India Budget 2015

Navigating the Change

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Chartered Accountants

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The provisions contained in India Budget, 2015 are the proposals and are likely to undergo amendments while passing through houses of Parliament before being enacted.

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Reflections

Canvas was set perfectly for the first full year budget of the present Government. The economic background for an effective budget making exercise was conducive and presented very little impediments for taking leaps of growth. The Government with its program of "Make in India" with declared intention of increasing the share of manufacturing sector in the GDP, had raised hopes for coming up with path breaking initiatives to incentivize the manufacturing.

Economic Growth has picked up to estimated 7.4 % for 2014-15 putting India at the highest level in large economies. Inflation is under control with Food Inflation below 5 % WPI. Lower Crude prices had positive impact on Current Account Deficit (CAD) and petroleum subsidy. INR was range bound against foreign currencies and steadily increasing FDI on account of stability of policy. Stock Market scaled peaks each passing day.

With the fundamentals in favor, the choice with the Government was to either come up with large scale amendments in the policies or to focus on better implementation of the same and create even a stronger base for leap frog. Stability in policy itself is an incentive and a growth engine. Though expectations of people were that this Government will go for sweeping policy changes, it has decided to stick to the policy and focus on better implementation. Union Budgets present the direction and pace of the changes. This Union Budget has clearly shown the direction and that is of efficiency in implementation, rather than tinkering with policies. Pace will be determined by ability of the Government to implement it efficiently. We need to set our eyes on the quality of program monitoring in future.

Goods and Service Tax (GST) is on track for implementation from 1st April, 2016 and the Direct Tax Code (DTC) is dropped. Powers are shifted from the Reserve Bank of India to the Central Government for capital account transactions involving renewed focus on Inbound and Outbound Investments. Strong resolve to punish the offenders of Black Money stashed outside India is expressed. It is aimed to restore confidence of international investors for rationalizing earlier retrospective amendments affecting foreign investments in India. India has taken first small but firm steps for providing financial security to large section of society and thus move towards a welfare state. Social and financial inclusion has been identified as sine qua non for sustainable long term growth. These are important take aways from an aerial perspective. Further navigation is in the inside pages.

Milin Mehta

State of
Economy

Economic Indicators

Highlights

The Economic Survey of 2014-15 shows that the macro economic fundamentals in 2014-15 have dramatically improved. The major highlights are:

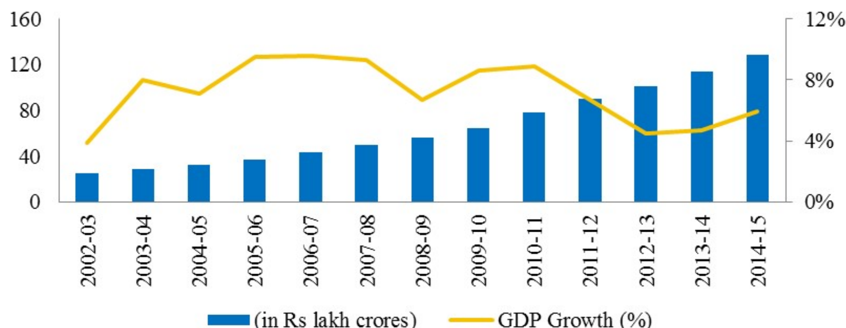
- Inflation has declined by over 6 percentage points since late 2013.
- The current account deficit has declined from a peak of 6.7 percent of GDP (in Q3, 2012-13) to an estimated 1.0 percent in the coming fiscal year.
- Foreign portfolio flows have stabilized the rupee, exerting downward pressure on long-term interest rates, reflected in lowering yields on 10-year government securities, and contributed to the surge in equity prices.
- In response to the favourable terms of trade shock (especially with regard to oil), macroeconomic policy has appropriately balanced government savings (two-thirds) and private consumption (one-third).
- After a nearly 12-quarter phase of deceleration, real GDP has begun growing at 7.2 percent on average since 2013-14, based on the new growth estimates of the Central Statistics Office.
- Rational Investor Ratings Index (RIRI) which combines indicators of macro-stability with growth ranks India amongst the most attractive investment destinations globally.

International Trade

- India's merchandise trade (on customs basis) has increased from US$ 195.1 billion in 2004-05 to US$ 764.6 billion in 2013-14 helping India's share in global exports and imports improve from 0.8% and 1.0% respectively in 2004 to 1.7% and 2.5% in 2013.
- After growing by 4.7% in 2013-14, India's merchandise exports growth moderated to 2.4% to reach US$ 265 billion in 2014-15 (April-January). Manufactured goods constituted the bulk of exports over 63% in recent years followed by crude and petroleum products (including coal) with 20% share and agriculture and allied products with 13.7% share.
- In 2014-15 (April-January), trade deficit increased marginally by 1.6% to US$ 118.4 billion as against US$ 116.5 billion in 2013-14(April-January).
- Net foreign investment surged from US$ 7.8 billion in 2013-14 (April-September) to US$ 38.4 billion in 2014-15 (April-September).

Gross Domestic Product

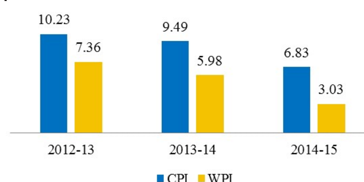
- Reform measures like de-regulation of diesel price, taxing energy products, replacing cooking gas subsidy by direct transfer on national scale, etc have been introduced which have increased the expectations of better growth prospects.



- Growth at market prices for 2015-16 is expected to be 8.1-to 8.5%.
- The growth in 2014-15 has been largely driven by domestic demand with hardly any external support to growth. The growth in exports is projected to be only 0.9% and the growth rate of imports, around (-0.5%).
- The deceleration in imports is primarily due to the sharp decline in international oil prices in the current year that contracted the oil import bill.

Inflation

- After remaining high for a prolonged period, inflation is trending downwards. Average Wholesale Price Index inflation declined to 3.4% in 2014-15 (April- December) as compared to an average of 6% during 2013-14. Consumer price reached 5.1% in January 2015. This is lower than the targets of 8% set for January 2015 and 6% for January 2016 given by the Reserve Bank of India.
- Global factors, mainly persistent decline in crude prices and softness in the global prices of edible oils and coal helped moderate headline inflation. The tight monetary policy has helped contain demand pressures and keeping volatility in the value of the rupee under check.



Industrial Performance

In 2013-14, manufacturing sector growth is estimated at 5.3% as compared to the (-0.7%) estimated under the 2004-05 series. The Advance Estimates (AE) for the year 2014-15 show industrial growth of 5.9% as per 2011-12 base year.

During April-December 2014-15, industrial production attained a growth of 2.1% owing mainly to recovery in the mining sector and impressive growth in the electricity sector. The manufacturing sector continues to remain slack, registering growth of 1.2% in April- December 2014-15.The low growth in manufacturing is mainly due to high rate of interest, infrastructure bottlenecks, and low domestic and external demand.

The overall growth in eight core industries during April-December 2014-15 has improved marginally to 4.4% compared to 4.1% in the same period last year.

Services Sector

Services in India are emerging as a prominent sector in terms of contribution to national and states' incomes, trade flows, FDI inflows, and employment. As per the new method of India's National Accounts Statistics, the services sector accounting for 51.3% of India's gross value added (GVA) at basic prices (current prices) in 2013-14, grew by 9.1% compared to 6.6% total GVA growth and 6.9% GDP growth at market prices.

Future Outlook

The macroeconomic situation in India has improved significantly during the current year. The steady acceleration in services and manufacturing growth in the face of subdued global demand conditions point to the strengthening of domestic demand. Most of the buoyancy in domestic demand can be traced to consumption. Investment activity is slowly picking up. The savings-investment dynamics will be crucial for the growth to strengthen further in the coming years, in addition to reversal of the subdued export performance being currently witnessed.

- There are supply side concerns which are seen in tentative growth patterns in construction and mining activities. The farm sector suffered from a relatively poor monsoon, but there are no indications of its impact for the next year.
- Globally though USA has shown positive growth, other important economies like China, Russia and Europe are facing uncertain economic conditions. However the sharp decline in oil prices has provided an incentive for overall global growth and stability.
- With government committed to big bang economic reforms, coupled with benign international crude prices and positive domestic growth, the Indian economy is set for a growth of 8.5% in 2015-16.

Budget Highlights

Direct Tax

Major Announcements

- With all the provisions of Direct Tax Code (DTC) been already implemented in the Income Tax Act, the DTC is proposed to be scrapped.
- Wealth Tax is proposed to be abolished and replaced by an additional surcharge of 2% on "super-rich" individuals with taxable income more than 1 crore Rupees and domestic corporates.
- GAAR is proposed to be deferred for another two years to resolve the contentious issues keeping in view the investment sentiments across the country.

Business Taxation

- Corporate tax regime is proposed to be rationalised by reducing the corporate tax rate from 30% to 25% in a phased manner over a period of next 4 years and simultaneously, the redundant exemptions available to corporate tax payers shall be withdrawn in a phased manner.
- Basic rate for domestic company continues to remain at 30% for Assessment Year 2015-16 with increase in surcharge by 2%. No change in rates for foreign companies.
- With a view to boost investments for developments of backward areas in Telangana and Andhra Pradesh, incentives such as investment allowances and enhanced additional depreciation are proposed on new plant and machinery.
- Minimum Alternate Tax (MAT) is proposed to be done away with in respect of share of income of Association of Persons.
- Deduction u/s 80JJAA has been extended to non-corporate taxpayers.
- Threshold for Transfer pricing on Specified Domestic Transactions is proposed to be increased from INR 5 crore to INR 20 crore.

International Taxation

- Foreign Company is proposed to be considered resident in India if its Place of Effective Management (POEM) at any time during the year is in India. Guiding Principles for determination of POEM are to be prescribed.
- Amendments are proposed to give clarity on taxation of indirect transfers. Thresholds have been proposed to determine whether foreign assets substantially derives value from Indian assets or not. Conditions are provided for exemption from tax on indirect transfer. Indian companies would be required to comply with additional reporting requirements.
- Tax rates for royalty and fees for technical services to non-residents are to be reduced from 25% to 10% (plus applicable surcharge and cess).
- Branch of Foreign Banks is proposed to be considered as a person separate from its Head Office. Interest payable by branch of Foreign Banks to its Head Office or other branches is proposed to be deemed to arise in India and thus chargeable to tax in India.
- Remittances to non-residents are subject to reporting whether or not such sum is chargeable to tax in India and stringent penalties are proposed for inaccurate or non-disclosure of information.

FIIs and Investment Vehicles

- Indian Fund Managers will not be considered as business connection of Offshore Funds subject to fulfilment of number of conditions, which are designed to ensure independence of the Fund Managers.
- Capital Gains arising to FIIs (other than short term capital gains not subject to STT) are proposed to be exempt from MAT.
- Rental Income earned by Real Estate Investment Trusts (REITs) is proposed to be considered pass through income taxable directly in the hands of unit-holders.
- Transfer of units of Business Trust (REITs and Infrastructure Investment Trusts) which was acquired by Sponsors against transfer of shares in SPV will be eligible for exemption on STT paid long term capital gains and taxable at 15% on paid on STT paid short term capital gains.
- Category I & II Alternate Investment Funds are proposed to be accorded tax pass through status except in case of business income.

Personal Taxation

- No change is proposed in slab rates and tax rates applicable to individuals. Only change being increase in surcharge by 2%, applicable in case of individuals having income more than INR 1 crore.
- Sukanya Samridhhi Account Scheme is proposed to be introduced for the benefit of Girl child. Investments in such scheme will be eligible for deduction under Section 80C

and income and withdrawal proceeds therefrom are proposed to be exempt.

- Thresholds for deduction with respect to medical premiums under Section 80D are increased to INR 25,000 for individuals below the age of 60 years and HUFs and to INR 30,000 in case of senior citizens.
- Very senior citizens with age of 80 years and more, not having health insurance policy will be subject to deduction of medical expenses upto INR 30,000 under Section 80D.
- Enhanced deductions are proposed for persons with disability under Section 80U and 80DD.
- Thresholds for deductions in respect to contribution to pension funds under Section 80CCC and contributions to National Pension Scheme under Section 80CCD have been increased.

Other Direct Tax amendments

- Consolidation of similar Mutual Funds made tax neutral.
- Beneficial rate of 10% on Capital Gains & dividend on GDR (with underlying asset being equity shares) restricted to ESOPs issued to resident employees of listed companies.

Indirect Tax

- GST is proposed to be implemented with effect from April 2016, which will include entire gamut of indirect tax laws in one act and enable better compliance and administration.

Service Tax

- Rate is increased from 12.36% to 14% It will apply from the date to be notified after enactment of Finance Act 2015
- 2% Swachchh Bharat surcharge will be levied at a future date
- Any services provided by Government/local authority to business entity (except service that are specifically exempted or covered by any other entry in negative list) shall be liable to levy of service tax
- Service of Chit fund, selling of lottery are now taxable
- Service tax will be levied on admission to entertainment or amusement facility where the charges are above ₹ 500/-
- All reimbursed expenditure or cost incurred and charged by service provider are taxable
- Services provided to Government, Local authority or a Government authority by a way of construction, erection, commissioning, installation, completion, fitting out, repairs, maintenance, renovation, or alteration are taxable for (i) a civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession (ii) a structure meant predominantly for use as an educational, a clinical or an art or cultural establishment (iii) a residential complex predominantly meant for self-use or the use of their

employees or other persons (iv) Services by AMF, MF and lottery tickets agents

- Construction, erection, commissioning or installation of original works pertaining to an airport and port are chargeable to tax
- Service tax is levied on "Aggregator"- who owns and manages a web based software application to enable a potential customers to connect with persons providing the service of a particular kind under the brand or trade name of the aggregator
- List of services included into the Negative list of services (i) Ambulance services by clinical establishment (ii)Life insurance service provided by way of Varishtha Pension Bima Yojna (iii) Service provided by a Common Effluent Treatment Plant operator (iv) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables
- Invoices can be issued with digital signature
- Records can now be preserved in electronic format and every page of record shall be digitally signed

Excise

- Increase in rate from 12.36% to 12.5% ad-valorem
- Education cess and Higher & Secondary Higher Education Cess abolished
- The time limit for availing CENVAT credit is increased from present limit of six months to One year
- Penalty for non-filing of return is increased from ₹ 5000 to ₹ 100 per day subject to maximum of ₹ 25000 per return
- Non-excisable goods also to be treated as exempted goods for purpose of reversal of credit under Rule 6 of CENVAT Credit Rules, 2004
- CENVAT credit can be taken if the goods imported under the cover of a bill of entry are sent directly to buyer's premises. However the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises
- CENVAT credit shall be allowed even if Capital goods sent to job worker premises for further processing, testing, repairs, reconditioning or manufacture of final products.
- CENVAT Credit is now available immediately in case input/ Capital goods directly sent to job worker's premises. Provided goods are received back within 180 days from the job workers
- Daily stock register may be maintained digitally
- Digital signed invoice can be issued
- Mandatory to file Online registration application
- Registration application will be approved within 2 days
- Fresh registration is to be required for transfer of business or acquisition (from bank or financial institution)
- Self-attested copies of documents will be submitted at the time of Physical verification of premises

Customs

- SAD 4% on specified items used as inputs are reduced to NIL

Non-Tax Announcement

- A new law on black money is proposed to be introduced, with consequential amendments to Prevention of Money Laundering Act and Foreign Exchange Management Act, with non-compoundable prosecutable offences and high penalties.
- A comprehensive law with respect to Benami transactions is proposed to be introduced which enables confiscation of Benami property and prosecution, especially with respect to real estate transactions.
- It is proposed to amend Foreign Exchange Management Act (FEMA) to provide that control on capital flows as equity shall be governed by Central Government instead of RBI.
- JAM Trinity – Jan Dhan, Aadhar and Mobile direct money transfer is proposed which will facilitate transfer of benefits leakage-proof, well targeted and cashless manner.
- With 2022 being the 75th year of independence, the Finance Minister has proposed Amrut Mahotsav, whereby each citizen of India shall be able to access basic amenities like housing, electrification, water supply, public infrastructure and social security.
- A new Bankruptcy law shall be proposed which will be in line with the global standards and ensure better implementation with legal certainty and speed as well as provide necessary judicial capacity.
- NBFCs with asset size of more than ₹ 500 crores are proposed to be brought under the definition of "financial institution" in SARFAESI Act 2002, ensuring parity of large NBFCs with other financial institutions in matters of recovery.
- It has been proposed to set up a National Investment and Infrastructure Fund (NIIF) to facilitate easy circulation of funds for investment and infrastructure development in the country.

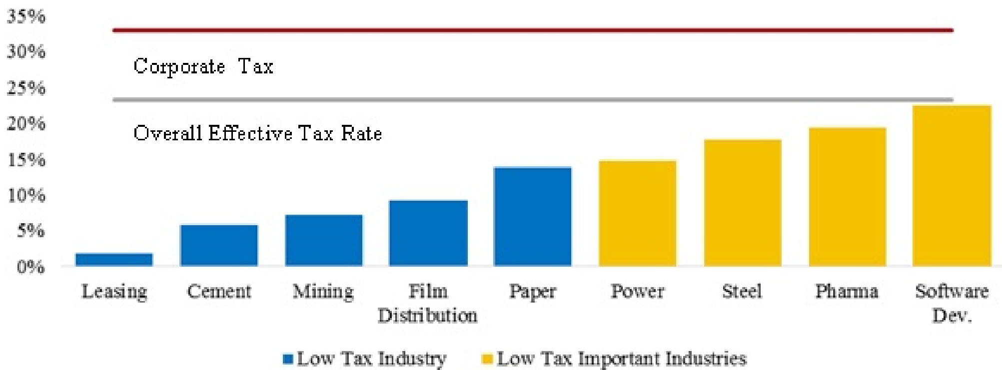
Direct Tax

Rates of Tax

Corporate Tax

Gradual Decrease in Corporate Tax Rate

Finance Minister during the Budget Speech mentioned that rate of Corporate Tax is perceived high by the investors whereas actual realized rate of Corporate Tax is significantly lower. Therefore, the Minister announced phased reduction in Corporate Tax rate to 25% over a period of 4 years from the Financial Year 2016-17 while reducing the exemptions available. Finance Minister emphasized that his intention is to reduce the base rate of corporate tax but to retain effective rate of corporate tax by eliminating exemptions.



Basic rate of Corporate Tax has been maintained at 30% of the total income. However, rate of surcharge for the domestic company has been increased by 2%. Therefore, where the total income of the Domestic Company exceeds ₹ 1 crores but does not exceed ₹ 10 crore, it will be subjected to surcharge of 7% of the tax (instead of 5% for AY 2015-16) whereas in case where the total income exceeds ₹ 10 crores, it will be subjected to surcharge of 12% of the tax (instead of 10% for AY 2015-16). No change is proposed in surcharge for foreign companies. Tax Rate Table is provided in Appendix.

Personal Tax

Personal Tax rates largely continued in same way

No changes have been proposed in basic rate of personal taxation. Surcharge applicable on income exceeding ₹ 1 crore has been raised to 12% from current 10%. Tax Rate Table is provided in Appendix.

Minimum Alternate Tax

Computation of Book Profit in certain cases

Under the existing provisions of Section 115JB the book profits are required to be increased by the amount of expenditure relatable to any income to which Section 10 or Section 11 or Section 12 applies. Similarly the book profits are required to be reduced by the amount of income to which the provisions of Section 10, Section 11 or Section 12 applies. In case, a company is a partner in a partnership firm and receives share of profit, by virtue of the present provisions the same would not be included while computing the book profits as the share in profit in a partnership firm is exempt under Section 10(2A). Similarly, the share received by a member of association of person is not chargeable to tax by virtue of Section 86 of the Act. To bring in line the share received by a company from association of persons, it is proposed to exclude the share of company in the income of any association of person not chargeable to tax by virtue of Section 86 and corresponding expenditure relatable to such income are required to be excluded in computation of Book Profits u/s. 115JB.

It may also be noted that the proposed amendment also includes similar provision in relation to share of income from body of individuals. However, since Section 115JB is applicable only to a company assessee. Since body of individual would only have individuals as its member, it is not known how the same would be relevant in the above context.

Further, vide Finance Act (No.2), 2014 it was provided that any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 would be capital asset. Consequently, the income arising to a Foreign Institutional Investor from transactions in securities would always be in the nature of capital gains.

Finance Bill, 2015 proposes to amend the provisions of Section 115JB so as to provide that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT.

In this regard, it is important to note that applicability of MAT provisions to the non-resident company not having Permanent Establishment has been subject matter of dispute in recent times. Non-residents not having Permanent Establishment in India are not required to prepare financial statements in India and therefore the question arises. While Section 115JB does not distinguish between the foreign company having a Permanent Establishment in India or otherwise, the foreign companies without Permanent Establishment in India are generally taxed on gross income at special rates. When the foreign companies deriving income in the nature of interest, royalties, fees for technical services or capital gains, which are taxed at

special rates (generally ranging from 10% to 20%), it is to an extend illogical to apply MAT provisions to such incomes. E.g. income in the nature of royalties and fees for technical services derived by foreign companies (not having Permanent Establishment) is now proposed to be taxed at 10% of gross income because computation of net income is generally difficult in such cases as well as administration thereof is difficult. If MAT provisions are to be applied to such income, they would be effectively required to demonstrate the net income from such activities and otherwise they would effectively be required to pay higher tax under MAT provisions.

Authority for Advance Ruling had, in case of Castlelon Investment Limited (252 CTR 131), held that MAT provisions are applicable to foreign companies even if they do not have Permanent Establishment in India. However, Authority had taken a contrary view in case of Timken Company (326 ITR 193) and held that in absence of Permanent Establishment, provisions of MAT are not applicable to foreign company. The proposed amendment made only in respect of capital gains derived by Financial Institutional Investors (and not in respect of all the foreign companies without Permanent Establishment) fuels the argument that MAT provisions could be applied to foreign companies deriving income in the nature of royalties, fees for technical services, interest, etc. without having a Permanent Establishment in India. The tax authorities have challenged the ruling of AAR before the Supreme Court and therefore a clear guidance would be available only upon judgement by the Supreme Court in this regard.

Transfer Pricing

Increase in threshold of Transfer Pricing for Specified Domestic Transactions

The Finance Act, 2012 inserted Section 92BA in view to extend the provisions of transfer pricing for specified domestic transactions (SDT) with effect from transactions entered into on or after April 1, 2012. The provisions are applicable only in respect of certain transactions specified under Section 92BA of the Act.

The provisions of transfer pricing were introduced to ensure multinational enterprises, who carry out transactions in India, do not manipulate the prices of the transactions for shifting their profits from India to a lower tax regime. The Supreme Court in the case of CIT Vs. Glaxo SmithKline Asia (P) Ltd. 236 CTR 113 (SC), in its order has, after examining the complications which arise in cases where fair market value is to be assigned to transactions between domestic related parties, suggested that Ministry of Finance should consider appropriate provisions in law to make transfer pricing regulations applicable to such related party domestic transactions. Accordingly, SDT was introduced by Finance Act, 2012.

However, the extension of transfer pricing provisions to Specified Domestic Transactions has always been into controversy because even if transactions are not undertaken at arms' length price, the aggregate tax collection of the department would not materially change because of the uniform corporate tax rate in India [except in few circumstances]. The current provisions of Transfer Pricing as applicable to Specified Domestic Transaction covered the whole gamut of related party transactions without focusing on the target circumstances with the threshold set to

a very low value of ₹ 5 crores and thereby significantly increased the compliance burden on the taxpayer.

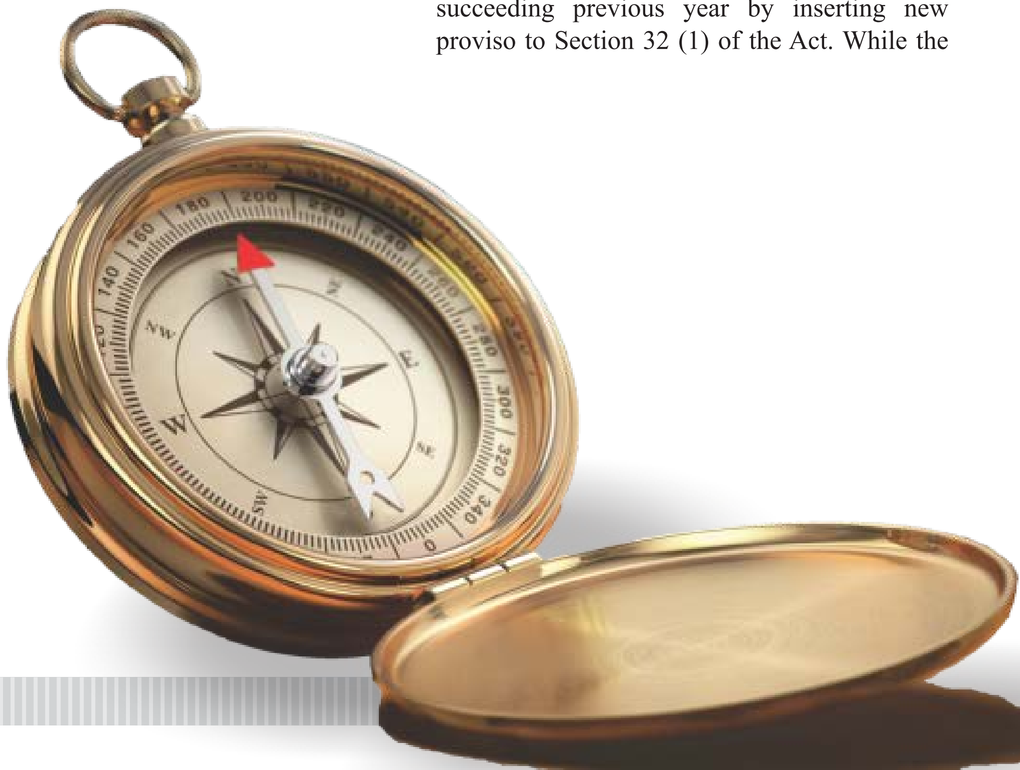
In order to reduce the compliance burden on the taxpayer, the threshold of applicability of Transfer Pricing in case of Specified Domestic Transactions has been increased to ₹ 20 crores from ₹ 5 crores. Therefore, Transfer Pricing shall be applicable only if the aggregate Specified Domestic Transactions are ₹ 20 crores or more.

Business Deductions

Allowability of Additional Depreciation

Currently, second proviso to Section 32 (1) of the Act restricts the allowability of additional depreciation to 50% if the assets is used for the purpose of business for less than 180 days. Since additional depreciation was available only in the year in which the asset was acquired and installed, eligibility of the balance 50 % of additional depreciation was subject matter of litigation for last few years. However, Delhi ITAT in case of DCIT v. Cosmo Films Ltd. 139 ITD 628 & ACIT v. SIL Investments Limited 148 TTJ 213 applied the principle of purpose and liberal interpretation in case of incentive provisions and held that balance 10% of additional depreciation is allowable in the subsequent years to the assessee as it was introduced to provide incentives to investment in productive assets. Similar view was taken in case of Apollo Tyres Limited v. ACIT 31 ITR (Trib) 477 (Coch.). However, Chennai ITAT in case of Brakes India Limited 160 TTJ 505 depreciation is allowable only in the year in which it is put to use and therefore unabsorbed part thereof, though arose on account of use of machinery for less than 180 days, cannot be carried forward and claimed in subsequent year.

In order to settle the controversy, the Bill proposes to allow balance 50% of additional depreciation for the asset in the immediately succeeding previous year by inserting new proviso to Section 32 (1) of the Act. While the



provision would be applicable from Assessment Year 2016-17, it can also be used to argue adoption of liberal interpretation in relation to eligibility in earlier years.

Incentives for investing in backward areas in Telangana& Andhra Pradesh

Enhanced Additional Depreciation of 35%

Section 32(1)(iia) of the Act allows additional depreciation of 20% in respect of the cost of plant or machinery acquired and installed by an Assessee engaged in the business of manufacture or production of any article or thing or in the business of generation or generation and distribution of power. The Bill proposes to allow additional depreciation at the enhanced rate of 35% (instead of 20%) in respect of the cost of pant or machinery acquired and installed by a manufacturing undertaking or enterprise which is set up on or after April 1, 2015 in the notified backward area in the State of Andhra Pradesh or the State of Telangana by inserting new proviso to the Section 32(1)(iia) of the Act. The additional depreciation is allowable to the said undertaking or enterprise only if new machinery or plant is acquired and installed during period April 1, 2015 to March 31, 2020. Thus, it is important to note that the benefit would be available only to the new undertakings.

It may also be noted that in case the machinery is installed and used for less than 180 days making it eligible to claim only half of additional depreciation in the year of installation, balance would be available as deduction in the subsequent year.

Investment Allowance

The Bill proposes to insert new Section 32AD in the Act to provide for additional investment allowance to the industrial undertakings set up in the backward areas in the State of Andhra Pradesh and the State of Telangana. It proposes to allow deduction of a sum equal to 15% of the actual cost of new asset acquired and installed during the period from April 1, 2015 to March 31, 2020 by the undertaking which is set-up on or after April 1, 2015.

In this case also, that the benefit would be available only to the new undertakings. However, unlike Section 32AC, this provision does not set any threshold of value of investment and therefore it would be available irrespective of the value of investment in the plant and machinery. Investment allowance is permanent benefit and therefore while additional depreciation only provide tax deferrals, investment allowance provides tax savings.

It is to be highlighted the investment allowance under Section 32AD is in addition to investment allowance of 15% available on new plant and machinery if the investment in the relevant year exceeds ₹ 25 crores.

With the above said incentives, a new unit investing into plant and machinery in notified backward areas of Telangana and Andhra Pradesh would be eligible to claim at least 50% of the cost towards depreciation and 15% as investment allowance and further 15% under Section 32AC if the conditions are fulfilled.

The Section proposes to restrict the transfer of asset within the period of 5 years from the date of installation. If any new asset acquired and installed by the Assessee is sold or otherwise transferred [otherwise than in connection with amalgamation, demerger or reorganisation of the business] before the specified period of 5 years, then the amount of deduction allowed shall be deemed to be income of the Assessee which is chargeable under the head “Profit and gains of

business or profession" of the previous year in which such asset is sold or otherwise transferred. Further, it proposes that the new asset sold or otherwise transferred in connection with amalgamation, demerger or reorganisation of the business referred to in clauses (xiii) or clauses (xiiib) or clause (xiv) of Section 47 of the Act, the amount of deduction allowed shall be deemed to be income of the amalgamated company or the resulting company or the successor referred to in clauses (xiii) or clauses (xiiib) or clause (xiv) of Section 47 of the Act if it is subsequently sold or transferred by such company within a period of total 5 years.

Allowability of weighted deduction for Scientific Research

Contribution to National Laboratory for scientific research

Section 35(2AA) allows weighted deduction to the Assessee equal to 200% of amount paid to National Laboratory for undertaking scientific research under a programme approved by the prescribed authority. The prescribed authority requires submission of the report in the prescribed form (Form No. 3CJ) to the Principal Director General or Director General before granting approval to National Laboratory. The Bill proposes to amend the Section requiring submission of the report in the prescribed form to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General by the prescribed authority before granting approval.

Expenditure for in-house research and development facility

Section 35(2AB) allows weighted deduction of 200% to the company engaged in the business of bio-technology or manufacturing of goods for expenditure incurred on scientific research carried out in an approved in-house research and development facility. For availing deduction the Section requires the company to enter into agreement with the prescribed authority and to get the accounts audited for that facility. The amended provision requires the company to enter into an agreement and fulfils the conditions with regard to maintenance and audit of accounts and furnishing of the report in prescribed form. The amended Section requires submission of report by the prescribed authority to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General having jurisdiction over the Assessee Company

Deduction in respect of employment of new workmen

Section 80JJAA provides deduction to an Indian company deriving profit from the manufacturing of goods in a factory. The assessee company is eligible to get the amount of deduction at the rate of 30% of additional wages paid to the new regular workmen employed in such factory. The additional wages paid means the wages paid to the new regular workmen in excess of 100 workmen employed during the previous year.

It is proposed to amend the Section 80JJAA so as to extend the benefit to all assessee having manufacturing unit. Further, it is also proposed to work out additional wages in excess of 50 workmen employed during the previous year instead of 100 workmen.

Currently, if the factory is hived off or transferred from another existing entity or acquired as a result of amalgamation shall not be allowed to claim deduction u/s. 80JJAA. It is

proposed to expand the scope the non-eligible undertaking to include factory acquired from any other person or as a result of any business-reorganization. Therefore, factory acquired from any other person or by way or business re-organization (including amalgamation), it would not be eligible for deduction u/s. 80JJAA.

Non Resident Taxation

Residential Status of Foreign Companies

Place of Effective Management significant in determining residential status of Companies

As per the current provisions of Section 6 of the Act, a Company is considered to be resident in India if it is an Indian company or if control and management of its affairs is wholly situated in India during that year. Indian companies or companies incorporated in India are always considered resident in India. And foreign companies are considered as tax resident in India if during the year under consideration, their control and management is "wholly" situated in India. Accordingly, if control and management of a foreign company is even partly situated outside India, it is regarded as non-resident.

A major change has been proposed to the definition of residential status of companies vide amendment to Section 6(3) of the Act which may have significant impact with respect to foreign companies. As per the proposed amendment, a company will be considered as resident if (i) it is an Indian Company or (ii) its place of effective management, at any time during the year, is in India. Place of effective management (POEM) has been defined as a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are,in substance, made.

Evolution of the concept of POEM in Indian context

The existing definition of residence of a company in the Act based on the control and management of its affairs being situated "wholly" in India was considered as too high a threshold and too narrow compared to the definition of residence in tax treaties.Therefore, a need to revise the same was envisaged under the DTC and accordingly it was introduced in Direct Taxes Code Bill(DTC) introduced in 2010. The principle survived with modifications in DTC revised draft circulated in 2013.

The Finance Minister in his Budget Speech acknowledged that the jurisprudence under the Income-tax Act is well evolved and there is no great merit in going ahead with the DTC. Thus, while DTC may not be implemented, most concepts introduced in DTC such as indirect transfer tax, General Anti Avoidance Rules (GAAR), etc. have already been incorporated in the Act. Now, thus, the concept of POEM is also

proposed to be incorporated in the Act.

POEM in International context

OECD, in its commentary on Article 4 of the Model Tax Convention on Income and Capital recognises POEM as an internationally recognized concept as a tie breaker rule for determining residential status and describes POEM as 'the place where key management and commercial decisions that are necessary for the conduct of the entity's business as a whole are in substance made'. OECD observes that all relevant facts and circumstances must be examined to determine POEM. The Commentary states that an entity may have more than one place of management, but it can have only one POEM at any one time. OECD suggests that in determining place of effective management, various factors should be taken into account including factors such as where the board meeting are usually held; where the chief executive officer and other senior executives usually carry on their activities; where the senior day-to-day management of the person is usually carried on; where the person's headquarters are located; which country's law govern the legal status of the person; where its accounting records are kept; whether determining that the legal person is a resident of one of the contracting states but not of the other would carry the risk of an improper use of the Convention.

Impact of the proposed amendment

The amendment is proposed with a view to align provisions of the Act with DTAAs and other international standards and prevent avoidance of tax by shell or conduit companies incorporated outside India.While, the intention seems to prevent avoidance of taxes by companies incorporated outside India and control and managed from India, the definition of POEM and words “at any time” widens the scope of taxation and may lead to ambiguous interpretations.

POEM has been defined as a place where “key management and commercial decisions” that are “necessary for the conduct of the business of an entity as a whole” are, “in substance, made”. While the definition is open to different

interpretations, it may be possible to have a view that to establish that the foreign company has a POEM in India, the "key decisions" that are essential or necessary for overall conduct of the business should be considered keeping in mind "substance" as a whole. Further, while the residence test incorporates the words "at any time", the substance and decision making as a whole for overall conduct of the business should be considered.

Another set of possible interpretation could be that even a single commercial and strategic decision approved in India or a single board meeting conducted in India could tantamount to the POEM (for the purpose of determining tax residency) being in India. This would have various implications for multinational companies having board members across different countries. Questions could arise as to whether Overseas Board members visiting India (and may possible take some important decisions) could create exposure that the foreign company be treated as a resident.This would also have very significant implications on the companies with material outbound investments as generally they would have Indian resident directors and Board meetings may be conducted through circular resolution. While the introduction of POEM is a fair point, the words "at any time during the year" needs reconsideration to avoid creating anxiety in especially in the eyes of Indian companies with outbound investments.

Indirect Transfer of Assets located in India

Section 9 deems specified income to accrue or arise in India and includes income arising from assets located in India [Section 9(1)(i)]. Finance Act, 2012 introduced a retrospective amendment by deeming shares, held in overseas entities that derives its value substantially from assets located in India, to be located in India. By virtue of this, if there is a transfer of such shares, capital gains derived from such transfer would be taxable in India since the 'assets (i.e. the shares) are deemed to be located in India'.

Such an amendment had significantly increased the scope of taxation of share transfers arising outside India in the hands of Non Resident taxpayers. However, a great deal of aspects had not been clarified and this has lead to interpretational issues investors. The three important issues (relating to lack of clarification or otherwise) were as follows:

- The provisions introduced were made effective retrospectively – this would cause undue hardships in case of transactions that had already taken place without tax being deducted.
- The term 'substantially' was not defined and therefore the threshold which would be regarded as 'substantially' was subjective. For example, if a foreign company has stake in an Indian company apart from assets in its own country and it derives 20% of value from assets located in India ('Indian assets'). Would this mean that the value of shares of such a foreign company is substantially derived from India assets and thereby its transfer is liable to tax in India?
- If in the preceding example it is assumed that the foreign company's shares derive value substantially from Indian assets, would the entire capital gains (which includes capital gains attributable to the foreign company) be taxed in India – if not then what proportion?

- Besides this, there were several other issues like how to value the assets, date on which valuation should be made and also how to practically apply the same in case of transaction of such shares listed on a stock exchange outside India in smaller quantities.

Following are certain important events in relation to the amendment.

A committee, chaired by Dr. Parthasarathi Shome ('Shome committee') was formed to analyse, *inter-alia* the issue of indirect transfer. The Shome committee has made a list of suggestions – most of these suggestions have been accepted by government and the same is proposed by the Bill. Following some of the recommendations made by the Shome committee, the Bill has proposed the following amendments in respect of indirect transfer.

- Shares would deemed to derive its value substantially from assets located in India only if both the following conditions are met:

  i) its value from attributable assets located in India exceeds ₹10 crores, and

  ii) it represents at least 50% of global assets of the entity.

- For deriving the value of the assets, related liabilities should not be deducted – i.e. the gross value of the assets is to be considered.

- The Bill also proposes an exemption in relation to transfer of smaller holdings that does not result into change in control or management. It provides that where the non-resident transferor (along with its Associated Enterprises), at any time in 12 months preceding the date of transfer, neither holds the right of management or control nor holds voting rights or share capital or interest more than 5% of the entity, whose shares are transferred, then it shall not be subjected to tax on such transfers.

- In event where such transfers are liable to tax in India, only the income which can be reasonably attributable to assets located in India would be deemed to accrue or arise in India.

- Threshold of ₹ 10 crores and 50% of the assets are to be determined based on the value as on March 31 immediately preceeding the date of transfer, except where the value on the date of transfer has increased by more than 15% and in such case, value on the date of transfer would need to be considered. In case company follows financial year-end different from March 31, the same can be applied if the same is used for tax or shareholder reporting purpose.

Hence the Bill has proposed significant changes in the contentious issue of indirect transfer. These provisions, if enacted, will go a long way to solve several pending litigations and will provide stability in future to such transactions. However, the Bill has not touched upon a major recommendation by the Shome committee to remove the retrospective application of taxation indirect transfer. Besides this, amendment proposed by the Bill are prospective in nature. However, since the amendments are in form of explanations, it can be argued that it is

clarificatory in nature and hence has a retrospective application.

Indirect Transfers – Reporting Requirements

The Bill has proposed mandatory reporting requirements for an Indian company in case shares of an overseas entity derives its value substantially from such Indian company. Section 285A has been proposed to be introduced so that cases of indirect transfer are reported. Also, stiff penalties have been proposed for non-compliance.

Indirect Transfers – Exemption in case of Amalgamation / Demerger of foreign

Section 47(via) and 47(vic) exempts from tax, gains on transfer of Indian company's shares if the same is transferred as a part of amalgamation or demerger deal amongst foreign companies. As discussed earlier, the Finance Act 2012 had widen the scope of tax by taxing indirect transfers. Due to this, even gains on transfer of foreign company's shares may get accrued in India, eventhough the same is as a part of amalgamation or demerger deal amongst foreign companies and were expected to be tax neutral.

To correct this anomaly, the Bill has proposed (albeit prospectively) Section 47(viab) and Section 47(vicc) which would exempt such transfers subject to conditions specified in it. Consequent amendments have been proposed u/s. 49 dealing with cost of acquisition in case of taxation of capital gains.

Tax on Royalty and Technical Service Fees

Section 115A provides inter alia for the rate of royalty and fees for technical services chargeable in the hands of a non-resident or a foreign company received from the government or in pursuance to an agreement with an Indian concern.

The Finance Minister vide Finance Act 2005 had reduced the rate of tax on royalty and fees for technical services from 20% to 10%. However, the Finance Minister in the Finance Act 2013 increased the rate from 10% to 25%. According to him, majority of the tax treaties allow India to levy tax on royalty and fees for technical services from a range of 10% to 25%. However, there was lower taxation, since the rate of tax under the Finance Act was 10%, even if the treaty allowed the income to be taxed at a higher rate. Accordingly, after Finance Act 2013, any Government or an Indian Concern liable to pay royalty or fees for technical services to a foreign company withheld tax at the rate of 25% subject to the beneficial rates available as per Double Tax Avoidance Agreement (DTAA) entered into by India with foreign countries or specified territories.

The Government with its vision of Make in India, wants an increase in inflow of technologies from around the globe. To facilitate technology inflow to small businesses at low costs, it is proposed to reduce the rate of income tax on royalty and fees for technical services from 25% to 10%.

This would also help the foreign collaborator from the hassles of submission of Tax Residency Certificate in most cases. However, if the recipient of income does not furnish his Permanent Account Number (PAN), then the applicable rate of tax will be 20%.

TDS on payment to Non Residents

Vide notification no. 67 of 2013 dated

September 2, 2013, CBDT removed the provision for providing information for payments covered by specified list and made such payments fully exempt from providing any information u/s 195(6) read with Rule 37BB. Based on the amended Rule, information was to be furnished by the person responsible for making payment to non-resident only for the payments that were "chargeable to tax" in India as per the provisions of the Act. It had also amended the Form 15CB and Form 15CA in such a manner as it would be required only if such payments were taxable in India as per the provisions of the Act (without considering any benefit or relief under DTAA).

While it was a welcome change to reduce hassles of the taxpayer to smoothen the foreign remittances, it also led to the effect that the transaction without deduction of tax at source were not reported to the tax authorities at all. This effectively means that tax authorities were even deprived from the information relating to transactions, which were possibly non-compliant with the withholding tax provisions under the Act.

The Finance Minister vide Finance Bill 2015 has proposed to amend Section 195(6) of the Income Tax Act. According to the amendment, the person responsible for paying a non-resident, not being a company, or to a foreign company any sum has to furnish the information relating to such payment in Form 15CB and Form 15CA, whether or not such sum is chargeable to tax under the provisions of the Income Tax Act, 1961.

A penalty of Rs. 1 lakh is proposed to be levied by inserting a new Section 271-I to any person who fails to furnish such information or furnishes inaccurate information as mentioned above.

Interest paid by Branch of Foreign Banks to Head Office

Section 9(1)(v) relates to the interest income and provides that the income by way of interest, if payable by persons specified in the said clause, shall be deemed to accrue or arise in India. The interest income shall be taxable in India at the rates specified in the Finance Act, subject to any beneficial rates provided in the DTAA.

The CBDT had issued a circular (740 dated 17/4/1996) which clarified that the branch office of a foreign company in India is a separate entity for the purpose of taxation. Accordingly, TDS provisions under section 195 shall apply and any interest paid by a branch office to the foreign company would be chargeable to tax in India.

In the case of ABN Amro Bank, NV, the assessee remitted substantial funds to its head office as payment of interest and claimed that for the purpose of computation of its expenditure, branch and head office were to be taken as separate entities, but for the purpose of payment of tax at source on interest payment, it was to be taken as one bank and no deduction of tax was to be made. The department's contentions were that under section 195(1) there was an obligation of the Indian branch to deduct tax at source while remitting interest to the head office and having not done so, the deduction could not be granted under section 40(a)(i). It was further contended that the head office and the permanent establishment in India were to be taken as separate entities and under the DTAA, interest could not be allowed as a deduction. However the High Court of Calcutta passed an order in favour of the assesse, and stated that there was no scope for any argument that for the purpose of computation of expenditure, the branch and the head office were to be taken as separate entities but for the purpose of payment of tax at source on interest payment, it was to be taken as one bank and no deduction was to be made.

It is proposed to amend the clause (v) of subsection (1) of section 9 in order to provide that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Income Tax Act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly.

While clarity has been provided in respect of interest payable by foreign banks, similar changes have not been provided in respect of service fees paid by Indian branches of foreign companies, which is also subject matter of litigation.

Rules for Foreign Tax Credit

The Income Tax Act, 1961 or the Income Tax Rules, 1962 do not provide for a detailed procedure dealing with foreign tax credit except for Section 91 which provides for how credit is to be computed in case of non-treaty countries. Since the Indian Regulations provide a very broad framework, there are many questions in relation to tax credit which are unanswered.

- How the amount of Indian tax on foreign sourced income to be computed?
- Foreign tax credit and the limitation is to be computed separately for each source or country or on aggregate basis?

- How to deal with difference in timing of taxing income in foreign country and India?
- Is the credit allowable based on liability to pay tax or it is only against actual discharge of liability?
- What would constitute sufficient proof for claim that the income has suffered foreign tax?

In order to address the above mentioned issues, it is proposed to amend section 295(2) of the Income Tax Act, so as to provide that CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income tax paid in any country / specified territory outside India under section 90 / 90A / 91 against the Income Tax Payable under the Act.

The above amendment will be effective from June 1, 2015.

FII & Investment Vehicles

Foreign Institutional Investors

Mere presence of Fund Managers in India not to constitute business connection

India is emerging as an investment destination for significant foreign investors. Foreign Institutional Investors (FII) has been investing in India through Fund Managers in India and they have been claiming that the services are provided by independent Fund Managers and they have been rewarded on arm's length basis and therefore it should not constitute Permanent Establishment and much less Business Connection in India so as to trigger taxability in India.

The ambiguity with respect to application of provisions of Section 9 still existed. Under the existing tax provisions, the presence of a Fund Manager in India may create sufficient nexus of the off-shore funds with India and may constitute a business connection in India even though the fund manager is an independent entity. This would mean that the income of the fund would be taxable as business income, at a higher corporate rate of tax, instead of being taxed as capital gains.

With a view to remove this ambiguity, the amendment proposes detailed guidelines and conditions fulfilment of which would be considered as not establishing business connection in India by FII.

Several countries including United Kingdom, Singapore, Hong Kong, United States and New Zealand provide for a safe-harbour to prevent off shore funds from having a taxable presence in their respective jurisdictions. With a view to making Indian tax laws comparable with the international standards and facilitate location of fund managers in India, a specific regime (under Section 9A) has been proposed which provide that, subject to fulfilment of certain conditions by offshore funds and fund managers:

- the income of offshore funds shall not be taxable in India merely due to presence and operations of its fund manager in India, and

- tax liability of such offshore funds in India shall be tax neutral, whether the investment is made by the fund directly, or through fund managers located in India.

The offshore fund shall have to comply with the following conditions:

- Fund is not a person resident in India.
- Fund is a resident of a country with which India has entered into a Double Tax Avoidance Agreement in accordance with provisions of the Act.
- Persons resident in India do not have aggregate participation / investment in the fund exceeding 5% of the corpus of the Fund.
- The fund and its activities are regulated by applicable Investor Protection Guidelines in the country of its registration or incorporation or residence.
- The fund has a minimum of 25 members, who are not connected to each other, whether directly or indirectly (as per provisions of Section 102(4) of the Act).
- Any member of the firm (along with its connected persons) does not have participating interest, whether directly or indirectly, of more than 10% in the fund.
- Aggregate participation of 10 or less members (along with its connected persons), whether directly or indirectly, shall be less than 50%.
- The fund shall not invest more than 20% of its corpus in a single entity.
- The fund shall not make any investment in its associate entity.
- The average monthly corpus of the fund shall not be less than ₹ 100 crores. (If the fund has been incorporated in a particular previous year, its corpus shall not be less than ₹ 100 crores by the end of that previous year).
- The fund shall not carry on, or control and manage, directly or indirectly, any business in India or from India.
- The fund (whether by itself or through any other person) does not carry out any activities which constitute presence of a business connection in India, except for the activities of the eligible fund manager.
- The remuneration paid by the firm to its eligible fund manager is not less than the arm's length price for such activity.

The fund manager shall have to comply with the following conditions:

- The person is not an employee of the fund or connected person of the fund.
- The person is registered as a fund / investment manager in accordance with the applicable regulations.
- The person is acting in ordinary course of business as a fund manager.
- The person, along with its connected persons, is not eligible for more than 20% of the profits of the fund accruing or arising from transactions carried out through such fund manager (whether directly or indirectly).

In addition to meeting the above requirements, the offshore funds are required to furnish within 90 days from the end of the relevant financial year, such information (including information

relating to the fulfilment of conditions stipulated by Section 9A) in such form as may be prescribed. The Rules with respect to this provision are yet to be notified.

It is further proposed that this Section would not affect the taxability of income of offshore funds, which would have been taxable irrespective of whether the activities of the fund manager in India constituted a business connection or not. Further, the proposed regime shall not affect the scope of total income of the fund manager in India.

Computation of Book Profit in certain cases

Finance Bill, 2015 also proposes to amend the provisions of Section 115JB so as to provide that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT. Discussion in this regard has been made under the head 'Business Taxation'. Please refer to the same for the detailed analysis.

Business Trust

As a measure to promote investment climate in India and the Make in India objective adopted by the Government, tax amendments have been proposed to encourage investment in India in various sectors. With a view to encourage investments in the real estate and infrastructure sector, special provisions were introduced vide Finance (No. 2) Act, 2014 with respect to taxation of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (InvITs), collectively referred to as Business Trusts and unitholders of such trusts. Certain amendments proposed in relation to Business Trusts are summarised hereunder.

Definition of Business Trusts

The definition of Business Trust as provided under Section 2(13A) of the Act is proposed to be amended to give reference to Securities and Exchange Board of India (Infrastructure Investment Regulations) 2014 and Securities and Exchange Board of India (Real Estate Investment Trust) Regulations 2014 introduced on 26th September 2014 by the SEBI for regulating InvITs and REITs in India.

Pass through treatment of Rental income earned by REITs

As per the provisions of Section 115UA read with Section 10(23FD) as introduced by Finance (No. 2) Act, 2014, incomes arising to a business trust other than in the nature of interest, capital gains and dividends are liable to tax in the hands of the business trust at the maximum marginal rate and distribution thereof to the unitholders was exempt in the hands of the unitholders.

The Bill proposes to treat income earned by REITs on renting or leasing or letting out of any real estate asset directly owned by REITs as pass through income. Accordingly, similar to the treatment of interest earned by REITs or InvITs, rental income earned by REITs will be treated as pass through will not liable to tax in the hands of the business trust. Further, such interest payments from SPV to the business trust will not be liable to tax deduction at source.

Distributions received by a unit-holder from such business trust out of the rental income as referred to in Section 10(23FCA) will be taxable in the hands of the unit-holders as rental income and would be liable to tax withholding at the rate of ten percent in case of payments to resident unit holders and at rates in force i.e. rate specified in the Finance Act or as per double taxation avoidance agreement, in case of non-resident unit holders.

Corresponding amendments have been proposed under Section 10(23FCA), Section 10(23FD), Section 2(37A), Section 115UA, Section 194I and Section 194LBA of the Act, to give effect to above provisions.

Tax on transfer of units of business trust purchased against shares of SPV in the hands of Sponsors

As per the provisions introduced by Finance (No. 2) Act, 2014, acquisition of units of a business trust in consideration for shares of the SPV was not considered as a taxable transfer and thus was exempt from tax on capital gains. However, subsequent transfer of units of the business trust so acquired was taxable in the hands of the investor without any exemption on long term capital gains under Section 10(38) and concessional tax rate of 15% under Section 111A in case of short term capital gains available in case of transactions subject to securities transaction tax (STT). Thus, the capital gains arising on transfer of shares of SPV in consideration of units of business trust was not exempt but only deferred.

As a contrast to these provisions, if SPV is listed on a recognised stock exchange through an Initial Public Offer (IPO), listing of shares does not give rise to transfer or gains thereon. Further, subsequent transfer on recognised stock exchange of such listed shares are exempt or taxable at the rate of 15%, depending upon period of holding of the shares.

With a view to bring parity in tax arising to the sponsors / investors in case of listing of shares of SPV through IPO or transfer of such shares to a business trust and subsequent listing thereof, amendments are proposed under Section 10(38) and Section 111A of the Act and in provisions relating to

STT. According to the proposed provisions, transfer of shares of SPV in consideration of units of business trust will be liable to STT. On subsequent transfer of units by the unitholder, on which STT is paid at the time of subsequent transfer, will be exempt in case of long term capital gains and liable to tax at reduced rate of 15% in case of short term capital gains, like any other unitholder.

Alternative Investment Funds

Taxability of Alternate Investment Funds

Securities and Exchange Board of India has issued SEBI (Alternative Investment Funds) Regulations in 2012 to differentiate from the SEBI (Venture Capital Fund) Regulations. The major difference between the two is that in SEBI

(AIF Regulations), the funds have been categorised based on how the business is driven and where the investments are made.

Category I AIFs are funds which invest at start-up or preliminary stages in areas which the government consider socially or economically desirable. Category II funds are those that do not fall in Category I and Category III and do not undertake leverage positions otherwise than for day-to-day requirements. Category III funds are those which employ diverse or complex trading strategies.

In order to provide boost to the Category I and Category II funds and promote higher investment by these funds, it is proposed to introduce provisions to make the Investment Funds "pass-through entities" and make the incomes of these funds taxable in the hands of the investors of the funds, instead of the funds.

Important features of these provisions are:

- Investment fund shall be chargeable to tax under the head "profits and gains from business and profession". Its income from other heads of income shall be exempt under newly inserted clause (23FBB) of Section 10.
- Rate of tax for "profits and gains from business and profession" shall be the rate specified by the applicable Finance Act in case the investment fund is a company or a firm, and in other cases, the maximum marginal rate of tax.
- Investor of the investment fund shall be charged to tax for income earned by investment fund in the same manner as if the investment made by investment fund was made by the investor himself. Investor fund level income of the investor from the head "profits and gains from business and profession" shall be exempt under newly inserted clause (23FBA) of Section 10.
- As per proposed Section 194LBB, where any such taxable income is payable to the investor, tax shall be deducted at the rate of 10% without any threshold limit.
- The provisions of Chapter XII-D (Tax on distributed profits of domestic companies) and Chapter XII-E (Tax on distributed income) shall not be applicable to income paid by investment fund.
- The income will be credited to investor based on accrual basis. If in any year, income is charged to tax by the investor on accrual basis, it shall not be charged again when the income is actually received.
- If in a previous year, investment fund suffers a loss under any head which cannot be set off against income from any other head, the same shall be carried forward for set off in accordance with the provisions of Chapter VI.
- The income credited to the investor shall be deemed to be of the same nature (under the same head) and in same proportion as that earned by the investment fund.
- Investment fund or any person responsible to make payment to investor on behalf of the investment fund shall furnish such information in such format to the investor and the tax authority as may be prescribed. The Rules in this regard are yet to be notified.

It may be noted that as per the SEBI Regulations, Venture Capital Funds are required to get themselves re-registered under the new

Regulations to be able to increase the targeted corpus or launch new schemes. Keeping this in view, the benefits available to Venture Capital Funds under Section 115U shall be withdrawn with effect from 1st April 2016.

Personal Taxation

Residential Status of Indian Citizens being Member of Crew of Indian Ships

Scope of total income of a taxpayer chargeable to tax in India depends on his / her residential status for the year. Residential status of individuals is determined based on number of days such individual is present in India. Considering the ambiguity in determination of period of stay in India with respect to members of crew of the ships moving to destination outside India, it is proposed that manner of determination of period of stay in India and other conditions in relation thereto be prescribed by way of Rules.

The amendment is proposed to be effective from 1st April, 2015 i.e. assessment year 2015-16 and subsequent assessment years.

Contribution made to and income from Sukanya Samriddhi Account

Section 80C provides for deduction from the taxable income in respect of certain investments made by Individual or HUF with an overall ceiling of deduction of Rs. 1,50,000. The investments eligible for deduction u/s 80C inter alia include investment in Provident Fund, Public Provident Fund, Life Insurance Premium, repayment of principal amount of housing loan, NSC, etc.

Section 80C of the Act, has been proposed to be amended by introducing a special small savings instrument for the welfare of girl child under new Scheme of Sukanya Samriddhi Account Rules, 2014.

Any sum paid or deposited during the year in the new Scheme of Sukanya Samriddhi in the name of any girl child of an individual or in the name of any girl child for whom such individual is a legal guardian, would be eligible for deduction u/s. 80C of the Act.

Further, the bill also proposes to introduce Section 10(11A) whereby the amount withdrawn from the above said account (including interest)would also be exempt from tax. The Scheme has been notified vide Notification number 9/2015 S.O. 210 (E), F. No. 178/3/2015-ITA-I dated 21/01/2015.

This benefit is available from Assessment Year 2015-16.

Deduction in respect of contribution to Pension Funds

Section 80CCC provided deduction from taxable income in respect of amount paid or deposited by an Individual with an overall ceiling of deduction of ₹ 1,00,000 for any annuity plan of Life Insurance Corporation of India for receiving pension from the fund set up under a pension

scheme made by Individual. The existing ceiling limit of deduction of Rs. 1,00,000 in case of Section 80CCC has been proposed to be increased to Rs. 1,50,000 in order to promote social security.

One may note that deduction u/s 80CCC is further subject to restriction of overall deduction in respect of savings of Rs. 1,50,000 u/s 80C, 80CCC and 80CCD.

Deduction in respect of contribution to Pension Scheme

As per the existing provisions contained in sub-Section (1) of Section 80CCD of the Act if an individual, has paid or deposited any amount in a previous year in his account under a notified Pension Scheme, a deduction of such amount not exceeding 10% of his salary in the case of an employee and 10% of the gross total income in case of any other individual is allowed. Currently only the National Pension System (NPS) has been notified by the Ministry of Finance under Section 80CCD. Deduction in respect of above contribution is currently restricted to Rs. 1,00,000, however, the said limit is proposed to be done away with. Therefore, contribution to National Pension System would not be eligible for deduction u/s. 80CCD(1) up to Rs. 1,50,000 in view of overall limit prescribed under Section 80CCE.

Further, with a view to encourage people to contribute towards NPS, an additional deduction up to Rs. 50,000 has been provided u/s. 80CCD(1B). It is important to note that the said contribution up to Rs. 50,000 would not be subject to limit of 10% of salary or Gross Total Income as required in relation to Section 80CCD(1). Also, this benefit would not be included for overall limit of Rs. 1,50,000 for investments by individual. In nutshell, for the individuals, who are already exhausting their limit of Rs. 1,50,000 for claiming incentives for investment u/s. 80C, they can now make contribution to National Pension Scheme to the tune of Rs. 50,000 and claim deduction u/s. 80CCD(IA).

The contribution along with interest thereon shall be chargeable to tax at the time of withdrawal of the said sum and accordingly amendments are proposed in sub-Section (3) and sub-Section (4) of Section 80CCD.

These amendments will take effect from 1st April, 2016.

Deduction in respect of Health Insurance Premium and Medical Expenditure

Section 80D provides deduction from taxable income in respect of insurance premium paid by an individual or HUF. As per the existing provision of Section 80D the deduction of Rs. 15000 and Rs. 20,000 (for Senior Citizen) was available for an amount paid on account of insurance premium or any contribution made to the Central Government Health Scheme. Earlier, the section provided deduction in respect of expenditure incurred on Medical insurance premium, which was later on expanded to cover preventive health check-up up to Rs. 5,000. In the current year proposals, deduction u/s. 80D has been extended to cover medical expenditure incurred for very senior citizen if he is not insured under medical insurance policy. The current proposals also increase the limit of deduction available in respect of this expenditure. It may be mentioned that deduction u/s. 80D is granted to individual under two baskets, namely (i) for self and family (ii) parent (whether dependent or not). The limits are applicable separately for each basket and total deduction available would be aggregate of them. Similarly, HUF is also eligible

for deduction in respect of similar expenditure incurred for the members of HUF. Limits applicable for each basket / HUF based on age group considering proposals in the Finance Bill 2015 is mentioned below.

Age Group	Coverage	Limit (₹)
Less than 60 Years	Insurance Premium	25,000
60 - 80 Years	Insurance Premium	30,000
80 Years & Above	Either (i) Insurance Premium or (ii) Medical Expenditure	30,000

However, it may be mentioned that inadvertently amendment in Section 80D(1) has not been moved in Finance Bill 2015, which we believe would be considering while moving amendments to the Finance Bill, 2015.

Deduction in respect of person with disability

Section 80DD provided deduction from taxable income in respect of expenditure incurred for the medical treatment or amount paid or deposited under scheme of LIC for maintenance of dependent being person with disability or severe disability. As per the existing provision of Section 80DD the total deduction was allowed to Rs. 50,000 &Rs. 100,000 if the person is suffering from disability or severe disability respectively. It is proposed to raise the limit of deduction u/s. 80DD to ₹ 75,000 & ₹ 1,25,000 if the person suffering from disability or severe disability respectively.

Similarly, when the taxpayer is suffering from disability, he is entitled to deduction of Rs. 50,000 &75,000 u/s. 80U (irrespective of the amount of expenditure incurred) if the person is suffering from disability or severe disability respectively. The above amounts are proposed to be increased to ₹ 75,000 & ` 1,25,000 u/s. 80U if the person suffering from disability or severe disability respectively.

Deduction in respect of medical treatment

Section 80DDB provides deduction from taxable income in respect of amount actually spent, subject to limit, for the medical treatment of disease in case of individual or member of HUF being resident in India. As per the existing provision of Section 80DDB the deduction has been allowed maximum to the tune of Rs. 40,000 or Rs. 60,000 (in case of Senior Citizen).

It is proposed to amend Section 80DDB with respect to allow deduction up to Rs. 80,000 if the expenditure incurred in respect of medical treatment of disease for Very Senior Citizen (age of 80 years or more).

Further under the existing provision of Section 80DDB, the assessee was eligible to get the deduction only if at the time of filling return of income the Assessee furnishes a certificate in the

prescribed form from neurologist, an oncologist, a urologist, a heaematologist, an immunologist or as other specialist working in Government hospital. However, it has become difficult to find such specialist doctors in Government Hospitals and therefore it becomes difficult to obtain such certificate. Therefore, it is proposed to amend Section 80DDB so as to enable the Assessee to avail the deduction by obtaining a prescription from the Doctor whether employed in Government Hospital or otherwise. The procedure for claiming deduction has been simplified.

Capital Gains

Tax neutrality on merger of similar Mutual Funds

With a view to trim product offerings and reduce investor risks, the Securities and Exchange Board of India (SEBI) has been compelling Asset Management Companies to consolidate Mutual Fund Schemes having similar features and benefits. However, since such consolidation was considered as a transfer under the provisions of Income Tax Act, 1961, the investors were not keen to transfer their investment to consolidated Mutual Fund Schemes.

To encourage such consolidation of similar schemes, a new sub-clause (xviii) has been inserted in Section 47 (Transactions not to be treated as transfer for the purpose of calculation of tax on capital gains) which provides that in cases of consolidation of two or more schemes of equity oriented funds, or in case of consolidation of two or more schemes of non-equity oriented funds, the transaction of transfer of units of existing scheme for units of consolidated scheme shall not be considered as transfer.

Keeping in view the above insertion, the period of holding investment in units of consolidated scheme of Mutual Fund shall include the period of holding investment in consolidating scheme (the original investment) of Mutual Fund also. Also, the cost of acquisition of such asset shall be the cost of acquisition of units of the consolidating scheme of Mutual Funds.

Taxability of capital gains arising from Global Depository Receipts (GDR)

Under the current tax regime, income by way of dividends and capital gains from GDR of an Indian Company engaged in the business of information technology software and services held by its resident employee (under a notified Employee Stock Option Plan) shall be taxed at a rate of 10%.

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The above provision was based on "Issue of Foreign Currency Convertible Bonds and Ordinary Shares Scheme 1993", wherein Depository Receipts could only be issued by companies listed on a recognised stock exchange or in the process of such listing. The said Scheme was replaced by Depository Receipts Scheme 2014 on 21st October 2014. In the new scheme, Depository Receipts can also be issued by unlisted or private company, where the underlying security can be ordinary shares or debt instruments.

Since the intention of the legislation is to provide tax benefits in respect of GDRs, with underlying asset being ordinary shares of listed companies alone, the current tax scheme is proposed to be amended vide an amendment in Section 115ACA, to limit the beneficial tax rate of 10% on dividends and capital gains of GDRs with ordinary shares being underlying asset / FCCBs of companies listed on a recognised stock exchange.

TDS on payment of Salary

As per existing provision, every person who is responsible for paying any income chargeable under the head “Salaries” shall deduct income-tax on the estimated income of the assessee under the head salaries after considering certain deduction/exemption/set-off etc. based on declaration given by the employee.

The Bill proposes to amend the provision of Section 192 for allowing deduction / exemption / set-off as prescribe in form and manner based on actual evidences and proof. Henceforth the employer will have to collect the actual evidence / proof for allowing deduction / exemption / set-off while computing tax liability for the purpose of TDS. It may be noted that in case of Larsen & Toubro Limited, the Supreme Court while dealing with evidence of expenditure incurred by the employee for Leave Travel Concession had held that in absence of express provision in the law, the employer cannot be fastened with the responsibility to establish the amount of expenditure incurred by the employee and once the employee declares the amount of expenditure, the employer's responsibilities are met.

The above provisions are applicable from June 1, 2015.

TDS on withdrawal of Accumulated Balance from Employee Provident Fund

Rule 8 of Part A of the Fourth Schedule provides for certain conditions for exclusion of withdrawal of accumulated balance from the Employee Provident Fund Account and in case the conditions are not fulfilled, the same is taxable as Salaries under Section 17(1)(vii) read with Rule 6 of Part A of the above Schedule. In such circumstances, Rule 10 provided that the trustees of the Provident Fund shall be required to withhold tax at the time of payment of such sum to the employee. Since the amount is taxable as Salaries, the trustees were required to withhold tax in accordance with Section 192 of the Act and consequently other compliances were required.

The Bill now proposes to introduce new Section 192A providing deduction of tax from any payment on premature withdrawal of accumulated Provident Fund balance due to an employee under “Employee Provident Fund Scheme” at the rate of 10% on payment above threshold limit of Rs. 30,000. If PAN is not available, the tax would be deducted at a maximum marginal rate (i.e. 30% plus applicable surcharge and education cess). However, no TDS would be deducted if the recipient files necessary declaration in Form No. 15G / 15H.

It is important to mention that requirement of withholding tax under Rule 10 of Part A of the Fourth Schedule has not been done away with. Thus, there are two sections dealing with deduction of tax at source on the same income and both the Sections prescribe different rate and methodology. However, in this regard, it may be noted that Section 192A begins with a non-obstante clause and therefore Section 192A would have overriding effect over the requirements of Fourth Schedule and therefore Section 192A would need to be complied with in such circumstances.

The above provision is applicable from June 1, 2015.

TDS on payment of interest by banking company

Since most banking companies have adopted Core Banking Solution (CBS) therefore it is

proposed to have the computation of interest income for the purpose of deduction of taxes from interest paid to the customer. As a result earlier the limit of tax deduction per branch of such banking companies was taken into consideration and not a as a banking company as a whole. As per current proposal due to effectiveness of CBS, the threshold limit of interest is to be collectively taken into consideration for deduction of tax.

The above provision is applicable from June 1, 2015.

TDS on payment of interest by co-operative bank

As per the existing provision no tax was required to be deducted by co-operative society on interest payment to its member or to any other co-operative society. Taking shelter under the said provision, the co-operative banks were not deducting tax on payments to its members. Since the functioning of co-operative banks and other banks is the same, it is proposed to amend the existing provision by including the co-operative bank for applicability of Section 194A of the Act.

The above provision is applicable from June 1, 2015.

TDS on interest on compensation as per Motor Accidents Claim Tribunal

As per existing provision, TDS on interest on compensation paid by Motor Accidents Claim Tribunal would be deduced either on credit or payment basis whichever is earlier. Whereas as per amended provision of Section 56 of the Act, interest income received on such compensation shall be deemed to be the income of the year in which the same has been actually received. In current scenario, TDS is applied on credit/payment basis whichever is earlier whereas the income has been taxed on receipt basis. Therefore to remove such hardship the bill proposes to amend the TDS provision and accordingly deduction of tax under Section 194A of the act from interest payment on the compensation amount shall be made only at the time of payment.

The above provision is applicable from June 1, 2015.

TDS on Recurring Deposits

As per existing provision, no deduction of tax shall be made in case where the interest is made on recurring deposits as "recurring deposit" was excluded from definition of time deposit. The Bill proposes to amend the existing provision of Section 194A to add the word "recurring deposit" into time deposit as defined in Explanation 1 of Section 194A of the Act.

The above provision is applicable from June 1, 2015.

TDS on payment to Transporter

As per existing provision, no deduction of tax shall be made in case where transporter provides his Permanent Account Number. The Bill proposes to amend the existing provision of Section 194C of the Act to expressly provide that the relaxation under Section 194C is applicable only to those transporters where such contractor owns ten or less goods carriage at any time during the year and also furnishes a declaration along with copy of PAN to that effect.

The above provision is applicable from June 1, 2015.

TDS on income by way of interest on certain bonds and Government securities

As per existing provision payment of interest on

certain bonds and Government securities to Foreign Institutional Investors & Qualified Institutional Investors are subject to concessional TDS rate at 5% up to May 31, 2015. The Bill proposes to extent said concessional TDS rate on payment of interest on certain bonds and Government securities at the rate of 5% till June 30, 2017.

The above provision is applicable from June 1, 2015.

Applicability of Form 15G /15H to a specified deduction of Taxes

As per existing provision, if a declaration is submitted under Section 197A by the recipient to the payer under Form No.15G / 15H along with his PAN, then no tax is deductible in such cases. The Bill proposes to extent to newly proposed provision of TDS on withdrawal of accumulated balance from Employee Provident Fund Scheme (Section 192A) and newly inserted provision related to payment received from LIC which are not covered u/s.10(10D) (Section 194DA).

The above provision is applicable from June 1, 2015.

Amendment in processing of statement of TDS

As per existing provision of Section 200A, the processing of statement of TDS by CPC-Ghaziabad (TRACES) is done as per the prescribed process as specified in the section without considering the fee charged as per Section 234E of the Act. The Bill proposes to amend the processing of statement of TDS in which the fees levied under Section 234E shall be taken into consideration while processing the statement which would results into demand / refund and intimation under Section 200A would be generated.

The above provision is applicable from June 1, 2015.

Relaxing for requirement of obtaining Tax Deduction and Collection Account Number (TAN)

As per existing provision, every person deducting tax (deductor) or collecting tax (collector) is required to obtain TAN and quote the same on specified transaction. Sometimes, even in single transaction the deductor/collector has to obtain TAN. Therefore, to remove such hardship it is proposed to amend the provision of the Act to relax such assessee and such specified person will be excluded for obtaining TAN. Central Government shall notify the circumstances in which such relaxation shall be applicable.

The above provision is applicable from June 1, 2015.

TDS / TCS by Government

Under the existing scheme of payment of TDS and TCS, Government deductors / collectors are allowed to make payment of tax deducted / collected by them without production of challan

i.e. through book entry. For payment of tax deducted/collected through book entry, the Drawing and Disbursing Officer (DDO) intimates the TDS / TCS amount to the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer (PAO / TO / CDDO) who credits the TDS / TCS amount to the credit of Central Government through book entry.

For generating credit for TDS / TCS paid through book entry by the Government deductors, a system of capturing information from PAO / TO /CDDO has been introduced by amending rule 30 and rule 37CA of the Income-tax Rules, 1962 with effect from 1.4.2010. The said rules provide that the PAO / TO / CDDO shall file the detail of payment of TDS / TCS made through book entry in the prescribed Form 24G. This system of reporting of payment of TDS/TCS made through book entry has improved the mechanism of reporting of TDS/TCS by the Government deductor to some extent. However, in the absence of any specific provisions in the Act for enforcing the same, it has been noticed that in a large number of cases, PAO/ TO/CDDOs do not file Form 24G in prescribed time.

Delay in furnishing of the Form 24G results into delay in furnishing of the TDS/TCS statement by the DDO. In order to improve the reporting of payment of TDS/TCS made through book entry and to make existing mechanism enforceable, it is proposed to amend the provisions of Sections 200 and 206C of the Act to provide that where the tax deducted [including paid under Section 192(1A)] / collected has been paid without the production of a challan, the PAO/ TO/CDDO or any other person by whatever name called who is responsible for crediting such sum to the credit of the Central Government, shall furnish within the prescribed time a prescribed statement for the prescribed period to the prescribed income-tax authority or the person authorised by such authority by verifying the same in the prescribed manner and setting forth prescribed particulars.

To ensure compliance of this proposed obligation of filing statement, it is proposed to amend the provisions of Section 272A of the Act so as to provide for a penalty of Rs.100 for each day of default during which the default continues subject to the limit of the amount deductible or collectible in respect of which the statement is to be furnished.

Processing of Statement of TCS

As per existing provision of Section 200A, the processing of statement of TDS was done by CPC-Ghaziabad (TRACES). There was no provision for processing of TCS statement. The Bill proposes to insert the provision for processing of statement of TCS in the manner laid down in Section 200A of the Act. Further, fees for late filing of TCS statement under Section 234E would be computed while processing the statement which would result into demand / refund and intimation under Section 200A would be generated.

This intimation would be subjected to rectification under Section 154 of the Act, appeallable under Section 246A of the Act and deemed as notice of demand under Section 156 of the Act.

The above provision is applicable from June 1, 2015.

Avoidance of Multiple Interest for the same default

The Bill proposes to insert the new provision where the assessee has paid interest under Section 206C(7) of the Act then for the same period no interest under Section 220(2C) of the Act would be chargeable. In other words, Section 220 would not be applicable to Tax Collection at Source.

The above provision is applicable from June 1, 2015.

Other Amendments / Announcement

Wealth Tax

Abolition of Wealth Tax Act, 1957

Hon'ble Finance Minister has proposed to abolish Wealth Tax with effect from Assessment Year 2016-17. Further, to track the wealth held by individuals and entities, the information regarding the assets which are currently required to be furnished in wealth-tax return will be captured in the income tax returns. This will ensure that the abolition of wealth tax does not lead to escape of any income from the tax net.

General Anti Avoidance Rule (GAAR)

Deferment of GAAR

Hon'ble Finance Minister had announced that considering the representations received from various stakeholders and international developments in this regard, implementation of General Anti Avoidance Rule (GAAR) has been deferred by 2 years. GAAR was to be implemented with effect from Financial Year 2015-16 (Assessment Year 2016-17).However, with the deferment the same would now be effective from Assessment Year 2018-19.It is expected that the Government will initiate further discussion with the stakeholders on the subject and GAAR may undergo further changes before it is implemented in Assessment Year 2018-19.

Further, in order to provide immunity from GAAR to already concluded transactions and apply it prospectively the Finance Minister clarified that the investments made upto March 31, 2017 shall not be subjected to GAAR.

Measures to curb black money

Introduction of a new law to curb black money

India has been battling with issues of black money stashed in banks outside India for many years now. But it has come to become a prominent political and economic issue since a few months. Data available with the World Bank provide an insight into the black money flows of India and its shadow economy, i.e. illicit economic activity alongside a country's official economic activities.

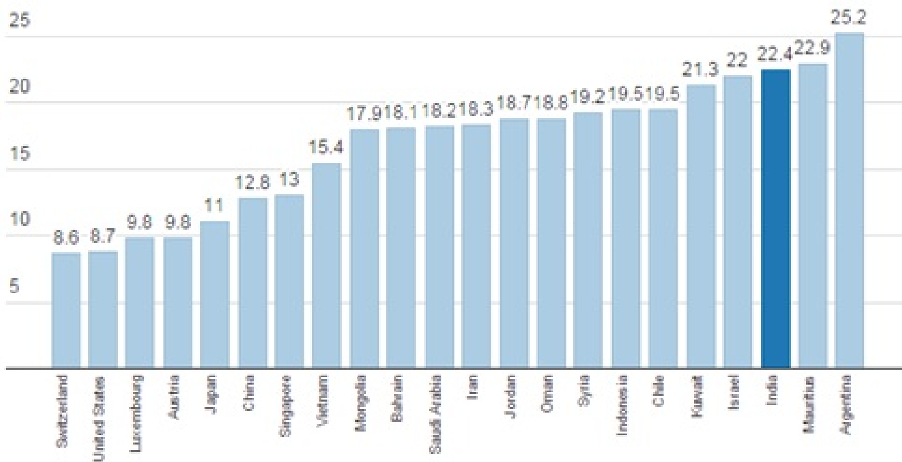


Chart showing shadow economy of a country as a % of its GDP between 1999 and 2006

A study conducted by Global Financial Integrity, a non-profit organisation, mentions that in the developing world, including India, corporate tax evasion is responsible for 60% of overall black income. It is also believed that the same black money is re-invested in India through FDIs through various tax havens.

To curb the menace of black money, Prevention of Money Laundering Act (PMLA) was introduced in 2005. Cases were also registered under Foreign Exchange Management Act and penalties have been levied.

The Finance Minister has proposed to introduce a new law to curb black money. The law would be presented in the Budget session of the Parliament but he provided key features, which are mentioned below:

- Concealment of income and assets and evasion of tax with relation to foreign assets shall be prosecutable with punishment of rigorous imprisonment upto 10 years
- Offences under this law shall be non-compoundable and the offendors will not be permitted to approach Settlement Commission for the same. Further, penalty for concealment of income shall be 300% of tax.

- Non filing of return or filing of incorrect information will be liable for prosecution with punishment of rigorous imprisonment for 7 years.

- Income in relation to undisclosed foreign asset or undisclosed income from any foreign asset shall be charged at maximum marginal rate. Further, exemptions and deductions which were otherwise available shall not be available.

- Beneficial owner or beneficiary of foreign assets shall be mandatorily required to file return of income, even if there is no taxable income.

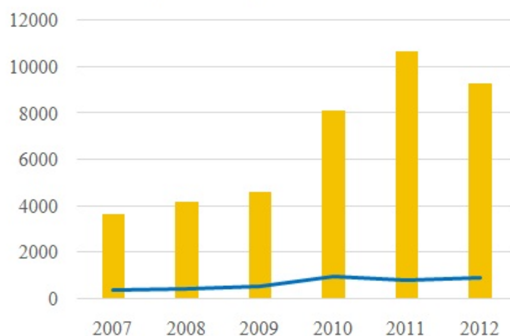
- Date of opening of foreign account shall be mandatorily required to be mentioned in the return of account.

Amendments proposed in existing laws

The Finance Minister has proposed to amend the following laws to ensure compliance with the new law on black money:

- **Prevention of Money Laundering Act:** The offence of concealment of income or evasion of tax in relation to a foreign asset shall be made a predicate offence under this Act. This provision would enable the enforcement agencies to attach and confiscateun accounted assets held abroad and launch prosecution against persons indulging in laundering of black money.

- **Foreign Exchange Management Act:** The Act shall be amended to the effect that if any foreign exchange, foreign security or any immovable property situated outside India is held in contravention of the provisions of this Act, then action may be taken for seizure and eventual confiscation of assets of equivalent value situated in India. These contraventions are also being made liable for levy of penalty and prosecution with punishment of imprisonment up to five years.



Re-engineered Benami Transactions (Prohibition) Bill

A new and comprehensive law for curbing black money domestic transactions shall be introduced. This law will enable confiscation of benami property and provide for prosecution, thus blocking a major avenue for generation and holding of black money in the form of benami property, especially in real estate.

Charity

Deduction in respect of donations to certain funds, charitable institution

As per the existing provisions of Section 80G, an assessee is allowed a deduction from his taxable income in respect of donation made to certain funds and charitable institutions as specified. The

deduction is allowed at the rate of 100% of amount of donations made to certain funds for social purpose of national importance and at the rate of 50% of the amount of donations made to certain other fund.

It is proposed to provide 100% deduction under Section 80G to the following funds set up by Government of India namely:

- Swachh Bharat Kosh
- Clean Ganga Fund
- The National Fund for Control of Drugs Abuse

It may be noted that the contributions to Swachh Bharat Kosh and Clean Ganga Fund would not be eligible for deduction u/s. 80G if it is considered as part of meeting Corporate Social Responsibility under Section 135 of the Companies Act, 2013. These donations would be eligible for deduction u/s. 80G from Assessment Year 2015-16 whereas donation to The National Fund for Control of Drugs Abuse shall be eligible for deduction from Assessment Year 2016-17.

Charitable Purpose redefined u/s 2(15) to include activity in nature of "Yoga"

Present definition of charitable purpose u/s 2(15) includes various purposes such as relief to poor, education, medical relief, preservation of environment (including water sheds, forests, wildlife), preservations of monuments or places or objects or artistic or historic interest.

Yoga could have been considered as advancement of any other object of general public utility and therefore was eligible for exemption u/s. 11.The amendment proposes to include "Yoga" as specified charitable activity and therefore making it explicitly eligible for exemption u/s. 11. With this amendment, Yoga would not be subjected to restrictions placed in relation to carrying on activity of rendering any services to qualify for exemption.

Advancement of any other object of general public utility for a cess or fees

The existing proviso to Section 2(15) provides that where an activity is in nature of advancement of any other object of general public utility, the same shall not be considered as charitable activities if it involves the carrying on of any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fees or any other consideration if the aggregate receipts from such activities exceed Rs. 25.00 lakhs

The proposed amendment provides that when the purpose of activity is advancement of any other object of general public utility, the same shall be considered as charitable purpose only if such activity is actually carried on for the advancement of any other object of general public utility and the aggregate receipt from such activity does not exceed 20% of total receipts.Hithereto, the law provided an absolute threshold of Rs. 25 Lacs, which was too low in case of large charitable institutions whereas materially high in relation to smaller institutions. Therefore, a relative and sound threshold of 20% of total receipts has been provided to determine whether the activity would be considered as charitable activity even if certain receipts are, though for advancement of charitable objective, raised during the course of trade, commerce or business.

Requirement of furnishing declaration for Accumulation

In cases of exemption u/s. 11 where the income applied for charitable or religious purpose in India falls short of 85 % of income derived during that year for the reason that the whole or any part of the income was not received during the previous year or for any other reason, an option was required to be exercised in writing before the expiry of time allowed u/s. 139(1) for furnishing the return of income. In case such option was exercised the amount was deemed to have been applied for charitable or religious purpose. The amendment proposes to make it mandatory to file the declaration in the form and manner to be prescribed before the expiry of time allowed u/s. 139(1) for furnishing the return of income.

Similarly, when a Trust fails to apply income for specified purpose, under existing provision, the Trust can claim exemption by way of giving notice to Assessing Officer in Form 10. In case where assessee fails to submit the Form 10 to AO before filing of return of income, and submit the same after date of filing of return of income, such delay was condoned in view of Circular 273 dated 03.06.1980.

However, as per proposed amendment to Section 11(2), it is specifically provided that the Trust furnishes a statement in the prescribed manner to the Assessing Officer before due date specified under Section 139(1). Therefore, above mentioned Circular will not be effective after proposed amendment.

Further by way of amendment to Section 13, it is proposed that in order to avail benefit available u/s 11(2) for deemed application of income for specified purpose, it is also compulsory to file return of income on or before due date specified u/s 139(1) of Act.

Assessment & Appellate Proceedings

Sanction for Issue of Notice u/s 148 – Reassessment

As per existing provision of Section 151 of the Act, the Assessing Officer is required to take approval of competent authority before the issue of notice u/s 148 of the Act. If the assessment for the relevant assessment year has been made either u/s 143(3) of the Act or u/s 147 of the Act, in order to re-open the assessment beyond the period of four years the Assessing Officer is required to take the approval of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner whereas in case of reopening within the period of four years only the Assistant Commissioner of Income Tax or the Deputy Commissioner of Income Tax can issue the notice. In rest of the cases, the Assessing Officer below the rank of Joint Commissioner cannot issue the notice or the Assessing officer must have taken the approval of the Joint Commissioner.

As per the proposed amendment now the approval of Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is required if the Assessing Officer wishes to re-open the assessment beyond the period of four years [irrespective of whether the same has been subjected to assessment u/s. 143(3) or 147 or otherwise]. Similarly, where the assessment is proposed to be re-opened within the period of four years, approval of Joint Commissioner is required to be taken. The amendment has simplified the mechanism of approval for reassessment cases.

Assessment of Income of any other Person in case of Search matter

The provision of Section 153C empowers the department to make assessment in a manner defined under Section 153A and 153B of the Act, on fulfilment of certain conditions. The intention

is to give power to the department to make the assessment of undisclosed income/ undisclosed assets found during the course of search which belongs to person other than the person who is covered under search. However, over a period there has been instances of improper authorisation u/s 153C of the act vis-à-vis unwarranted exercise of power causing undue hardship to Assessee. In order to overcome this practical difficulties and keeping intact the thrust of the intention of the legislature, Finance (No.2) 2014 had clarified and cast the onus upon the department to record the satisfaction before exercising the power conferred under Section 153C of the Act.

As per the existing provision the prerequisites for initiating the proceedings is that during the course of search the department must find any money, bullion, jewellery, or other valuable article or things or books of accounts or documents seized or requisitioned belongs or belongs to a person other than person who is subject to search u/s 132 of the Act.

As per the proposed amendment to sub-Section (1) to Section 153C it has been clarified that despite the document or any other books of account found during the search may not belong to such other person but if it contains information relating to or pertaining to such other person, would be now covered within the ambit of Section 153C of the Act. In other words, it is not necessary that either some unexplained asset in the form of money, bullion etc. or some books of account or documents belongs to such other person should be found. It is sufficient that the documents seized or requisition shall contain information about such other person.

Revision of order prejudicial to the interest of Revenue

Section 263 provides for revision of order by the Principal Commissioner or Commissioner provided that the order passed by the Assessing Officer is "erroneous in so far as it is prejudicial to the interest of the revenue". The interpretation of the term "erroneous in so far as it is prejudicial to the interest of the revenue" has been a contentious issue. There are large numbers of decisions on the term "erroneous and prejudicial to the interest of revenue".

In order to provide the clarity on the scope of revision under section 263, it is proposed to insert the new Explanation below the existing Explanation to section 263(1). The new Explanation introduced with effect from June 1, 2015 which provides that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

- the order is passed without making inquiries or verification which, should have been made;
- the order is passed allowing any relief without inquiring into the claim;
- the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
- the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

Raising the income limit u/s. 255(3) in case of Single Member Bench of the ITAT

The existing provision contained in sub clause (3) of section 255 provides for disposal of case by the Single Member Bench of the Appellate Tribunal provided the total income as computed by the Assessing Officer does not exceed Rs. 5,00,000. The income limit of Rs. 5,00,000 for a single member bench was last revised in 1998.

The Bill proposes to amend the income limit for the cases which are to be disposed by the Single Member Bench. The Bill proposes to increase the income limit to Rs.15,00,000 from existing limit of Rs.5,00,000 w.e.f. June 1, 2015. As per the proposed amendment, Single Member bench can dispose of the case where the total income computed by the Assessing Officer does not exceeds Rs. 15,00,000. The amendment in the income limit will reduce the pendency of cases before the Appellate Tribunal and it would safeguard the interest of the Assessee. The proposed amendment would fasten the disposal of cases pending before the Appellate Tribunal.

Appealable orders to the Income Tax Appellate Tribunal

Sub clause (vi) of clause (23C) of section 10 provides for exemption of income received by any person on behalf of any university or other educational institution existing solely for educational purposes and not for purpose of profit as may be approved by the prescribed authority. Likewise, sub clause (via) of clause (23C) of section 10 provides for exemption of income received by any person on behalf of any hospital or other institution for treatment of persons suffering from illness or mental defectiveness or for treatment of persons during convalescence or persons requiring medical attention or rehabilitation, existing solely for philanthropic purposes and not for the purpose of profit if such hospital or institution approved by the prescribed authority.

The exemption can be denied if the activities of such fund or institution or trust or any university or other education intuition or any hospital or other medical institution are not genuine or are not being carried out in accordance with all or any other conditions subject to which it was notified or approved. However, the existing provision does not provide for any remedy to the Assessee against the order of withdrawing the approval. This results into significant hardship to such institutions.

In order to remove such hardship, the Bill proposes to amend the scope of appealable orders under sub section (1) of section 253 of the Income Tax Act. Under existing provision, the order passed u/s. 12AA for refusal to register a charitable trust is appealable before the Appellate Tribunal however there is no remedy against the order passed under sub clause (vi) and (via) of clause (23C) of section 10.

In view of the above, the Bill proposes to amend sub section (1) to section 253 so as to include the order passed by the prescribed authority under sub clause (vi) and (via) of clause (23C) of section 10 as appealable orders to the Appellate Tribunal. The Assessee aggrieved by the order of Principal Commissioner or Commissioner can file an appeal before the Appellate Tribunal u/s. 253(1).

The amendment will take effect from June 1, 2015.

Special Provisions for Avoiding Repetitive Appeals

As per section 158A, when a question of law arises in the assessment which is pending before the Assessing Officer or any appellate authority is identical with the one pending before the High Court or the Supreme Court in the assessee's own case for some other year, the assessee can file a declaration in Form No. 8 read with Rule 16 with such authority to the effect that if the final decision in such identical case is applied to the pending case, the assessee shall not raise the impugned question of law in the pending case before the Tribunal / Court. On being satisfied that the question of law in both the cases is indeed identical, such question of law in the pending case is decided in accordance with the final decision of the High Court or the Supreme Court, as the case may be.

As per existing provision, only Assessee can file an application u/s. 158A. There was no provision which enables the Revenue to make an application under this provision. As a result of which there are several appeals filed by the Revenue on the same question of law until it is finally decided by the Supreme Court. Such an exercise resulted into multiple appeals on the same issue which were pending before the Supreme Court or High Court as the case may be.

In order to curb this lacuna, the Bill proposes to insert new section, section 158AA w.e.f. June 1, 2015. Under new section, the Commissioner or Principal Commissioner is of the opinion that where any question of law arising in case of Assessee for any assessment year is identical with a question of law arising in his case which is pending before the Supreme Court or in special leave petition under Article 136 of the Constitution against the order of High Court, he can direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the earlier case instead of filing the appeal under sub section (2) and (2A) of section 253. In order to file an application, the Assessing Officer has to receive the acceptance from the Assessee that the question of law in the case is identical to that pending before the Supreme Court. In the absence of acceptance from the Assessee, no application can be filed and the Commissioner or Principal Commissioner can file an appeal under sub section (2) or sub section (2A) of section 253.

The amendment further provide that where the

order of the Commissioner (Appeals) is not in conformity with the final decision of the question of law, the Commissioner or principal commissioner may direct the Assessing Officer to file an appeal within sixty days from the date on which the order of the Supreme Court is communicated to the Commissioner or Principal Commissioner.

The proposed amendment would reduce the repetitive appeals filed by the Revenue on the same issue which is already pending before the Supreme Court. This will reduce the paper work and would save substantial amount for the Revenue.

Mandatory Return by Institutions claiming exemption u/s. 10(23C)

Section 139(4C) has been proposed to be amended to include mandatory filing of return of income by non-profit motive and wholly or substantially government financed university or educational institution or hospital or other specified institution under sub-Section (iiiab) and (iiiac) of Section 10(23C) of Act.

Interest u/s 234B

According to present provision of Section 234B of the Act, in case of reassessment u/s 147 or search proceedings u/s 153A, the Assessee is responsible for paying interest on the income enhanced, if any, under reassessment from the date of order passed under 143(1) / regular assessment to the date of order passed in respect of proceedings under section 147 or 153A. The Assessee is responsible to pay such interest at the rate of 1% for each month or part thereof for the said period.

The Finance Bill, proposes to increase the period for which the interest shall be payable if income of the Assessee is enhanced under the proceedings u/s 147 or 153A. The Assessee, as per the proposed change, shall be required to pay interest from 1st April of the relevant Assessment year to the date of order under section 147 or 153A.

Further, there is an ambiguity in the present provision in respect of interest payable u/s 234B in the case application before settlement commission. In view to remove the ambiguity in this respect, the Finance Bill, proposes to introduce provision under 234B wherein it is proposed to charge an interest at the rate of 1% for each month or part thereof.

The interest shall be payable from, shall be

(a) Where the income disclosed in application is accepted, 1% for each month or part thereof for the period from 1st April to the date of application before Settlement Commission

(b) Where the income disclosed in the application is enhanced, the interest shall be comprised of (i) interest as calculated as per (a) above plus (ii) 1% interest on the enhanced tax for each month or part thereof from 1st April to the date of order by Settlement Commission.

Settlement Commission

Cases covered for application to Settlement Commission

Chapter XIX-A of the Income Tax Act deals with the aspect of Settlement of Cases. Over the period of last few years there have been many changes with regard to scope of "case" which is defined in Section 245A(b) of the act. The term "case" is vital in so far as the assessee is permitted to

approach the settlement Commission only for the case which is pending on the date of filling settlement application u/s 245C of the act. The Finance Act 2014 has enhanced the scope of Settlement by enlarging the scope by including (i) proceeding of assessment or reassessment or re-computation u/s 147 of the act, and (ii) proceeding for making fresh assessment in pursuance of an order u/s 254, Section 263 or Section 264. In case referred to in (i), proceeding is deemed to have been commenced from the date of issue of notice u/s 147 of the act whereas in cases referred to in (ii), proceeding is deemed to have commenced from the date on which such order or direction as the case may be is given.

The Finance Bill 2015 has amended the scope of term "case" once again by substituting clause (b) in the Explanation to Section 245A and provided that in cases where notice is issued u/s 147 of the act the proceeding for the assessment year shall commence from the date from issue of such notice and if the applicant wishes to file an application for more than one year along with the said year then also the applicant is entitles to file an application as if notice u/s 147 could be issued for such year/years.

Simultaneously the Finance Bill 2015 has amended the clause (iv) of the said Explanation and clarified that in case of any other assessment years not covered specifically by clause (i), Clause (ii) or clause (iii), the proceeding shall be commenced from the date of filing of return of income (as it stood before the amendment from the 1st Day of assessment year) and concluded either on the date on which the assessment is made **or** on the expiry of two years from the end of relevant assessment years (as it stood prior to amendment till the conclusion of assessment).

Earlier the law permitted to approach the settlement commission only for cases which were reopened or pending on the date of application u/s. 245A. The new provisions extents the coverage to cases where no notice is issued or no case is pending as on the date of application to the settlement commission.

In cases of an escapement of income which is assessable in more than one year and the department has not issued any notice u/s. 148, the Assessee is free to approach the settlement commission despite no pendency of proceedings.

It is interesting to note that the Finance Act (No. 2) Act, 2014 had included proceedings u/s. 263 as cases eligible to approach the settlement commission. The proposed amendment deals only with cases of reopening u/s. 148 and not cases falling under Section 263.

Rectification of Orders passed by Settlement Commission

As per the existing provision of Section 245D of the act it was only the Settlement Commission which was empowered to rectify mistake apparent from the records within the time provided in sub Section (6B) of the act which was 6 months from the date of the order. As per amendment proposed by the Finance Bill 2015, the Settlement Commission either at its own motion or on the application received from the Applicant or the Principle Commissioner or Commissioner can rectify its order. Further the time limit for such rectification is modified from 6 months from the date of order to 6 months from the end of the month in which the order was passed.

Section 245H of the act defines the Power of the Settlement Commission to grant immunity from prosecution and penalty. As per the existing provision the Settlement Commission is

empowered to waive both the penalty as well as prosecution or either of them subject to such terms and conditions as they deem fit. There is no requirement that an order must also contain the reason for granting such immunity. However as per the proposed amendment it is suggested that that any such immunity if granted by the Settlement Commission, it shall record specific reason for the same in the order.

Section 245HA deals with the abatement of proceeding before the Settlement Commission. It specifies various circumstances as well as time with effect from which it gets abated. Primarily the cases where either the application filed u/s 245C have not been allowed to be proceeded with or the same has been declared as invalid or if the order is not passed within the time limit prescribed in the act are abated. However as per the proposed amendment with effect from 01.06.2015 clause (ca) has been inserted so as to provide that order of settlement passed u/s 245D (4) not providing the terms of settlement will also get abated. This amendment is proposed so as to ensure that the Settlement Commission mentions the terms of settlement in its order. In order words the order of the Settlement Commission has to give clear guidelines for the terms of settlement.

Section 245K of the act deals with Bar on subsequent application for the Settlement. As per the existing provision the applicant is entitled to approach Settlement Commission only once. It has now been proposed by the Finance Bill 2015 that in case where an application is filed by an applicant, not only the applicant but other related person cannot approach the Settlement Commission for other matters. The term any other person related to the applicant is defined by

Status of the Applicant who has filed an Application u/s 245C of the act	Related person as per the Explanation to 245K(2) who are debarred from approaching the Settlement Commission
An Individual	Any Company in which the individual holds more than 50% of shares or voting rights at any time, or in case of Firm or AOP or BOI in which he is entitles to more than 50% of the profit at any time, or In case of HUF, he is Karta
Company	Any individual who holds more than 50% of shares or voting rights at any time before the date of application before the Settlement Commission
Firm, AOP or BOI	An Individual who owns more than 50% of the profit at any time before the application is filed
HUF	Karta

inserting an Explanation after sub clause (2) which is as under:

The above amendment is likely to have wider implications, which are illustrated below:

- It is important to note here that whether the relative of the person as defined in the above explanation has filed an application before the Settlement Commission or not, they cannot approach the settlement commission even for their own cases.
- As per the proposed amendment the holding or shares or voting rights or share in profit as the case may be at any time before the applicant files an application is covered.
- There is no time limit mentioned and therefore it may cover those situations where person might be holding share for limited period or he might have transferred the holding by way of gift, sale etc., he may be restricted from filing the application.
- In case of Individual however relatives are not specifically covered and therefore are not debarred from approaching the Settlement Commission as per the provision of Section 245K.
- It is important to understand here the scope of related person defined in Section 245C of the act. The scope of explanation to Section 245C (1) which allows even specified Peron to file an application subject to minimum income to be disclosed of rupees ten lakhs, it is wider in terms as compared to related person defined herein above.

Adjustment of Seized Assets for payment of Tax in matter before Settlement Commission

Section 132B deals with adjustment of assets seized u/s 132 or requisitioned u/s 132A against the existing tax liability under the Income-tax Act, the Wealth-tax Act etc. and the amount of liability determined on completion of assessment. As per the amended provision the seized or requisitioned assets may adjusted against the existing tax liability under the Income-tax Act, the Wealth-tax Act etc, the amount of liability determined on completion of assessment and also against the amount of liability arising on an application made before the Settlement Commission under Section 245C (1) of the Act.

This amendment will take effect from June 1, 2015.

Penalties & Prosecution

Penalties for cash dealings for Immovable Property

The Finance Bill 2015 has substituted the provision of Section 269SS by replacing the existing Section. The scope has been enlarged to cover a sum of money receivable whether as advance or otherwise in relation to transfer of an immovable property, and whether such transfer tales place or not (referred to as specified sum).

As per the proposed amendment the restriction of taking or accepting loan or deposits in case in excess of threshold limit of ₹ 20,000 shall now be extended to cover any sum receivable in relation to transfer of an immovable property. The amendment also proposes to cover all the receipts in relation to transfer irrespective of the

fact that such transfer takes place or not. In this regard, following aspects also needs to be noted:

- The rigors of Section 269SS will be applicable only when sum of money is received. Therefore it does not cover exchange of asset as contribution by the partner in the firm or distribution at the time of dissolution or otherwise.
- Though the proposed Section uses the word receivable and not received, it would not have any impact since if the sum of money is receivable, it cannot be said that it is actually received in cash.
- It is applicable irrespective of the fact that the immovable property is capital asset or held as stock - in - trade.
- In this regard, one need to refer to the provision of Section 43CA and Section 56(2) (ix) of the Act. If the consideration or advances is received in cash, the assesse might not only have to face the implication of penalty u/s 271D but would also lose the immunity available to him u/s 43CA of the act if there is rise in the stamp duty value.
- In case the advances are forfeited the same would be income in the hands of the recipient by virtue of provision of Section 56(2)(ix) of the act but also subject to penalty u/s. 271D.

Similar amendment has been proposed in Section 269T of the act whereby scope has been extended to cover repayment of the specified sum also. Similar amendment has also been made in Section 271D and 271E of the act to cover specified sum on which penalty can be levied.

Penalty for concealment in MAT cases

Section 271(1)(c) has been amended to cover cases wherein despite additions made under the normal assessment, no penalty was leviable because the income was finally assessed u/s. 115JB being book profits and no adjustment is made to the book profits u/s. 115JB. The proposed amendment has plugged this loop-hole so to compute penalty in cases where addition was made under normal assessment but the income under the book profits remained the same.

By way of this amendment the decision of the Supreme Court in the case of M/s. Nalwa Sons Investment Ltd. (2012) 21 taxmann.com 184 is now longer applicable.

Restriction on Audit / Certification by Related Parties

An amendment has been proposed in Section 288 whereby certain related parties have been debarred from carrying out audit or certification work under the Income Tax Act, 1961 in order to maintain independence of the auditor and therefore have reliability of the Audit Report. Primarily, the restrictions have bene placed in line with the auditor disqualification under Section 141 the Companies Act, 2013. In case of non-corporate assessees as well, the assessee himself, his partners and relatives have been disqualified. There are certain other conditions / persons who are not eligible to carry out audit or certification work, however, the same is not elaborated here.

It may be mentioned that the said restriction would not apply in case of representation before the tax or appellate authorities.

Exemptions

Exemption to income of Core Settlement Guarantee Fund (CSGF)

Vide Circular dated 27th August, 2014, the Securities and Exchange Board of India (SEBI) has prescribed norms for Core Settlement Guarantee Fund (Core SGF). These guidelines are aimed at creating a core fund (called Core Settlement Guarantee Fund), against which no exposure is given and which is readily and unconditionally available to meet settlement obligations of clearing corporation in case of clearing memberfailing to honor settlement obligation.

Under the existing provisions, income by way of contributions to the Investor Protection Fund set up by Recognised stock exchanges in India, or by commodity exchanges in India or by a depository shall be exempt from taxation.

With a view to harmonize with the above, it is proposed to insert new clause (23EE) to section 10 after clause (23ED) w.e.f 1st April, 2016 which provides for exemption of income of the Core SGF arising by way of contribution received, income from investment and income by way of penalties credited to the Core SGF. For claiming exemption under this clause, the Core SGF has to be set up as per the Securities Contract Regulations, 2012 made under the Securities and Exchange Board of India Act, 1992.

However, where any amount standing to the credit of the Fund and not charged to income-tax during any previous year isshared, either wholly or in part with the specified person, the whole of the amount so shared shall be deemed to be the incomeof the previous year in which such amount is shared.The specified person for this purpose is defined to mean any recognized clearing corporation which establishes andmaintains the Core Settlement Guarantee Fund and the recognized stock exchange being the shareholder of such clearing corporation.

Indirect Tax

Service Tax

The rate of service tax increased to 14% from 12%. Cess of 3% is abolished. Now Service Tax will be charged at ad – vole rum rate of 14%. The clarity about the credit for the balance in Cess account is awaited.

Introduced Swach Bharat Cess at rate of 2% but deferred applicability.

Legislative Changes

Amendment in Definitions [Section 65B]

- The definition of foremen is clarified and is now made uniform across the law. The Chit fund is now chargeable to tax and hence this is consequential. (Formen of chit fund shall have the same meaning as is assigned to the term formen as defined in clause (j) in section 2 of chits fund act, 1982. [Clause 23A])
- With removal of various services by and for the government from negative list the definition of 'Government' is introduced. It includes departments of central and state government and union territories and its department but shall not include any entity whether created by statue or otherwise the accounts of which are not required to keep in article 150 of the Constitution or rule made there under [Clause 26A inserted].
- The lottery selling services are now under service tax and as a consequence the Lottery distributor or selling agent is defined..
- The term 'Service' would include the consideration charged for –
    a) Conversion by cash or any other from one currency to other. Money changer.
    b) By lottery distributor or selling agent in relation to promotion/marketing /organising lottery of any kind.
    c) By formen of chit fund for conducting or organising a chit in any manner.

Amendment in Negative list service

- Government support service is removed. Any services provided by government or local authorities to business entities would be taxable. [Section 66D(a)] Consequential amendments are made in definitions in section 65B.
- Process/ manufacture of alcoholic liquor on job work / contract manufacturing basis for human consumption are removed and would now be taxable. Consequential amendments are made in definition of section 65B.
- Admission to entertainment event or access to amusement facility removed. [Section 66D (j)]. Consequential amendments are made in Mega Exemption notification.

Other Amendments

Value of taxable service includes -

- All reimbursable expenditure or cost incurred and charged by service provider.
- Any amount retained by distributor or selling agent of lottery

Penalty provisions rationalized

A. Penalty (U/s.76) in cases not involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any provision of act or law shall be following –

- Not exceeding 10% of service tax
- No penalty, if service tax and interest is paid within 30 days from issuance of notice u/s.73(1)
- Penalty shall be payable at reduced rate of 25% if service tax, interest and reduced penalty is paid within 30 days of such order.

- In circumstances service tax amount is reduced in any appellate proceeding, then penalty shall also stand reduced then in such circumstance penalty shall be payable at reduced rate of 25%, if service tax, interest and reduced penalty is paid within 30 days of such order.

B. Penalty (U/s. 78) In cases involving fraud or collusion or willful misstatement or suppression of facts or contravention of any provision of act or law with intent to evade service tax shall be –

- 100% of service tax involved
- Benefit of reduced penalty of 15%, in case if service tax, interest and reduced penalty is paid within 30 days from service of notice.
- Penalty shall be payable at reduced rate of 25%, if service tax, interest and reduced penalty is paid within 30 days of such order.
- In circumstances service tax amount is reduced in any appellate proceeding, then in such circumstance penalty shall be payable at reduced rate of 25%, if service tax, interest and reduced penalty is paid within 30 days of such order.

C. Penalty in respect of transitional period-

- The amended provision of section 76 and 78 for reduced amount of penalty shall apply to the cases where either no notice is served or notice is served or order is not passed before enactment of finance bill, 2015

D. Consequential amendments are also made in section 73(Subsection 4A of section 73 and section 80 omitted and sub section 1B is being inserted to provide for recovery of service tax for amount self-assessed and declared in return but not paid.

Similar amendments for rationalization of penalties payable under central excise and customs law are also made.

Amendment in Service Tax Rules

Definition introduced / amended to charge tax-Rule 2

- Aggregator' is one who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or trade name of the aggregator. [clause (aa) inserted]. This could be targeted towards cloud service providers.
- Similarly the term 'brand name' or 'trade name' defined [clause (bca) inserted]. The term is given a very wide meaning. The definition of brand or trade name is that anything be it a symbol or signature, be it a mark or label or logo anything that connects the service with the provider without actually connecting the name of the provider with the service.
- Service Tax is payable by the aggregator. Effective from 1-03-2015. [Clause (AAA) inserted].
- Service Tax payable by recipient of service in case of service provided by Mutual Fund Agent. Effective from 01-04-2015.[clause (EEA)]
- Service tax payable by recipient of service in respect of service provided by selling or marketing agent of lottery. Effective from 01-04-2015. [Clause (EEB)].

Other Amendments

- Invoices can be issued with digital signature subject to conditions, procedure to be followed as may be notified.
- Records can now be preserved in electronic format and every page of record shall be digitally signed. Subject to condition and procedure as may be prescribed. Effective 01-03-2015.

Amendment in Rule 6 (sub rule 7, 7A, 7B and 7C)

Nature of service	Conditions	Old Rate	New Rate
Person liable to pay service tax in relation to booking of Air Tickets	Domestic fare	0.6% of basic fare	0.7% of basic fare
	Foreign fare	1.2% of basic fare	1.4% of basic fare
Person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing	Upto Rs. 1,00,000	0.12% of currency exchanged or minimum upto Rs. 30	0.14% of currency exchanged or minimum upto Rs. 35
	Above Rs. 1,00,000 but upto Rs. 10,00,000	Rs. 120 and 0.06% of currency exchanged	Rs. 140 and 0.07% of currency exchanged
	Above Rs. 10,00,000	Rs. 660 and 0.012% or maximum upto Rs. 6000	Rs. 770 and 0.014% or maximum upto Rs. 7000
The distributor or selling agent, liable to pay service tax for the taxable service of promotion, marketing, organizing or in any other manner assisting in organizing lottery	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%	Rs. 7,000 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw	Rs. 8,200 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw
	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%	Rs. 11,000 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw	Rs. 12,800 on every Rs. 10 lakh (or part of Rs. 10 lakh) of aggregate face value of lottery tickets printed by the organizing State for a draw

Amendment in Mega Exemption Notification

Proposed New Exemption

- Ambulance services by clinical establishment.
- Life insurance service provided by way of Varishtha Pension Bima Yojna.
- Service provided by a Common Effluent Treatment Plant operator.
- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables.
- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve. The same services provided by Govt. or local authority are already covered by the Negative List.
- Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitors as one of its members.
- Service by way of right to admission to-
  - Exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
  - Recognized sporting events.
  - Concerts, pageants, award functions, musical performances or sporting events not covered by above, where the consideration for such admission is upto Rs. 500 per person.

Withdrawal of existing Exemption

- Services provided to Government, Local authority or a Government authority by a way of construction, erection, commissioning, installation, completion, fitting out, repairs, maintenance, renovation, or alteration.
  - A civil structure or any other original work meant predominantly for use other than for commerce, industry, or any other business or profession;
  - A structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment
  - A residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65B of the said Act;
- Services by way of construction, erection, commissioning or installation of original works pertaining to an airport and port.
- Services by an artist by way of performance in folk or classical art forms of music, dance or theatre in excess of Rs. 1,00,000
- Services by way of transportation by way of road, rail or vessel of foodstuff(other than food grain including flours, pluses and rice) , tea, coffee jaggary, sugar, milk products, salt and edible oil.
- Services by following person
  - Mutual fund agent to mutual fund or asset management companies
  - Distributor to a mutual fund or asset management company
  - Selling or marketing agent of lottery tickets to a distributer or a selling agent
- Services by way of making telephone calls from
  - Departmentally run public telephone;
  - Guaranteed public telephone operating only for local calls or
  - Free telephone at airport and hospital where no bills are being issued

Amendment in Abatement Notification

Name of Service			Existing abatement Rate	Revised abatement Rate
1.	Transportation of Goods and passenger			
	a.	By Rail	30%	30%
	b.	By Road Provided by Goods Transporter	25%	30%
	c.	By vessels	40%	30%
		(Provided CENVAT Credit for Input, Input service and		
		Capital Goods are not availed.)		
2.	Transportation of passenger by Air for classes other than economy		60%	40%
3.	Service provided by Chit Fund		30%	0%

Amendment in Reverse charge mechanism

- Full Service Tax in respect of the manpower supply and security services shall be payable by service recipient as against 25% and 75% as payable by service provider and service recipient respectively in existing provisions.
- Changes for payment of service tax is summarized herein below -

Service Provided by	Type of Service	Service Tax Payable		Effective Date
		Provider	Recipient	
Manpower supply and security service	Existing service	-	100%	01-04-2015
Any service provided aggregator	New Service	100%#	-	01-03-2015
Mutual fund agents & distributors	New Service		100%	01-04-2015
Agents of lottery distributor	New Service		100%	01-04-2015

where the aggregator has no physical presence, a representative will be appointed for payment of tax

Excise

Rate of duty

- Increase in rate from 12.36% to 12.5% ad-vole rem.
- Education cess and Higher & Secondary Higher Education Cess abolished.
- What is the fate of balance lying in the Cess account?

Amendment in Central Excise Act

- Section 11A, 11AC are amended to rationalization of penalty leviable for short/ non-payment of duty on account of in case fraud

  Please refer the identical provisions contain in service tax related changes.

Amendment in CENVAT Credit Rules

In respect of Rule 4

- The time limit for availment of CENVAT credit is increased from present limit of six months to One year. Changes will be effective from 1st March 2015.
- Capital goods for generation of captive Electriccity can be directly sent to job worker.
- Job work - CENVAT Credit is now available immediately on receipt of goods in case of input/ Capital goods directly sent to job worker's premises. Provided goods are received back within 180 days from job workers.
- CENVAT credit shall be allowed even if Capital goods sent to job worker premises for further processing, testing, repairs, reconditioning or manufacture of final products and are received back within two years from the date of their being sent.

In respect of Rule 6

- Amendment made in rule to include the non-excisable goods in the value of exempted goods for the purpose of reversal of duty attributable to exempted goods.
- The value of the non-excisable goods shall be the invoice value and where such invoice value in not available such value shall be determined by using reasonable means consistent with the principal of valuation contained in Excise Act and the rule made there under

In respect Rule 14

- The CENVAT Credit wrongly availed but not utilized shall be recovered without interest
- The CENVAT Credit wrongly availed & utilized shall be recovered with interest and penalty

Amendment in Central Excise Rules

- Daily stock register may be maintained in digital format and each pages of it shall be preserved by means of digital signature.
- An invoice issued by a manufacturer may be authenticated by digital signature.
- CENVAT credit can be taken if the goods imported under the cover of a bill of entry are sent directly to buyer's premises. However the invoice issued by the importer shall mention that goods are sent directly from the place or port of import to the buyer's premises.
- Penalty for Delay in filing of various excise returns is increased from rupees five thousand to one hundred per day subject to maximum of rupees twenty thousand per return.

Procedural changes in registration

Mandatory Online filing of application for registration

PAN based Registration

- PAN of the proprietor or legal entity being registered must be quoted
- All existing temporary registrants must be converted to PAN based registration within three months. Or registration will be cancelled after three months.

To quote e-mail address and mobile number

- Compulsory to quote for new registrants.
- Existing registrants shall be submitted information regarding e-mail address and mobile number within three months.

Business Transaction Numbers

- Incorporate the Business transaction numbers such as BIN No, IEC, VAT etc. prior to the filing of Central Excise Registration application, shall be filled in the form.
- Existing registrants who have not submitted information regarding Business Transaction Numbers shall submit an amendment application within three months

Registration Number and Certificate

- Registration application shall be approved within two days of the receipt of duly completed online application form.

Submission of documents

Shall tender self-attested copies of the following documents at the time of verification of the premises:

- Plan of the factory premises;
- Copy of the PAN Card of the proprietor or the legal entity registered;
- Photograph and Proof of the identity of the applicant;
- Documents to establish possession of the premises to be registered;
- Bank account details;
- Memorandum or Articles of Association and List of Directors; and
- Authorization by the Board of Directors or Partners or Proprietor for filing the

application by a third party

Physical verification

- The authorized officer shall verify the premises physically within seven days from the date of receipt of application through online. Any errors are noticed during the verification process or any clarification is required, the authorized Officer shall immediately intimate the same to the assessee for rectification of the error within fifteen days of the receipt of intimation failing which the registration shall stand cancelled.
- On the physical verification of the premises, if it is found to be non-existent, the registration shall stand cancelled

Transfer of Business or acquisition of factory

Fresh registration is to be required

- At the time of transfer business
- Acquire an old factory from a Bank or a Financial Institution;

Change in the Constitution

- Fresh registration is to be required if any change in the constitution leading to change in PAN
- If no change in PAN, online amendment application to the registration details to be carried out to the jurisdictional Central Excise Officer within thirty days of such change.

De-registration:

- Online application shall be filled and will be approved.
- If there are no dues pending recovery from the assesse, within thirty days from the date of filing declaration and the assesse shall be informed, accordingly.

Cancellation of registration

A registration certificate granted under rule 9 may be cancelled after giving a reasonable opportunity to the assesse to represent his case against the proposed cancellation by the Deputy Commissioner or Assistant Commissioner of Central Excise, in any of the following situations, namely:

- Where on verification, the premises proposed to be registered is found to be non-existent;
- Where the assesse does not respond to request for rectification of error noticed.
- Where on verification , the premises proposed to be registered is found to be non-existent;
- Where the assesse does not respond to request for rectification of error noticed.

Changes in Central Excise Tariff

<table>
<tr><th>Item - Description</th><th>Applicable Rates</th></tr>
<tr><td>Condensed Milk</td><td>Excise duty on Condensed milk put in unit container is levied as under:
<table>
<tr><th>Items</th><th>Rate of duty</th></tr>
<tr><td>With Cenvat credit</td><td>2%</td></tr>
<tr><td>Without Cenvat credit</td><td>6%</td></tr>
</table>
Retail sale price is being valued with abatement of 30%.
Excise duty on Condensed milk other than put in unit container continues to be exempted.</td></tr>
<tr><td>Peanut Butter</td><td>Excise duty on is levied as under :
<table>
<tr><th>Items</th><th>Rate of duty</th></tr>
<tr><td>With Cenvat credit</td><td>2%</td></tr>
<tr><td>Without Cenvat credit</td><td>6%</td></tr>
</table></td></tr>
<tr><td>Chapter 21</td><td>Increased abatement from 25% to 30% for all goods falling under chapter sub heading 210120 including iced tea</td></tr>
<tr><td>Mineral, aerated waters and other than</td><td>· Rise in abatement from 25% to 35% for all goods other than mineral and aerated waters
· Increased excise duty from 12% to 18% on mineral and aerated waters containing sugar or other sweating matter or flavoured
Additional duty of 5% is removed</td></tr>
<tr><td>Cigarettes and other products of tariff</td><td>
<table>
<tr><th>Description (length in mm)</th><th>Rs. per 1000 Sticks (Existing Rate)</th><th>Rs. per 1000 Sticks (New Rate)</th></tr>
<tr><td>Non-filter not exceeding 65</td><td>990</td><td>1280</td></tr>
<tr><td>Non-filter exceeding 65 but not exceeding 70</td><td>1995</td><td>2335</td></tr>
<tr><td>Filter not exceeding 65</td><td>990</td><td>1280</td></tr>
<tr><td>Filter exceeding 65 but not exceeding 70</td><td>1490</td><td>1740</td></tr>
<tr><td>Filter exceeding 70 but not exceeding 75</td><td>1995</td><td>2335</td></tr>
<tr><td>Other</td><td>2875</td><td>3375</td></tr>
</table></td></tr>
<tr><td>Cut Tobacco</td><td>Excise duty is being increased from Rs. 60 to Rs. 70 per kg</td></tr>
<tr><td>Chapter 252329</td><td>Excise duty on goods is being increased from Rs. 900 to Rs. 1000 per ton.</td></tr>
</table>

Changes in Central Excise Tariff

<table>
<tr><th>Item - Description</th><th>Applicable Rates</th></tr>
<tr><td>High Speed Diesel(HSD)</td><td>Excise duty is being increased from
14% + Rs.5 per liter to 14% + Rs.15 per liter</td></tr>
<tr><td>Petrol and Diesel</td><td>Table below summarizes the changes in various duties applicable to petrol and diesel:
<table>
<tr><th>Items</th><th>CENVAT Rs./Liter</th><th>SAED Rs./Liter</th><th>AED Rs./Liter</th><th>Educational Cesses</th><th>Total Rs./Liter</th></tr>
<tr><td>Unbranded petrol</td><td>5.46</td><td>6</td><td>6</td><td>Nil</td><td>17.46</td></tr>
<tr><td>Branded petrol</td><td>6.64</td><td>6</td><td>6</td><td>Nil</td><td>18.64</td></tr>
<tr><td>Unbranded Diesel</td><td>4.26</td><td>Nil</td><td>6</td><td>Nil</td><td>10.26</td></tr>
<tr><td>Branded Diesel</td><td>6.62</td><td>Nil</td><td>6</td><td>Nil</td><td>12.62</td></tr>
</table>
Thus, the total incidence of various duties of excise on petrol and diesel remains unchanged.</td></tr>
<tr><td>Motor Spirit (Petrol)</td><td>Additional duty of custom & excise i.e. Road cess is being increased from Rs.2 to Rs.6 per liter
Education Cess and Secondary and Higher Education Cess is exempted</td></tr>
<tr><td>Clean Energy Cess</td><td>Rate of Clean Energy Cess is being increased from 100 to Rs. 300 per ton</td></tr>
<tr><td>Aggarbati</td><td>Full exemption to all goods from excise duty in the manufacture of Agarbatti</td></tr>
<tr><td>Sacks and bags of polymers of ethylene other than industrial use</td><td>Excise duty is raised from 12% and 15%.
For others, the duty remains constant</td></tr>
<tr><td>Leather Footwear</td><td>Basic Excise Duty on leather footwear of Retail Sale Price exceeding Rs.1000 per pair is being reduced from 12% to 6%.
This concessional rate of 6% would however not apply to footwear with leather sole and textile.</td></tr>
<tr><td>All Footwear</td><td>The abatement as a percentage of Retail Sale Price is being reduced from 35% to 25%.
Exemption remains continue on footwear of retail price upto Rs. 500 per pair and reduction from 12% to 6% on retail price exceeding of Rs. 500 per pair</td></tr>
<tr><td>Pig iron SG grade and ferro-silicon-magnesium</td><td>Excise duty is being reduced from 12% to Nil for manufacture of cast components of wind operated electricity generators.</td></tr>
</table>

Changes in Central Excise Tariff

<table>
<tr><th>Item - Description</th><th>Applicable Rates</th></tr>
<tr><td>Railway or tramway track construction material of iron and steel</td><td>Exempt from payment of excise duty on the value of rails, subject to condition that such rails have suffered excise duty and no credit of duty paid on them is taken under the CENVAT Credit Rules, 2004
This exemption is being made appli cable retrospectively for the period from 17.03.2012 to 02.02.2014</td></tr>
<tr><td>Round Copper wire and Tine alloy</td><td>Full exemption from excise duty if used in the manufacture for manufacture of solar PV cells and modules</td></tr>
<tr><td>Solar water heater and system</td><td>Exemption of excise duty is being withdrawn on solar water heater and system. Optionally,<table><tr><th>Items</th><th>Rate of duty</th></tr><tr><td>With Cenvat credit</td><td>12.5%</td></tr><tr><td>Without Cenvat credit</td><td>Nil</td></tr></table></td></tr>
<tr><td>Solar water heater and system Parts</td><td>Excise duty is exempt and this exemption on parts for use in manufacture of solar water heater and system is being subject to actual user condition.</td></tr>
<tr><td>Tablet Computer</td><td><table><tr><th>Items</th><th>Rate of duty</th></tr><tr><td>With Cenvat credit</td><td>12.5%</td></tr><tr><td>Without Cenvat credit</td><td>2 %</td></tr></table></td></tr>
<tr><td>Parts and Subparts, accessories, and components of Tablet computer</td><td>Excise duty is exempt and this exemption on parts, sub-parts, accessories and components of tablet computer is being subject to actual user condition.</td></tr>
<tr><td>Mobile handsets</td><td><table><tr><th>Items</th><th>Exiting rate</th><th>New rate</th></tr><tr><td>With Cenvat credit</td><td>6%</td><td>12.5%</td></tr><tr><td>Without Cenvat credit</td><td>1%</td><td>1%</td></tr></table>NCCD of 1% on mobile handsets including cellular phone remains unchanged.</td></tr>
</table>

Changes in Central Excise Tariff

Item - Description	Applicable Rates
Wafers	Excise duty is being reduced from 12% to 6% on wafers for use in the manufacture of IC modules for smart cards, subject to actual user condition.
Metal Core PCB and LED driver	Excise duty is reduced from 12% / 10% to 6% on Metal core PCB and LED driver used in manufacture of LED lights and fixtures and LED lamps subject to actual user condition.
Metal Core PCB and LED driver Chassis for ambulance	RSP based assessment is being prescribed expressly for LED lights or fixtures including LED lamps with an abatement of 35%.
Metal Core PCB and LED driver Chassis for ambulance Specified goods	Excise duty on chassis for ambulance is being reduced from 24% to 12.5%, subject to actual user condition.
	The validity period of concessional excise duty of 6% granted to specify goods used in the manufacture of electrically operated vehicles and hybrid vehicles is being extended by one more year up to 31st March, 2016.
Specified raw materials	Excise duty is being exempted on specified raw materials for use in manufacture of pacemakers, subject to actual user condition.
Packing machine for packages	Maximum speed of packing machine for packages of notified goods of various retail sale prices is being specified as a factor relevant to production for determining excise duty payable under the Compounded Levy Scheme presently applicable to pan masala, gutkha and chewing tobacco. In this regard, section 3A of the Central Excise Act, 1944 is being amended
Miscellaneous	Goods manufactured domestically and supplied against International Competitive Bidding are eligible for full excise duty exemption if such goods when imported attract Nil Basic Customs Duty and Nil CVD.

Changes in Central Excise Tariff

Item - Description	Applicable Rates
Miscellaneous	Nil excise duty on goods for setting up of Mega Power Project In case of goods for a Project for which certificate regarding Mega Power Project status is provisional, the exemption is subject inter alia to condition that the Chief Executive Officer of the Project furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipts for a period of 66 months.
Miscellaneous	Nil excise duty on goods for setting up of Ultra Mega Power Project specified In case of goods for a Project for which certificate regarding Ultra Mega Power Project status is provisional, the exemption is subject inter alia to condition that the Chief Executive Officer of the Project furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipts for a period of 42 months

Changes in Customs Tariff

Increase in customs tariff

Item Description	Rates	
	From	To
BCD:		
Metallurgical coke	2.5%	5%
Iron and steel and articles of iron or steel	10%	15%
Motor Spirit [Petrol] and High Speed Diesel Oil [commonly known as Road Cess] (Effective rate)	Rs. 2 per litre	Rs. 6 per litre

Reduction in customs tariff

Item Description	Rates	
	From	To
Basic Custom Duty:		
Ulexite ore	2.5%	Nil
Ilmenite (beneficiated ilmenite including ilmenite ground)	5%	2.5%
Bituminous coal	55%	10%
Liquefied butanes	5%	2.5%
Sulphuric acid	7.5%	5%
Isoprene	5%	2.5%
Styrene , ethylene dichloride (EDC), Vinyl Chloride Monomer (VCM)	2.5%	2%
Anthraquinone	7.5%	2.5%
Butyl acrylate	7.5%	5%
Antimony metal and antimony waste and scrap	5%	2.5%
C- Block Compressor , Crank Shaft and Over Load Protector (OLP) & Positive thermal co-efficient for use in the manufacture of refrigerator compressors	7.5%	5%
Specified components of CNC Lathe machines and Machining Centres, namely Ball screws, Linear Motion Guides and CNC Systems	7.5%	2.5%
Ceria zirconia compounds, cerium compounds and zeolite	7.5%	5%
Water Blocking Tape, Ethylenepropylenenon-conjugated diene rubber (EPDM) and Mica glass tape for use in the manufacture of insulated wires and cables	10%	7.5%
Metal parts for use in manufacture of electrical insulators	10%	7.5%

Reduction in customs tariff

Item Description	Rates	
	From	To
Digital Still Image Video Cameras (recording video with minimum resolution of 800x600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence, using the maximum storage (including the expanded) capacity)	10%	Nil
Organic LED (OLED) TV panels	10%	Nil
Magnetron (upto 1 KW) used for the manufacture of domestic microwave oven	5%	Nil
Import of vehicles (commercial vehicles)	10%	40%
Inputs for use in the manufacture of flexible medical video endoscope	5%	2.5%
Goods imported for setting up a Mega Power Project (specified in List No. 32A)	-	Nil
SAD:		
Naphtha	4%	2%
Styrene , ethylene dichloride (EDC), Vinyl Chloride Monomer (VCM)	4%	2%
Melting scrap of iron or steel, stainless steel scrap for the purpose of melting, copper scrap, brass scrap and aluminium scrap	4%	2%
CVD:		
Goods imported for setting up a Mega Power Project (specified in List No. 32A)	-	Nil

Rationalization of Rates

Item Description	Rates
AEC (Active Energy Controller) for manufacture of Renewable DutyPower System (RPS) inverters	Concessional Basic Custom of 5% is being extended write period if provided

Rationalization of Rates

Item Description	Duty Exempted
Parts and components of cash dispenser and automatic bank note dispensers	BCD
Evacuated tubes with three layers of solar selective coating for use in the manufacture of solar water heater and system	BCD

Rationalization of Rates

Item Description	Duty Exempted
Parts, components and accessories for use in the manufacture of tablet computer and its sub-parts	BCD & CVD
High Density Polyethylene (HDPE) for manufacture of telecommunication grade optical fibres or optical fibre cables	BCD
Black Light Unit Module also for manufacture of LCD/LED TV panels	BCD
All goods [except populated PCBs] for use in the manufacture of ITA bound goods	SAD
All inputs for use in the manufacture of LED driver and MCPCB for LED lights and Fixtures & LED Lamps	SAD
Specified goods for use in the manufacture of hybrid and electrically operated vehicles	BCD
Extended by one more year up to 31st March, 2016 Specified raw materials for use in the manufacture of pacemakers	CVD
Artificial hearts (left ventricular assist device)	BCD & CVD
Life saving drugs and medicines imported by an individual for personal use	BCD & CVD
Imported goods	EC and SHEC leviable as CVD

Withdrawal of Exemption from Customs Duty

Item Description	Exemption on duty Withdrawn
Specified goods imported for use by Security Printing and Minting Corporation of India Limited (SPMCIL)	CVD & SAD

References

Tax Rates*

***[To be increased by applicable surcharge and education cess (see Notes)]**

Individual, HUF, AOP & BOI

Taxable Income	All Individual, HUF, AOP & BOI	Resident Individual of 60 years or more age	Resident Individual of 80 years or more age
Upto ₹ 2,50,000	Nil	Nil	Nil
₹ 2,50,001 to 3,00,000	10%	Nil	Nil
₹ 3,00,001 to 5,00,000	10%	10%	Nil
₹ 5,00,001 to 10,00,000	20%	20%	20%
₹ 10,00,000 and above	30%	30%	30%

Partnership Firm, LLP & Companies

Particulars	Partnership Firm & LLP	Domestic Company	Foreign Company
General Rate	30%	30%	40%

Co-operative Society

Taxable Income	General Tax Rate
Upto Rs. 10,000	10%
Rs. 10,001 to 20,000	20%
Rs. 20,001 and above	30%

Special Rates of Tax (applicable to all assessees)

Nature of Income	Rate of Tax
Minimum Alternate Tax (Section 115JB) / Alternate Minimum Tax (Section 115JC)	18.5%
STCG on listed securities (Section 111A)	15%
LTCG on listed securities (Section 10(38))	Nil
LTCG on unlisted securities derived by Non Resident (Section 112)	10%
LTCG on assets other than listed securities and zero coupon bonds (Section 112)	20%
Royalty & Fees for Technical Services derived by Non Resident (Section 115A)	10%
Dividend Distribution Tax payable by Domestic Company (Section 115-O)	15%
Tax payable by Domestic Company on Buy-back of Shares (Section 115-QA)	20%

Note 1: Surcharge on Income Tax

Total Income	Up to Rs. 1 Crore	Rs. 1 Crore and up to Rs. 10 Crore	Above Rs. 10 Crore
Individual / HUF	Nil	12%	12%
AOP / BOI / Local Authority	Nil	12%	12%
Partnership Firm / LLP	Nil	12%	12%
Domestic Company	Nil	7%	12%
Foreign Company	Nil	2%	5%

Note 2: Education Cess: 3% of Income Tax & Surcharge [Applicable to all assessees]

TDS Rates

Rates of Tax Deducted at Source (see Notes)

Section	Nature of Payment	Threshold Limit	Rate
192	Salary	As per Slab	As per Slab
192A	Premature Withdrawal of Provident Fund (w.e.f 01.06.2015)	30,000	10%
193	Interest on Securities		
	(1) Interest on Debentures or Securities (Listed/Unlisted)	5,000**	10%
	(2) Interest on 8% Savings (Taxable) Bonds, 2003	10,000	10%
	(3) Any Other Interest on Securities (Unlisted)	0	10%
194	Dividend other than dividend covered by section 115-O	2,500*	10%
194A	Interest other than Interest on Securities		
	(cases other than below)	5,000	10%
	Where the payer is		
	(1) Banking Company	10,000	10%
	(2) Co-operative Society/Bank engaged in banking business	10,000	10%
	(3) Post Office under a deposit scheme framed by Central Government	10,000	10%
194B	Winning from Lotteries	10,000	30%
194BB	Winnings from Horse Races	5,000	30%
194C	Payments to Contractors		
	(1) In case of Contractors / Sub-Contractor / Advertising / Transporter [4] (In case of Individual / HUF)	30,000[1]	1%
	(2) In case of Contractors / Sub-Contractor / Advertising / Transporter [4] (Any other Assessee)	30,000[1]	2%
	(3) Contractor / Sub-Contractor in Transport Business	30,000[1]	NIL[2]
194D	Insurance Commission	20,000	10%
194DA	LIC payment which are not covered u/s 10(10D)	1,00,000	2%
194E	Non-Resident Sportsman /Sports Association / Entertainer	0	20%[3]
194EE	Deposits under NSS to Resident /Non-Resident	2,500	20%[3]
194F	Repurchase of units of Mutual Fund /UTI from Resident / Non-Resident	0	20%[3]
194G	Commission on Sale of lottery tickets to Resident / Non-Resident	1,000	10%[3]
194H	Commission or Brokerage to Resident	5,000	10%

Rates of Tax Deducted at Source

Section	Nature of Payment	Threshold Limit	Rate
194I	Rent to Resident		
	(a) Rent for machinery / plant / equipment	1,80,000	2%
	(b) Rent for other than in (a)	1,80,000	10%
194IA	Payment on transfer or certain immovable properties (Other than agricultural land)	50,00,000	1%
194J	Fees payable to resident for professional / technical services	30,000	10%
194J	Remuneration, fees, commission paid to Director which is not in nature of Salary	0	10%
194LA	Compensation to Resident on acquisition of immovable property	2,00,000	10%
194LB	Interest paid to Non-Resident by Notified Infrastructure Debt	0	5%[3]
194LBA	Payment to resident Unit Holder specified in Section 115UA	0	10%
194LBA	Payment to non- resident Unit Holder specified in section 115UA	0	5%
194LBB	Income in respect of units of investment fund in		
	section 115UB (w.e.f. 01.06.2015)	0	10%
194LC	Interest paid by Specified Company to Non-Resident	0	5%[3]
195	Payment of other sums to Non-Resident (Other than specified in section 194LB)	Rates specified under Part II of First Schedule of Bill, including applicable surcharge and education cess subjected to rate specified under applicable DTAA	
196B	Income from units (including long term capital gain on transfer of such units) to an offshore fund	0	10%[3]
196C	Income from foreign currency bonds or GDR of Indian Company	0	10%[3]
196D	Income of FII from securities not being dividend, long term and short term capital gain	0	20%[3]

(* in case of Resident Individual only)

(in case of Resident Individual / HUF only)**

Rates of Tax Deducted at Source

[1] This limit is for individual transaction. However, if aggregate payment to contractors during the year exceeds ₹ 75,000 then tax will required to be deducted even where individual transaction is less than the threshold limit of ₹ 30,000.

[2] Nil rates will be applicable if the transporter quotes his PAN. If PAN is not quoted the rate will be 20%. (Transporter means persons engaged in plying, hiring and leasing of Goods Carriages having Income u/s. 44AE and not owning more than 10 goods carriage).

[3] All rates of TDS for Non-Resident Assessee shall be increased by applicable Surcharge, Education Cess and Secondary and Higher Education Cess.

[4] Transporter means persons engaged in plying, hiring and leasing of Goods Carriages owning more than 10 goods carriage

Note:

In order to strengthen the PAN Mechanism, any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates:

(i) prescribed in the Act;
(ii) at the rate in force i.e. the rate mentioned in the Finance Act; or
(iii) of 20%

TCS Rates

Rates of Tax Collected at Source

Section	Nature of Payment	Threshold Limit	Rate
206C	Alcoholic liquor for human consumption and Indian made foreign liquor	0	1%
	Timber obtained by any mode and any other forest produce	0	2.5%
	Scrap	0	1%
	Parking lot / Toll plaza / Mining and Quarrying	0	2%
	Tendu leaves	0	5%
	Minerals, being coal or lignite or iron ore	0	1%
206C (1D)	Cash Sale of Bullion & Jewellery (consumption for personal use by buyer is excluded)	2,00,000	1%

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