

# UNION BUDGET

## 2016

**Implications for  
Indian Business**

*DOSHI, CHATTERJEE, BAGRI & Co.*

INDEPENDENT MEMBER

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This booklet summarises only the important proposals made by the Honourable Finance Minister in the Lok Sabha. Whilst every care has been taken in the preparation of this document it might contain errors for which we should not be held responsible. It must be emphasised that the Finance Bill could contain proposals which have not been referred to in the budget speech. The information as given in this document provides a bird's eye view on the said proposals and thus should not be relied upon for the purposes of economic decisions.

February 29, 2016

***DOSHI, CHATTERJEE, BAGRI & Co.***



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## **GLOSSARY**

1 Crore	=	Rs. 10 million
1 Lakh	=	Rs. 100 thousand
BCD	=	Basic Custom Duty
ACD	=	Additional Custom Duty
CVD	=	Countervailing Duty
SAD	=	Special Additional Duty
AED	=	Additional Excise Duty
SAED	=	Special Additional Excise Duty
MAT	=	Minimum Alternate Tax
GST	=	Goods & Service Tax
FII	=	Foreign Institutional Investor
RSP	=	Retail Sale Price

## FOREWORD

The Finance Minister Mr. Arun Jaitley presented his second full fledged Budget in the Parliament today. As expected, the budget presented outlines of some measures aimed towards streamlining the economy, managing expectations and to contain physical deficit.

In the first half of his Budget speech the Finance Minister spoke of making budgetary allocations in various sectors including agriculture, infrastructure, education, health, social security and physical reforms which was laudable.

However, the introduction of various penal provisions of this budget are draconian in nature and will lead to more harassment of assesses.

The Finance Minister had announced in his last year's budget speech various measures which would be taken to bring unaccounted money stashed abroad as well as measures to curb the menace of domestic black money, but by proposing voluntary disclosure scheme of wealth and income, he has further propagated the tendency of people to stash away unaccounted wealth and income.

The Finance Minister was unusually silent in his budget speech about the expected date of rolling out Goods & Service Tax which would keep industry as well as practitioners on tender hook.



**Ajay K. Doshi**

Kolkata

February 29, 2016.

## **HIGHLIGHTS OF ECONOMIC SURVEY 2016**

### **A. MACROECONOMIC FUNDAMENTALS HAVE DRAMATICALLY IMPROVED IN 2014-15**

1. Inflation has declined by over 6 percentage points since late 2013
2. Current Account Deficit down from a peak of 6.7% of GDP (in Q3, 2012-13) to an estimated 1% in 2014-15
3. Foreign portfolio flows have stabilized the rupee
4. After a nearly 12-quarter phase of deceleration, real GDP has been growing at 7.2% since 2013-14, based on the new growth estimates

### **B. CENTRAL STATISTICS OFFICE**

1. Notwithstanding the new estimates, the balance of evidence suggests that India is a recovering, but not yet a surging economy
2. Going forward inflation is likely to remain in the 5-5.5% range, creating space for easing of monetary conditions
3. Using the new estimate for 2014-15 as the base, GDP growth at constant market prices is expected to accelerate between 8.1 and 8.5% in 2015-16
4. Private investment must be the engine of long-run growth
5. There is a case for reviving targeted public investment as an engine of growth in the short run to complement and crowd-in private investment
6. India faces an export challenge, reflected in the fact that the share of manufacturing and services exports in GDP has stagnated in the last five years

### **C. FISCAL FRAMEWORK**

1. India must adhere to the medium-term fiscal deficit target of 3 percent of GDP
2. India must move toward the golden rule of eliminating revenue deficits
3. Expenditure control with growth recovery and GST will ensure that medium-term targets are met
4. The quality of expenditure needs to be shifted from consumption to investment

### **D. SUBSIDIES AND THE JAM SOLUTION**

1. The direct fiscal cost of all the subsidies is roughly Rs. 378,000 crore or 4.2 percent of 2011-12 GDP
2. 41% of PDS kerosene is lost as leakage and only 46% of the remaining 59% is consumed by poor
3. The JAM Number Trinity – Jan DhanYojana, Aadhaar, Mobile – can eliminate leakages and distortion

### **E. THE INVESTMENT CHALLENGE**

1. The stock of stalled projects stands at about 7% of GDP, accounted for mostly by the private sector
2. Manufacturing and infrastructure account for most of the stalled projects

3. This has weakened the balance sheets of the corporate sector and public sector banks
4. Despite this, the stock market valuations of companies with stalled projects are quite robust, which is a puzzle
5. Expectation that the private sector will drive investment needs to be moderated
6. Public investment may need to step in to ramp up capital formation

#### **F. THE BANKING CHALLENGE**

1. Indian banking balance sheet is suffering from ‘double financial repression’
2. Going forward, capital markets and bond-financing need to be given a boost
3. Private sector banks did not partake in the biggest private-sector-fuelled growth episode in Indian history during 2005-2012

#### **G. THE RAIL ROUTE TO HIGHER GROWTH**

1. Econometric evidence suggests that the railways public investment multiplier — the effect of a Rs.1 increase in public investment in the railways on overall output — is around 5
2. However, in the long run, the railways must be commercially viable and public support must be linked to railway reforms

#### **H. A NATIONAL MARKET FOR AGRICULTURAL COMMODITIES**

1. India has not one, not 29, but thousands of agricultural markets
2. APMCs levy multiple fees of substantial magnitude that are non-transparent
3. The Model APMC Act, 2003 could benefit from drawing upon the ‘Karnataka Model’
4. The key here is to remove the barriers that militate against the creation of choice for farmers and against the creation of marketing infrastructure by the private sector

## HIGHLIGHTS OF UNION BUDGET 2016

### INCOME TAX

- Personal Income Tax: No change in the basic exemption limit has been proposed and it will be as under:

Category	Limit
Senior Citizen (in age group of 60-80 Years)	Rs. 3,00,000
Senior Citizen above age of 80 years	Rs. 5,00,000
General	Rs. 2,50,000

- Tax rates for individuals and HUF will remain same as under:

Income range	Rate of Tax
Upto respective exemption limit	NIL
Amount in excess of respective exemption limit up to Rs. 5,00,000	10%
Rs. 5,00,001 – Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

- No change in the tax rate has been proposed for companies. The tax rate will remain at 30% for domestic companies and 40% in case of other companies. No change in the basic rate of tax under MAT.

### Surcharge

- Surcharge is proposed to be increased by 3% for Individuals, HUF, Association of Persons, Body of Individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income Tax Act, being a non-resident and having total income above Rs. 1 crore. Thus the proposed surcharge rates will be as under:

Category	Rate
Individuals, HUF, Association of Persons, Body of Individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income Tax Act, being a non-resident and having total income above Rs. 1 crore.	15%
Individuals, HUF, Association of Persons, Body of Individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income Tax Act, or co-operative society or firm or local authority and having total income above Rs. 1 crore.	12%
Firm, Co-operative Society & Local Authority having total income above Rs. 1 crore.	12%
Domestic Companies having total income above Rs. 1 crore but not above Rs. 10 crores.	7%
Domestic Companies having total income above Rs. 10 crores.	12%
Non Domestic Companies having total income above Rs. 1 crore but not above Rs. 10 crores.	2%
Non Domestic Companies having total income above Rs. 10 crores.	5%

- No change in the incidence of surcharge on minimum alternate tax.
- No change in the incidence of surcharge on distributed profits / income at 12% .

- Surcharge levied at 7.5 per cent of undisclosed income will be called Krishi Kalyan. Such surcharge is to be used for agriculture and rural economy.

### **Proposals for Corporate Tax Payers**

- Lower the corporate tax rate for the next financial year for relatively small enterprises i.e companies with turnover not exceeding Rs. 5 crores (in the financial year ending 31st March 2015), to 29% plus applicable surcharge and cess.
- New manufacturing companies incorporated on or after 1<sup>st</sup> March, 2016 to be given an option to be taxed at 25% plus applicable surcharge and cess provided they do not claim profit linked or investment linked deductions and do not avail of investment allowance and accelerated depreciation.
- Determination of residency of foreign company on the basis of Place of Effective Management (POEM) is proposed to be deferred by one year.
- Accelerated depreciation wherever provided in the Income Tax Act will be limited to maximum 40% from 1<sup>st</sup> April, 2017.
- Benefit of section 10AA to new SEZ (Special Economic Zones) units will be available to those units which commence activity before 31<sup>st</sup> March 2021.
- The weighted deduction under section 35CCD for skill development will continue up to 1<sup>st</sup> April 2020.
- 100% deduction of profits for 3 out of 5 years for startups setup during April, 2016 to March, 2019. However, MAT will apply in such cases.
- Non-banking financial companies (NBFCs) shall be eligible for deduction to the extent of 5% of its income in respect of provision for bad and doubtful debts.

### **Proposals for Individuals/HUF/Firm**

- Raised the ceiling of tax rebate under section 87A from Rs. 2,000 to Rs. 5,000 to lessen tax burden on individuals with income up to Rs. 5 lacs.
- Increased the limit of deduction of rent paid under section 80GG from Rs. 24,000 per annum to Rs.60,000 per annum, to provide relief to those who live in rented houses.
- Additional tax at the rate of 10% of gross amount of dividend will be payable under section 115BBDA by an individual, HUF or a firm receiving dividend in excess of Rs. 10 lakh per annum.
- Withdrawal up to 40% of the corpus at the time of retirement to be tax exempt in the case of National Pension Scheme (NPS). The Annuity fund which goes to the legal heir will not be taxable.
- In case of superannuation funds and recognized provident funds, including EPF, the same norm of 40% of corpus to be tax free will apply in respect of corpus created out of contributions made on or from 1<sup>st</sup> April 2016.
- Limit for contribution of employer in recognized Provident and Superannuation Fund of Rs. 1.5 lakh per annum for taking tax benefit.

### **Tax Proposals - Others**

- No change is proposed in the rates of Education Cess and Higher Education Cess.
- Deduction under Section 80JJAA of the Income Tax Act will be available to all assesses who are subject to statutory audit under the Act.
- Increase in the turnover limit in the previous year under Presumptive taxation scheme under section 44AD of the Income Tax Act to Rs. 2 crores to bring big relief to a large number of assesseees in the MSME (Medium Small & Micro Enterprises) category.
- Extend the presumptive taxation scheme with profit deemed to be 50%, to professionals with gross receipts up to Rs. 50 lakh.

- 100% deduction for profits to an undertaking in housing project for flats upto 30 sq. metres in four metro cities and 60 sq. metres in other cities, approved during June 2016 to March 2019 and completed in three years. MAT will apply.
- Deduction for additional interest of Rs. 50,000 per annum for loans up to Rs. 35 lakhs sanctioned in 2016-17 for first time home buyers, where house cost does not exceed Rs. 50 lakhs.
- Distribution made out of income of SPV (Special Purpose Vehicle) to the REITs (Real Estate Investment Trusts) and INVITs (Infrastructure Investment Trusts) having specified shareholding will not be subjected to Dividend Distribution Tax, in respect of dividend distributed after the specified date.
- Tax to be deducted at source at the rate of 1% on purchase of luxury cars exceeding value of Rs. 10 lakh and purchase of goods and services in cash exceeding Rs. 2 lakhs.
- Securities Transaction tax in case of 'Options' is proposed to be increased from .017% to .05%. An Equalization levy of 6% of gross amount for payment made to non-residents exceeding Rs. 1 lakh a year in case of B2B (Business to Business) transactions.
- Disallowance will be limited to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed under rule 8D of Section 14A of Income Tax Act.
- Benefit of deductions for Research would be limited to 150% from 1<sup>st</sup> April 2017 and 100% from 1<sup>st</sup> April 2020.
- Tax to be levied at 10% on income from worldwide exploitation of patents developed and registered in India by a resident.
- Complete pass through of income-tax to securitization trusts including trusts of ARCs (Asset Reconstruction Companies). Securitization trusts are required to deduct tax at source.
- Period for getting benefit of long term capital gain regime in case of unlisted companies is proposed to be reduced from three to two years.
- Commitment to implement General Anti Avoidance Rules (GAAR) from 1<sup>st</sup> April 2017.
- Insertion of Section 35AB- Expenditure for obtaining right to use spectrum for telecommunication services.
- W.e.f. 1<sup>st</sup> April, 2017 Section 43B has been amended to introduce a new clause (g)-namely,
- (g) any sum payable by the assessee to the Indian Railways for the use of railway assets.
- Amendment in Section 50C- Where the date of the agreement fixing the amount of consideration & the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer.
- Insertion of new Section 54EE - Where the capital gain arises from the transfer of a long term capital asset & the assessee has at any time within a period of 6 months after the date of such transfer invested the whole or any part of capital gains in long term specified asset, the capital gain shall be dealt with in accordance with the following:-
  - a) if the cost of the long term specified asset is not less than the capital gain arising from the transfer of the original asset, the whole of such capital gain shall not be charged under section 45,
  - b) if the cost of the long term specified asset is less than the capital gain arising from the original asset, so much of the capital gain as bears to the whole of the capital gain the same

proportion as the cost of acquisition of the long term specified asset bears to the whole of the capital gain, shall not be charged u/s 45.

Provided that the investment made on or after 1<sup>st</sup> April, 2016 in the long term specified asset by an assessee during any financial year does not exceed Rs.50 lakhs.

- Changes in the threshold limits have been proposed in the following sections effective from 1<sup>st</sup> June 2016:-

Section	Existing (Rs.)	Proposed (Rs.)
192A	30,000	50,000
192BB	5,000	10,000
192C	75,000	1,00,000
192D	20,000	15,000
194LA	2,00,000	2,50,000
194G	1,000	15,000

- Changes in the threshold rates have been proposed in the following sections effective from 1<sup>st</sup> June 2016:-

Section	Existing (%)	Proposed (%)
192DA	2	1
192EE	20	10
194H	10	5
194G	10	5

- Sec 194LBB- TDS at 10% to be substituted with:-
  - a) 10% where the payee is a resident
  - b) at the rates in force where the payee is a non resident (not being a company) or a foreign company.
- Introduction of New Section 194 LBC- Where any income is payable to an investor, being a resident in respect of an investment in a securitization trust specified in clause (d) of the explanation occurring after section 115TCA, the person responsible for making the payment shall, at the time of credit of such income to the account of the payee or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income tax thereon at –
  - a) 25% if the payee is an individual or a HUF,
  - b) 30% if the payee is any other person.
- Sec 234C(1) -Interest payable on delayed deposit of advance tax installments by an assessee other than eligible assessee in respect of eligible business referred to in section 44AD.
- Insertion of new section 270AA- Application to A.O. for granting Immunity from imposition of penalty u/s 270A & initiation of proceedings u/s 276C.
- Mandatory for the assessing officer to grant stay of demand once the assessee pays 15% of the disputed demand, while the appeal is pending before Commissioner of Income-tax (Appeals).

## SERVICE TAX

- The rate of service tax is proposed to be increased to 15% after levy of Krishi Kalyan Cess, at 0.5% on all taxable services, w.e.f. 1<sup>st</sup> June 2016. The proceeds would be exclusively

used for financing initiatives for the improvement of agriculture and welfare of farmers. Input tax credit of this cess will be available for payment of this cess.

- Reduce service tax on Single premium Annuity (Insurance) Policies from 3.5% to 1.4% of the premium paid in certain cases.
- Exemption from service tax for Annuity services provided by NPS and Services provided by EPFO to employees.
- Exemption from service tax on construction of affordable houses up to 60 square meters under any scheme of the Central or State Government including PPP Schemes.
- Assignment of right to use the spectrum and its transfers has been deducted as a service leviable to service tax and not sale of intangible goods.

### **CUSTOMS DUTY**

- No change in the peak rate of duty.
- Customs Act to provide for deferred payment of customs duties for importers and exporters with proven track record.
- Customs Single Window Project to be implemented at major ports and airports starting from beginning of next financial year.
- Increase in free baggage allowance for international passengers. Filling of declaration form for Customs only for those carrying dutiable goods.

### **EXCISE DUTY**

- Infrastructure cess, of 1% on small petrol, LPG, CNG cars, 2.5% on diesel cars of certain capacity and 4% on other higher engine capacity vehicles and SUVs. No credit of this cess will be available nor credit of any other tax or duty be utilized for paying this cess.
- Excise duty of 1% without input tax credit or 12.5% with input tax credit' on articles of jewellery [excluding silver jewellery, other than studded with diamonds and some other precious stones], with a higher exemption and eligibility limits of Rs. 6 crores and Rs. 12 crores respectively.
- Excise on readymade garments with retail price of Rs. 1,000 or more raised to 2% without input tax credit or 12.5% with input tax credit.
- 'Clean Energy Cess' levied on coal, lignite and peat renamed as 'Clean Environment Cess' and rate increased from Rs. 200 per tonne to Rs. 400 per tonne.
- Excise duties on various tobacco products other than Beedi raised by about 10% to 15%.

### **SIMPLIFICATION AND RATIONALIZATION OF TAXES**

- 13 cesses, levied by various Ministries in which revenue collection is less than Rs. 50 crores in a year to be abolished.
- For non-residents providing alternative documents to PAN card, higher TDS not to apply.
- Revision of return extended to Central Excise assesses.
- Additional options to banking companies and financial institutions, including NBFCs, for reversal of input tax credits with respect to non- taxable services.

### **OTHERS**

- There have been no announcements towards the time frame for implementation of Goods and Service Tax (GST).
- Domestic taxpayers can declare undisclosed income or such income represented in the form of any asset by paying tax at 30%, surcharge at 7.5% and penalty at 7.5%, which is a total of 45% of the undisclosed income. Declarants will have immunity from prosecution.
- New Dispute Resolution Scheme to be introduced. No penalty in respect of cases with disputed tax up to Rs. 10 lakhs. Cases with disputed tax exceeding Rs. 10 lakhs to be subjected to 25% of the minimum of the imposable penalty. Any pending appeal against a penalty order can also be settled by paying 25% of the minimum of the imposable penalty and tax interest on quantum addition.
- High Level Committee chaired by Revenue Secretary to oversee fresh cases where assessing officer applies the retrospective amendment.
- One-time scheme of Dispute Resolution for ongoing cases under retrospective amendment.
- Penalty rates to be:
  - 50% of tax in case of under-reporting of income and
  - 200% of tax where there is misreporting of facts.
- Time limit of one year for disposing petitions of the tax payers seeking waiver of interest and penalty.
- Mandatory for the assessing officer to grant stay of demand once the assessee pays 15% of the disputed demand, while the appeal is pending before Commissioner of Income-tax (Appeals).
- Monetary limit for deciding an appeal by a single member Bench of ITAT enhanced from Rs. 15 lakhs to Rs. 50 lakhs.
- 11 new benches of Customs, Excise and Service Tax Appellate Tribunal (CESTAT) to be constituted.
- Expansion in the scope of e-assessments to all assessees in 7 mega cities in the coming years.
- Interest at the rate of 9% p.a against normal rate of 6% p.a for delay in giving effect to Appellate order beyond ninety days. 'E-Sahyog' to be expanded to reduce compliance cost, especially for small taxpayers.
- Introduction of Indirect Tax Dispute Resolution Scheme 2016.
- The Central Sales Act, 1956 has been duly amended to provide that gas sold or purchased & transported from one state to another shall be deemed to be movement of goods.
- To merge the three Tribunals established under The Prevention of Money Laundering Act, 2002, The Smugglers & Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 & Narcotics Drugs & Psychotropic Substances Act, 1985 and to provide that, Appellate Tribunal established under The Smugglers & Foreign Exchange Manipulators (Forfeiture of Property) Act, 1976 shall be the Tribunal for hearing the appeals against the orders made under all the above mentioned three Acts.
- To insert section 14A in the Foreign Exchange Management Act (FEMA), 1999 so as to empower an officer not below the rank of Assistant Director to recover arrears of penalty under the FEMA 1999 by exercising powers conferred under the Income Tax Act, 1961.

## INCOME TAX PROPOSALS

### A. RATES OF INCOME TAX

#### Rates of Income Tax for non Corporate Tax Payers

The Finance Minister has not proposed any change in the basic rates of income tax and education cess for non-corporate tax payers. However, he has proposed to increase the surcharge from existing 12% to 15% in the case of a person having total income exceeding Rs.1 Crore (10 million).

#### Rates of income tax for Corporate Tax Payers

The Finance Minister has proposed the following changes in the rate of tax for the corporate tax payers.

- a) In the case of a domestic company the rate of income tax will be 29% if the total turnover or gross receipts of the company in the previous year 2014-15 does not exceed Rs.5 Crore (50 million).
- b) In the case of a newly set up domestic company engaged solely in the business of manufacture or production of article or thing, the Finance Minister has proposed the rate of income tax at 25% in respect of income of such companies at the option of the company provided the following conditions are satisfied :
  - i. the company has been setup and registered on or after 1st day of March, 2016;
  - ii. the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;
  - iii. the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and
  - iv. the option is furnished in the prescribed manner before the due date of furnishing of income.
- c) In case of all other corporate tax payers the rate of income tax as well as surcharge and education cess remains unchanged.

### B. ADDITIONAL RESOURCE MOBILISATION

Under the existing provisions of the Act dividend which suffers dividend distribution tax (DDT) are exempt in the hands of the shareholders. The Finance Minister proposes that dividend income in excess of Rs.10 lac (1 million) will be charged to tax in the case of an individual, Hindu Undivided Family (HUF) or a firm which is resident in India @ 10%. It is also proposed that the taxation of dividend income in excess of Rs. 10 lac will be on gross basis.

These amendments will be effective from 1<sup>st</sup> April 2017 relevant to the assessment year 2017-18.

**Equalisation Levy**

The Finance Bill proposes to insert a new Chapter titled “Equalisation Levy” in the Act to provide for the equalization levy of 6% of the amount of consideration for specified services received or receivable by a non-resident not having permanent establishment (PE) in India from a resident in India who carries out business or profession or from a non-resident having a PE in India.

However, no such levy will be charged if the aggregate amount of consideration for specified services received or receivable by a non-resident from India does not exceed Rs.1 lac in a year.

The term “specified service” is defined to mean online advertisement, any provision for digital advertisement space or any other facility, or service for the purpose of online advertisement and includes any other service which may be notified by the Central Government.

In order to avoid double taxation it is proposed to provide exemption under section 10 of the Act for any income arising from or providing specific service on which equalization levy is chargeable. It is further proposed that the expenses incurred by a tax payer towards specific services chargeable will not be allowed as a deduction in case of failure of the tax payer to deduct and deposit the levy to the credit of the Central Government.

These provisions will take effect from the date of appointment in the Notification to be issued by the Central Government.

**C. WIDENING OF TAX BASE AND ANTI ABUSE MEASURES****Collection of tax at source on sale of vehicles, goods or services**

The Finance Bill proposes to amend section 206C to provide for collection of tax at source @ 1% from the purchaser on sale of motor vehicle, of the value exceeding Rs.10 lac (1 million) and sale in cash of any goods or providing of any service exceeding Rs.2 lac (other than payments on which tax is deducted at source).

This amendment will take place with effect from 1<sup>st</sup> June 2016.

**Tax on distributed income to shareholders**

Under the existing Section 115QA of the Act, a levy of additional income tax @ 20% of the distributed income on account of buy-back of unlisted shares by a company is charged.

In order to provide a clarity and address doubts which have been raised regarding the effect of buy-back undertaken by a company under different provisions of the Companies Act, 1956 or the Companies Act, 2013, it is proposed to amend Section 115QA to provide that the provisions of the said section will apply to any buy-back of unlisted shares undertaken by a company in accordance with the provisions of the laws relating to the companies. It is further proposed that for the purpose of computing distributed income, the amount received by the company in respect of the shares being bought back will be determined in the prescribed manner.

This amendment will take effect from 1<sup>st</sup> June 2016.

**Levy of tax where the charitable Institution ceases to exist or converts into a non-charitable organization**

Under the existing provisions of the Act, income of charitable institutions is exempt from tax subject to certain conditions. In a case where a society or a company or a Trust or an institution carrying on charitable activities ceases to exist or may convert itself into a non-charitable organization, the existing law do not provide any clarity as to how the assets of such a charitable institution will be dealt with.

In order to ensure that the intended purpose of exemption availed by a trust or institution is achieved, it is proposed to amend the provisions of the Act to provide for levy of additional income tax in case of a conversion into or merger with, any non-charitable firm or on transfer of assets of a charitable organization on its dissolution to non-charitable institutions. The salient features of the provisions are as below:

- i. The accretion in income (accreted income) of the trust or institution shall be taxable on conversion of trust or institution into a form not eligible for registration under section 12 AA or on merger into an entity not having similar objects and registered under section 12AA or on non-distribution of assets on dissolution to any charitable institution registered under section 12AA or approved under section 10(23C) within a period of twelve months from dissolution.
- ii. Accreted income shall be amount of aggregate of total assets as reduced by the liability as on the specified date. The method of valuation is proposed to be prescribed in rules. The asset and the liability of the charitable organisation which have been transferred to another charitable organisation within specified time will be excluded while calculating accreted income.
- iii. The taxation of accreted income will be at the maximum marginal rate.
- iv. This levy shall be in addition to any income chargeable to tax in the hands of the entity.
- v. This tax shall be final tax for which no credit can be taken by the trust or institution or any other person, and like any other additional tax, it shall be leviable even if the trust or institution does not have any other income chargeable to tax in the relevant previous year.
- vi. In case of failure of payment of tax within the prescribed time a simple interest @ 1% per month or part of it will be applicable for the period of non-payment.
- vii. For the purpose of recovery of tax and interest, the principal officer or the trustee and the trust or the institution will be deemed to be assessee in default and all provisions related to the recovery of taxes shall apply. Further, the recipient of assets of the trust, which is not a charitable organisation, will also, be liable to be held as assessee in default in case of non-payment of tax and interest. However, the recipient's liability shall be limited to the extent of the assets received.

These amendments will take effect from 1<sup>st</sup> June 2016.

**D. MEASURES TO PHASE OUT DEDUCTIONS**

**Phasing out of deductions and exemptions**

The Finance Bill proposes for the phasing out of the following deductions/exemptions in the manner as tabled below in Table 1 and Table 2.

**Table 1: Proposed Phase out plan of incentives (Profit linked Deductions/weighted deduction) available under the Act**

Sl. No	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	10AA- Special provision in respect of newly established units in Special economic zones (SEZ).	Profit linked deductions for units in SEZ for profit derived from export of articles or things or services	No deduction shall be available to units commencing manufacture or production of article or thing or start providing services on or after 1st day April, 2020. (from previous year 2020-21 onwards).
2	35AC-Expenditure on eligible projects or schemes.	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.	No deduction shall be available with effect from 1.4.2017 (i.e from previous year 2017-18 and subsequent years).
3	35CCD-Expenditure on skill development project.	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
4	Section 80IA; 80IAB, and 80IB - Deduction in respect of profits derive from a) development, operation and maintenance of an infrastructure facility (80-IA) b) development of special economic zone (80-	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1st day April, 2017. (i.e from previous year 2017-18 and subsequent years).

	IAB) (c) production of mineral oil and natural gas [80-IB(9)]		
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**Table 2: Proposed Phase out plan of incentives (Accelerated Depreciation/Weighted Deduction) available under the Act.**

Sl. No	Section	Incentive currently available in the Act	Proposed phase out measures/ Amendment
1	32 read with rule 5 of Income-tax Rules, 1962- Accelerated Depreciation.	Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to 100% in respect of certain block of assets.	To amend the new Appendix IA read with rule 5 of Income-tax Rules, 1962 to provide that highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (i.e from previous year 2017-18 and subsequent years). The new rate is proposed to be made applicable to all the assets (whether old or new) falling in the relevant block of assets.
2	35(1)(ii)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
3	35(1)(iia)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
4	35(1)(iii)- Expenditure on scientific research.	Weighted deduction from the business incometo the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).

		in social science or statistical research.	
5	35(2AA)- Expenditure on scientific research.	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
6	35(2AB)- Expenditure on scientific research.	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
7	35AD- Deduction in respect of specified business.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertiliser and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 per cent of capital expenditure w.e.f. 01.4.2017 (i.e. from previous year 2017-18 onwards).
8	35CCC- Expenditure on notified agricultural extension project.	Weighted deduction of 150 per cent of expenditure incurred on notified agricultural extension project.	Deduction shall be restricted to 100 per cent from 1.4.2017 (i.e from previous year 2017-18 onwards).

The amendments mentioned in Table 1 will take effect from 1<sup>st</sup> April 2017 relevant to the assessment year 2017-18 and subsequent years, whereas, amendments mentioned in Table 2 will take effect from 1<sup>st</sup> April 2018 relevant to the assessment year 2018-19 and subsequent years.

**E. MEASURES TO PROMOTE SOCIO-ECONOMIC GROWTH****Exemption of income of foreign company from storage and sale of crude oil stored as part of strategic reserves**

The Finance Bill proposes to encourage foreign national oil companies (NOCs) and Multi-national Companies (MNCs) storing and selling crude oil from outside India to store their crude oil in India and to build up strategic oil reserves. For this it is proposed to amend provisions of section 10 of the Act to provide that any income accruing or arising to a foreign company on account of storage of crude oil in facilities in India and sale of crude oil there from to any person resident in India will not be included in the total income if :

- i) such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and
- ii) having regard to the national interest, the foreign company and the agreement or arrangement is notified by the Central Government in this behalf.

This amendment will take effect retrospectively from 1<sup>st</sup> April 2016 relevant to the assessment year 2016-17 and subsequent assessment years.

**Exemption in respect of certain activities related to Diamond trading in “specially notified zone”**

A Special Notified Zone (SNZ) has been created to facilitate shifting of operations by foreign mining companies (FMC) to India to promote the trading of rough diamonds in India by leading diamond companies of the world. The activity of FMC of mere display of rough diamonds even with no actual sale taking place in India may lead to complications from a tax point of view.

To address such complication it is proposed to amend Section 9 of the Act to provide that in the case of a foreign company engaged in the business of mining of diamonds no income will be deemed to arise in India through or from the activities which are confined to display of uncut and unassorted diamonds in a SNZ notified by the Central Government.

These amendments will take place retrospectively from 1<sup>st</sup> April 2016 relevant to the assessment year 2016-17 and subsequent years.

**Extending the benefit of initial additional depreciation under section 32(1)(ia) for Power sector**

The Finance Bill proposes to amend the said section so as to provide that a tax payer engaged in the business of transmission of power will also be allowed additional depreciation @ 20% of actual cost of new machinery and plant acquired and installed in a previous year.

This amendment will take effect from 1<sup>st</sup> April 2017, relevant to the assessment year 2017-18 and subsequent years.

**Taxation of income from Patents**

In order to encourage indigenous R & D activities and make India a global R & D hub, the Finance Bill proposes to insert a new section 115BBF to provide that where the total income of an eligible tax payer includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty income will be taxable @10% plus applicable surcharge and cess on the gross amount of royalty. No expenditure or allowance in respect of such royalty income will be allowed under the Act. This concessional tax regime will be applicable to a tax payer who is a person resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as a patentee in accordance with the Patents Act, 1970 and includes such persons being the true and first inventor of the invention where more than one person is registered as patentee under the Patents Act in respect of that Patent Act.

This amendment will take effect from 1<sup>st</sup> April 2017 relevant to the assessment year 2017-18 and subsequent years.

**Tax Incentives for Start ups**

The Finance Bill proposes to provide the following tax incentives to start up:

- a) Exemption from Capital Gains Tax (by inserting a new section 54EE) if the long term capital gains proceeds are invested by a tax payer in units of such specified funds as may be notified by the Central Government. However, the exemption will be subject to the conditions that the amount remains invested for three years failing which the exemption will be withdrawn. Further, the investment in the units of the specified funds will be allowed up to Rs.50 lac (5 million).
- b) In order to provide relief to an individual or HUF willing to set up a startup company by selling a residential property to invest in the shares of such a company, it is proposed to amend section 54GB so as to provide that the long term capital gains arising on account of transfer of a residential property will not be charged to tax if such capital gains are invested in subscription of shares of an eligible startup company. This is however, subject to the conditions that the individual or HUF should hold more than 50% shares of the company and such company utilizes the amount invested in shares to purchase new assets before the due date of filing of reports by the investor. It is also proposed to amend section 54GB to provide that the expression “new asset” will include computer or computer software in case of a technology driven startup so certified by the Inter Ministerial Board of Certification notified by the Central Government.

These amendments will take effect from 1<sup>st</sup> April 2017 relevant to assessment year 2017-18 and subsequent assessment years.

**Incentives for promoting Housing for all**

With a view to incentivize affordable housing sector it is proposed to amend the provisions of the Act so as to provide for 100% deduction of the profits from tax for developing and building affordable housing projects if the housing projects is approved by the competent authority before 31 March 2019 subject to certain conditions which, inter alia, include ;

- i. The project is completed within a period of three years from the date of approval,
- ii. The project is on a plot of land measuring not less than 1000 sq. metres where the project is within 25 km from the municipal limits of four metros namely Delhi, Mumbai, Chennai & Kolkata and in any other area, it is measuring not less than 2000 sq. metres where the size of the residential unit in the said areas is not more than thirty sq. metres and sixty sq. metres, respectively,
- iii. where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc.

The Finance Bill proposes to amend section 80EE to provide incentives to first home buyers availing home loans by providing additional deduction in respect of interest on loans taken for residential house purchase from any financial institutions up to Rs.50,000/-. This incentive will be available to a house property of a value within Rs.50 lac (5 million) in respect of which a loan of amount not exceeding Rs.35 lac (3.5 million) has been sanctioned during the period from 1<sup>st</sup> April 2016 to 31<sup>st</sup> March 2017. The benefit of deduction will be extended till the repayment of loan continues.

The deduction under the proposed section 80EE is in addition to the limit of Rs.2 lac provided for a self occupied property under section 24 of the Act.

These amendments will take effect from April 2017 relevant to the assessment year 2017-18 and subsequent assessment years.

#### **Tax incentive for Employment Generation**

Under the existing provision of section 80JAA a deduction of 30% of additional wages paid to a new regular workman in a factory is allowed for three years. This provision applies to the business of manufacture of goods in a factory where workmen are employed for not more than 300 days in a previous year. Further benefits are allowed only if there is an increase of at least 10% in the total number of workmen employed on the last day of the preceding year.

The Finance Bill proposes to extend the provisions of this section to all sectors and it is proposed that the deduction under the said section will be available in respect of cost incurred on any employee whose total emolument is less than Rs.25,000/- per month. No deduction is proposed to be allowed in respect of cost on those employees for whom the entire contribution under the Employees Pension Scheme notified in accordance with the Employees Provident Fund and Miscellaneous Provisions Act, 1952 is paid by the Government.

It is also proposed to relax the norms for minimum number of days on employment in a financial year to 240 days as well as the condition of 10% increase is proposed to be done away with so that any increase in the number of employees will be eligible for deduction under this provision.

In the case of a first year of a new business 30% of all emoluments paid or payable to the employees during the previous year will be allowed as a deduction.

This amendment will take effect from 1<sup>st</sup> April 2017 relevant to the assessment year 2017-18 and subsequent years.

**F. RELIEF AND WELFARE MEASURES****Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015 and Rupee Denominated Bonds****(a) Sovereign Gold Bond Scheme, 2015**

- (i) The Finance Bill proposes to amend section 47 of the Act to provide that any redemption of sovereign gold bond under the scheme, by an individual will not be treated as transfer and therefore will be exempt from tax on capital gains.
- (ii) It is also proposed to amend section 48 of the Act so as to provide indexation benefit to long term capital gain arising on transfer of Sovereign Gold Bond to all cases of taxpayers.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**(b) Rupees Denominated Bonds**

The Finance Bill proposes to amend section 48 of the Act so as to provide that capital gain arising in the case of appreciation of rupee between the date of transfer of rupee denominated bonds outside India issued by Indian corporate and the date of redemption against foreign currency in which the investment is made will be exempt from tax on capital gain.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**Consolidation of 'plans' within a Scheme of Mutual Fund**

The Finance bill proposes to amend section 47 of the Act so as to provide that any transfer by unit holder of a capital asset being units, held by him in the consolidating 'plan' of a Mutual Fund Scheme, made in consideration of the allotment to him of a capital asset being units, in the consolidated 'plan' of that scheme will not be considered as a transfer for capital gain tax purposes and accordingly will not be chargeable to tax.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**Rationalization of limit of deduction allowable in respect of rents paid under section 80GG**

The deduction under section 80GG is proposed to be enhanced to Rs.5,000 per month from existing Rs.2,000 per month.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest**

Section 24(b) of the Act is proposed to be amended to provide that the deduction under the provision of said section being interest paid on capital borrowed for acquisition or construction of a self-occupied house property will be available if the acquisition or construction is completed within the five years from the end of the financial year in which capital was borrowed against the existing period of three years.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**Simplification and rationalization of provision relating to taxation of unrealized rent and arrears of rent**

The Finance bill proposes to merge section 25A, 25AA and 25B under the single new section 25A which provides that the amount of rent received in arrears or the amount of unrealized rent realized subsequently by a taxpayer will be charged to income tax in the financial year in which such rent is received or realized whether the tax payer is the owner of the property or not in that financial year. It is also proposed that 30% of the said rent will be allowed as a deduction.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**G. EASE OF DOING BUSINESS / DISPUTE RESOLUTION****Exemption from Dividend Distribution Tax (DDT) on distribution made by the SPV to business trust**

In order to rationalize the taxation regime for business trust (REITs and Invites) and their investors it is proposed to provide a special dispensation and exemption from levy of DDT. The salient features of the proposed dispensation are as below:

- a) exemption from levy of DDT in respect of distributions made by SPV to the business trust;
- b) such dividend received by the business trust and its investor shall not be taxable in the hands of trust or investors;
- c) the exemption from levy of DDT would only be in the cases where the business trust either holds 100% of the share capital of the SPV or holds all of the share capital other than that which is required to be held by any other entity as part of any direction of any Government or specific requirement of any law to this effect or which is held by Government or Government bodies; and
- d) the exemption from the levy of DDT would only be in respect of dividends paid out of current income after the date when the business trust acquires the shareholding referred in (c) above in the SPV. The dividends paid out of accumulated and current profits up to this date shall be liable for levy of DDT as and when any dividend out of these profits is distributed by the company either to the business trust or any other shareholder.

This amendment will take effect from 1st June 2016.

**Enabling provisions for implementation of various provisions of the Act in case of a foreign company held to be resident in India**

The Finance Act, 2015 amended the provisions of section 6 of the Act so as to provide that a company would be resident in India in any previous year if it is an Indian company or its Place of Effective Management (POEM) in that year is in India. The PEOM was defined to mean a place where key management and commercial decision that are necessary for the conduct of a business of an entity as a whole are in substance made.

Due to difficulties faced by tax payers and in order to impart clarity in respect of implementation of POEM based rules of residence it is proposed as below:

- a) defer the applicability of POEM based residence test by one year and the determination of residence based on POEM shall be applicable from 01/04/17.
- b) provide a transition mechanism for a company which is incorporated outside India and has not earlier been assessed to tax in India. The Central Government is proposed to be empowered to notify exception, modification and adaptation subject to which, the provisions of the Act relating to computation of income, treatment of unabsorbed depreciation, setoff or carry forward and setoff of losses, special provision relating to avoidance of tax and the collection and recovery of taxes shall apply in a case where a foreign company is said to be resident in India due to its POEM being in India for the first time and the said company has never been resident in India before.
- c) provide that these transition provisions would also cover any subsequent previous year up to the date of determination of POEM in assessment proceedings. However, once the transition is complete, then normal provision of the Act would apply.
- d) provide that in the notification, certain conditions including procedural conditions subject to which these adaptations shall apply can be provided for and in case of failure to comply with the conditions, the benefit of such notification would not be available to the foreign company.
- e) provide that every notification issued in exercise of this power by the Central Government shall be laid before each house of the Parliament.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment years.

**Introduction of Presumptive Taxation Scheme for persons having income from profession**

The Finance bill proposes to extend the gamut of presumptive taxation scheme to a tax payer who is engaged in any profession. The new scheme will apply to a professional whose gross receipts do not exceed Rs.50 lakh (5 million) in a year. The income of such profession will be estimated at 50% of the total gross receipts and tax will be charged thereon.

The new scheme will apply to resident tax payers who are individuals, HUFs and Partnership Firms but not to limited liability Partnership Firm.

Under the new scheme the tax payer will be deemed to have been allowed the deduction which are normally claimed and allowed by professionals while computing the taxable income.

In view of the new scheme the tax payers will not be required to maintain books of account.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment years.

**Increase in threshold limit for audit for persons having income from profession**

The Finance Bill proposes that Tax Audit under the provisions of section 44AB of the Act will not be required in case of a professional if his gross receipts do not exceeds Rs.50 lac.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**Increase in threshold limit for presumptive taxation scheme for persons having income from business**

Under the existing provision of section 44AD an eligible business whose turnover does not exceed Rs.1 Crore can avail the benefit of such scheme. The Finance Bill proposes to increase the threshold limit of Rs.1 Crore (10 million) to Rs.2 Crore (Rs.20 million).

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**Deduction in respect of provision for bad and doubtful debt in the case of non-banking financial companies**

The benefit under section 36(1)(vii)(c) of 5% of the gross total income is allowed in respect of any provision for bad and doubtful debts. Under the existing provision such deduction is allowed while computing the income of a public financial institution, state financial corporation and state industrial investment corporation.

This benefit is proposed to be extended to non-banking financial companies as well.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment year.

**Exemption from requirement of furnishing PAN under section 206AA to certain non-resident**

The provision of section 206AA relating to requirement of furnishing PAN is proposed to be made inapplicable to a non-resident, not being a company or to a foreign company in respect of any payment other than interest of bonds, subject to such conditions as may be prescribed.

This amendment will be effective from 1st June 2016.

**Applicability of Minimum Alternate Tax (MAT) on foreign companies for the period prior to 1.4.2015**

To provide certainty in taxation of foreign companies it is proposed to provide that the provision of section 115JB will not be applicable to a foreign company if:

- (i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such Agreement; or
- (ii) the assessee is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) above and the assessee is not required to seek registration under any law for the time being in force relating to companies.

This amendment will come into effect retrospectively from 1st April 2001 relevant to the assessment year 2001-02 and subsequent assessment years.

**Tax Incentives to International Financial Services Centre (IFSC)**

The following incentives are proposed to IFSC.

1. Exemption from tax on capital gains to the income arising from transaction undertaken in foreign currency on the recognized stock exchange located in an IFSC even when securities transaction tax is not paid in respect of such transaction.
2. The MAT under the provisions of section 115JB will be chargeable @ 9% instead of 18.5% on the book profit.
3. No DDT will be charged for any assessment year on any amount of dividend declared on or after 1st April 2017 out of its current income either in the hands of the company or the person receiving such dividend.

This amendment will be effective from 1st April 2017 relevant to the assessment year 2017-18 and subsequent assessment years.

**H. RATIONALISATION MEASURES****BEPS Action plans – country by country (CbC) report and master file**

The OECD report on Action 13 of BEPS Action plan provides for revised standards for transfer pricing documentation and a template for country-by-country reporting of income, earnings, taxes paid and certain measure of economic activity. India has been one of the active members of BEPS initiative and part of international consensus. It is recommended in the BEPS report that the countries should adopt a standardised approach to transfer pricing documentation. A three-tiered structure has been mandated consisting of:-

- (i) a master file containing standardised information relevant for all multinational enterprises (MNE) group members;
- (ii) a local file referring specifically to material transactions of the local taxpayer; and

- (iii) a country-by-country report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

In order to implement and align with the international consensus it is proposed to provide a specific reporting regime in respect of CbC reporting and also the master file. It is proposed to include essential elements in the Act itself. Elements relevant to CbC reporting requirement and matters related to it proposed to be included through amendment of the Act itself as below.

(i) the reporting provision shall apply in respect of an international group having consolidated revenue above a threshold to be prescribed.

(ii) the parent entity of an international group, if it is resident in India shall be required to furnish the report in respect of the group to the prescribed authority on or before the due date of furnishing of return of income for the Assessment Year relevant to the Financial Year (previous year) for which the report is being furnished;

(iii) the parent entity shall be an entity which is required to prepare consolidated financial statement under the applicable laws or would have been required to prepare such a statement, had equity share of any entity of the group been listed on a recognized stock exchange in India;

(iv) every constituent entity in India, of an international group having parent entity that is not resident in India, shall provide information regarding the country or territory of residence of the parent of the international group to which it belongs. This information shall be furnished to the prescribed authority on or before the prescribed date;

(v) the report shall be furnished in prescribed manner and in the prescribed form and would contain aggregate information in respect of revenue, profit & loss before Income-tax, amount of Income-tax paid and accrued, details of capital, accumulated earnings, number of employees, tangible assets other than cash or cash equivalent in respect of each country or territory along with details of each constituent's residential status, nature and detail of main business activity and any other information as may be prescribed. This shall be based on the template provided in the OECD BEPS report on Action Plan 13;

(vi) an entity in India belonging to an international group shall be required to furnish CbC report to the prescribed authority if the parent entity of the group is resident:-

(a) in a country with which India does not have an arrangement for exchange of the CbC report; or

(b) such country is not exchanging information with India even though there is an agreement; and

(c) this fact has been intimated to the entity by the prescribed authority;

(vii) If there are more than one entities of the same group in India, then the group can nominate (under intimation in writing to the prescribed authority) the entity that shall furnish the report on behalf of the group. This entity would then furnish the report;

(viii) If an international group, having parent entity which is not resident in India, had designated an alternate entity for filing its report with the tax jurisdiction in which the alternate entity is resident, then the entities of such group operating in India would not be obliged to furnish report if the report can be obtained under the agreement of exchange of such reports by Indian tax authorities;

(ix) The prescribed authority may call for such document and information from the entity furnishing the report for the purpose of verifying the accuracy as it may specify in notice. The

entity shall be required to make submission within thirty days of receipt of notice or further period if extended by the prescribed authority, but extension shall not be beyond 30 days;

(x) For non-furnishing of the report by an entity which is obligated to furnish it, a graded penalty structure would apply:-

(a) if default is not more than a month, penalty of Rs. 5000/- per day applies;

(b) if default is beyond one month, penalty of Rs. 15000/- per day for the period exceeding one month applies;

(c) for any default that continues even after service of order levying penalty either under (a) or under (b), then the penalty for any continuing default beyond the date of service of order shall be @ Rs. 50,000/- per day;

(xi) In case of timely non-submission of information before prescribed authority when called for, a penalty of Rs5000/- per day applies. Similar to the above, if default continues even after service of penalty order, then penalty of Rs.50,000/- per day applies for default beyond date of service of penalty order;

(xii) If the entity has provided any inaccurate information in the report and,-

(a) the entity knows of the inaccuracy at the time of furnishing the report but does not inform the prescribed authority; or

(b) the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of fifteen days of such discovery; or

(c) the entity furnishes inaccurate information or document in response to notice of the prescribed authority, then penalty of Rs.500,000/- applies;

(xiii) The entity can offer reasonable cause defence for non-levy of penalties mentioned above.

The proposed amendment of the Act in respect of maintaining a master file and furnishing it are:

(i) the entities being constituent of an international group shall, in addition to the information related to the international transactions, also maintain such information and document as is prescribed in the rules. The rules shall thereafter prescribe the information and document as mandated for master file under OECD BEPS Action 13 report;

(ii) the information and document shall also be furnished to the prescribed authority within such period as may be prescribed and the manner of furnishing may also be provided for in the rules;

(iii) for non-furnishing of the information and document to the prescribed authority, a penalty of Rs. 5 lakh shall be leviable.

However, reasonable cause defence against levy of penalty shall be available to the entity.

The CbC reporting requirement of the reporting year will not apply unless the consolidated revenue of the preceding year of the group based on consolidated financial statements exceeds the threshold to be prescribed. It has been mentioned that international consensus for this threshold is Euro 750 million equivalent in local currency. According to the existing conversion rate this threshold in Indian currency would be equivalent to Rs.5395 Crore.

The amendment will be effective from 1<sup>st</sup> April 2017 relevant to the assessment year 2017-18 and subsequent years.

**Taxation of non-compete fees and exclusivity rights in case of profession**

Under the existing provisions of the Act non-compete fee received / receivable in relation to carrying out a profession is not charged to tax. The Finance Bill proposes to amend section 28(va) to bring the non-compete fees received or receivable (which are recurring in nature) in relation to not-carrying out any profession to tax as profits and gains of business or profession. It is also proposed to clarify that receipts for transfer of rights to carry on profession which are chargeable to tax under the head “Capital gains” will not be taxable as profits and gains of business or profession. It is further proposed to amend section 55 so as to provide “Cost of Acquisition” and “Cost of Improvement” for working out “Capital Gains” on capital receipts earned, arising out of transfer of right to carry on any profession will also be taken as nil.

These amendments will be effective from 1<sup>st</sup> April 2017 relevant to the assessment year 2017-18 and subsequent assessment years.

**Rationalisation of Tax Deduction at Source (TDS) Provisions**

In order to rationalize the rates and bases for TDS provisions, the existing threshold limit for deduction of tax at source and the rates of deduction of tax at source are proposed to be revised as mentioned in table below:

**Increase in threshold limit of deduction of tax at source on various payments mentioned in the relevant sections of the Act**

Present Section	Heads	Existing Threshold Limit (Rs.)	Proposed Threshold Limit (Rs.)
192A	192A Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	Aggregate annual limit of 75,000	Aggregate annual limit of 1,00,000
194LA	Payment of Compensation on acquisition of certain Immovable Property	2,00,000	2,50,000
194D	Insurance commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

**Revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act**

Present Section	Heads	Existing Rate of TDS (%)	Proposed Rate of TDS (%)
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission	Rate in force (10%)	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

These amendments will take effect from 1<sup>st</sup> June 2016.

**Rationalisation of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property**

The Finance Bill proposes to amend the provision of section 50C to provide that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are different then the stamp duty value on the date of the agreement may be taken for the purpose of computing full value of consideration. It is further proposed that the new provision will apply only in a case where the amount of consideration referred to therein or a part thereof is paid by an account payee cheque or an account payee bank draft or use of electronic clearance through a bank account on or before the date of agreement for transfer of such immovable property.

These amendments will take effect from 1<sup>st</sup> April 2017, relevant to the assessment year 2017-18 and subsequent years.

**Rationalisation of Tax treatment of recognized Provident Funds, Pension Funds and National Pension Scheme**

Under the existing provisions of the Act, tax treatment for National Pension Scheme (NPS) referred under section 80CCD is exempt, exempt and tax (EET). However, commutation of government Pension and Superannuation Fund is exempt from taxation. The monthly contribution, annual accrued income, advance / withdrawal for specific purpose and final withdrawal from the recognized PFs and Superannuation are also accorded exempt, exempt, exempt status.

The Finance Bill proposes to amend section 10 so as to provide that in respect of the contribution made on or after 1<sup>st</sup> April 2016 by an employee participating in a recognized PF and Superannuation fund, up to 40% of the accumulated balance attributable to such contribution on withdrawal will be exempt from tax.

It is also proposed to amend section 10 so as to provide that any payment in commutation of annuity purchased out of contribution made on or after 1<sup>st</sup> day of April 2016 which exceeds 40% of the annuity will be chargeable to tax.

It is also proposed to provide that any payment from NPS Trust to employees on account of closure or his opting out of the Pension scheme to the extent that it does not exceed 40% of the total amount payable to him at the time of closure or his opting out of the scheme will be exempt from tax.

However, the whole amount received by the nominee on the death of the tax payer will be exempt from tax.

The Finance Bill also proposes to amend section 80C and part A of Fourth Schedule to the Income Tax Act to provide that the limit of employer's contribution will be raised from 1,00,000 to 1,50,000/- without attracting tax.

However, with a view to bring all the pension plans under one umbrella it is also proposed to amend:

- (i) the said schedule so as to provide exemption to one-time portability from a recognised provident fund to National Pension System;
- (ii) clause (13) of section 10 so as to provide that any payment from an approved superannuation fund by way of transfer to the account of the employee under NPS referred to in section 80CCD and notified by the Central Government will be exempt from tax.

These amendments will take effect from 1<sup>st</sup> April 2017, relevant to the assessment year 2017-18 and subsequent years.

#### **Filing of return of Income tax**

The following amendments are proposed by the Finance Bill in relation to filing of return of income.

- a) If a person earns income which is exempt under section 10(38) and income of such person without giving exemption under the said provision exceeds the maximum amount which is not chargeable to tax he will also be liable to file return for income within the due date.
- b) Any person who has not furnished a return within the time allowed may furnish the return for any year at any time before the end of the relevant assessment year or before the completion of the assessment whichever is earlier.
- c) Tax payers will be allowed to furnish revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier, in a case where he has furnished the return under the normal provisions of the Act or has filed the return after the expiry of the time allowed to him or within the time allowed under a Notice issued under section 142(1).
- d) It is also proposed that a return will not be treated as defective merely because self assessment tax and interest payable thereon has not been paid on or before the date of furnishing the return.

These amendments will take effect from 1<sup>st</sup> April 2017 relevant to the assessment year 2017-18 and subsequent years.

### **Rationalisation of time limit for assessment, reassessment and recomputation**

In order to simplify the provisions regarding time limit for assessment, reassessment, and recomputation, the following changes are proposed:-

- (i) the period, for completion of assessment under section 143 or section 144 be changed from existing two years to twenty-one months from the end of the assessment year in which the income was first assessable;
- (ii) the period for completion of assessment under section 147 be changed from existing one year to nine months from the end of the financial year in which the notice under section 148 was served;
- (iii) the period for completion of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment be changed from existing one year to nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner.

It is also proposed that effect to an order of the higher authorities should be given within 3 months from the end of the month in which order is received or passed. This time limit will apply whether effect can be given wholly or partly otherwise by making a fresh assessment or reassessment.

It is also proposed that an order giving effect to any finding or direction contained in the order of the higher authorities requires assessment, reassessment or recomputation then such assessment, reassessment or recomputation should be made within 12 months from the end of the month in which such order is received.

Where an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147 such assessment should be made within 12 months from the end of the month in which the assessment order in the case of the firm is passed.

It is further proposed to mention that the provisions regarding time limit for assessment, reassessment and recomputation as they stand immediately before their amendments by the Finance Act 2016 will apply in relation to any order of assessment, reassessment or recomputation made before 1<sup>st</sup> June 2016.

These amendments will take effect from 1<sup>st</sup> June 2016.

### **Rationalisation of advance tax payment schedule under section 211**

The Finance Bill proposes that all tax payers will have to pay advance tax in four installments as below:

By 15<sup>th</sup> June - 15%

By 15<sup>th</sup> September – 45%  
By 15<sup>th</sup> December – 75%  
By 15<sup>th</sup> March next – 100%

However, tax payers who pay tax on presumptive basis under section 44AD will pay advance tax of the whole amount in one installment on or before 15 March of the financial year.

These amendments will take effect from 1<sup>st</sup> June 2016.

### **The Income Declaration Scheme, 2016**

The Finance Bill proposes to provide an opportunity to persons who have not paid their full taxes in the past to come forward to disclose their undisclosed income and pay tax and surcharge and penalty totaling to 45% of such undisclosed income declared.

The income so declared will be charged to tax @ 30% to be increased by a surcharge of 25% thereon. In addition to the tax and surcharge a penalty @ 25% of the tax payable is also proposed to be levied on the undisclosed income declared under the scheme.

It is proposed that following cases will not be allowable under the scheme:-

- a) where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or
- b) where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or
- c) where information is received under an agreement with foreign countries regarding such income,
- d) cases covered under the Black Money Act, 2015, or
- e) persons notified under Special Court Act, 1992, or
- f) cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988.

Payment of tax, surcharge and penalty will be required to be made on or before a date to be notified by the Central Government. Non payment by the date of notification will make declaration as void. Declaration made under the scheme will be exempt from wealth tax.

It is also proposed that no scrutiny and enquiry under the provisions of Income tax Act and Wealth tax Act will be undertaken and in respect of such declaration and immunity from prosecution under such Acts be provided. Benami Transaction (Prohibition) Act, 1988 is also proposed to be amended for such declaration subject to certain conditions.

The scheme is proposed to be brought into effect from 1st June 2016 and will remain open up to the date to be notified by the Central Government.

The scheme is proposed to be made applicable in respect of undisclosed income of any financial year up to 2015-16.

**The Direct Tax Dispute Resolution Scheme, 2016**

In order to reduce litigation and to enable the Government to realize its dues expeditiously, the Finance bill proposes to bring the Direct Tax Dispute Resolution Scheme, 2016 in relation to tax arrears and specified tax.

The salient features of the proposed scheme are as under:

- a) The scheme be applicable to "tax arrears" which is defined as the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016.
- b) The pending appeal could be against an assessment order or a penalty order.
- c) The declarant under the scheme is required to pay tax at the applicable rate plus interest up to the date of assessment. However, in case of disputed tax exceeding rupees ten lakh, twenty-five percent of the minimum penalty leviable shall also be required to be paid.
- d) In case of pending appeal against a penalty order, twenty-five percent of minimum penalty leviable shall be payable along with the tax and interest payable on account of assessment or reassessment.
- e) Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.

The scheme will also allow a tax payer to make a declaration in respect of a tax determined in consequence of any retrospective amendments made in the Income tax Act or Wealth tax Act, as the case may be, for a period prior to the date of such enactment and the dispute in respect of which is pending as on 29.2.2016. For availing benefit of such scheme declarant will be required to withdraw any writ petition or any appeal filed against such tax before the appellate authorities or High Court or Supreme Court before making the declaration. He will also be required to withdraw any notices which may have been given for any proceedings or arbitration or conciliation or mediation under any law or agreement entered into by India whether for protection of investment or otherwise.

The declarant under the scheme will get immunity from any prosecution for any offence under the Income tax Act or the Wealth tax Act. In the case of specified tax the declarant will also get immunity from any penalty under the said two Acts. The scheme provides for waiver of interest under the provisions of the said two Acts.

In the following cases a person will not be eligible for the scheme:-

- (a) Cases where prosecution has been initiated before 29.02.2016.
- (b) Search or survey cases where the declaration is in respect of tax arrears.
- (c) ) Cases relating to undisclosed foreign income and assets.
- (d) Cases based on information received under Double Taxation Avoidance Agreement under section 90 or 90A of the Income-tax Act where the declaration is in respect of tax arrears.
- (e) Person notified under Special Courts Act, 1992.
- (f) Cases covered under Narcotic Drugs and Psychotropic Substances Act, Indian Penal Code, Prevention of Corruption Act or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

The declaration will be made to the designated authority who will determine within 60 days from the date receipt of the declaration, the amount of tax payable by the declarant. The declarant will be liable to pay said sum within 30 days of passing of such order. Amount paid in pursuance of declaration will not be refundable under any circumstances. The Bill proposes that the Central Government may make rules for carrying out the provisions of the Scheme.

#### **Providing legal framework for authorization of various processes and paperless assessment**

The Finance Minister proposes to provide for framework authorization for various processes and paperless assessment. Under this scheme notice and documents may be issued in electronic form. The bill also proposes to provide “hearing” to include any communication of any data and documents through electronic mode.

This amendment will effective from 1st June 2016.

#### **Payment of interest on refund**

Presently interest on refund is granted from the first day of the assessment year up to the date on which refund is given. However, the Bill proposes to change this and states that where the return is filed after the due date the period for granting of interest on refund will begin from the date of filing of the return.

The Bill also proposes to grant interest on refund of self assessment tax for the period beginning from the date of payment of tax or filing of return whichever is later to the date on which the refund is granted. In doing so prepaid tax and advance tax will be adjusted first.

It is also proposed that where the refund arises out of appeal effect having been delayed beyond the prescribed time then the tax payer will be entitled to receive an additional interest on such refund @ 3% per annum. In other words, interest in such cases will be provided at 9% per annum. The interest will be calculated after the date following the date of expiry of the time within which the order giving the appeal effect is required to be passed till the date on which the refund is granted.

These amendments will take effect from 1<sup>st</sup> June 2016.

#### **Rationalisation of the provisions relating to Appellate Tribunal**

In order to minimize litigation it is proposed that the tax officer cannot file appeal against the order of the Dispute Resolution Panel (DRP). In other words, in so far as the tax officer is concerned the order of the DRP shall be binding on or become final for him.

Under the existing provisions of the Act the Income Tax Appellate Tribunal (ITAT) is empowered to rectify any mistake apparent from the record in its order at any time within 4 years from the date of the order. This time limit is proposed to be reduced to six months from the end of the month in which the order was passed.

These amendments will take effect from 1<sup>st</sup> June 2016.

### Rationalization of Penalty Provisions

Under the existing provisions penalty on account of concealment of particulars of income or furnishing of incorrect particulars of income is levied under section 271(1) (c) The Bill proposes to substitute section 271 by a new section 270A which provides for levy of penalty in cases of under reporting and misreporting of income.

Under the proposed section 270A penalty can be levied by the Tax officer, Commissioner of income tax (Appeals) or the Principal Commissioner or Commissioner.

It is proposed that a person will be considered to have under reported his income if:

- a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;
- b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;
- c) the income reassessed is greater than the income assessed or reassessed immediately before such re-assessment;
- d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;
- e) the amount of deemed total income assessed as per the provisions of section 115JB or 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;
- f) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

In a case where return is furnished and assessment is made for the first time, the amount of unreported income in cases of all persons will be the difference between the assessed income and the income determined under section 143(1)(a).

In a case where no return has been furnished and the return is furnished for the first time the amount of under reported income is proposed to be;

I. for a company, firm or local authority, the assessed income;

II. for a person other than company, firm or local authority, the difference between the assessed income and the maximum amount not chargeable to tax.

The Bill further proposes that in a case where underreported income arises out of determination of income under section 115JB or section 115JC the amount of under reported income will be determined in accordance with the following formula

$$(A - B) + (C - D)$$

where,

A = the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (herein called general provisions);

B = the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under reported income;

C = the total income assessed as per the provisions contained in section 115JB or section 115JC;

D = the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of under reported income.

However, common under reported income on any issue will not be reduced from the total income assessed while determining an amount under item D.

In a case where an assessment or reassessment has an effect of reducing the loss declared in the return or converting that loss into income the amount of under reported income will be the difference between the loss claimed and the income or loss as the case may be assessed or reassessed.

The Bill also proposes that the under reported income under this section will not include the following cases;

- a) where the assessee offers an explanation and the income-tax authority is satisfied that the explanation is bona fide and all the material facts have been disclosed;
- b) where such under-reported income is determined on the basis of an estimate, if the accounts are correct and complete but the method employed is such that the income cannot properly be deducted there from;
- c) where the assessee has, on his own, estimated a lower amount of addition or disallowance on the issue and has included such amount in the computation of his income and disclosed all the facts material to the addition or disallowance;
- d) where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X and disclosed all the material facts relating to the transaction;
- e) where the undisclosed income is on account of a search operation and penalty is leviable under section 271AAB.

The rate of penalty is proposed to be 50% of the tax payable on under reported income. However, in a case where under reporting of income results from misreporting of income by the tax payer, he will be liable for penalty @ 200% of the tax payable on such misreported income. The cases of misreporting of income have been specified as below in the Bill:-

- a) misrepresentation or suppression of facts;
- b) non-recording of investments in books of account;
- c) claiming of expenditure not substantiated by evidence;
- d) recording of false entry in books of account;
- e) failure to record any receipt in books of account having a bearing on total income;
- f) failure to report any international transaction or deemed international transaction under Chapter X.

These amendments will take effect from 1<sup>st</sup> April 2017, relevant to assessment year 2017-18 and subsequent years.

#### **Provision for Bank Guarantee under section 281B**

The existing provision of section 281B provides for provisional attachment by the tax officer of any property of the tax payer during the pendency of assessment or reassessment proceedings for

a period of six months with the prior approval of the specified tax authorities provided he is of the opinion that it is necessary to do so for the purpose of protecting the interest of the revenue.

The Finance Bill proposes that the assessing officer will revoke provisional attachment in a case where the tax payer furnishes a bank guarantee for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interest of the revenue.

It is also proposed to provide an order of revoking the attachment will be made by the tax officer within 15 days of receipt of the bank guarantee.

The tax officer may invoke the bank guarantee wholly or partly where the tax payer fails to pay any amount within the time specified in the notice of demand. In a case where the tax payer fails to renew the bank guarantee or fails to furnish a new guarantee 15 days before the expiry of such guarantee the tax officer may invoke the bank guarantee. The amount realized by invoking the bank guarantee will be adjusted against the existing demands and the balance amount if any, will be deposited in the Personal Deposit Account (PDA) of the Principal Commissioner or the Commissioner in the branch of the Reserve Bank of India or the State Bank of India.

It is also proposed that in a case where the tax officer is satisfied that the bank guarantee is not required he will release the guarantee forthwith.

These amendments will take effect from 1st day of June, 2016.

#### **Legislative Framework to enable and expand the scope of electronic processing of information**

In order to expeditiously remove the mismatch between the return and the information available with the tax department, it is proposed to expand the scope of adjustment that can be made at the time of processing of return under section 143(1).

It is proposed that such adjustments can be made based on the data available to the tax department in the form of audit report filed by the tax payer, return of the earlier years of the tax payer, 26AS statement, Form 16 and Form 16A. However, before making such adjustments intimation will be given to the tax payer requiring him to respond to such adjustments. The department will duly consider the response received, if any, before making any adjustments. However, if no response is received within 30 days of issue of such intimation the process will be carried out incorporating the adjustments.

This amendment will take effect from 1st day of June, 2016.

#### **Immunity from penalty and prosecution in certain cases by inserting new section 270AA**

The Finance Bill proposes that a tax payer may make an application to the tax officer granting immunity from imposition of penalty under section 270A and initiation of prosecution under section 276C provided he pays the tax and interest payable as per the order of assessment or reassessment within the period specified in such notice of demand and does not prefer an appeal against such assessment order.

The tax payer can make such application within one month from the end of the month in which the order of assessment or reassessment is received.

The assessing officer on fulfillment of the conditions as above and after the expiry of period of filing appeal will grant immunity from initiation of penalty and proceedings under section 276C if the penalty proceedings under section 270A has not been initiated on account of the following;

- a) misrepresentation or suppression of facts;
- b) failure to record investments in the books of account;
- c) claim of expenditure not substantiated by any evidence;
- d) recording of any false entry in the books of account;
- e) failure to record any receipt in books of account having a bearing on total income; or
- f) failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction to which the provisions of Chapter X apply.

The tax officer is required to pass an order on such application within the period of one month from the end of the month in which such application is received. The Bill further proposes that no order rejecting the application will be made unless the tax payer has been given an opportunity to be heard. The Bill also provides that the order of the assessing officer under the said section will be final.

These amendments will take effect from the 1st day of April, 2017 relevant to the assessment year 2017 -2018 and subsequent years.

## INDIRECT TAX PROPOSALS

### SERVICE TAX PROPOSALS

#### CHANGE IN THE RATE OF TAX

Although the threshold limit as well as the rate of Service Tax has remained unchanged, a cess called Krishi Kalyan Cess has been levied at 0.5% on all taxable services with effect from 1<sup>st</sup> June, 2016.

Besides the above, amendments have been proposed in some provisions of Service Tax, which are in the following nine broad categories:

- A. Measures to widen the tax base
- B. New exemptions
- C. Relief measures
- D. Interest rates
- E. Rationalization of abatements
- F. Reduce litigations and providing certainty in taxation
- G. Service Tax Rules
- H. CENVAT Credit Rules
- I. Miscellaneous

The highlights of such proposals are briefly stated as follows:

#### A. MEASURES TO WIDEN THE TAX BASE

In the following cases Service Tax has been proposed to be imposed:

1. Tax exemption on services provided by:
  - a. a senior advocate to an advocate or partnership firm of advocates providing legal service; and
  - b. a person represented on an arbitral tribunal to an arbitral tribunal, has been proposed to be withdrawn with effect from 1<sup>st</sup> April, 2016.
2. Exemption on construction, erection, commissioning or installation of original works pertaining to monorail or metro, in respect of contracts entered into on or after 1<sup>st</sup> March 2016, is being withdrawn with effect from 1<sup>st</sup> March, 2016.
3. Services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway have become taxable with effect from 1st April, 2016.
4. Service of transportation of passengers, with or without accompanied belongings, by a stage carriage is liable to be taxed with effect from 1st June, 2016. (*Effective Rate of Tax is 5.6%*).

5. Service Tax is being levied on transportation of passengers by air conditioned stage carriage with effect from 1st June, 2016, at the same level of abatement as applicable to the transportation of passengers by a contract carriage, that is, 60% without credit of inputs, input services and capital goods. (*Effective Rate of Tax is 5.6%*)

**B. NEW EXEMPTIONS**

1. Services by way of construction etc. in respect of :
  - a. housing projects under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY);
  - b. low cost houses up to a carpet area of 60 square metres in a housing project under “Affordable housing in Partnership” component of PMAY,
  - c. low cost houses up to a carpet area of 60 square metres in a housing project under any housing scheme of the State Government,are being exempted from Service Tax with effect from 1st March, 2016.

This has effect of reducing the tax liability at NIL in place of 5.6%.

2. The service of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted. This has effect of reducing the tax liability at NIL in place of 3.5%.
3. Services provided by Employees’ Provident Fund Organisation (EPFO) to employees are being exempted.
4. Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted.
5. The regulatory services provided by Securities and Exchange Board of India (SEBI) are being exempted.
6. The rate of Service Tax on single premium annuity (insurance) policies is being reduced from 3.5% to 1.4% of the premium, in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service.
7. The services of general insurance business provided under ‘Niramaya’ Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted.
8. Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer’s Welfare, Government of India, by way of knowledge dissemination are being exempted.
9. Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to incubatees are being exempted.

10. Services provided by way of skill/vocational training by training partners under Deen Dayal Upadhyay Grameen Kaushalya Yojana are being exempted.
11. Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted.
12. The threshold exemption to services provided by a performing artist in folk or classical art forms of music, dance or theatre is being enhanced from Rs 1 lakh to Rs 1.5 lakh charged per event.

All the above new exemptions shall be effective from 1<sup>st</sup> April, 2016.

### **C. RELIEF MEASURES**

1. To provide level playing field to Indian Shipping lines vis-a-vis foreign shipping lines, it is being proposed to:
  - a. Zero rate the services provided by Indian Shipping lines by way of transportation of goods by a vessel to outside India with effect from 1<sup>st</sup> March, 2016. In this case, credit of Inputs, Input Services and Capital Goods shall also be available.
  - b. Service Tax is proposed to be imposed at 14% plus Cess as applicable on services provided by them by way of transportation of goods by a vessel from outside India up to the customs station in India with effect from 1<sup>st</sup> June, 2016 so as to complete the credit chain and enable Indian Shipping Lines to avail and utilize input tax credits.
2. Allow refund of Service Tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods shall be effective from the date of application i.e. 1<sup>st</sup> July 2012 vide Notification No. 41/2012 – ST dated 29<sup>th</sup> June, 2012, as amended vide notification No.1/2016-ST dated 3<sup>rd</sup> February, 2016.
3. The benefit of quarterly payment of Service Tax is being extended to ‘One Person Company’ (OPC) and HUF with effect from 1<sup>st</sup> April, 2016.
4. The facility of payment of Service Tax on receipt basis is being extended to ‘One Person Company’ (OPC) with effect from 1<sup>st</sup> April, 2016.
5. The tax liability on services of:
  - a. Construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc.
  - b. Construction of ports, airports

have been proposed to be exempted in respect of services provided under contracts which had been entered into prior to 01.03.2015 on payment of applicable stamp duty, with retrospective effect from 01.04.2015. It may be noted that these exemptions although withdrawn with effect from 1.04.2015 now restored. This has an effect of reducing the taxes from 5.6% to Nil.

6. Services provided by way of construction, maintenance etc. of canal, dam or other irrigation works provided to bodies set up by Government but not necessarily by an Act of Parliament or a State Legislature, during the period from the 1st July, 2012 to 29th January, 2014, are being exempted from Service Tax with consequential refunds, subject to the principle of unjust enrichment. This has an effect of reducing the tax liability from 5.6% to Nil.
7. Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), Integrated Programme in Management and Fellowship Programme in Management (FPM) are being exempted from Service Tax with effect from 1st March, 2016. This has an effect of reducing the tax liability from 14% to Nil.
8. Small sub-agents down the distribution chain to avail small scale exemption having threshold turnover of Rs 10 lakh per year, subject to fulfilment of other conditions prescribed and services provided by mutual fund agent/distributor to a mutual fund or asset management company, are being made taxable under forward charge with effect from 1<sup>st</sup> April, 2016.

**D. INTEREST RATE**

The following changes have been proposed in the Interest Rate for delayed payment of service tax:

Sl. No.	Particulars	Existing Rates	Proposed Rates
1	Interest rates on delayed payment of duty/tax across all indirect taxes are being rationalized and made uniform at 15%, except in case of Service Tax collected but not deposited to the exchequer, in which case the rate of interest will be 24% from the date on which the Service Tax payment became due.	Customs 18% Excise 18%	Customs, Excise & Service Tax 15%;
2	In case of assesseees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of Service Tax will be 12%.	Service Tax <ul style="list-style-type: none"> <li>▪ 18% - Delay upto 6 months</li> <li>▪ 24% - Delay beyond 6 months and upto 1 year</li> <li>▪ 30% - Delay beyond 1 year</li> </ul>	24% in case of Service Tax collected but not deposited to the exchequer

The above changes will come into effect from on the day the Finance Bill receives the assent of the President.

**E. RATIONALIZATION OF ABATEMENTS**

The following changes are proposed to be made in respect of Abatements:

Sl. No.	Particulars	Existing Rates	Proposed Rates
1	Credit of input services is being allowed on transport of passengers by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
2	Credit of input services is being allowed on transport of goods, other than in containers, by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
3	Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60%.	4.2% Without credit	5.6% With input service credit
4	Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
5	The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats).	3.5% / 4.2%	4.2%
6	The abatement rate in respect of services by a tour operator in relation to packaged tour (defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being rationalized at 70%.	3.5% / 5.6% of amount charged	4.2% of amount charged
7	The abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of 60%, without CENVAT credit on inputs, input services and capital goods. (The existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged).	4.2%	5.6%
8	The abatement rate on services of a foreman to a chit fund is being rationalised at the rate of 30%, without CENVAT credit on inputs, input services and capital goods.	14%	9.8%

The above changes will come into effect from 1<sup>st</sup> April, 2016.

**F. REDUCE LITIGATIONS AND PROVIDE CERTAINTY IN TAXATION**

1. Indirect tax Dispute Resolution Scheme, 2016, has been introduced in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution. However, this scheme will not apply in cases:
  - a. where prosecution has already been launched
  - b. involving narcotics & psychotropic substances
  - c. involving detention under COFEPOSA.
2. Amendment in Section 67A has been proposed to obtain rule making powers in respect of the Point of Taxation Rules, 2011, so as to provide that the point in time when service has been provided or agreed to be provided shall be determined by rules made in this regard. Point of Taxation Rules, 2011 is being amended accordingly.
3. Amendment has been proposed in Section 93A of the Finance Act, 1994 so as to allow rebate by way of notification as well as rules.
4. Explanation 2 in section 65B (44) of the Finance Act, 1994 is being proposed to be amended so as to clarify that any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, of the State Government as per the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998), is leviable to Service Tax.
5. Notification No. 27/2012 – C.E. (N.T.) dated 18.06.2012 is being proposed to be amended with effect from 1st March, 2016 whereby the time limit for filing application for refund of CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004, in case of export of services, is 1 year from the date of :
  - a. receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
  - b. issue of invoice, where payment, for the service has been received in advance prior to the date of issue of the invoice.
6. A condition mandating inclusion of cost of fuel in the consideration for availing abatement on the services by way of renting of motor-cab is being proposed with effect from 1<sup>st</sup> April, 2016.
7. Section 66E of the Finance Act, 1994 has been proposed to be amended so as to make it clear that assignment of right to use the spectrum is a service leviable to Service Tax and not sale of intangible goods, by inserting clause (j) ‘Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof’ as declared service.
8. Service tax on the services of Information Technology Software on media bearing RSP is being proposed to be exempted from Service Tax with effect from 1<sup>st</sup> March, 2016 provided Central Excise duty is paid on RSP in accordance with Section 4A of the Central Excise Act.

9. In case of services under Information Technology Software in respect of software recorded on media “NOT FOR RETAIL SALE” service tax is proposed to be levied and excise duty shall be exempted on that portion of the transaction value on which Service Tax is paid.

#### **G. SERVICE TAX RULES**

Annual return will also have to be filed by Service Tax assesseees, above a certain threshold, taking total number of returns to three in a year for them. This change shall come into effect from 1<sup>st</sup> April, 2016.

The threshold limit in the said context has not been prescribed. It is expected to be notified.

#### **H. CENVAT CREDIT RULES**

The following amendments in the CENVAT Credit rules shall come into effect on and from 1<sup>st</sup> April, 2016:

1. The rules are being proposed as to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.
2. The rules are being proposed to improve credit flow, reduce the compliance burden and associated litigation, particularly those relating to apportionment of credit between exempted and non-exempted final products / services. Changes are also being made in the provisions relating to input service distributor, including extension of this facility to transfer input services credit to outsourced manufacturers, under certain circumstances. The amendments in these rules will also enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units.
3. The rules are being amended to provide for reversal of CENVAT Credit of inputs/input services which have been commonly used in providing taxable output service and an activity which is not a ‘service’ under the Finance Act, 1994.
4. The CENVAT credit rules are being amended so as to allow CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource, over such period of time as the period for which the rights have been assigned.

#### **I. MISCELLANEOUS**

##### **A. Period for issuing demand notices:**

Amendment is proposed in Section 73 of the Finance Act, 1994 so as to increase the limitation period from 18 months to 30 months for short levy/non levy/short payment/non-payment/erroneous refund of Service Tax.

**B. Other Changes in the Finance Act,1994:**

1. The approved vocational education course as defined in Section 65B (11) is proposed to be omitted.  
Further, the Negative List entry covering 'educational services by way of:  
(a) pre-school education and education up to higher and secondary school or equivalent,  
(b) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force and  
(c) education as a part of an approved vocational education course  
under Section 66D (1) has also been omitted. Consequently, the exemption notification in this regard vide Notification No. 25/2012 – ST shall continue to exempt such services from tax liability.
2. Amendments are being proposed to provide for closure of proceedings against co- noticees, where the proceedings against the main noticee have been closed upon payment of tax due, interest and specified penalty.
3. The power to arrest in Service Tax is being restricted only to situations where the tax payer has collected the tax but not deposited it to the exchequer, and that too above a threshold of Rs 2 crore. The monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax evasion.

**COMMENT**

The widening of tax base coupled with the increase in tax liability through imposition of Krishi Kalyan Cess will have the general impact of a price hike in certain sectors of service in spite of rationalizing the exemptions and /or exemptions extended to certain services.

## CUSTOMS DUTY PROPOSALS

### INCREASE IN RATES HAS BEEN PROPOSED

Increase in customs duty rates has been proposed for the following items:

Items	Existing Rate	Proposed Rate
Gold Dore bars	8% (CVD)	8.75% (CVD)
Silver Dore	7% (CVD)	7.75% (CVD)
Golf cars	10%	60%
Machinery, mechanical appliances and parts, measuring, checking, medical, surgical instruments.	7.5%	10%

### REDUCTION IN RATES HAS BEEN PROPOSED

Decrease in customs duty rates has been proposed for the following items:

Items	Existing Rate	Proposed Rate
Refrigerated containers, Cold chain including pre-cooling unit, pack-houses, sorting and grading lines and ripening chambers	10%	5%
Peat (including peat litter), Lignite, whether or not agglomerated.	10%	2.5%
Specified fibres and yarns for textiles, Silica sand, Brass Scrap Pulp of wood for manufacture of sanitary pads, napkins & tampons	5%	2.5%
Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons	10%	5%
Tar distilled from coal, from lignite or from peat and other minerals tars	10%	5%

### LEVY OF CUSTOMS DUTY ON CERTAIN ITEMS

The Finance Bill proposes levying of Customs Duty on following items:

- Cashew nuts in shell
- Plans, drawings and designs for paperboard, news prints etc.
- E-Readers
- Populated PCBs for manufacturer of personal computers and mobile phone.
- Specified machinery required for construction of roads
- Solar tempered glass/solar tempered (anti-reflective coated) glass, subject to actual user condition
- Charger and adapter, Battery, Wired Headsets, Speakers for manufacture for mobile phone

### FULL EXEMPTION FROM BCD HAS BEEN PROPOSED FOR CERTAIN ITEMS

The Finance Bill also proposes full exemption from Basic Customs Duty for the following items:

- Wood in chips or particles for manufacture of papers, papers boards and news prints
- Machinery, electrical equipments and instruments and parts thereof for semiconductor wafer/LCD fabrication
- Machinery, electrical equipments and instruments and parts thereof for test marking and packaging of semi conductor chips
- Parts and components, subparts for manufacture of Routers, Broadband Modems and Set-top boxes
- Specified capitals goods and inputs for using manufacture of specified Fuses.
- Braille Paper

### **OTHER PROPOSALS**

- The Finance Minister proposes to amend the Customs Act to provide for deferred payment of customs duties for importers and exporters with proven track record and to increase the limitation period from one year to two years in cases not involving fraud, suppression of facts, etc.
- The term 'Warehouse' to include 'Special Warehouse' in addition to the existing public and private warehouse.
- Time period of 'one year' from relevant date to serve show cause notice for duty not levied, short levied or not paid or short paid extended to two years.
- Interest free period for levy of import duty on import of goods reduced from five days to two days from the date the bill of entry is returned to assessee for payment of duty.
- Principal Commissioner and Commissioner to extend warehousing period for warehouses used by EOU, EHTP, STP, Ship building yards and units manufacturing under bond upto one year at a time.
- Value limit of bonafide gift imported by post or by air increased from Rs.10,000 to Rs.20,000.
- Importer to submit bond equal to 3 times of duty assessed for storing goods in bonded warehouse. In case of transfer, the transferee to execute a fresh bond of equivalent amount.
- Custom Single Window project to be implemented at major ports and airports with effect from beginning of next Financial Year.
- Increase in free baggage allowance for international passengers. Filling of baggage declaration form required only for passengers carrying dutiable goods.
- Custom duty refund to carry interest at the rate of 9% against normal rate of 6% for delay in appellate order in excess of 90 days.
- BCD, CVD and SAD will be applicable on direct imports of specified goods for defense purpose by Governments of India or state Governments or by contractors of the Government of India, PSUs or sub-contractors of PSUs with effect from 1<sup>st</sup> April 2016.
- Procedure for availment of exemption by Aircraft and Ship Repair Units has been simplified. The applicable custom duty on specified parts used for maintenance /repair of aircraft/ship by these units has been withdrawn
- Export duty on Iron ores with specified Fe content, Chromium ores and concentrates has been withdrawn.
- The Duty Drawback Scheme has been widened and deepened to include more products and countries.

## EXCISE DUTY PROPOSALS

### INCREASE IN RATES HAS BEEN PROPOSED

An increase in Excise Duty rates has been proposed for the following :

Items	Existing Rate	Proposed Rate
Waters, including mineral waters and aerated waters	18%	21%
Gutkha, chewing tobacco**	70%	81%
Unmanufactured tobacco**	55%	64%
Refined gold bars, silver dore bar, gold ore or concentrate, silver ore or concentrate, copper ore or concentrate.	9%	9.5%
Refined silver manufactured from silver ore or concentrate, silver dore bar, or gold dore bar	8%	8.5%
Sacks and bags of all plastics	12.5% / 15%	15%
Paper rolled biris**	Rs.30 per thousand	Rs.80 per thousand
Readymade garments and made up articles of textiles	<b>Tariff Value :</b> 30% of RSP	<b>Tariff Value :</b> 60% of RSP
Branded readymade garments and made up articles of textiles of RSP of Rs.1000 or more	Nil [without CENVAT credit] or 6%/12.5% [with CENVAT credit]	2% [without CENVAT credit] or 12.5% [with CENVAT credit]
PSF / PFY, manufactured from plastic scrap or plastic waste including waste PET bottles	2% [without CENVAT credit] or 6% [with CENVAT credit]	2% [without CENVAT credit] or 12.5% [with CENVAT credit]
Disposable containers made of aluminum foils		
Cigar ,Cheroots, Cigarillos of tobacco substitutes**	12.5% or Rs.3375 per thousand whichever is higher	12.5% or Rs.3755 per thousand whichever is higher

\*\* The amendments will come into effect immediately.

### REDUCTION IN RATES HAS BEEN PROPOSED

A decrease in Excise Duty rates has been proposed for the following :

Items	Existing Rate	Proposed Rate
Refrigerated containers	12.5%	6%
Electric motor, shafts, sleeve etc.		
Engine for xEV (hybrid electric vehicle)		
Rubber sheets & resin rubber sheets for soles and heels		
Parts of railway or tramway locomotives or rolling stock, railway safety or traffic control equipment, etc.		
Footwear	<b>Abatement : 25%</b>	<b>Abatement : 30%</b>

**WITHDRAWAL OF EXCISE DUTY HAS BEEN PROPOSED IN CASE OF FOLLOWING ITEMS**

- Ready Mix Concrete manufactured at the site of construction for use in construction work at such site.
- Disposable sterilized dialyzer and micro barrier of artificial kidney.
- Solar lamp.
- Tools and tool kits procured by MROs for maintenance, repair, and overhauling [MRO] of aircraft. Restriction of one year for utilization of duty free parts for maintenance, repair and overhaul of aircraft has been removed.

**OTHER PROPOSALS**

- Cenvat Credit Rules 2004 are proposed to be amended to facilitate improved credit flow, reduced compliance burden and associated litigations regarding apportionment of credit between exempted and non-exempted final products and services for both manufacturers as well as service providers.
- Returns are to be filed by Central Excise assessee above a certain threshold reduced from 27 to 13 comprising of 12 monthly return and one annual return. Annual Return also to be e-filed.
- Facility for revision of central excise return has been extended to central excise assesses.
- In cases of digitally signed invoices, manual attestation of invoice copy has been done away with.
- In case of finalization of provisional assessment, the interest, which hitherto was charged from the first day of the succeeding month, now will be charged from the original date of payment of duty.
- Time period of 'one year' from relevant date to serve show cause notice for duty not levied, short levied or not paid or short paid has been extended to 'two years'.
- 'Clean Energy Cess' has been renamed as 'Clean Environment Cess'. The effective rate of such cess has been increased from Rs. 200 per tonne to Rs. 400 per tonne.
- Infrastructure Cess has been levied on specified motor vehicles. No credit of this Cess will be available. Moreover no other duty can be utilized for payment of this Cess.
- Excise Duty of 2% [without CENVAT credit] or 12.5% [with CENVAT credit] has been levied on charger, adapter, battery, etc. for supply to mobile phone manufacturers. However duty has been withdrawn on parts required for these.
- Reduction of Excise Duty has been made on Routers, Broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, CCTV camera, lithium ion battery [other than those for mobile handsets] from 12.5% to 4% [without CENVAT credit]. However duty has been withdrawn on parts required for these.
- Oil Industry Development Cess on domestically produced crude oil has been reduced from 4500 PMT to 20% advalorem.
- Utilisation of Cenvat Credit on specified parts of electric vehicles and hybrid vehicles, which was earlier limited till 31<sup>st</sup> March 2016, extended without specifying any time limit.

## **OTHER BUDGET PROPOSALS**

### **INTRODUCTION**

- Growth of Economy accelerated to 7.6% in 2015-16.
- India hailed as a 'bright spot' amidst a slowing global economy by IMF.
- Robust growth achieved despite very unfavourable global conditions and two consecutive years of shortfall in monsoon by 13%.
- Foreign exchange reserves touched highest ever level of about 350 billion US dollars.
- Despite increased devolution to States by 55% as a result of the 14<sup>th</sup> Finance Commission award, plan expenditure increased at RE stage in 2015-16 – in contrast to earlier years.

### **CHALLENGES IN 2016-17**

- Risks of further global slowdown and turbulence.
- Additional fiscal burden due to 7th Central Pay Commission recommendations and OROP.

### **ROADMAP & PRIORITIES**

- 'Transform India' to have a significant impact on economy and lives of people.
- Government to focus on –
  - ensuring macro-economic stability and prudent fiscal management.
  - boosting on domestic demand.
  - continuing with the pace of economic reforms and policy initiatives to change the lives of our people for the better.
- Focus on enhancing expenditure in priority areas of - farm and rural sector, social sector, infrastructure sector employment generation and recapitalisation of the banks.
- Focus on Vulnerable sections through:
  - Pradhan Mantri Fasal Bima Yojana.
  - New health insurance scheme to protect against hospitalization expenditure.
  - Facility of cooking gas connection for BPL families.
  - Continue with the ongoing reform programme and ensure passage of the Goods and Service Tax bill and Insolvency and Bankruptcy law.
- Undertake important reforms by:
  - giving a statutory backing to AADHAR platform to ensure benefits reach the deserving.
  - freeing the transport sector from constraints and restrictions.
  - incentivising gas discovery and exploration by providing calibrated marketing freedom.
  - enactment of a comprehensive law to deal with resolution of financial firms.
  - provide legal framework for dispute resolution and re-negotiations in PPP projects and public utility contracts.
  - undertake important banking sector reforms and public listing of general insurance companies
  - undertake significant changes in FDI policy.

**AGRICULTURE AND FARMERS' WELFARE**

- Allocation for Agriculture and Farmers' welfare is Rs. 35,984 crores.
- 'Pradhan Mantri Krishi Sinchai Yojana' to be implemented in mission mode. 28.5 lakh hectares will be brought under irrigation.
- Implementation of 89 irrigation projects under AIBP, which are languishing for a long time, will be fast tracked.
- A dedicated Long Term Irrigation Fund will be created in NABARD with an initial corpus of about Rs. 20,000 crores.
- Programme for sustainable management of ground water resources with an estimated cost of Rs. 6,000 crores will be implemented through multilateral funding.
- 5 lakh farm ponds and dug wells in rain fed areas and 10 lakh compost pits for production of organic manure will be taken up under MGNREGA.
- Soil Health Card scheme will cover all 14 crore farm holdings by March 2017.
- 2,000 model retail outlets of Fertilizer companies will be provided with soil and seed testing facilities during the next three years.
- Promote organic farming through 'Parmparagat Krishi Vikas Yojana' and 'Organic Value Chain Development in North East Region'.
- Unified Agricultural Marketing e-Platform to provide a common e-market platform for wholesale markets.
- Allocation under Pradhan Mantri Gram Sadak Yojana increased to Rs.19,000 crores. Will connect remaining 65,000 eligible habitations by 2019.
- To reduce the burden of loan repayment on farmers, a provision of Rs. 15,000 crores has been made in the Budget Estimate 2016-17 towards interest subvention.
- Allocation under Prime Minister Fasal Bima Yojana Rs. 5,500 crores.
- Rs. 850 crores for four dairying projects - 'Pashudhan Sanjivani', 'Nakul Swasthya Patra', 'E-Pashudhan Haat' and National Genomic Centre for indigenous breeds.

**RURAL SECTOR**

- Allocation for rural sector – Rs. 87,765 crores.
- Rs. 2.87 lakh crores will be given as Grant in Aid to Gram Panchayats and municipalities as per the recommendations of the 14<sup>th</sup> Finance Commission.
- Every block under drought and rural distress will be taken up as an intensive Block under the Deen Dayal Antyodaya Mission.
- A sum of Rs. 38,500 crores allocated for MGNREGS.
- 300 Urban Clusters will be developed under the Shyama Prasad Mukherjee Urban Mission
- 100% village electrification by 1<sup>st</sup> May, 2018.
- District Level Committees under Chairmanship of senior most Lok Sabha MP from the district for monitoring and implementation of designated Central Sector and Centrally Sponsored Schemes.
- Priority allocation from Centrally Sponsored Schemes to be made to reward villages that have become free from open defecation.
- A new Digital Literacy Mission Scheme for rural India to cover around 6 crore additional household within the next 3 years.
- National Land Record Modernisation Programme has been revamped.
- New scheme Rashtriya Gram Swaraj Abhiyan proposed with allocation of Rs. 655 crores.

**SOCIAL SECTOR INCLUDING HEALTH CARE**

- Allocation for social sector including education and health care – Rs. 1,51,581 crores.
- Rs. 2,000 crores allocated for initial cost of providing LPG connections to BPL families.
- New health protection scheme will provide health cover up to Rupees One lakh per family. For senior citizens an additional top-up package up to Rs. 30,000 will be provided.
- 3,000 Stores under Prime Minister's Jan Aushadhi Yojana will be opened during 2016-17.
- 'National Dialysis Services Programme' to be started under National Health Mission through PPP mode.
- "Stand Up India Scheme" to facilitate at least two projects per bank branch. This will benefit at least 2.5 lakh entrepreneurs.
- National Scheduled Caste and Scheduled Tribe Hub to be set up in partnership with industry associations.
- Allocation of Rs. 100 crores each for celebrating the Birth Centenary of Pandit Deen Dayal Upadhyay and the 350<sup>th</sup> Birth Anniversary of Guru Gobind Singh.

**EDUCATION, SKILLS AND JOB CREATION**

- 62 new Navodaya Vidyalayas will be opened.
- Sarva Shiksha Abhiyan to increasing focus on quality of education.
- Regulatory architecture to be provided to ten public and ten private institutions to emerge as world-class Teaching and Research Institutions.
- Higher Education Financing Agency to be set-up with initial capital base of Rs. 1,000 crores.
- Digital Depository for School Leaving Certificates, College Degrees, Academic Awards and Mark sheets to be set-up.

**SKILL DEVELOPMENT**

- Allocation for skill development – Rs. 1,804. crores.
- 1,500 Multi Skill Training Institutes to be set-up.
- National Board for Skill Development Certification to be setup in partnership with the industry and academia.
- Entrepreneurship Education and Training through Massive Open Online Courses.

**JOB CREATION**

- GoI will pay contribution of 8.33% for of all new employees enrolling in EPFO for the first three years of their employment. Budget provision of Rs. 1,000 crores for this scheme.
- Deduction under Section 80JJAA of the Income Tax Act will be available to all assesses who are subject to statutory audit under the Act.
- 100 Model Career Centres to operational by the end of 2016-17 under National Career Service.
- Model Shops and Establishments Bill to be circulated to States.

**INFRASTRUCTURE AND INVESTMENT**

- Total investment in the road sector, including PMGSY allocation, would be Rs. 97,000 crores during 2016-17.
- India's highest ever kilometres of new highways were awarded in 2015. To approve nearly 10,000 kms of National Highways in 2016-17.
- Allocation of Rs. 55,000 crores in the Budget for Roads. Additional Rs.15,000 crores to be raised by NHAI through bonds.
- Total outlay for infrastructure – Rs. 2,21,246 crores.
- Amendments to be made in Motor Vehicles Act to open up the road transport sector in the passenger segment.
- Action plan for revival of unserved and underserved airports to be drawn up in partnership with State Governments.
- To provide calibrated marketing freedom in order to incentivise gas production from deep-water, ultra deep-water and high pressure-high temperature areas.
- Comprehensive plan, spanning next 15 to 20 years, to augment the investment in nuclear power generation to be drawn up.
- Steps to re-vitalise PPPs:
  - Public Utility (Resolution of Disputes) Bill will be introduced during 2016-17.
  - Guidelines for renegotiation of PPP Concession Agreements will be issued.
- New credit rating system for infrastructure projects to be introduced.
- Reforms in FDI policy in the areas of Insurance and Pension, Asset Reconstruction Companies, Stock Exchanges.
- 100% FDI to be allowed through FIPB route in marketing of food products produced and manufactured in India.
- A new policy for management of Government investment in Public Sector Enterprises, including disinvestment and strategic sale.

**FINANCIAL SECTOR REFORMS**

- A comprehensive Code on Resolution of Financial Firms to be introduced.
- Statutory basis for a Monetary Policy framework and a Monetary Policy Committee through the Finance Bill 2016.
- A Financial Data Management Centre to be set up.
- RBI to facilitate retail participation in Government securities.
- New derivative products will be developed by SEBI in the Commodity Derivatives market.
- Amendments in the SARFAESI Act 2002 to enable the sponsor of an ARC to hold up to 100% stake in the ARC and permit non institutional investors to invest in Securitization Receipts.
- Comprehensive Central Legislation to be brought to deal with the menace of illicit deposit taking schemes.
- Increasing members and benches of the Securities Appellate Tribunal.
- Allocation of Rs. 25,000 crores towards recapitalisation of Public Sector Banks.
- Target of amount sanctioned under Pradhan Mantri Mudra Yojana increased to Rs. 1,80,000 crores.
- General Insurance Companies owned by the Government to be listed in the stock exchanges.

**GOVERNANCE AND EASE OF DOING BUSINESS**

- A Task Force has been constituted for rationalisation of human resources in various Ministries.
- Comprehensive review and rationalisation of Autonomous Bodies.
- Bill for Targeted Delivery of Financial and Other Subsidies, Benefits and Services by using the Aadhar framework to be introduced.
- Introduce Direct Benefit Transfer on pilot basis for fertilizer.
- Automation facilities will be provided in 3 lakh fair price shops by March 2017.
- Amendments in Companies Act to improve enabling environment for start-ups.
- Price Stabilisation Fund with a corpus of Rs. 900 crores to help maintain stable prices of Pulses.
- “Ek Bharat Shreshtha Bharat” programme will be launched to link States and Districts in an annual programme that connects people through exchanges in areas of language, trade, culture, travel and tourism.

**FISCAL DISCIPLINE**

- Fiscal deficit in Revised Estimate 2015-16 and Budget Estimate 2016-17 retained at 3.9% and 3.5%.
- Revenue Deficit target from 2.8% to 2.5% in RE 2015-16.
- Total expenditure projected at Rs. 19.78 lakh crores.
- Plan expenditure pegged at Rs. 5.50 lakh crores under Plan, increase of 15.3%.
- Non-Plan expenditure kept at Rs. 14.28 lakh crores.
- Special emphasis to sectors such as agriculture, irrigation, social sector including health, women and child development, welfare of Scheduled Castes and Scheduled Tribes, minorities, infrastructure.
- Mobilisation of additional finances to the extent of Rs. 31,300 crores by NHAI, PFC, REC, IREDA, NABARD and Inland Water Authority by raising Bonds.
- Plan / Non-Plan classification to be done away with from 2017-18.
- Every new scheme sanctioned will have a sunset date and outcome review.
- Rationalised and restructured more than 1,500 Central Plan Schemes into about 300 Central Sector and 30 Centrally Sponsored Schemes.
- Committee to review the implementation of the FRBM Act.

**RELIEF TO SMALL TAX PAYERS**

- Raise the ceiling of tax rebate under section 87A from Rs.2,000 to Rs.5,000 to lessen tax burden on individuals with income upto Rs. 5 lakhs.
- Increase the limit of deduction of rent paid under section 80GG from Rs. 24,000 per annum to Rs. 60,000, to provide relief to those who live in rented houses.

**BOOST EMPLOYMENT AND GROWTH**

- Increase the turnover limit under Presumptive taxation scheme under section 44AD of the Income Tax Act to Rs. 2 crores to bring big relief to a large number of assesseees in the MSME category.

- Extend the presumptive taxation scheme with profit deemed to be 50%, to professionals with gross receipts up to Rs. 50 lakhs.
- Phasing out deduction under Income Tax:
  - Accelerated depreciation wherever provided in IT Act will be limited to maximum 40% from 1<sup>st</sup> April 2017
  - Benefit of deductions for Research would be limited to 150% from 1<sup>st</sup> April 2017 and 100% from 1<sup>st</sup> April 2020
  - Benefit of section 10AA to new SEZ units will be available to those units which commence activity before 31<sup>st</sup> March 2020.
  - The weighted deduction under section 35CCD for skill development will continue up to 1<sup>st</sup> April 2020
- Corporate Tax rate proposals:
  - New manufacturing companies incorporated on or after 1<sup>st</sup> March 2016 to be given an option to be taxed at 25% + surcharge and cess provided they do not claim profit linked or investment linked deductions and do not avail of investment allowance and accelerated depreciation.
  - Lower the corporate tax rate for the next financial year for relatively small enterprises i.e companies with turnover not exceeding Rs. 5 crores (in the financial year ending March 2015), to 29% plus surcharge and cess.
  - 100% deduction of profits for 3 out of 5 years for startups setup during April 2016 to March, 2019. MAT will apply in such cases.
  - 10% rate of tax on income from worldwide exploitation of patents developed and registered in India by a resident.
- Complete pass through of income-tax to securitization trusts including trusts of Asset Reconstruction Companies. Securitisation trusts required to deduct tax at source.
- Period for getting benefit of long term capital gain regime in case of unlisted companies is proposed to be reduced from three to two years.
- Non-banking financial companies shall be eligible for deduction to the extent of 5% of its income in respect of provision for bad and doubtful debts.
- Determination of residency of foreign company on the basis of Place of Effective Management (POEM) is proposed to be deferred by one year.
- Commitment to implement General Anti Avoidance Rules (GAAR) from 1<sup>st</sup> April 2017.
- Exemption of service tax on services provided under Deen Dayal Upadhyay Grameen Kaushalya Yojana and services provided by Assessing Bodies empanelled by Ministry of Skill Development & Entrepreneurship.
- Exemption of Service tax on general insurance services provided under 'Niramaya' Health Insurance Scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability.
- Basic custom and excise duty on refrigerated containers reduced to 5% and 6%.

#### **MAKE IN INDIA**

- Changes in customs and excise duty rates on certain inputs to reduce costs and improve competitiveness of domestic industry in sectors like Information technology hardware, capital goods, defense production, textiles, mineral fuels & mineral oils, chemicals & petrochemicals, paper, paperboard & newsprint, Maintenance repair and overhauling [MRO] of aircrafts and ship repair.

**MOVING TOWARDS A PENSIONED SOCIETY**

- Withdrawal up to 40% of the corpus at the time of retirement to be tax exempt in the case of National Pension Scheme (NPS). Annuity fund which goes to legal heir will not be taxable.
- In case of superannuation funds and recognized provident funds, including EPF, the same norm of 40% of corpus to be tax free will apply in respect of corpus created out of contributions made on or from 1<sup>st</sup> April 2016.
- Limit for contribution of employer in recognized Provident and Superannuation Fund of Rs. 1.5 lakhs per annum for taking tax benefit. Exemption from service tax for Annuity services provided by NPS and Services provided by EPFO to employees.
- Reduce service tax on Single premium Annuity (Insurance) Policies from 3.5% to 1.4% of the premium paid in certain cases.

**PROMOTING AFFORDABLE HOUSING**

- 100% deduction for profits to an undertaking in housing project for flats upto 30 sq. metres in four metro cities and 60 sq. metres in other cities, approved during June 2016 to March 2019 and completed in three years. MAT to apply.
- Deduction for additional interest of Rs. 50,000 per annum for loans up to Rs. 35 lakhs sanctioned in 2016-17 for first time home buyers, where house cost does not exceed Rs. 50 lakhs.
- Distribution made out of income of Special Purpose Vehicles to the Real Estate Investment Trusts and Infrastructure Investment Trusts having specified shareholding will not be subjected to Dividend Distribution Tax, in respect of dividend distributed after the specified date.
- Exemption from service tax on construction of affordable houses up to 60 square metres under any scheme of the Central or State Government including PPP Schemes.
- Extend excise duty exemption, presently available to Concrete Mix manufactured at site for use in construction work to Ready Mix Concrete.

**RESOURCE MOBILIZATION FOR AGRICULTURE, RURAL ECONOMY AND CLEAN ENVIRONMENT**

- Additional tax at the rate of 10% of gross amount of dividend will be payable by the recipients receiving dividend in excess of Rs. 10 lakhs per annum.
- Surcharge to be raised from 12% to 15% on persons, other than companies, firms and cooperative societies having income above Rs. 1 crore.
- Tax to be deducted at source at the rate of 1 % on purchase of luxury cars exceeding value of rupees ten lakhs and purchase of goods and services in cash exceeding rupees two lakhs.
- Securities Transaction tax in case of 'Options' is proposed to be increased from 0.017% to 0.05%.
- Equalization levy of 6% of gross amount for payment made to nonresidents exceeding Rs. 1 lakh a year in case of B2B transactions.
- Krishi Kalyan Cess, @ 0.5% on all taxable services, w.e.f. 1<sup>st</sup> June 2016. Proceeds would be exclusively used for financing initiatives for improvement of agriculture and welfare of farmers. Input tax credit of this cess will be available for payment of this cess.

- Infrastructure cess, of 1% on small petrol, LPG, CNG cars, 2.5% on diesel cars of certain capacity and 4% on other higher engine capacity vehicles and SUVs. No credit of this cess will be available nor credit of any other tax or duty be utilized for paying this cess.
- Excise duty of '1% without input tax credit or 12.5% with input tax credit' on articles of jewellery [excluding silver jewellery, other than studded with diamonds and some other precious stones], with a higher exemption and eligibility limits of Rs. 6 crores and Rs. 12 crores respectively.
- Excise on readymade garments with retail price of Rs. 1,000 or more raised to 2% without input tax credit or 12.5% with input tax credit.
- 'Clean Energy Cess' levied on coal, lignite and peat renamed to 'Clean Environment Cess' and rate increased from Rs. 200 per tonne to Rs. 400 per tonne.
- Excise duties on various tobacco products other than beedi raised by about 10 to 15%.
- Assignment of right to use the spectrum and its transfers has been deducted as a service leviable to service tax and not sale of intangible goods.

### **PROVIDING CERTAINTY IN TAXATION**

- Committed to providing a stable and predictable taxation regime and reduce black money.
- Domestic taxpayers can declare undisclosed income or such income represented in the form of any asset by paying tax at 30%, and surcharge at 7.5% and penalty at 7.5%, which is a total of 45% of the undisclosed income. Declarants will have immunity from prosecution.
- Surcharge levied at 7.5% of undisclosed income will be called Krishi Kalyan surcharge to be used for agriculture and rural economy.
- New Dispute Resolution Scheme to be introduced. No penalty in respect of cases with disputed tax up to Rs. 10 lakhs. Cases with disputed tax exceeding Rs. 10 lakhs to be subjected to 25% of the minimum of the imposable penalty. Any pending appeal against a penalty order can also be settled by paying 25% of the minimum of the imposable penalty and tax interest on quantum addition.
- High Level Committee chaired by Revenue Secretary to oversee fresh cases where assessing officer applies the retrospective amendment.
- One-time scheme of Dispute Resolution for ongoing cases under retrospective amendment.
- Penalty rates to be 50% of tax in case of underreporting of income and 200% of tax where there is misreporting of facts.
- Disallowance will be limited to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed under rule 8D of Section 14A of Income Tax Act.
- Time limit of one year for disposing petitions of the tax payers seeking waiver of interest and penalty.
- Mandatory for the assessing officer to grant stay of demand once the assessee pays 15% of the disputed demand, while the appeal is pending before Commissioner of Income-tax (Appeals).
- Monetary limit for deciding an appeal by a single member Bench of ITAT enhanced from Rs. 15 lakhs to Rs. 50 lakhs.
- 11 new benches of Customs, Excise and Service Tax Appellate Tribunal (CESTAT).

**SIMPLIFICATION AND RATIONALIZATION OF TAXES**

- 13 cesses, levied by various Ministries in which revenue collection is less than Rs. 50 crores in a year to be abolished.
- For non-residents providing alternative documents to PAN card, higher TDS not to apply.
- Revision of return extended to Central Excise assesses.
- Additional options to banking companies and financial institutions, including NBFCs, for reversal of input tax credits with respect to nontaxable services.
- Customs Act to provide for deferred payment of customs duties for importers and exporters with proven track record.
- Customs Single Window Project to be implemented at major ports and airports starting from beginning of next financial year.
- Increase in free baggage allowance for international passengers. Filing of baggage only for those carrying dutiable goods.

**TECHNOLOGY FOR ACCOUNTABILITY**

- Expansion in the scope of e-assessments to all assesseees in 7 mega cities in the coming years.
- Interest at the rate of 9% p.a. against normal rate of 6% p.a. for delay in giving effect to Appellate order beyond ninety days.
- 'e-Sahyog' to be expanded to reduce compliance cost, especially for small taxpayers.

*Although utmost care has been taken in preparing this document, any inadvertent error is regretted.*

BUDGET



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