availed of during the week.
31	28.11.2016	RBI/2016-17/163 DCM.No. 1437/10.27.00/ 2016-17	RBI Circular No. 1437	Withdrawal of cash from bank deposit accounts – <b>Relaxation</b> - allowing withdrawals of deposits made in current legal tender notes on or after November 29, 2016 beyond the current limits; preferably, available higher denominations bank notes of ` 2000 and ` 500 are to be issued for such withdrawals
32	29.11.2016	RBI/2016-17/165 DCM.No. 1450/10.27.00/ 2016-17	RBI Circular No. 1450	Accounts under PMJDY - <b>Precautions</b>



33	1.12.2016	RBI/2016-17/166 DCM.No. 1500/10.27.00/ 2016-17	RBI Circular No. 1500	Information from Unauthenticated Sources – <b>Advisory to banks</b>
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### **Glossary**

- RBI - Reserve Bank of India
- IBA - Indian Banks Association
- SBNs - Specified Bank Notes
- OHD - Old High Denomination
- DPSS - Department of Payment and Settlement Systems
- DCM - Department of Currency Management
- DCCB - District Central Co-operative Banks
- RRBs - Regional Rural Banks
- SOP - Standard Operating Procedure
- PAN - Permanent Account Number
- POS – Point-of-Sale
- PACS - *Primary Agricultural Credit Societies*
- NABARD - National Bank for Agriculture and Rural Development
- PPIs - Pre-paid Payment Instruments
- CVPS - Currency Verification and Processing System
- NPCI - National Payment Council of India
- UPI - Unified Payment Interface
- BCs - Business Correspondents
- ATMs - Automatic Teller Machines
- APMC- Agricultural Produce Market Committee
- A.P. – Authorised Person

### **Watch the mood and move of the Government**

*{Efforts of Income Tax Department}*

**Move towards cash less economy**

*via*

**less cash economy**

*{Special reference to Income Tax Law}*

SN	Section	Subject	Threshold, if any
<b>Income from business of profession</b>			
1	40A(3)	Disallowance of payment or aggregate of payments made to a person in a day, otherwise than by an	Exceeding

		account payee cheque drawn on a bank or account payee bank draft.	Rs. 20,000/-
2	40A(3) 2 <sup>nd</sup> proviso	Disallowance of payment or aggregate of payments made to a person in a day ( <b>towards plying, hiring or leasing goods carriages</b> ) , otherwise than by an account payee cheque drawn on a bank or account payee bank draft.	Exceeding Rs. 35,000/-
3	40A(3A)	Disallowance of payment or aggregate of payments made ( <b>in a subsequent year against any liability incurred in earlier year</b> ) to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft.	Exceeding Rs. 20,000/-
4	40A(3A) 2 <sup>nd</sup> proviso	Disallowance of payment or aggregate of payments made ( <b>in a subsequent year against any liability incurred in earlier year towards plying, hiring or leasing goods carriages</b> ) to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft.	Exceeding Rs. 35,000/-
<p style="text-align: center;"><b>Chapter XX-B</b>  <b>Requirement as to mode of acceptance, payment or repayment to counteract evasion of tax</b></p>			
5	269SS	Taking <b>or</b> acceptance of any <u>loan or deposit</u> <i>{i.e. loan or deposit of money}</i> otherwise than by an account payee cheque <b>or</b> account payee bank draft <b>or</b> use of electronic clearing system through a bank account.	the amount of such <u>loan or deposit</u> <b>or</b> the aggregate amount of such <u>loan or deposit</u> Rs. 20,000/- <b>or</b> more
6	269SS	Taking <b>or</b> acceptance of any <u>specified sum</u> <i>{any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property, whether or not the transfer takes place}</i> otherwise than by an account payee cheque <b>or</b> account payee bank draft <b>or</b> use of electronic clearing system through a bank account.  <i>{Substituted by the Finance Act, 2015 w.e.f 1.6.2015}</i>	the amount of such <u>specified sum</u> <b>or</b> the aggregate amount of such <u>specified sum</u> Rs. 20,000/- <b>or</b> more

7	269T	Repayment of <u>loan or deposit</u> <i>fi.e. loan or deposit of <u>money</u> which is repayable after notice or repayable after a period and, in the case of a person other than a company, includes loan or deposit of any nature</i> otherwise than by an account payee cheque <b>or</b> account payee bank draft <b>or</b> use of electronic clearing system through a bank account.	the amount of such <u>loan or deposit</u> <b>or</b> the aggregate amount of such <u>loan or deposit</u> Rs. 20,000/- <b>or</b> more
8	269T	Repayment of <u>specified advance</u> <i>fi.e. any sum of <u>money</u> in the nature of advance, by whatever name called, in relation of transfer of an immovable property, whether or not transfer takes place</i> otherwise than by an account payee cheque <b>or</b> account payee bank draft <b>or</b> use of electronic clearing system through a bank account.  <i>{Substituted by the Finance Act, 2015 w.e.f 1.6.2015}</i>	the amount of such <u>specified advance</u> <b>or</b> the aggregate amount of such <u>specified advance</u> Rs. 20,000/- <b>or</b> more
<b>Chapter XXVII -BB</b> <b>Collection of tax</b>			
9	206C(1D)	TCS @ 1% in cash of cash sale of – • Bullion	Exceeding <b>Rs. 200000/-</b> in a single transaction
10	206C(1D)	TCS @ 1% in cash of cash sale of – • Jewellery	Exceeding <b>Rs. 500000/-</b> in a single transaction
11	206C(1D)	TCS @ 1% in cash of cash sale of – • Any other goods • Any service  <i>{Inserted by the Finance Act, 2016 w.e.f 1.6.2016}</i>	Exceeding <b>Rs. 200000/-</b> in a single transaction

**Notification No. 104/2016**  
**dated 15.11.2016**  
**issued by**  
**Government of India**  
**Ministry of Finance**  
**Department of Revenue**  
**Central Board of Direct Taxes**

**G.S.R 1068(E).**- In exercise of the powers conferred by **section 285BA**, read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the Income-tax (30<sup>th</sup> Amendment) Rules, 2016.  
(2) They shall come into force from the date of their publication in the Official Gazette.
2. In the Income-tax Rules, 1962 (hereinafter referred to as the said rules), in **rule 114B**, in the Table, **for serial number 10** and entries relating thereto the following serial number and entries shall be **substituted**, namely:-

Sl. No.	Nature of transaction	Value of transaction
(1)	(2)	(3)
10.	Deposit with,-  (i) <b>a</b> banking company <b>or a</b> co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (including any bank <b>or</b> banking institution referred to in section 51 of that Act);  (ii) Post Office.	Cash deposits,- (i) exceeding fifty thousand rupees during any one day; <b>or</b>  (ii) aggregating to more than two lakh fifty thousand rupees during the period 09th November, 2016 to 30th December, 2016

3. In the said rules, in **rule 114E**,—
  - (i) in **sub-rule (2)**, in the Table, **after serial number 11** and entries relating thereto the following serial number and entries shall be **inserted**, namely:-

Sl. No.	Nature and value of transaction	Class of person (reporting person)
(1)	(2)	(3)
12.	Cash deposits	(i) A banking company <b>or</b> a co-operative bank to which

<p>during the period 09th November, 2016 to 30th December, 2016 aggregating to—</p> <p>(i) twelve lakh fifty thousand rupees or more, in one or more current account of a person; <b>or</b></p> <p>(ii) two lakh fifty thousand rupees or more, in one or more accounts (other than a current account) of a person.</p>	<p>the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);</p> <p>(ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).</p>
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(ii) in **sub-rule (5)**, the following **proviso** shall be **inserted**, namely:-

“Provided the **statement of financial transaction** in respect of the transactions listed at **serial number (12)** in the Table under sub-rule (2), shall be furnished on or before the **31st day of January, 2017**.”.

### Comments

#### Rule 114B

*{As amended by Income Tax (22<sup>nd</sup> Amendment) Rule, 2015, dated 30.12.2015 w.e.f 1.1.2016}*

*{Transactions in relation to which permanent account number is to be quoted in all documents for the purpose of clause (c) of subsection (5) of section 139A}*

- **Rule 114B** is made in Income Tax Rules, 1962 *{the Rules}* in terms of the provisions of **section 139A(5)(c)** of Income Tax Act, 1961 *{the Act}* which provides that “every person shall quote such number (PAN) in all documents pertaining to such transactions as may be prescribed by the Board in the interest of the revenue, and entered into by him:”.
- It means that –
  - every person
  - shall quote
  - such number (PAN)
  - **in all documents**
  - **pertaining to such transactions**

- as may be **prescribed** by the Board
  - in the interest of the revenue, and
  - entered into by
  - **him**
- As per **section 2(33)** of the Act, “**prescribed**” means prescribed by rules under the Act.
- As per **section 295(2)(eeb)**, CBDT is empowered to make rules specifying transactions with respect to which permanent account numbers shall be quoted on documents relating to such transactions under section 139A.
- Further, **section 139A(8)(b)** empowers the Board to make rules providing for “the categories of transactions in relation to which permanent account number (PAN) **or** the General Index Register Number (GIR) shall be quoted by every person in the documents pertaining to such transactions”.
- Accordingly, **rule 114B** specifies the transaction in respect of which PAN is to be quoted in all documents relating such transactions. The specified transactions are listed in the “**Table**” provided in the rule 114B, which is as follows:

**Summary of Table u/s Rule 114B**

<b><u>SN</u></b>	<b><u>Nature of transaction</u></b>	<b><u>Value of transaction</u></b>
1	Sale or Purchase of motor vehicle <b>or</b> vehicle	All transactions
2	Opening of an account with banks ( <b>other than</b> Term deposit and BSBDA)	All transactions
3	Application to any bank for issue of debit <b>or</b> credit card	All transactions
4	Opening of a demat account	All transactions
5	Payment to hotel <b>or</b> restaurant at any one time	<b>Cash</b> payment (>) Rs. 50000/-
6	Payment in connection foreign travel <b>or</b> purchase of foreign currency at any one time	<b>Cash</b> payment (>) Rs. 50000/-

7	Payment <b>to</b> a mutual fund for purchase of its units	Amount (>) Rs. 50000/-
8	Payment <b>to</b> a company <b>or</b> institution for acquiring debentures <b>or</b> bonds <b>issued by it</b>	Amount (>) Rs. 50000/-
9	Payment to RBI for acquiring bonds <b>issued by it.</b>	Amount (>) Rs. 50000/-
10	Deposits with banks and Co-operative banks	<b>Cash</b> deposits (>) Rs. 50000/- during any one day
11	Purchase of Bank drafts <b>or</b> pay orders <b>or</b> banker's cheques	<b>Cash</b> payment for <b>an</b> amount (>) Rs. 50000/- during any one day
12	Time deposit with Bank, Post Office, Nidhi <b>or</b> NBFC	Amount (>) Rs. 50000/- <b>or</b> aggregating to (>) Rs. 500000/- during a financial year
13	Payment for one <b>or</b> more pre-paid payment instruments	Payment in <b>cash or by way of</b> <ul style="list-style-type: none"> <li>• a bank draft <b>or</b></li> <li>• pay order <b>or</b></li> <li>• banker's cheque</li> </ul> of <b>an</b> amount <b>aggregating to</b> (>) 50000/- in a financial year
14	Payment as life insurance premium to an insurer	Amount aggregating to (>) Rs. 50000/- in a financial year
15	<b>A</b> contract for sale <b>or</b> purchase of securities (other than shares)	Amount (>) Rs. 100000/- per transaction
16	Sale <b>or</b> purchase, by any person, of shares of a company not listed in a recognised stock exchange	Amount (>) Rs. 100000/- per transaction
17	Sale <b>or</b> purchase of any immovable property	Amount (>) Rs. 1000000/- <b>or</b> valued by stamp valuation authority referred to in section 50C of the Act at <b>an</b> amount (>) Rs. 1000000/-
18	Sale <b>or</b> purchase, by any person, of	Amount (>) Rs. 200000/- per transaction:

	goods <b>or</b> services of any nature <b>other than</b> those specified at Sl. No. 1 to 17 of this Table, if any.	
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- The Income-tax (30<sup>th</sup> Amendment) Rules, 2016 have amended by way of **substitution** only **“serial No. 10”** of the aforesaid Table w.e.f 15.11.2016, the analysis of which is as follows:

10	<p><b><u>Deposit with</u></b></p> <p>(i)</p> <ul style="list-style-type: none"> <li>➤ a banking company <b>or</b></li> <li>➤ a co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949), applies (<b>including</b> any bank <b>or</b> banking institution referred to in section 51 of that Act).</li> </ul> <p>(ii) Post Office</p>	<p><b>Deposits in <u>cash</u> exceeding fifty thousand rupees (Rs. 50000/-) during any <b>one day</b>.</b></p>	<p><b><u>Clause (i)</u></b></p> <p>Account holder has to Quote his PAN on the documents relating to <b>deposit (s) in <u>cash</u></b> with –</p> <ul style="list-style-type: none"> <li>➤ a banking company</li> <li>➤ a co-op. bank</li> <li>➤ any bank</li> <li>➤ banking institution</li> <li>➤ Post Office</li> </ul> <p><b>exceeding Rs. 50000/- during <b>any one day</b>.</b></p> <p>The use of <b>(s)</b> after the word ‘<b>deposit</b>’ and the word <b>“during”</b> signifies Rs. 50000/- in one day in cash, which may be in one time <b>or</b> aggregating during one day.</p> <p>The use of <b>(a)</b> before ‘<b>banking company</b>’ and ‘<b>co-operative bank</b>’ signifies that the requirement is in respect of deposits of Rs. 50000/- in one account with a bank or co-operative bank.</p> <p><b><u>Clause (ii)</u></b></p>
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			<p>The newly inserted Clause (ii) requires that account holder has to Quote his PAN on the documents relating to <b>deposit (s) in cash</b> with –</p> <ul style="list-style-type: none"> <li>➤ a banking company</li> <li>➤ a co-op. bank</li> <li>➤ any bank</li> <li>➤ banking institution</li> <li>➤ Post Office</li> </ul> <p>Aggregating to more than <b>exceeding Rs. 250000/- during the period from 9.11.2016 to 30.12.2016</b></p> <p><b><u>Rule 114C(1)(c)/(h)</u></b> As per rule 114C(1)(c)/(h) the manager / officer / principal officer of the -</p> <ul style="list-style-type: none"> <li>➤ banking company</li> <li>➤ co-op. bank</li> <li>➤ bank</li> <li>➤ banking institution</li> <li>➤ post office</li> </ul> <p>are obliged to verify the correctness of PAN since they receive the <b>deposit in cash</b> and the documents relating to the transaction.</p>
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- It may be pertinent to mention that deposits in Post Office Accounts and deposits aggregating more than Rs. 250000/- are the **new requirements**, as inserted by way of substitution of entry of serial No. 10.
- It may also be pertinent to mention that the requirement of mentioning of PAN as per serial No. 10 shall now apply *w.e.f.* 15.11.2016 to **all deposits** in –
  - deposits with banking companies;
  - deposits with co-operative Banks;
  - deposits with Post Offices;
  - all banks referred to in section 51 of Banking Regulation Act, 1949;

- all banking institutions referred to in section 51 of Banking Regulation Act, 1949.
- Therefore, it will also apply to deposits in 'Post Office Accounts', including 'Public Provident Fund Accounts' (PPF) or any other small savings account.
- It may not be out of place to mention that except the entry in serial No. 10, the other provisions of rule 114B have remained unchanged. Therefore, the same shall now apply to the new entry w.e.f. 15.11.2016, which are being discussed hereunder.
- Besides the transactions for which PAN is to be mentioned mandatorily, the **1<sup>st</sup> proviso** to the rule provides that where a person, entering into any transaction referred to in this rule, is a -
  - **minor and**
  - **who does not have any income chargeable to income-tax,** he shall quote the permanent account number of his -
    - father **or**
    - mother **or**
    - guardian,
 as the case may be, in the document pertaining to the said transaction:
- Further, **2<sup>nd</sup> proviso** to the rule provides that in case any person **who does not have a permanent account number and who** enters into any transaction specified in this rule, he **shall** make a **declaration in Form No. 60** giving therein the **particulars of such transaction**.
- For this purpose, **section 139A(8)(e)** empowers the Board to make rules providing for "the form and manner in which the **person who has not been allotted a permanent account number (PAN) or** who does not have General Index Register Number (GIR) shall make such declaration"
- Accordingly **rule 114D** has been made.
- Further, **section 139A(8)(d)** empowers Board to make rules proving the "**class or classes of person to whom the provisions of this section shall not apply**"
- Further, **3<sup>rd</sup> proviso** to the rule provides for **exemption to persons** from **rule 114B**, according to which it is provided that the provisions of this rule **shall not apply** to the following **class or classes of persons**, namely:-
  - In respect of **all the transactions** mentioned in the "Table" provided in Rule 114B -

- the Central Government,
  - the State Governments **and**
  - the Consular Offices;
- the **non-residents** referred to in section 2(30) of the Income Tax Act, 1961 in respect of the transactions other than a transaction referred to at Sl. No. 1 **or** 2 **or** 4 **or** 7 **or** 8 **or** 10 **or** 12 **or** 14 **or** 15 **or** 16 **or** 17 of the Table. **It means that in the case of non-residents the requirement of quoting of PAN shall not apply in respect of following transactions:**
    - **Section 2(22AA)** provides **inclusive definition** of the word **“document”**, according to which **“document”** includes as **“electronic record”** as defined in clause (t) of sub-section (1) of section 2 of the Information Technology Act, 2000.
    - As per **section 2(1)(t) of the Information Technology Act, 2000**, **“electronic record”** means data, record or data generated, image or sound stored, received or sent in an electronic form or micro film or computer generated micro fiche.
    - The use of word **“him”** at the end of **section 139A(5)(c)** of the Act suggest that **PAN is to be quoted of such person who enters into such transaction.**

#### Rule 114E

*{As amended by Income Tax (22<sup>nd</sup> Amendment) Rule, 2015, dated 30.12.2015 w.e.f 1.4.2016}*

#### *{Furnishing of statement of financial transaction}*

- **Section 285BA(1)** of the Income Tax Act, 1961 provides that any responsible person specified in clause (a) to (k) shall file **a statement** of –
  - prescribed **specified financial transaction**;
  - prescribed **reportable account**
    - registered by him **or**
    - recorded by him **or**
    - maintained by him
  - to the -
    - **prescribed** income-tax authority **or**
    - **prescribed** other authority **or**
    - **prescribed** agency

- **Section 285BA(2)** provides that the **statement** referred to in sub-section (1) shall be **furnished** -
  - for the **prescribed period**,
  - within the **prescribed time and**
  - in the **prescribed form and**
  - in the **prescribed manner**,
  
- **Section 285BA(3)** defines “**specified financial transaction**” for the purpose of section 285BA(1), to mean -
  - the **prescribed** transaction of **purchase** -
    - of **goods or**
    - of **property or**
    - of **right in a property or**
    - of **interest in a property; or**
  - the **prescribed** transaction of **sale** -
    - of **goods or**
    - of **property or**
    - of **right in a property or**
    - of **interest in a property; or**
  - the **prescribed** transaction of **exchange** –
    - of **goods or**
    - of **property or**
    - of **right in a property or**
    - of **interest in a property; or**
  - the **prescribed** transaction for **rendering any service; or**
  - the **prescribed** transaction under a **works contract; or**
  - the **prescribed** transaction by way of an **investment made or**
  - the **prescribed** transaction of an **expenditure incurred; or**
  - the **prescribed** transaction for **taking any loan or**
  - the **prescribed** transaction of **accepting any loan or**
  - the **prescribed** transaction of **accepting any deposit**
  
- **1<sup>st</sup> proviso to Section 285BA(3)** provides that the Board may –
  - **prescribe different values for different transactions** in respect of
  - **different persons**

having regard to the nature of such transaction.

- **2<sup>nd</sup> proviso to Section 285BA(3)** provides that the –
  - the **prescribed value** of the **prescribed transaction or**,  
as the case may be,
  - the **prescribed aggregate value** of the **prescribed transactions**
  - during a financial year
  - shall **not** be
  - less than
  - fifty thousand rupees (**Rs. 50000/-**)

### Prescribed

- It may be seen from the above analysis that word **“prescribe”** has been used so many times and in relation to various contexts.
- As per **section 2(33)** of the Act, **“prescribed”** means prescribed by rules under the Act.
- As per **section 295(1)**, CBDT is empowered to make rules **generally** for carrying out the purpose of the Act **and** as per **section 295(2)(p)** **in particular** for any other matter which by this Act is to be, or may be **prescribed**.
- Therefore, wherever the word **“prescribe”** has been used, CBDT *{the Board, as defined in section 2(12)}* has to make rules in respect of the matter for which the word **“prescribe” or “prescribed”** is used.
- For the purpose of **section 285BA**, CBDT has to make rules in respect of following matters, which are being reiterated at the expense of repetition, consolidate:
  - to **prescribe** reporting financial institutions
  - to **prescribe** specified financial transaction
  - to **prescribe** reportable account
  - to **prescribe** income-tax authority with whom the statement is to be furnished
  - to **prescribe** other authority with whom the statement is to be furnished
  - to **prescribe** agency with whom the statement is to be furnished
  - to **prescribe** period for which the statement is to be furnished
  - to **prescribe** time within which the statement is to be furnished
  - to **prescribe** form in which the statement is to be furnished
  - to **prescribe** manner in which the statement is to be furnished

- to prescribe transaction of purchase of goods
- to prescribe transaction of purchase of property
- to prescribe transaction of purchase of right in a property
- to prescribe transaction of purchase of interest in a property
- to prescribe transaction of sale of goods
- to prescribe transaction of sale of property
- to prescribe transaction of sale of right in a property
- to prescribe transaction of sale of interest in a property
- to prescribe transaction of exchange of goods
- to prescribe transaction of exchange of property
- to prescribe transaction of exchange of right in a property
- to prescribe transaction of exchange of interest in a property
- to prescribe transaction for rendering any service
- to prescribe transaction under a works contract
- to prescribe transaction by way of an investment made
- to prescribe transaction of an expenditure incurred
- to prescribe transaction for taking any loan
- to prescribe transaction of accepting any loan
- to prescribe transaction of accepting any deposit
- to prescribe different values for different transactions in respect of different values for different persons having regard to the nature of such transaction
- to prescribe value of the prescribed transaction during a financial year, being not less than Rs. 50000/-
- to prescribe aggregate value of the prescribed transactions during a financial year, being not less than Rs. 50000/-
- to prescribe the manner in which the correction statement to be furnished

- Accordingly, the Board has made **Rule 114E** - Furnishing of “**statement of financial transaction**” {vide *Income-tax (22<sup>nd</sup> Amendment) Rule, 2015 dated 30.12.2015*}
- The “**statement of financial transaction**” required to be furnished under sub-section (1) of **section 285BA** of the Act shall be furnished in respect of a financial year in **Form No. 61A and** shall be verified in the manner indicated therein.
- The statement referred to in sub-rule (1) **shall be furnished by every person** mentioned in column (3) of the Table below in respect of all the transactions of the nature and value specified in the corresponding entry in column (2) of the said Table in accordance with the provisions of sub-rule (3), which are **registered or recorded** by him on **or** after the **1st day of April, 2016**, namely:-

**TABLE**

Sl. No.	Nature and value of transaction	Class of person (reporting person)
(1)	(2)	(3)
1.	<p>(a) <b>Payment</b> made in <b>cash</b> for purchase of</p> <ul style="list-style-type: none"> <li>➤ bank drafts <b>or</b></li> <li>➤ pay orders <b>or</b></li> <li>➤ banker's cheque</li> </ul> <p>of an amount <b>aggregating to ten lakh rupees (10,00,000) or more in a financial year.</b></p> <p>(b) <b>Payments</b> made in <b>cash</b> aggregating to ten lakh rupees (10,00,000) or more during the financial year for purchase of</p> <ul style="list-style-type: none"> <li>➤ pre-paid instruments issued by Reserve Bank of India under section 18 of the Payment and Settlement Systems Act, 2007 (51 of 2007).</li> </ul> <p>(c) <b>Cash deposits or cash withdrawals</b> (including through bearer's cheque) aggregating to fifty lakh rupees (50,00,000) or more in a financial year, in or from one or more <b>current account</b> of a person.</p>	<p><b>A banking company or a co-operative bank</b> to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act).</p>
2	<p><b>Cash deposits</b> aggregating to ten lakh rupees (10,00,000) or more in a financial year, in one or more accounts (<b>other than</b> a</p> <ul style="list-style-type: none"> <li>➤ current account <b>and</b></li> <li>➤ time deposit)</li> </ul> <p>of a <b>person</b>.</p>	<p>(i) <b>A banking company or a co-operative bank</b> to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank or banking institution referred to in section 51 of that Act);</p> <p>(ii) <b>Post Master General</b> as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).</p>
3	<p>One or more <b>time deposits</b> (<b>other than</b> a time deposit made through renewal of another time deposit) of a <b>person</b> aggregating to ten lakh (10,00,000)</p>	<p>(i) <b>A banking company or a co-operative bank</b> to which the Banking Regulation Act, 1949 (10 of 1949) applies</p>

	<p>rupees <b>or</b> more <b>in a financial year</b> of a person.</p>	<p>(including any <b>bank or banking institution</b> referred to in section 51 of that Act);</p> <p>(ii) <b>Post Master General</b> as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898);</p> <p>(iii) <b>Nidhi</b> referred to in section 406 of the Companies Act, 2013 (18 of 2013);</p> <p>(iv) <b>Non-banking financial company</b> which holds a certificate of registration under section 45-IA of the Reserve Bank of India Act, 1934 (6 of 1934), to hold <b>or</b> accept deposit from public.</p>
4	<p><b>Payments</b> made by any person of an amount aggregating to -</p> <p>(i) <b>one lakh rupees</b> (1,00,000) <b>or</b> more in <u><b>cash</b></u>; <b>or</b></p> <p>(ii) <b>ten lakh rupees</b> (10,00,000) <b>or</b> more by any other mode, <b>against bills raised</b> in respect of one <b>or</b> more <b>credit cards</b> issued to that person, <b>in a financial year</b>.</p>	<p>A <b>banking company or</b> a <b>co-operative bank</b> to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any <b>bank or banking institution</b> referred to in section 51 of that Act) <b>or any other company or institution</b> issuing <b>credit card</b>.</p>
5	<p><b>Receipt</b> from any <b>person</b> of an amount aggregating to <b>ten lakh rupees (10,00,000) or</b> more <b>in a financial year</b> for <b>acquiring</b></p> <ul style="list-style-type: none"> <li>➤ bonds <b>or</b></li> <li>➤ debentures</li> </ul> <p>issued by the company <b>or</b> institution (<b>other than</b> the amount received on account of renewal of the</p> <ul style="list-style-type: none"> <li>➤ bond <b>or</b></li> <li>➤ debenture</li> </ul>	<p>A <b>company or institution</b> issuing</p> <ul style="list-style-type: none"> <li>➤ bonds <b>or</b></li> <li>➤ debentures.</li> </ul>



	issued by that company).	
6	<p><b>Receipt</b> from any <b>person</b> of an amount aggregating to <b>ten lakh rupees (10,00,000) or more in a financial year</b> for <b>acquiring</b></p> <ul style="list-style-type: none"> <li>➤ shares</li> <li>➤ (including share application money) issued by the <b>company</b>.</li> </ul>	A <b>company issuing</b> shares.
7	<p><b>Buy back</b> of shares from any <b>person</b> (<b>other than</b> the shares bought in the open market) for an amount <b>or</b> value aggregating to <b>ten lakh rupees (10,00,000) or more in a financial year</b>.</p>	A <b>company</b> listed on a recognised stock exchange purchasing its own securities under section 68 of the Companies Act, 2013 (18 of 2013).
8	<p><b>Receipt</b> from any <b>person</b> of an amount aggregating to <b>ten lakh rupees (10,00,000) or more in a financial year</b> for <b>acquiring units</b> of one <b>or</b> more schemes of a <b>Mutual Fund</b> (<b>other than</b> the amount received on account of transfer from one scheme to another scheme of that <b>Mutual Fund</b>).</p>	A trustee of a <b>Mutual Fund or</b> such other person managing the affairs of the Mutual Fund as may be duly authorised by the trustee in this behalf.
9	<p><b>Receipt</b> from any <b>person</b></p> <ul style="list-style-type: none"> <li>➤ for <b>sale</b> of <b>foreign currency</b></li> <li>➤ including</li> <li>➤ any credit of <b>such currency</b> to foreign exchange card <b>or</b></li> <li>➤ expense in such currency through a <ul style="list-style-type: none"> <li>• debit <b>or</b></li> <li>• credit card <b>or</b></li> <li>• through issue of <ul style="list-style-type: none"> <li>▪ travellers cheque <b>or</b></li> <li>▪ draft <b>or</b></li> <li>▪ any other instrument</li> </ul> </li> </ul> </li> </ul> <p>of an amount aggregating to <b>ten lakh rupees (10,00,000) or more during a financial year</b></p>	<b>Authorised person</b> as referred to in clause (c) of section 2 of the Foreign Exchange Management Act, 1999 (42 of 1999).

10	<b>Purchase or sale</b> by any person of <b>immovable property</b> for <b>an amount</b> of <b>thirty lakh rupees (30,00,000) or more</b> or valued by the stamp valuation authority referred to in <b>section 50C</b> of the Act at <b>thirty lakh rupees (30,00,000) or more</b> .	<b>Inspector-General</b> appointed under section 3 of the Registration Act, 1908 <b>or Registrar or Sub-Registrar</b> appointed under section 6 of that Act.
11	<b>Receipt of cash payment</b> exceeding <b>two lakh rupees (2,00,000)</b> for <b>sale</b> , by any person, of <ul style="list-style-type: none"> <li>➤ goods <b>or</b></li> <li>➤ services</li> </ul> of any nature ( <b>other than</b> those specified at Sl. No. 1 to 10 of this rule, if any.	Any <b>person</b> who is <b>liable</b> for audit under <b>section 44AB</b> of the Act.

- As per sub-rule (3) the **reporting person** mentioned in column (3) of the Table under sub-rule (2) (**other than** the person at **Sl. No. 9**) shall, **while aggregating the amounts for determining the threshold amount for reporting** in respect of any person as specified in column (2) of the said Table,-
- (a) take into account **all the accounts of the same nature** as specified in column (2) of the said Table maintained in respect of that person **during the financial year**;
  - (b) **aggregate all the transactions of the same nature** as specified in column (2) of the said Table recorded in respect of that person **during the financial year**;
  - (c) attribute the entire value of the transaction **or** the aggregated value of all the transactions to all the persons, in a case where the account is maintained **or** transaction is recorded in the name of more than one person;
  - (d) **apply the threshold limit separately to deposits and withdrawals** in respect of transaction specified in item (c) under column (2), against Sl. No. 1 of the said Table.
- The The Income-tax (30<sup>th</sup> Amendment) Rules, 2016 have amended by way of **insertion** of **“serial No. 12”** in the aforesaid Table *w.e.f* 15.11.2016, the analysis of which is as follows:

Sl. No.	Nature and value of transaction	Class of person (reporting person)	Comments
12	<p><u>Cash</u> deposits during the period 09th November, 2016 to 30th December, 2016 aggregating to—</p> <p>(i) twelve lakh fifty thousand rupees <b>or</b> more, in one <b>or</b> more current account of a person; <b>or</b></p> <p>(ii) two lakh fifty thousand rupees <b>or</b> more, in one <b>or</b> more accounts (<u>other than</u> a current account) of a person.</p>	<p>(i) <b>A</b> banking company <b>or a</b> co-operative bank to which the Banking Regulation Act, 1949 (10 of 1949) applies (including any bank <b>or</b> banking institution referred to in section 51 of that Act);</p> <p>(ii) Post Master General as referred to in clause (j) of section 2 of the Indian Post Office Act, 1898 (6 of 1898).</p>	<p><u>Clause (i)</u></p> <p>The <b>Bank</b> shall furnish the details of <u><b>cash deposits</b></u> during the period <u>from</u> 9.11.2016 <u>to</u> 30.12.2016 <b>aggregating to</b> Rs. 12,50,000/- <b>in one or more current account</b> of a person  * It may be pertinent to note that the reporting requirement is for <b>Rs. 12,50,000/- or more.</b></p> <p><u>Clause (ii)</u></p> <p>The <b>Bank</b> as well as the <b>Post Office</b> shall furnish the details of <u><b>cash deposits</b></u> during the period <u>from</u> 9.11.2016 <u>to</u> 30.12.2016 <b>aggregating to</b> Rs. 2,50,000/- <b>in one or more account (s)</b> (<u>other than</u> a current account) of a person  * It may be pertinent to note that the reporting requirement is for <b>Rs. 2,50,000/- or more.</b></p> <p><u>Other than a current account</u></p> <p>The threshold of Rs. 2,50,000/- relates to all accounts <b>other than</b></p>

			<p><b>‘current account’.</b> It means that this threshold may be applied to deposits in any bank or post office account which is not of the nature of a current account e.g. –</p> <ul style="list-style-type: none"> <li>* recurring deposit a/c</li> <li>* small savings a/c</li> <li>* PPF a/c</li> <li>* Sukanya Samriddhi a/c</li> <li>* Senior Citizen Saving a/c <i>etc.</i></li> </ul> <p><b><u>Reporting Person – Use of letter “A”</u></b></p> <p>Use of letter <b>“A”</b> before ‘banking company’ <b>and</b> ‘Co-operative Bank’ signifies that the ‘reporting person’ shall be ‘a banking company’ <b>or</b> ‘a Co-operative Bank’ and not all the banking companies or all the Co-operative banks taken together.</p> <p><b><u>Form 61A</u></b></p> <p>The ‘Reporting Person’ is required to furnish the ‘Statement of Financial Transactions, in Form 61A online.</p> <p>As per serial No. A.1.2. of Part A of Form 61A the Reporting person is required to mention its Income-tax Department Reporting Entity Identification Number (ITDREIN), which is a Unique ID issued by ITD</p>
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			<p>which will be communicated by ITD after the registration of the reporting entity with ITD. The ITDREIN is a 16-character identification number, which is PAN based number.</p> <p><b><u>Thresholds</u></b></p> <p>From the above it appears that the threshold of Rs. 12,50,000 for ‘Current accounts, <b>and</b> of Rs. 2,50,000/- for ‘other than current accounts’ are applicable for such type of accounts with “A” Banking Company etc. and not all the banking companies taken together, as the reporting in Form 61A is PAN based.</p>
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- Sub-rule (5) provides that the statement of financial transactions referred to in sub-rule (1) **shall be furnished on or before the 31st May, immediately following the financial year** in which the transaction is –

- registered **or**
- recorded.

- The amendment rules have further by way of **insertion** of following proviso to sub-rule (5):

“Provided the statement of financial transaction in respect of the transactions listed at **serial number (12)** in the Table under sub-rule (2), shall be furnished **on or before the 31st day of January, 2017.**”.

- It means that so far as transactions mentioned in **serial number (12)** {as inserted w.e.f. 15.11.2016} is concerned the reporting persons, i.e. the bank and the post office shall furnish the details of deposits of cash in terms of **serial number (12)** in ‘statement of financial transactions’ **on or before the 31st day of January,**

**2017, i.e.** for the FY 2016-17, the statement relating to transactions of **serial number (12)** shall be furnished **on or before the 31<sup>st</sup> day of January, 2017** **instead of 31<sup>st</sup> day of May, 2017.**

### **Present law**

## **Income Tax Act, 1961**

### **CHAPTER II**

### **Basis of charge**

#### **Charge of income-tax**

4. (1) Where **any Central Act** enacts that **income-tax shall be charged** for **any assessment year** at **any rate or rates**, income-tax at **that rate or those rates** shall be **charged** for **that year** in accordance with, and subject to the provisions (including provisions for the levy of additional income-tax) of, this Act in respect of the **total income** of the previous year of every person :

**Provided** that where by virtue of any provision of this Act income-tax is to be charged in respect of the income of a period other than the previous year, income-tax shall be charged accordingly.

(2) In respect of income chargeable under sub-section (1), income-tax shall be deducted at the source or paid in advance, where it is so deductible or payable under any provision of this Act.

#### **Total Income**

2(45) "**total income**" means the total amount of income referred to in section 5, computed in the manner laid down in this Act ;

### **CHAPTER IV**

### **Computation of Total Income**

#### **Heads of income**

#### **Heads of income**

14. Save as otherwise provided by this Act, all income shall, **for the purposes of charge of income-tax and computation of total income**, be classified under the following heads of income :—

A.— Salaries.

B.— [\*\*\*]

C.— Income from house property.

D.— Profits and gains of business or profession.

E.— Capital gains.

F.— Income from other sources.

### **Rate or rates in force" or "rates in force**

**2(37A)** "rate or rates in force" or "rates in force", in relation to an **assessment year or financial year**, means—

(i) **for the purposes of calculating income-tax** under the first proviso to sub-section (5) of section 132, **or** computing the income-tax chargeable under sub-section (4) of section 172 **or** sub-section (2) of section 174 **or** section 175 **or** sub-section (2) of section 176 **or** deducting income-tax under section 192 from income chargeable under the head "Salaries" **or** computation of the "advance tax" payable under Chapter XVII-C in a case not falling under section 115A **or** section 115B **or** section 115BB **or** section 115BBB **or** section 115E **or** section 164 **or** section 164A **or** section 167B, the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, **and** for the purposes of computation of the "advance tax" payable under Chapter XVII-C in a case falling under section 115A **or** section 115B **or** section 115BB **or** section 115BBB **or** section 115E **or** section 164 **or** section 164A **or** section 167B, the rate or rates specified in section 115A or section 115B or section 115BB or section 115BBB or section 115E or section 164 or section 164A or section 167B, as the case may be, **or the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year, whichever is applicable ;**

(ii) for the purposes of deduction of tax under sections 193, 194, 194A, 194B, 194BB and 194D, the rate or rates of income-tax specified in this behalf in the **Finance Act of the relevant year;**

(iii) for the purposes of deduction of tax under *section 194LBA or section 194LBB or section 194LBC* or section 195, the rate or rates of income-tax specified in this behalf in the **Finance Act of the relevant year** or the rate or rates of income-tax specified in an agreement entered into by the Central Government under section 90, or an agreement notified by the Central Government under section 90A, whichever is applicable by virtue of the provisions of section 90, or section 90A, as the case may be;

## **CHAPTER VI**

### **Aggregation of income and set off or carry forward of loss**

#### **Aggregation of income**

#### **Total income**

**66.** In computing the **total income** of an assessee, there shall be included all income on which no income-tax is payable under Chapter VII.

### **Cash credits**

**68.** Where **any sum** is **found credited in the books** of an assessee maintained for any previous year, **and** the assessee **offers no explanation** about the **nature and source** thereof **or** the **explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory**, the **sum so credited** may be charged to income-tax as the income of the assessee of that previous year:

**Provided** that where the assessee is a company (not being a company in which the public are substantially interested), and the sum so credited consists of share application money, share capital, share premium or any such amount by whatever name called, any explanation offered by such assessee-company **shall be deemed to be not satisfactory**, unless —

- (a) the person, being a resident in whose name such credit is recorded in the books of such company also offers an explanation about the nature and source of such sum so credited; and
- (b) such explanation in the opinion of the Assessing Officer aforesaid has been found to be satisfactory:

**Provided further** that nothing contained in the first proviso shall apply if the person, in whose name the sum referred to therein is recorded, is a venture capital fund or a venture capital company as referred to in clause (23FB) of section 10.

### **Unexplained investments**

**69.** Where in the financial year immediately preceding the assessment year the assessee has **made investments** which are not recorded in the books of account, **if any**, maintained by him **for any source of income**, **and** the assessee **offers no explanation** about the **nature and source** thereof **or** the **explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory**, the **value of the investments** may be deemed to be the income of the assessee of such financial year.

### **Unexplained money, etc.**

**69A.** Where in any financial year the assessee **is found to be the owner** of any **money**, bullion, jewellery or other valuable article **and such money**, bullion, jewellery or valuable article is not recorded in the books of account, **if any**, maintained by him **for any source of income**, **and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money** and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.



### **Amount of investments, etc., not fully disclosed in books of account**

**69B.** Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article **exceeds the amount recorded in this behalf in the books of account** maintained by the assessee for any source of income, and the **assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory**, the excess amount may be deemed to be the income of the assessee for such financial year.

### **Unexplained expenditure, etc.**

**69C.** Where in any financial year an assessee has incurred **any expenditure** and he offers no explanation about the source of such expenditure or part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year :

**Provided** that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

## **CHAPTER XII**

### **Determination of Tax in certain special cases**

#### **Tax on income referred to in section 68 or section 69 or section 69A or section 69B or section 69C or section 69D.**

**115BBE.** (1) Where the **total income** of an assessee **includes** any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, the income-tax payable shall be the **aggregate of** —

- (a) the amount of income-tax calculated on income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of **thirty per cent; and**
- (b) the amount of income-tax with which the assessee would have been chargeable had his **total income** been reduced by the amount of income referred to in clause (a).

(2) Notwithstanding anything contained in this Act, no deduction in respect of any expenditure **or** allowance **or** set off of any loss shall be allowed to the assessee under any provision of this Act in computing his income referred to in clause (a) of sub-section (1).

## **THE TAXATION LAWS (2<sup>nd</sup> AMENDMENT) BILL, 2016**

*{A BILL further to amend the Income-tax Act, 1961 and the Finance Act, 2016.}*

*{The 26th November, 2016.}*

### **IN LOK SABHA**

#### **A BILL**

further to amend the Income-tax Act, 1961 and the Finance Act, 2016

(Shri Arun Jaitley, Minister of Finance and Corporate Affairs)

### **STATEMENT OF OBJECTS AND REASONS**

#### **Paragraph 1**

- **Evasion of taxes deprives the nation** of critical resources which could enable the Government to undertake anti-poverty and development programmes.
- It also puts a **disproportionate burden** on the honest taxpayers who have to bear the brunt of higher taxes to make up for the revenue leakage.
- As a **step forward to curb black money**, bank notes of existing series of denomination of the value of five hundred rupees and one thousand rupees (hereinafter referred to as specified bank notes) issued by the Reserve Bank of India have been ceased to be legal tender with effect from the 9th November, 2016.

#### **Paragraph 2**

- Concerns have been raised that some of the **existing provisions** of the Income-tax Act, 1961 **could possibly be used for concealing black money**.
- It is, therefore, important that the Government amends the Act **to plug these loopholes as early as possible** so as to prevent misuse of the provisions.
- The Taxation Laws (Second Amendment) Bill, 2016, proposes to make some changes in the Act **to ensure that defaulting assesseees are subjected to tax at a higher rate and stringent penalty provision**.

### **Paragraph 3**

- In the wake of declaring specified bank notes as not legal tender, there have been representations and suggestions from experts that instead of allowing people to find illegal ways of converting their black money into black again, the Government should give them **an opportunity to pay taxes with heavy penalty and** allow them to come clean so that not only the Government gets **additional revenue** for undertaking activities for the welfare of the poor **but also** the **remaining part of the declared income legitimately comes into the formal economy**.
- Thus, money coming from additional revenue as a result of the decision to ban Rs. 1000 and Rs. 500 notes can be utilised for welfare schemes for the poor.

### **Paragraph 4**

- Therefore, an alternative scheme namely, the  
***“Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016 (PMGKY)”***  
is proposed to be provided in the Bill.
- The declarant under this regime shall be required to pay -
  - tax @ 30% of the **undisclosed income and**
  - penalty @ 10% of the **undisclosed income**
  - Further, a surcharge to be called **“Pradhan Mantri Garib Kalyan Cess”**  
@ 33% of **tax** is also proposed to be levied.
  - In addition to tax surcharge **and** penalty, the declarant shall have to deposit **25% of undisclosed income** in a Deposit Scheme to be notified by the Central Government in consultation with the Reserve Bank of India under the **“Pradhan Mantri Garib Kalyan Deposit Scheme, 2016”**.
- This amount is proposed to be utilised for the programmes of -
  - irrigation,
  - housing,
  - toilets,
  - infrastructure,
  - primary education,
  - primary health,
  - livelihood, etc.;

so that there is justice and equality.

## Paragraph

The Bill seeks to achieve the above objectives.

## FINANCIAL MEMORANDUM

This Bill seeks to impose a higher rate of tax and levy of penalty in respect of certain incomes. It also provides for a scheme for payment of tax, penalty and surcharge on the undisclosed income and investment of certain amount of such income in the Pradhan Mantri Garib Kalyan Deposit Scheme. The Bill is proposed to be administered by the Central Board of Direct Taxes. Thus, no additional expenditure is contemplated on the enactment of the Bill.

\*\*\*\*\*

## Be it enacted by Parliament in the Sixty-seventh Year of the Republic of India as follows

### CHAPTER I

#### PRELIMINARY

1. (1) This Act may be called the Taxation Laws (Second Amendment) Act, 2016.
- (2) Save as otherwise provided in this Act, it shall come into force **at once**.

### CHAPTER II

#### INCOME-TAX

2. In the Income-tax Act, 1961 (hereinafter referred to as the Income-tax Act), **in section 115BBE**, for **sub-section (1)**, the following sub-section shall be **substituted** with effect from the **1st day of April, 2017**, namely:—

“(1) Where the **total income** of an assessee,—

(a) includes **any income** referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D **and reflected in the return of income** furnished under section 139; **or**

(b) **determined by the Assessing Officer** includes **any income** referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, if such income is not covered under clause (a),

the income-tax payable shall be the **aggregate of**—

- (i) the amount of income-tax calculated on the income referred to in clause (a) and clause (b), at the rate of **sixty per cent.; and**
- (ii) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (i).”.

**3. In the Income-tax Act, in section 271AAB,—**  
*{Penalty where **search** has been initiated}*

- (I) **in sub-section (1)**, after the words, figures and letters “*the 1st day of July, 2012*”, *the words, brackets and figures “but before the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President”* shall be **inserted;**

- (II) **after sub-section (1)**, the following sub-section shall be **inserted**, namely:—

“(1A) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 *on or after the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President*, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

(a) a sum computed at the rate of **thirty per cent.** of the undisclosed income of the specified previous year, if the assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

(ii) substantiates the manner in which the undisclosed income was derived; and

(iii) on or before the specified date—

(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and

(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;

(b) a sum computed at the rate of **sixty per cent.** of the undisclosed income of the specified previous year, if it is not covered under the provisions of clause (a).”;

(III) **in sub-section (2)**, after the words brackets and figure “**in sub-section (1)**”, the words, brackets, figure and letter “**or sub-section (1A)**” shall be **inserted**.

4. In the Income-tax Act, after section 271AAB, the following section shall be **inserted** with effect from the **1st day of April, 2017**, namely:—

**Penalty in respect of certain income**

“**271AAC.** (1) The Assessing Officer may, **notwithstanding anything contained in this Act other than** the provisions of section 271AAB, direct that, in a case where the income determined includes **any income** referred to in **section 68, section 69, section 69A, section 69B, section 69C or section 69D** for any previous year, the assessee shall pay by way of **penalty**, in addition to tax payable under section 115BBE, a sum computed at the rate of **ten per cent. of the tax** payable under clause (i) of sub-section (1) of section 115BBE:

**Provided that no penalty** shall be levied in respect of income referred to in **section 68, section 69, section 69A, section 69B, section 69C or section 69D** to the extent such income has been **included by the assessee in the return of income furnished** under section 139 **and the tax in accordance with the provisions of clause (i) of sub-section (1) of section 115BBE has been paid on or before the end of the relevant previous year**.

(2) No penalty under the provisions of section 270A shall be imposed upon the assessee in respect of the income referred to in sub-section (1).

(3) The provisions of sections 274 and 275 shall, as far as may be, apply in relation to the penalty referred to in this section.”.

**CHAPTER III**

**FINANCE ACT**

5. In the Finance Act, 2016,—

(a) **in Chapter II, in section 2, in sub-section (9)**,—

(i) **in the third proviso**, the figures and letters “**115BBE**” shall be **omitted**;

(ii) **after the sixth proviso**, the following **proviso** shall be **inserted**, namely:—

“Provided also that in respect of any income chargeable to tax under clause (i) of sub-section (1) of section 115BBE of the Income-tax Act, the “**advance tax**” computed under the first proviso shall be **increased by a surcharge**, for the

purposes of the Union, calculated at the rate of **twenty-five per cent. of such advance tax.**’;

(b) **after Chapter IX**, the following **Chapter** shall be **inserted**, namely:—

**CHAPTER IXA**  
**TAXATION AND INVESTMENT REGIME**  
**FOR PRADHAN MANTRI GARIB KALYAN YOJANA, 2016**

**199A.** (1) This Scheme may be called the **Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016.**

(2) It shall co-me into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.

**199B.** In this Scheme, unless the context otherwise requires,—

(a) "declarant" means a person making the declaration under sub-section (1) of section 199C;

(b) "Income-tax Act" means the Income-tax Act, 1961;

(c) "**Pradhan Mantri Garib Kalyan Deposit Scheme, 2016**" (hereinafter in this Chapter referred to as "the Deposit Scheme") means a **scheme notified** by the Central Government in consultation with the Reserve Bank of India in the Official Gazette; and

(d) **all other words and expressions** used in this Scheme but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.

**199C.** (1) **Subject to the provisions of this Scheme, any person** may **make**, on or after the date of commencement of this Scheme **but** on or before a date **to be notified** by the Central Government in the Official Gazette, **a declaration** in respect of **any income**, in the **form** of **cash or deposit in an account maintained** by **the person** with a **specified entity**, chargeable to tax under the Income-tax Act for **any assessment year** commencing on or before the **1st day of April, 2017.**

(2) **No deduction** in respect of any expenditure **or** allowance **or** set-off of any loss shall be allowed against the income in respect of which a declaration under sub-section (1) is made.

*Explanation.*— For the purposes of this section, "**specified entity**" shall mean—

(i) the Reserve Bank of India;

- (ii) any banking company or co-operative bank, to which the Banking Regulation Act, 1949 applies (including any bank or banking institution referred to in section 51 of that Act);
- (iii) any Head Post Office or Sub-Post Office; **and**
- (iv) any other entity as may be notified by the Central Government in the Official Gazette in this behalf.

**199D.** (1) Notwithstanding anything contained in the Income-tax Act **or** in any Finance Act, the undisclosed income declared under section 199C within the time specified therein shall be chargeable to **tax** at the rate of **thirty per cent. of the undisclosed income.**

(2) The **amount of tax** chargeable under sub-section (1) shall be **increased by a surcharge**, for the purposes of the Union, to be called the **Pradhan Mantri Garib Kalyan Cess** calculated at the rate of **thirty-three per cent. of such tax** so as to fulfil the commitment of the Government for the welfare of the economically weaker sections of the society.

**199E.** Notwithstanding anything contained in the Income-tax Act **or** in any Finance Act the person making a declaration under sub-section (1) of section 199C shall, in addition to tax and surcharge charged under section 199D, be liable to pay **penalty at the rate of ten per cent. of the undisclosed income.**

**199F.** (1) Notwithstanding anything contained in the Income-tax Act **or** in **any other law** for the time being in force, the person making a declaration under sub-section (1) of section 199C, shall deposit an amount **which shall not be less than twenty-five per cent. of the undisclosed income** in the **Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.**

(2) The deposit shall bear **no interest** and the amount deposited shall be allowed to be **withdrawn after four years from the date of deposit** and shall also **fulfil such other conditions** as may be specified in the Pradhan Mantri Garib Kalyan Deposit Scheme, 2016.

**199G.** **A declaration** under sub-section (1) of section 199C shall be made **by** a person competent to **verify** the return of income under section 140 of the Income-tax Act, **to** the Principal Commissioner **or** the Commissioner **notified in the Official Gazette for this purpose** **and** shall be in such **form and verified in such manner**, as may be **prescribed.**



**199H.** (1) The tax and surcharge payable under section 199D **and** penalty payable under section 199E in respect of the undisclosed income, **shall be paid before filing of declaration** under sub-section (1) of section 199C.

(2) The amount referred to in sub-section (1) of section 199F shall be **deposited before the filing of declaration** under sub-section (1) of section 199C.

(3) The declaration under sub-section (1) of section 199C shall be **accompanied by** the proof of **deposit** referred to in sub-section (1) of section 199F, **payment of tax, surcharge and penalty.**

**199-I.** The amount of undisclosed income declared in accordance with section 199C **shall not be included in the total income** of the declarant for any assessment year under the Income-tax Act.

**199J.** A declarant under this Scheme shall not be entitled, in respect of undisclosed income referred to in section 199C or any amount of tax and surcharge paid thereon, to **re-open any assessment or reassessment** made under the Income-tax Act or the Wealth-tax Act, 1957, or to claim any set-off or relief in any appeal, reference or other proceeding in relation to any such assessment or reassessment.

**199K.** Any amount of tax and surcharge paid under section 199D or penalty paid under section 199E **shall not be refundable.**

**199L.** Notwithstanding anything contained in any other law for the time being in force, nothing contained in any declaration made under sub-section (1) of section 199C **shall be admissible in evidence against the declarant** for the purpose of any proceeding under any Act **other than** the Acts mentioned in section 199-O.

**199M.** Notwithstanding anything contained in this Scheme, where a declaration has been made by **misrepresentation or suppression of facts or without payment of tax and surcharge under section 199D or penalty under section 199E or without depositing the amount in the Deposit Scheme as per the provisions of section 199F**, such declaration **shall be void** and shall be deemed never to have been made under this Scheme.

**199N.** The provisions of **Chapter XV** of the Income-tax Act relating to liability in special cases and **section 119**, **section 138** and **section 189** of that Act shall, so far as may be, apply in relation to proceedings under this Scheme as they apply in relation to proceedings under the Income-tax Act.

**199-O.** The provisions of this Scheme shall not apply —

(a) in relation to any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:

Provided that—

- (i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, has not been revoked on the report of the Advisory Board under section 8 of the said Act or before the receipt of the report of the Advisory Board; or
- (ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; or
- (iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, has not been revoked before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; or
- (iv) such order of detention has not been set aside by a court of competent jurisdiction;

(b) in relation to prosecution for any offence punishable under Chapter IX or Chapter XVII of the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988, the Prohibition of Benami Property Transactions Act, 1988 and the Prevention of Money-Laundering Act, 2002;

(c) to any person notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;

(d) in relation to any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015.

**199P.** For the removal of doubts, it is hereby declared that save as otherwise expressly provided in sub-section (1) of section 199C, nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity **on any person other than the person making the declaration** under this Scheme.

**199Q.** (1) If any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty:

Provided that no such order shall be made after the expiry of a period of **two years** from the date on which the provisions of this Scheme come into force.

(2) Every order made under this section shall be laid before each House of Parliament.

**199R.** (1) The Board may, subject to the control of the Central Government, by notification in the Official Gazette, make **rules** for carrying out the provisions of this Scheme.

(2) Without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the form and manner of declaration and verification to be made under section 199G;

(b) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

(3) Every rule made under this Scheme shall be laid, as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

**PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274**  
**OF THE CONSTITUTION OF INDIA**

*[Copy of letter No. 142/33/2016-TPL, dated 26th November, 2016 from Shri Arun Jaitley,  
Minister of Finance and Corporate Affairs in the Ministry of Finance to Secretary-General,  
Lok Sabha.]*

The President, have been informed of the subject-matter of the Taxation Laws (Second Amendment) Bill, 2016, recommends under **clauses (1) and (3) of Article 117** read with **clause (1) of Article 274** of the **Constitution of India**, introduction of the above Bill in Lok Sabha.

### **MEMORANDUM REGARDING DELEGATED LEGISLATION**

Clause 5 of the Bill seeks to insert a new **section 199G**, in respect of the **Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016**. The proposed section 199G provides that a declaration under section 199C shall be made by a person competent to verify the return of income under section 140 of the Income-tax Act, to the Principal Commissioner or the Commissioner notified in the Official Gazette for this purpose and shall be in such form and verified in such manner, as may be prescribed.

2. The matters in respect of which **rules may be made or notifications** may be issued in accordance with the provisions of the Bill are **matters of procedure and detail** and it is not practicable to provide for them in the Bill.

3. The **delegation of legislative power** is, therefore, of a normal character.

### **ANNEXURE**

#### **EXTRACTS FROM THE INCOME-TAX ACT, 1961 (43 OF 1961)**

**115BBE.** (1) Where the total income of an assessee includes any income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, the incometax payable shall be the aggregate of—

(a) the amount of income-tax calculated on income referred to in section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of thirty per cent.; and

(b) the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the amount of income referred to in clause (a).

**271AAB.** (1) The Assessing Officer may, notwithstanding anything contained in any other provisions of this Act, direct that, in a case where search has been initiated under section 132 on or after the 1st day of July, 2012, the assessee shall pay by way of penalty, in addition to tax, if any, payable by him,—

(a) a sum computed at the rate of ten per cent. of the undisclosed income of the specified previous year, if such assessee—

(i) in the course of the search, in a statement under sub-section (4) of section 132, admits the undisclosed income and specifies the manner in which such income has been derived;

- (ii) substantiates the manner in which the undisclosed income was derived; and
- (iii) on or before the specified date—

(A) pays the tax, together with interest, if any, in respect of the undisclosed income; and

(B) furnishes the return of income for the specified previous year declaring such undisclosed income therein;

(b) a sum computed at the rate of twenty per cent. of the undisclosed income of the specified previous year, if such assessee—

- (i) in the course of the search, in a statement under sub-section (4) of section 132, does not admit the undisclosed income; and (ii) on or before the specified date—

(A) declares such income in the return of income furnished for the specified previous year; and

(B) pays the tax, together with interest, if any, in respect of the undisclosed income;

(c) a sum which shall not be less than thirty per cent. but which shall not exceed ninety per cent. of the undisclosed income of the specified previous year, if it is not covered by the provisions of clauses (a) and (b) .

**EXTRACT FROM THE FINANCE ACT, 2016**  
**(28 OF 2016)**

**CHAPTER II**

**RATES OF INCOME-TAX**

**(1)\* \***

(9) Subject to the provisions of sub-section (10), in cases in which income-tax has to be charged under sub-section (4) of section 172 or sub-section (2) of section 174 or section 174A or section 175 or sub-section (2) of section 176 of the Income-tax Act or deducted from, or paid on, income chargeable under the head “Salaries” under section 192 of the said Act or in which the “advance tax” payable under Chapter XVII-C of the said Act has to be computed at the rate or rates in force, such income-tax or, as the case may be, “advance tax” shall be charged, deducted or computed at the rate or rates specified in Part III of the First Schedule and such tax shall be increased by a surcharge, for the purposes of the Union, calculated in such cases and in such manner as provided therein:

\* \* \* \* \*

Provided also that in respect of any income chargeable to tax under section 115A, 115AB, 115AC, 115ACA, 115AD, 115B, 115BA, 115BB, 115BBA, 115BBC, 115BBD, 115BBDA, **115BBE**, 115BBF, 115E, 115JB or 115JC of the Income-tax Act, “advance tax” computed under the first proviso shall be increased by a surcharge, for purposes of the Union, calculated,—

(a) in the case of every individual or Hindu undivided family or association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act, calculated at the rate of fifteen per cent. of such “advance tax”, where the total income exceeds one crore rupees;

(b) in the case of every co-operative society or firm or local authority, calculated at the rate of twelve per cent. of such “advance tax”, where the total income exceeds one crore rupees;

(c) in the case of every domestic company, calculated,—

(i) at the rate of seven per cent. of such “advance tax”, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of twelve per cent. of such “advance tax”, where the total income exceeds ten crore rupees;

(d) in the case of every company, other than a domestic company, calculated,—

(i) at the rate of two per cent. of such “advance tax”, where the total income exceeds one crore rupees but does not exceed ten crore rupees;

(ii) at the rate of five per cent. of such “advance tax”, where the total income exceeds ten crore rupees;

\* \* \* \* \*

Provided also that in the case of every company having total income chargeable to tax under section 115JB of the Income-tax Act, and such income exceeds ten crore rupees, the total amount payable as “advance tax” on such income and surcharge thereon, shall not exceed the total amount payable as “advance tax” and

surcharge on a total income of ten crore rupees by more than the amount of income that exceeds ten crore rupees.

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### Tabular summary of the Scheme

Amendment to the Income Tax Act, 1961				
SN	Clause of Bill	Section of IT Act being amended	Sub-section of the IT Act being amended	Subject
1	1(1)	-	-	Taxation Laws (Second Amendment) Act, 2016
2	1(2)	-	-	<b>Save as otherwise</b> provided in this Act, it shall come into force <b>at once</b>
3	2	115BBE	(1)	<b>Substitution</b> of new sub-section (1)
4	3(I)	271AAB	(1)	Amendment of sub-section (1) by <b>inserting</b> “ <b>but before the date on which the Taxation Laws (Second Amendment) Bill, 2016 receives the assent of the President</b> ” after the words, figures and letters “ <b>the 1st day of July, 2012</b> ”
5	3(II)	271AAB	(1A)	<b>Insertion</b> of new sub-section (1A)
6	3(III)	271AAB	(2)	<b>Insertion</b> of “ <b>or sub-section (1A)</b> ” after the words brackets and figure “ <b>in sub-section (1)</b> ”
7	4	271AAC		<b>Insertion</b> of <b>new section 271AAC</b> – Penalty in respect of certain income.
Amendment to the Finance Act, 2016				
SN	Clause of Bill	Section of Finance Act, 2016 being amended	Sub-section of the Finance Act, 2016 being amended	Subject
8	5(a)(i)	2	(9) 3 <sup>rd</sup> proviso	<b>Omitted</b> - the figures and letters “ <b>115BBE</b> ”

9	5(a)(ii)	2	(9) 9 <sup>th</sup> proviso	<b>Inserted</b> - Provided also that in respect of any income chargeable to tax under clause (i) of sub-section (1) of section 115BBE of the Income-tax Act, the “ <b>advance tax</b> ” computed under the first proviso shall be <b>increased by a surcharge</b> , for the purposes of the Union, calculated at the rate of <b>twenty-five per cent. of such advance tax</b> .
10	5(b)	<b>Chapter IXA</b> <b>Taxation and Investment Regime</b> <b>For Pradhan Mantri Garib Kalayan Yojna, 2016</b> <b>being inserted</b>		
<b>SN</b>	<b>SN</b>	<b>Section of Finance Act, 2016 being inserted</b>	<b>Sub-section of the Finance Act, 2016 being inserted</b>	<b>Subject</b>
1	1.1	199A	(1)	This <b>Scheme</b> may be called the <b>Taxation and Investment Regime for Pradhan Mantri Garib Kalyan Yojana, 2016</b>
2	2.1	199A	(2)	<b>Enforcement</b> - It shall come into force on such date as the Central Government may, by notification, in the Official Gazette, appoint.
3	3.1	199B	(a)	<b>Definition</b> – declarant
	3.2	199B	(b)	<b>Definition</b> – Income-tax Act
	3.3	199B	(c)	<b>Definition</b> - Pradhan Mantri Garib Kalyan Deposit Scheme, 2016
	3.4	199B	(d)	<b>Definition</b> - all other words and expressions used in this Scheme but not defined and defined in the Income-tax Act shall have the meanings respectively assigned to them in that Act.
4	4.1	199C	(1)	Making of <b>a declaration</b> under the scheme - in respect of <b>any income</b> , in the <b>form</b> of <b>cash or deposit in an account maintained by the</b>



				<b>person with a specified entity</b> , chargeable to tax under the Income-tax Act for <b>any</b> assessment year commencing on or before the 1st day of April, 2017.
	4.2	199C	(2)	<b>No deduction</b> in respect of any expenditure <b>or</b> allowance <b>or</b> set-off of any loss
5	5.1	199D	(1)	Rate of <b>Tax</b> @ 30%
	5.2	199D	(2)	<b>Surcharge</b> - Pradhan Mantri Garib Kalyan Cess @ 33% of such tax
6	6.1	199E		<b>Penalty</b> - @ 10% of the undisclosed income
7	7.1	199F	(1)	<b>Deposit</b> an amount which shall not be less than 25% of the undisclosed income in the <b>Pradhan Mantri Garib Kalyan Deposit Scheme, 2016</b> .
	7.2	199F	(2)	The deposit shall bear <b>no interest</b> ;
	7.3	199F	(2)	The amount deposited shall be allowed to be withdrawn after <b>four years</b> from the date of deposit;
	7.4	199F	(2)	The deposit shall also fulfill such other <b>conditions</b> as may be specified.
8	8.1	199J		A <b>declaration</b> u/s 119C(1) <b>shall be made <u>by</u></b> a person competent to verify the return of income under section 140 of the Income-tax Act;
	8.2	199J		A <b>declaration</b> u/s 119C(1) <b>shall be made <u>to</u></b> the Principal Commissioner <b>or</b> the Commissioner notified in the Official Gazette for this purpose;
	8.3	199J		A <b>declaration</b> u/s 119C(1) <b>shall be</b> * in such <b>form and</b> * verified in such <b>manner</b> , as may be <b>prescribed</b> .
9	9.1	199H	(1)	Payment of – * tax; * surcharge;

				* penalty before filing of declaration.
	9.2	199H	(2)	The amount referred to in section 199F(1) to be deposited before the filing of declaration.
	9.3	199H	(3)	The declaration shall be accompanied by the proof of * deposit; * payment of – * tax, * surcharge * penalty.
10	10.1	199I		The amount of undisclosed income declared in accordance with section 199C shall not be included in the total income of the declarant for any assessment year under the Income-tax Act.
11	11.1	199J		A <b>declarant</b> under this Scheme <b>shall <u>not</u> be entitled</b> , in respect of - * undisclosed income referred to in section 199C <b>or</b> * any amount of - * tax and * surcharge paid thereon, <b>to re-open</b> any * assessment <b>or</b> * reassessment made under - * the Income-tax Act <b>or</b> * the Wealth-tax Act, 1957, <b>or</b> <b>to claim</b> any.- * set-off <b>or</b> * relief in any - * appeal, * reference or * other proceeding in relation to any such – * assessment or * reassessment.
12	12.1	199K		Any amount of – * tax, * surcharge

				paid under section 199D <b>or</b> * penalty paid under section 199E <b>shall <u>not</u> be refundable</b>
13	13.1	199L		Nothing contained in the declaration shall be admissible in evidence against the declarant under any Act <b><u>other than</u></b> the Acts mentioned in section 199-O.
14	14.1	199M		Where a declaration has been made by - * misrepresentation <b>or</b> * suppression of facts <b>or</b> * without payment of tax and surcharge <b>or</b> * without payment of penalty <b>or</b> * without depositing the amount in the Deposit Scheme such declaration shall be <b>void</b> and shall be deemed never to have been made under this Scheme.
15	15.1	199N		The provisions <b>of Chapter XV</b> of the Income-tax Act relating to liability in special cases <b>and</b> * section 119, * section 138 and * section 189 of that Act shall, so far as may be, <b>apply in</b> relation to proceedings under this Scheme as they apply in relation to proceedings under the Income-tax Act.
16	16.1	199-O	(a)	The provisions of this Scheme <b>shall not apply</b> — (a) <b>in relation to any person</b> in respect of whom <b><u>an order of detention has been made</u></b> under the <b>Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974:</b> Provided that— (i) such order of detention, being an order to which the provisions of section 9 or section 12A of the said Act do not apply, <b>has not been revoked</b> on the report of the Advisory Board under section 8 of the said Act or before the receipt of

				<p>the report of the Advisory Board; <b>or</b></p> <p>(ii) such order of detention, being an order to which the provisions of section 9 of the said Act apply, <b>has not been revoked</b> before the expiry of the time for, or on the basis of, the review under sub-section (3) of section 9, or on the report of the Advisory Board under section 8, read with sub-section (2) of section 9, of the said Act; <b>or</b></p> <p>(iii) such order of detention, being an order to which the provisions of section 12A of the said Act apply, <b>has not been revoked</b> before the expiry of the time for, or on the basis of, the first review under sub-section (3) of that section, or on the basis of the report of the Advisory Board under section 8, read with sub-section (6) of section 12A, of the said Act; <b>or</b></p> <p>(iv) such order of detention <b>has not been set aside</b> by a court of competent jurisdiction;</p>
	16.2	119-O	(b)	<p>The provisions of this Scheme <b>shall not apply</b> — <b>in relation to</b> prosecution for any offence punishable under -</p> <ul style="list-style-type: none"> <li>* Chapter IX or Chapter XVII of the Indian Penal Code,</li> <li>* the Narcotic Drugs and Psychotropic Substances Act, 1985,</li> <li>* the Unlawful Activities (Prevention) Act, 1967,</li> <li>* the Prevention of Corruption Act, 1988,</li> <li>* the Prohibition of Benami Property Transactions Act, 1988 and</li> </ul>

				* the Prevention of Money-Laundering Act, 2002;
	16.3	119-O	(c)	The provisions of this Scheme <b>shall not apply</b> — <b>to any person</b> notified under section 3 of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992;
	16.4	119-O	(d)	The provisions of this Scheme <b>shall not apply</b> — <b>in relation to</b> any undisclosed foreign income and asset which is chargeable to tax under the Black Money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015
17	17.1	199P		Save as otherwise expressly provided in Section 199C(1), nothing contained in this Scheme shall be construed as conferring any * benefit, * concession <b>or</b> * immunity on any person <u>other than</u> the person making the declaration under this Scheme.
18	18.1	199Q	(1)	Power of Central Government to <b>remove difficulty</b> within a period of <b>two years</b> from the date on which the provisions of this Scheme come into force.
	18.2	199Q	(2)	Every order made under this section shall be laid before each House of Parliament.
19	19.2	199R	(1)	The <b>Board</b> may, subject to the control of the Central Government, by notification in the Official Gazette, make <b>rules</b> for carrying out the provisions of this Scheme
	19.2	199R	(2)(a)	Such rules may provide the – * form <b>and</b> * manner of - * declaration <b>and</b> * verification to be made.
	19.3	199R	(2)(b)	Such rules may provide <b>any other matter</b> which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules.

### **Disclaimer**

*This document has been prepared for academic use only, to understand the scope and implications of the provisions of the amendment Rules and the relevant Acts relating to the above dealt subject and to share the same with the fellow professionals and all concerned. Though every effort has been made to avoid errors or omissions in this document yet any error or omission may creep in. Therefore, it is notified that I shall not be responsible for any damage or loss to any one, of any kind, in any manner there from. I shall also not be liable or responsible for any loss or damage to any one in any matter due to difference of opinion or interpretation in respect of the text. On the contrary it is suggested that to avoid any doubt the user should cross check the correct law and the contents with the published / notified / Gazetted materials including the referred amendment Rules and the relevant Acts.*

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