

Points discussed in Minister's Meeting held on 03.01.2018 – which were agreed to be included in the Pre-Budget Memorandum

#	Section/Subject	Issue	Recommendations & Justification
1	Direct Tax Disallowance of expenses incurred to earn tax-free income dividend [Section 14A r.w. Rule 8D]	At present, Rule 8D is applied by the Income Tax Department on all investments made irrespective of the nature of investment and purpose thereof. This results in huge disallowance and thereafter litigation. The said rule is litigated very much and is before various courts of law on various grounds and courts have decided in favour of assessee.	Accordingly, it is suggested that present provision of sec 14A of the Income Tax Act r.w. Rule 8D should not apply to strategic investments made by corporates as the said investments are purely for business purpose and not with intention to earn exempt income. The dividend on such investment is merely an incidental income. Hence, it is proposed that the strategic investments should be kept out of purview of sec 14A r.w. Rule 8D.
2	Direct Tax CSR expenses be allowed as deduction as revenue expenditure	<p>Under the existing provisions of section 37 of Income Tax Act, any Expenditure not being in nature of capital expenditure or personal expenditure is allowable as deduction if the same is laid out or expended wholly and exclusively for the purposes of business.</p> <p>The Companies Act 2013 has made it mandatory u/s 135 for certain categories of companies to spend 2% of their average profits on CSR activities prescribed.</p> <p>Under the current income tax regime, CSR expenses incurred by companies which are of capital nature, donations or not wholly and exclusively related to business are not allowed as deduction while computing taxable income.</p> <p>It has created genuine hardships to the companies as such CSR expenses incurred under mandatory provisions of the law are not allowed as business deduction.</p>	Hence, it is proposed that the benefit of deduction in respect of CSR expenses should be allowed to companies to the mandated level without subjecting to restrictions of section 37 of the Act.
3	Direct Tax – Utilization of MAT credit in case of amalgamation	After proposed amendment to current provisions of section 115JAA, credit for MAT paid under section 115JB is allowed in the hands of assessee company for 15 years but the same does not allow carry forward of MAT	This section should be amended to allow carry forward and utilization of unutilized MAT credit of amalgamating company in the hands of amalgamated company.

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		<p>credit in cases of amalgamation of companies where the amalgamating company has unutilized tax credit.</p>	<p>To rationalize and make business reorganizations tax neutral, carry forward and set off of unabsorbed depreciation and accumulated losses were allowed in the hands of resulting company in amalgamation and demergers etc. Also in the present GST structure a specific provision has been made to allow the input credit of the amalgamating company to the amalgamated company. However, such benefit has not been extended in respect of MAT paid on deemed income credit in respect of which is allowed to a company for fifteen years.</p> <p>As the amalgamating company loses its identity and becomes part of resulting company, the tax credit paid by it on deemed income should be made available to resulting company under the basic principle of taxation and on principle of natural justice. Further, in light of the current thrust of all stakeholders including government to attempt a speedy resolution of Mergers and Acquisitions of stressed assets/companies, continuation of the MAT credit for the potential amalgamated company will also help in facilitating faster resolution of the same.</p>
4	<p>Levy of Service Tax/GST on Wheeling / Transmission Charges, Cross Subsidy Charges Deemed Generation, take or pay compensation</p>	<p>Wheeling/Transmission Charges are collected for use of wires for transmission of electricity.</p> <p>Cross Subsidy Surcharge is the charge paid for loss of cross subsidy to Distribution Licensee when large consumer procure power from other sources.</p> <p>Deemed Generation Charges are part of two part tariff structure wherein, the procurer pay certain Fixed Charges inspite of not procuring the entire agreed electricity.</p> <p>Take or pay compensation is levied under single part tariff structure wherein certain</p>	<p>As the business of generation / transmission / distribution is kept outside service tax, it is requested to issue clarification on this aspect so that litigation may be avoided.</p>

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		<p>charges are collected if the procurer does not off-take the contracted electricity.</p> <p>All the above activities are part and parcel of distribution/transmission activities on which no service tax is applicable.</p> <p>However, the Service Dept. has issued demand for levy of Service Tax on open access charges, deemed generation and take or pay compensation.</p>	