

## **Exemption in respect of certain activity related to diamond trading in "Special Notified Zone".**

The existing provisions of Section 5 of the Act provides for the scope of total income. In case of non-resident person, the taxation of income in India happens only if the income accrues or arises in India or is deemed to accrue or arise in India or is received in India. Section 9 of the Act provides circumstances under which income is deemed to accrue or arise in India. One of the circumstances providing for income to be deemed to accrue or arise in India is if any income is directly or indirectly derived through or from a business connection in India.

A "Special Notified Zone" (SNZ) had been created to facilitate shifting of operations by foreign mining companies (FMC) to India and to permit the trading of rough diamonds in India by the leading diamond mining companies of the world. The activity of FMC of mere display of rough diamonds even with no actual sale taking place in India may lead to creation of business connection in India of the FMC. This potential tax exposure has been an area of concern for the mining companies willing to undertake these activities in India.

In order to facilitate the FMCs to undertake activity of display of uncut diamond (without any sorting or sale) in the special notified zone, it is proposed to amend section 9 of the Act to provide that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf.

This amendment will take effect retrospectively from 1<sup>st</sup> April, 2016 and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years.