India Budget 2016

Accelerating the Momentum

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Great Expectations...

The last two Budgets saw the Government dealing and addressing legacy issues, especially retrospective taxation and a growing mountain of avoidable tax litigation. This year's Budget bears the imprimatur of the Finance Minister (FM) and the current government's "Transform India" focus.

The International Monetary Fund has projected India to be at a 'bright spot', while the World Economic Forum has commented that India's growth rate is 'extraordinarily high'.

The current government clearly wants to see India break out of the "big-but-poor" dichotomy and take its rightful place at the high table with the most developed countries. Initiatives like 'Skill India', 'Digital India', 'Startup India Plan' and its move towards a 'pensioned society', besides the much-hyped 'Make in India' and 'Swachh Bharat' initiatives are a clear indicator of that intent.

The demographic challenge of creating enough jobs for our youth joining the workforce is being tackled from both ends. *First*, 10 million youths will be made more employable through skills training under the auspices of the proposed National Board for Skill Development Certification. *Second*, to incentivize creation of new jobs in the formal sector the Government of India will pay the Employee Pension Scheme contribution of 8.33% for all new employees enrolling in Employees Provident Fund Organisation for the first three years of their employment.

Great Expectations

On the tax reform front, the government is clearly progressing towards a lower tax regime with a non-litigious approach. Thus, while compliant taxpayers can expect a supportive interface with the department, tax evasion would be countered strongly. The FM had a difficult task of walking a tightrope between phasing-out of exemptions/ deductions and ensuring that businesses remain incentivized for further investments. With the government's emphasis on Start-up India and the focused approach to liberalising rules and procedures governing small businesses, the FM has proposed a simpler presumptive taxation scheme for businesses with a smaller turnover (up to INR 20 million), which obviates the need to conduct detailed assessments and considerably simplifies taxation of such businesses.

The government further encouraged Startups by proposing to simplify the Companies Act, 2013 and enabling registration of a company within a day's time. The Base Erosion and Profit Shifting (BEPS) agenda of the Organisation for Economic Co-operation and Development was bound to find a place in the Budget. Country-by-Country Reporting for multinationals having a consolidated revenue of more than Euro 750 million has been proposed. Multinationals will need to better align their business activities with their transfer pricing policies.

Make in India

When the Make in India campaign was revealed to corporate leaders, diplomats and ministers, Prime Minister Narendra Modi expected his government's policies to boost manufacturing substantially to create 100 million jobs and increase its contribution to the national output. The government has also focused on domestic companies to encourage innovation and entrepreneurship. To make its multiple initiatives real, attractive and workable, it has introduced tax incentives in this Budget.

Encouraging Startups

The Startup India Plan unveiled at a recent event that celebrated the entrepreneurial spirit of India's youth is aimed at building a strong ecosystem for nurturing innovation and empowering Startups in the country. The Budget has affirmed that profits for three out of the first 5 years for startups set up between April 2016 to March 2019 would be eligible for 100% deduction. However, minimum alternate tax would apply in such cases.

Lubricating the Growth Engine

Stimulating private sector investments

National Investment Grid

Stimulating private sector investments

The FM had the unenviable task of surmounting multiple global and domestic headwinds that were holding back India's economy, and of presenting a Budget that would lift the sentiments both, domestically and globally. He had to crank up the private sector investment sentiment, revive exports and nurse back to health a severely capital-starved banking system loaded with stressed assets. Against all odds, the Budget has done all this – it has announced significant steps to revive public investment in roads, railways, agriculture, and infrastructure. By providing a push to consumption-led growth, the government hopes to revive private sector investments. To top it all, the significant enhancement of tax incentives for the housing sector is expected to act as a force multiplier for downstream sectors.

National Investment Grid

To promote private investment in different states, the Department of Industrial Policy and Promotion (DIPP) has initiated a national investment grid, which will map business opportunities in different states so that the private sector can be encouraged to invest, provided states are made an equal partner in it. The grid will not only have the details of the upcoming projects along with the existing ones, but will also list the land available with the central government, public sector undertakings, and the states.

Improving 'Ease of Doing Business' Rankings

The government has emphasized the need for good governance with special focus on process reforms and IT-enabled government processes so as to remove the irritants for the public in their interface with government agencies. Several tax reforms have been introduced that simplify the law and reduce litigation. A Task Force has been constituted to rationalize human resources in various ministries. A comprehensive review and rationalization of autonomous bodies is also underway. The expectation is that these would ultimately result in enhancing "ease of doing business" in India. Simplification and rationalisation are the two themes driving the overhaul, to create a more positive perception of India's tax and legal environment, long regarded by investors as adversarial and dilatory.

Simplification of Income-tax Act

The government had already accepted and acted on many recommendations of the Tax Administration Reform Committee. Now, the FM has proposed to accept several recommendations made by the Justice Easwar Committee formed to simplify the Income-tax Act. The Budget proposes that if non-residents provide alternative documents to PAN Card, a higher withholding tax would not apply. Additional options were made available to banking companies and financial institutions, including non-banking financial companies, for reversal of input tax credits on non-taxable services.

Economic Performance

Global backdrop and the Indian economy

Fiscal Deficit

Financial Sector Reforms

Infrastructure

Fiscal consolidation

Key reforms that helped performance

Outlook

Global backdrop and the Indian economy …1

Global economy – The world economy is witnessing weakness, with global growth slowing down from 3.4% in 2014 to 3.1% in 2015. Declining commodity prices, including the sharp fall in crude oil prices, choppy financial markets, substantial contraction in world trade, the rebalancing of the global economy including China, and volatility in exchange rates, have added to the weakness. These factors are directly impacting not just commodity exporters and risk-averse investors, but also the rest of the world economy as well through a domino effect.

The risk of further global slowdown and turbulence will continue. This complicates the task of economic management for India, as this has three critical implications for us. *First*, we need to strengthen our firewalls against these risks by ensuring macroeconomic stability and prudent fiscal management. *Second*, since exports are likely to continue being sluggish, we must increasingly rely on domestic demand and Indian markets as a growth driver. *Third*, we must continue with the pace of economic reforms and policy initiatives to change the lives of our people for the better.

Indian economy - India on the other hand, despite the uncertain global economic background, remains largely positive, registering a GDP growth rate of 7.2% in 2014-15 that is projected to rise to 7.6% in 2015-16. India remains one of the fastest growing major economies in the world and has been declared a bright spot in the global economic development by both, the World Bank and the IMF. While the World Bank has projected growth in India at 7.8% against China’s 6.7% in 2016-17, the IMF has projected a growth forecast at 7.5%, making it the fastest growing major economy in the world

Global backdrop and the Indian economy …2

The Indian economy has held its ground firmly amidst global headwinds, with our foreign exchange reserves at the highest ever level of US$350Bn, and the current account deficit (CAD) declining from US$18.4Bn in the first half of last year to US$14.4Bn this year. The CAD is projected to be a low 1.4% of GDP by the end of this year.

The following macroeconomic parameters also exhibited signs of improvements in India:

- **Inflation** – Consumer price inflation declined from 5.9% 2014-15 to 4.9% in 2015-16 (April-January). Wholesale price inflation averaged a negative 2.8% for the same period in 2015-16.
- **Fiscal deficit (as % of GDP)** – The budget estimates of gross fiscal deficit is at 3.9% for 2015-16 as opposed to 4% (Provisional actuals) last year .
- **Imports** – Reduced prices of crude oil, for which India is heavily dependent on imports, reduced India's import growth from 0.5% in 2014-15 to -15.5% in the first 10 months of 2015-16.

Not everything was rosy. The economy witnessed lack of support on the following parameters:

Exports – Growth in exports declined from 1.3% last year but fell by as much as 17.6% in the 10-month period from April 2015–January 2016. While this fall may moderate when the remaining two months' exports are accounted for, it is nevertheless a sign of weak global demand.

Currency - The rupee depreciated further against the US dollar from an average of 61.14 last financial year to 65.03 in the period April 2015 to January 2016.

Outlook – Despite the uncertainties, if the present macroeconomic scenario continues and monsoon is normal in 2016-17, the Indian economy will register a growth in excess of 7% for the third year in succession.

Fiscal Deficit

- The fiscal deficit in RE 2015-16 and BE 2016-17 have been retained at 3.9% and 3.5% of GDP respectively. It has been proposed to constitute a Committee to review the implementation of the FRBM Act and give its recommendations on the way forward.
- Budget documents assure that the fiscal deficit target in 2015-16 (despite being lower in nominal terms), will be achieved, without any reduction in expenditure. This is in contrast to the previous year, where drastic reduction in expenditure was needed to make it possible to meet the fiscal targets. It reaffirms the commitment of the Government to continue with the process of fiscal consolidation as projected in the Medium Term Fiscal Policy Statement of 2015-16 despite a tough external environment. Accordingly, fiscal deficit has been projected at 3.5 per cent of GDP in 2016-17.

Financial sector reforms

Financial sector reforms

Pensions

Insurance sector

Monetary policy

Financial Stability & Development Council

Financial sector reforms

In 2015, the government initiated several reform measures in the financial sector.

The Forwards Markets Commission (FMC) was merged with the Securities and Exchange Board of India (SEBI) with effect from 28 September 2015. The aim was to converge the regulation of the securities and commodity derivatives markets, and to increase the economies of scope and scale for the associated exchanges, financial firms and other stakeholders.

A Monetary Policy Agreement was signed between the government and the RBI in February 2015. This agreement has shaped the RBI's monetary policy since. It reduced the statutory liquidity ratio (SLR) by 0.50% to 21.50% in February 2015, and further eased the policy repo rate during the year to 6.75%, in all making a substantial cut of 125 basis points (bps – one bp being 1/100th of a percentage point) between January and September 2015.

The FM has also said that the Government will be solidly behind the PSU Banks, and proposed an allocation for recapitalizing Public Sector Banks of Rs.25,000 crore in 2016-17. If additional capital is required by these Banks, more resources would be generated. The Bank Board Bureau will be operationalized during 2016-17 and a roadmap for consolidation of Public Sector Banks will be spelt out.

The Insolvency and Bankruptcy Code 2015, was introduced in Parliament on 21 December 2015. This constitutes the "exit" option that many foreign investors have been demanding, and may make the entry decision for foreign investors much easier. In addition, a comprehensive Code on Resolution of Financial Firms will be introduced as a Bill in Parliament during 2016-17. This code will provide a specialized resolution mechanism to deal with bankruptcy situations in banks, insurance companies and financial sector entities. This code, together with the Insolvency and Bankruptcy Code 2015, when enacted, will provide a comprehensive resolution mechanism for India.

Financial sector reforms

Banking

Credit deployment in the banking sector has been sluggish during the financial year. Increasing levels of gross non-performing assets has impacted the sector's capacity to lend. As growth has been slow and indebtedness high in some sectors of the economy, asset quality of banks have depreciated.

The RBI has tackled the bad loans problem head-on by forcing early NPA Recognition by all banks. In addition, the RBI is set to revolutionise the electronic payment systems space – it has granted new licences to several Payment Banks and Small Finance Banks. If one factors in the possible impact of the Unified Payment Interface that is set to be introduced by the National Payments Corporation Ltd, and the Payment Service Providers (PSPs), we can say that financial Inclusion using mobile technology is bound to become a reality sooner than the last-mile problem of making money in the bank become money in the hands for villagers in rural areas.

Financial sector reforms

Pensions

Under the National Pension System (NPS), the efforts of the government has been to widen the reach of the scheme beyond employees who are within the government fold.

Till 31 December 2015, a total of 112.82 lakh members/ subscribers have been enrolled under the NPS.

Financial sector reforms

Insurance

The life insurance premium registered a growth of 4.4%t in 2013-14 and 2014-15 and the general insurance business grew by 9%.

Three schemes were launched in 2015 in the insurance and pension sectors. These include the Pradhan Mantri Suraksha Bima Yojana (PMSBY), the Pradhan Mantri Jeevan Jyoti Bima Yojana (PMJJBY) and the Atal Pension Yojana (APY).

The FM has promised to introduce a health insurance scheme which will protect 1/3rd of India's population against hospitalisation expenditure is also being announced.

Financial sector reforms

Monetary policy

With headline inflation falling for the larger part of 2015-16 the Reserve Bank of India eased the monetary policy rates. Lower commodity prices internationally have helped lower inflation rate. Concerns about China's and global economic growth, however, are expected to impact Indian economy.

Although the equity market has rebounded time and time again, it is hoped that as the global financial markets settle down, India can become the leading investment destination owing to its robust its macro-economic fundamentals. A balanced monetary policy will, therefore, help.

Financial sector reforms

Financial Stability and Development Council

To strengthen and institutionalize the mechanism for maintaining financial stability, enhancing inter-regulatory coordination and promoting financial sector development, the Financial Stability and Development Council (FSDC) was set up by the government in December 2010. The FSDC met thrice between April 2015 and January 2016 and discussed several matters, including development of the corporate bond market, building effective deterrence in bank frauds, the twin Balance Sheet problem, report of activities under the Financial Stability Board (FSB) and Financial Action Task Force (FATF), and follow up on the recommendations of the special investigation team (SIT) on black money.

Infrastructure

- Development of the infrastructure sector has been a priority area for the government, and has witnessed enhanced public investment. Many reforms have been initiated in the infrastructure sector, resulting in robust growth in most of the sectors. As a result, major sectors have performed better during 2014-15 as compared to 2013-14.
- In Indian Railways, the freight carried shows an increase of 9.0 million tonnes during April-November 2015, over the freight traffic of 2014-15, translating into growth of 1.3 per cent. We expect more policy reforms in the sector.
- The performance of the telecommunication sector during 2015-16 has been encouraging, with approximately 33.4 million new telephone connections added during April-October 2015.

Fiscal consolidation…

The fiscal policy for 2015-16 focused on fiscal consolidation. Increase in gross tax revenue, significant cut in tax expenditure, fall in central assistance to the states and in share of plan expenditure, and a lower petroleum subsidy bill are among the key factors shaping India's fiscal situation this financial year.

Considering the pattern in revenue and expenditure in the first nine months to December 31, the current year's target to limit fiscal deficit at 3.9% of GDP seems achievable despite concerns of lower-than-projected nominal GDP growth. Further, the fiscal deficit of the state and central government together is expected to further decline to 6.3% this year from 6.9% a year ago, as both centre and states continue to ensure quantum of expenditure and boost public investment.

- Indirect tax collections during the first three quarters of the current fiscal indicate that the Budget 2015-16 estimates of 15.8% growth in gross tax revenue for the full year will likely be achieved, and may even be surpassed. This robust growth is being helped by an increase in excise duty on petroleum products. Indirect tax collections in the first nine months of the year have grown 34.8%, while the union excise duty revenue has grown by about 68%. The previous year's budget envisaged a 13.1% growth in direct taxes.
- The simplification of the tax system and improvements in tax administration in recent years has helped bring tax expenditure down significantly. Tax expenditure is mainly on account of tax exemptions, which results in the lower effective tax rate than the statutory rate. The government has taken measures to better target incentives and remove complexities from the tax system.

Fiscal consolidation…

The subsidy bill for the current financial year is expected to be limited to below 2% of GDP, mainly due to falling global oil prices, freeing up of petrol and diesel prices and better targeting of subsidies with mechanisms such as direct benefit transfer. The government deregulated retail petrol prices, and has brought diesel prices at par with the market price with steady deregulation and gradual increments, relieving a huge burden on the exchequer. It also introduced direct benefit transfer to target and better distribute LPG subsidies and check leakages.

These measures, along with continuing steep fall in global crude oil prices, has helped cutting this year's petroleum subsidy bill to Rs.30,000 crore – almost half that in the previous year.

The financial years 2015-16 and 2016-17 have been, and will be, challenging for government expenditure. The year 2016-17 will cast an additional burden on account of the recommendations of the 7th Central Pay Commission and the implementation of Defence OROP. The government, therefore, needs to prioritise its expenditure.

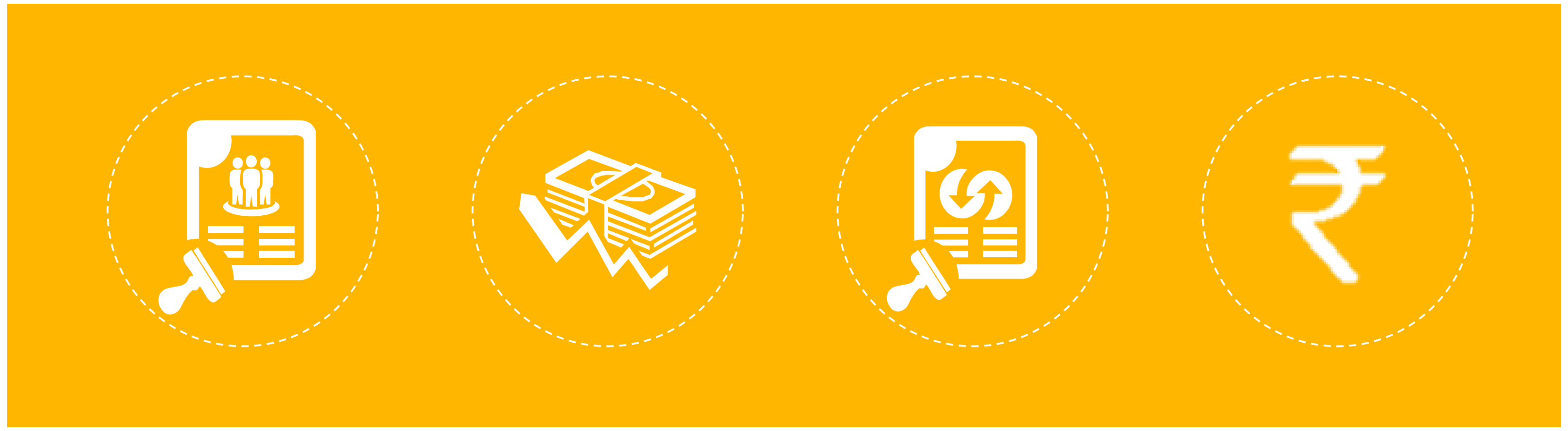
Central assistance to states fell and the centre's share in plan expenditure declined during the year from the previous three years' average. The government increased the share of states in the divisible pool of taxes from 32% to 42% following the recommendations of the 14th Finance Commission. It counterbalanced this increase by reducing transfers to states under central plan assistance. As a result, while the taxes assigned to states and UTs so far in the year have increased by 36.6%, the grants and loans have fallen by about 5.7%.

Fiscal consolidation…

In the year to come, the subsidy bill on petroleum products may not reduce much more on account of decline in global crude oil prices.

To achieve the objective of 'Transform India' which is expected to have a significant impact on the economy and on the lives of people, the government plans to focus on ensuring macro-economic stability and prudent fiscal management, and continuing with the pace of economic reforms and policy initiatives, besides focus on priority areas and improving the lot of the vulnerable sections of society.

In his budget speech, the Finance Minister, Arun Jaitley said the Government shall also endeavour to continue with the ongoing reform programme and ensure the passage of Constitutional amendments to enable the implementation of the Goods and Service Tax, the passage of Insolvency and Bankruptcy law and other important reform measures which are pending before the Parliament.



Key reforms that helped performance

- Liberalizing foreign direct investment across-the-board, including by passing the long-awaited insurance bill.
- The settlement of the Minimum Alternate Tax (MAT) imposed on foreign companies has restored stability and predictability in tax decisions.
- Public investment program to strengthen infrastructure and boost private investment.
- Crop insurance program cushioned farmers against adversity.
- Financial inclusion initiatives through the Jan Dhan Yojana by opening bank accounts for over 200 million people within months.
- The agenda of financial inclusion was also promoted through the licensing of 11 payments banks and 10 small banks.
- JAM trinity or the Jan Dhan - Aadhaar Mobile agenda also furthered the financial inclusion agenda.
- LPG subsidisation became the world's largest direct benefit transfer program. About 151 million beneficiaries received a total of INR 2,90,000 million in their bank accounts.
- There is an intention to extend the JAM agenda to other government programs and subsidies as well.
- Undertaking comprehensive reforms of the power sector (especially the UDAY Scheme)

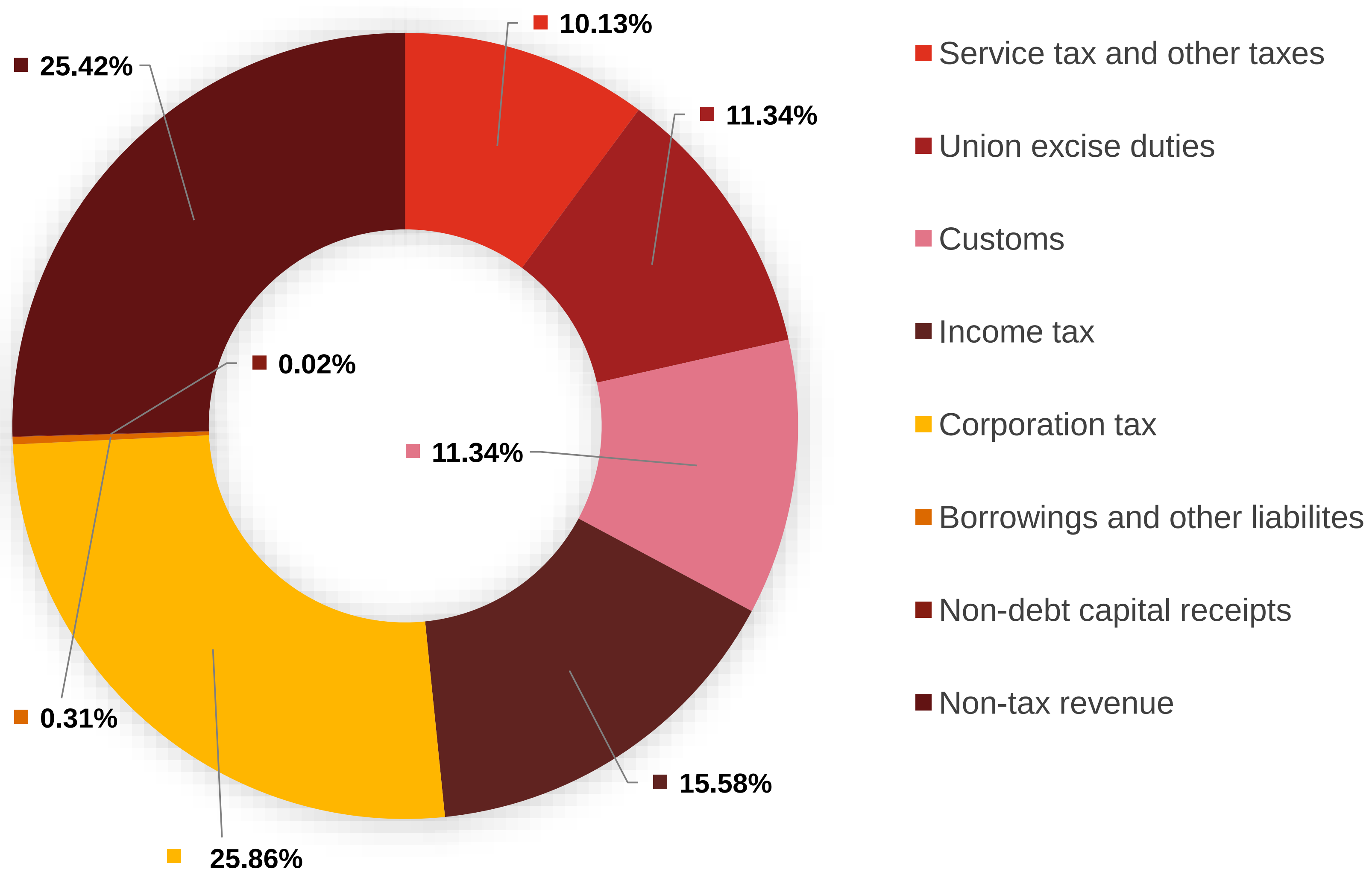
Outlook

- GDP growth in this fiscal year is expected to be 7.6%, while there is a long-term potential of 8-10% if exports grow rapidly.
- India is expected to register growth in the range of 7-7.75% in the next fiscal year.
- Retail inflation is expected at 4.5-5% for 2016-17. Price stability will continue despite Pay Commission implementation, the government assets.
- Though a fiscal deficit of 3.9% of GDP seems achievable in 2015-16, the year of 2016-17 is expected to be challenging from the fiscal point of view. The time is also right to review the medium term fiscal framework.
- Subsidy bill will be below 2% of GDP next fiscal year.
- In 2016-17, current account deficit is expected to be around 1-1.5% of GDP.
- The survey proposes to widen the tax net from 5.5% of earning individuals to more than 20%. The easiest way to widen tax base would be not to raise thresholds of exemptions.
- The estimated requirement of capital for banks is likely to be around INR 1.8 trillion by 2018-19.
- Corporate balance sheets are stretched and that will negatively influence the prospects of reviving private investments. The Economic Survey states that the underlying stressed assets in the corporate sector should be either sold or rehabilitated.
- The Survey proposes that government sell off its and RBI's stakes in certain non-financial companies to infuse capital in state-run banks.

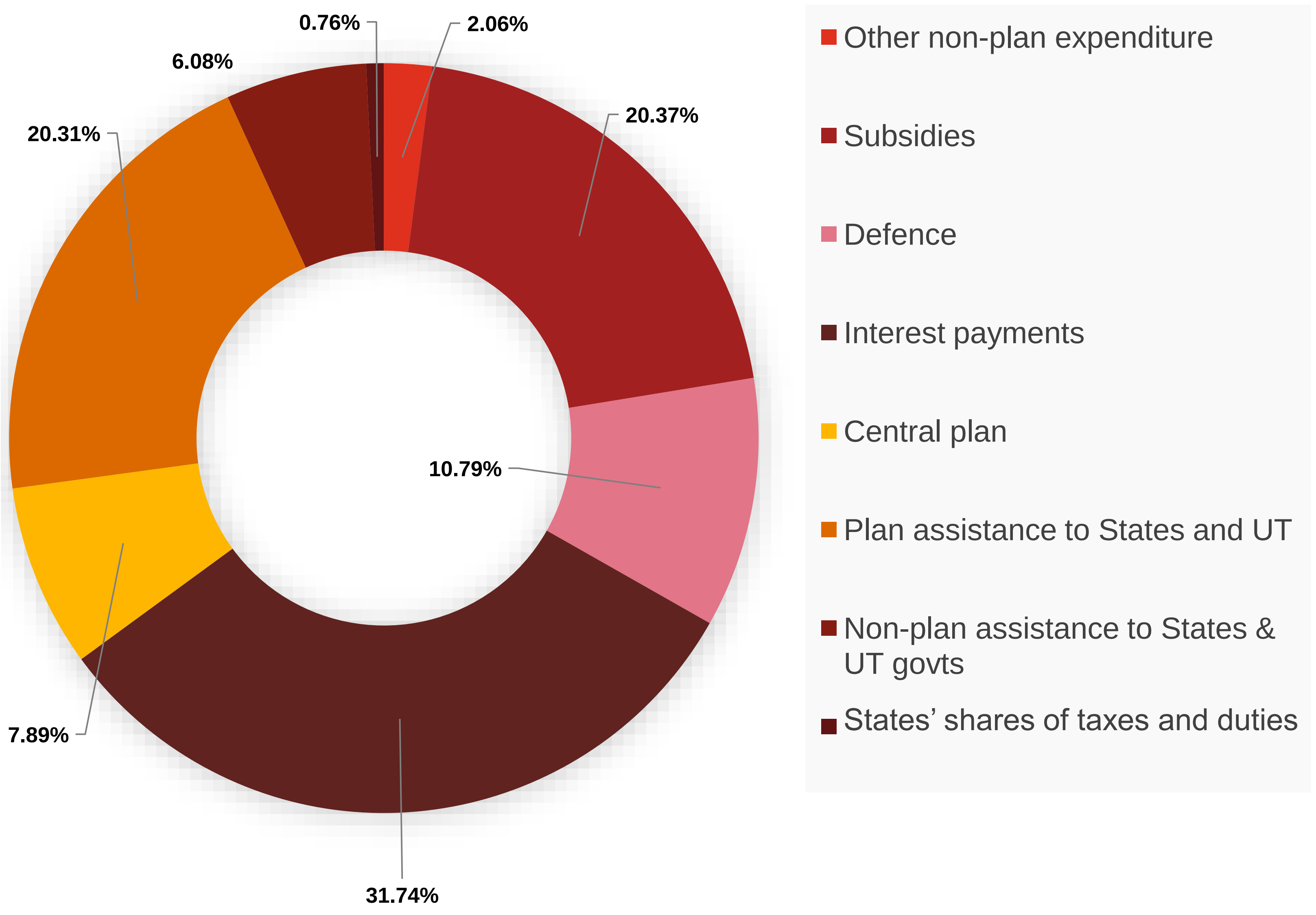
The government proposes to arrange INR 700 billion for recapitalizing PSU banks, during the current and succeeding years, through budgetary allocations.

Budget financials

Where the Rupee comes



Where the Rupee goes to



Budget financials

	FY 2014-15 (Actuals) (Billion INR)	FY 2015-16 (Budget) (Billion INR)	FY 2015-16 (Revised) (Billion INR)	FY 2016-17 (Budget) (Billion INR)
Revenue Receipts	11,014.72	11,415.75	12,060.84	13,770.22
Capital Receipts	4,844.48	6,238.61	6,013.91	5,878.54
Total receipts (1+2)	15,859.20	17,654.36	18,074.75	19,648.76
Non-plan expenditure	12,010.29	13,122.00	13,081.94	14,280.30
Plan expenditure	4,626.44	4,652.77	4,771.97	5,500.10
Total Expenditure (4+5)	16,636.73	17,774.77	17,853.91	19,780.40
Revenue expenditure	14,669.92	15,360.47	15,476.73	17,310.37
Capital expenditure	1,966.81	2,414.30	2,377.18	2,470.23
Revenue Deficit (7-1)	365,519.00	394,472.00	341,589.00	354,015.00
As a percentage of GDP	2.90%	2.80%	2.50%	2.30%
Fiscal Deficit [6-(1+recoveries of loans+other receipts)]	510,725.00	555,649.00	535,090.00	533,904.00
As a percentage of GDP	4.10%	3.90%	3.90%	3.50%
Primary Deficit (10-interest payments)	1,082.81	995.04	924.69	412.34
As a percentage of GDP	0.90%	0.70%	0.70%	0.30%

Economic Fundamentals

	FY15 (actuals)	FY 16 (est.)	
GDP Growth	7.20%	7.60%	Consumption led growth revival
Inflation	5.90%	4.90%	Trending down, within RBI band
Fiscal Deficit	4.00%	3.90%	Target met
Current Account Deficit	1.30%	1.40%	Slowdown in exports
Forex Reserves	$ 341.6 bn	$ 349.6 bn	Record RBI forex reserves to insulate economy
Industrial Growth	2.80%	3.10%	Marginal pick-up

Source : Economic Survey 2015-16

Budget 2016 – Balancing diverse demands

Populist Measures

- Agriculture and Farmers' Welfare
- Rural Sector
- Social Sector and Education

Key initiatives for Transforming India

- Make in India
- Skill India
- Start-up India
- Ease of Doing Business
- Swachh Bharat
- JAM and DBT

Kick-starting Investment Cycle

- Infrastructure and Investment
- PSU Banks Recapitalisation
- Tax Reforms

Fiscal Deficit target met

Expertspeak

- Overall
- Direct Taxes
- Personal Taxes
- Indirect Taxes
- Aerospace & Defence
- Healthcare
- Digital Economy
- Infrastructure
- Real Estate, Infra, Construction
- Government / Public Sector
- Oil & Gas
- Education
- Transfer Pricing
- Regulatory
- Power / Energy
- Telecom

PwC Practice Leaders' Comments

Overall

The nine pillars to transform India are well-thought through. Growth and wider inclusion seems to be on top of the government's priorities. Initiatives planned for the social sector will encourage job creation and help skill India. Providing impetus to affordable housing and infrastructure sectors will bring about an all-round development.

***Deepak Kapoor**, Chairman, PwC India*

Budget 2016 positively focuses on reducing litigation, further enabling dispute resolution. In this context, a limited period compliance window for domestic taxpayers has been introduced, which involves payment of an all-inclusive tax at 45%, and a dispute resolution scheme for disputes arising on account of retrospective amendments.

Budget 2016 has proposed a reduction of 1% for relatively small enterprises with a turnover not exceeding 5 crore INR, and a reduction of 5% for new manufacturing companies not claiming any incentives. However, incentives such as accelerated depreciation and weighted deductions have been reduced for all eligible taxpayers. There is an additional burden on rich taxpayers by way of an additional tax on a dividend income of 10%, in case the dividend exceeds 10 lakh INR and an increase in surcharge on the total income from 12 to 15%.

Positives include introduction of a special tax regime for income from 'patents', a deferral of POEM by one year, reduction in the holding period for long-term gains on unlisted shares from three to two years, and no increase in service tax rates, although Krishi Kalyan Cess of 0.5% has been levied. The intent to introduce GAAR next year was reinforced, which is aligned to other commitments to introduce BEPS-related developments such as CbC reporting.

***Gautam Mehra**, Leader - Tax, PwC India*

The issue of entrepreneurship and start-ups has been getting significant attention. The Budget proposes to allow a 100% deduction of income of a start-up (as defined) for 3 out of 5 years beginning from the date of incorporation. However, there are certain conditions which might dilute the impact significantly, including that this does apply to existing start-ups (creating a disparity between existing and new start-ups) and requires a certification from an inter-ministerial board of certification. Further, the start-up must be involved in an 'eligible business', the definition of which is relatively restrictive.

***Ketan Dalal,** Senior Tax Partner, PwC India*

The FM has stuck to the fiscal deficit target of 3.9% in FY 2015-16 and 3.5% in 2016-17, in the backdrop of higher outlays for rural development, farmer welfare and transport infrastructure. A fine reading reveals that he has been able to manage this through continued excise duties on petroleum products, a lower than envisaged provision for bank recapitalisation of 25,000 crore INR, and a possible delay and moderation of the 7th Pay Commission recommendations by leaving the decision to a committee.

***Ranen Banerjee,** Leader, Public Finance and Economics, PwC India*

Huge jump in investment allocation in the rural, infrastructure and roads sector will have a positive impact on the automotive demand in the medium-term. The policy signal to liberalise the passenger road transport sector is a welcome move that can help decongest our cities. Infrastructure cess on petrol, diesel and higher capacity/ SUV vehicles may have a mild short-term impact. Thrust on skill development will help enhance competitiveness. Overall, the Budget will be positive for the automotive industry in the medium to long-term.

***Kavan Mukhtyar,** Partner, Management Consulting, PwC India*

PwC Practice Leaders' Comments

…Overall

A comprehensive balanced Budget with deserved focus on the rural sector, other highlights being a strong push for ease of doing business through rationalising the litigation and penal provisions for easy settlement. Clearing the last mile of the DDT exemption to make REITs and InvITs a possibility, thereby giving relief to the infrastructure, real estate sector and helping with bank NPAs. Accountability from the tax department is also one important initiative. The voluntary disclosure scheme for domestic income / assets at a 45% tax rate can be another window for coming clean and mitigating litigation.

***Vivek Mehra**, Partner, Tax, PwC India*

While the Union Budget's focus on the rural and farm economy as well as the infrastructure sector, along with tax incentives provided to start-ups and MSMEs, are indeed a positive move for the manufacturing sector, however, some reduction in corporate taxes and a relook at MAT will have improved sentiments of the large players within the space.

***Bimal Tanna**, Leader, Industrial Products, PwC India*

Direct Taxes

One of the areas of focus is enhanced governance and accountability. It is proposed that IT systems will be used to enhance governance and accountability among revenue authorities using information analytics to identify under-reporting of income by taxpayers. It is evident that the government is serious about putting an end to such behaviour. Last year was the season for reporting foreign income and assets; this year is the season for reporting domestic income. This to my mind is the end of it and taxpayers will need to gear up and come clean and ensure compliance going forward.

***Rahul Garg**, Leader, Direct Tax, PwC India*

A well-balanced budget with impetus to the agriculture, infrastructure and financial sectors. Significant direct tax reforms: reducing corporate tax rates for specified persons combined with sunset for various tax incentives, taxation of patents, voluntary dispute resolution measures, accountability of tax officers, progressive taxation of dividends, deferment of PoEM, rationalisation of TDS, and penalty provisions are taxpayer friendly and indicate the intent of a simplified, non-adversarial tax regime.

***Hitesh Sawhney**, Partner, Direct Tax, PwC India*

The FM has proposed a number of measures for the simplification of the tax administration, e.g. making the tax officer accountable for interest on delayed refund is a first of its kind. These should enhance the efficiency of the tax department. Genuine implementation of these measures will be key to their success. It will be good to set up a monitoring mechanism.

Tax holiday for start-ups may not fructify in reality. It is uncommon for start-ups to make profit in the first five years. However, it is not a complete tax holiday as MAT will apply. Carry forward of losses for a longer period (say 15 years) even with change in majority shareholding will be more practical.

***Kaushik Mukerjee**, Partner, Tax, PwC India*

Personal Taxes

There was widespread expectation of a concrete announcement for reduction of tax rates from 1 April 2017, since most of the exemptions have been withdrawn also from this date. Unfortunately this has not happened. In relation to non-corporate assessees, the taxes have gone up from two perspectives: surcharge has been increased from 12–15% where the income exceeds 1 crore INR and also where the dividend derived is more than 10 lakh INR p.a., the excess being subject to tax at 10%.

***Ketan Dalal**, Senior Tax Partner, PwC India*

PwC Practice Leaders' Comments

Increasing the turnover limit for small businesspersons for presumptive taxation and extending this benefit to small professionals as well, and a relief of up to 3,000 INR to those earning less than 5 lakh INR will benefit a large section of taxpayers. The higher salaried income group is likely to be adversely impacted due to taxation of the employer's contribution to the recognised provident fund and approved superannuation fund in excess of 1.5 lakh INR each. The proposal of paying 45% tax on domestic undisclosed income provides a significant one-time opportunity to non-compliers to come clean.

***Kuldip Kumar**, Leader, Personal Tax, PwC India*

Indirect Taxes

Budget 2016 appears to be a workman-like Budget rather than one which has dramatic changes in the indirect tax regime. An important hike has been made in service tax. Krishi Kalyan Cess has been imposed at the rate of 0.5% on all taxable services with effect from 1 June 2016.

While the FM did not make a mention of GST in his speech, given that the NDA government and its allies are likely to have a majority in the Rajya Sabha this year, it seems likely that the Constitution Amendment Bill for GST will be passed this year.

***Vivek Mishra**, Leader, Indirect Tax, PwC India*

Revenue garnering for agricultural reforms will result in increased service tax. The Krishi Kalyan cess at 0.5% will increase the effective service tax rate to 15%. The FM has given impetus to the 'Make in India' dream by rationalising customs and excise duty rates on inputs, components used in IT, defence and textile sectors. Low-cost housing is made affordable by extending the ambit of service tax exemption to construction of houses under various schemes.

***Amit Bhagat**, Partner, Indirect Tax, PwC India*

Aerospace & Defence

The Budget has made an important provision that will boost domestic defence manufacturing and provide an impetus for 'Make in India'. Custom duties exemption on direct imports of specified goods for defence purposes by the government, DPSUs and their contractors, have been withdrawn. This will create a level playing field for domestic manufacturers and compel foreign suppliers to manufacture in India.

Unfortunately, the outlay for capital acquisition has slightly decreased from the present year's Budget provision. There is however, a slight increase in the revenue and significant increase in the pension allocations. Capital acquisition is 23% of the total outlay. Excluding pensions, it is 30%. Given our major requirements for modernising forces, this reduction is of concern.

The total outlay for the sector has decreased by 30–17.5% from this year's Budget estimates. The Budget has provided for implementation of some parts of the draft Civil Aviation Policy. It has given a fillip to the MRO industry: tools and kits for MRO have been exempted from all customs and excise duty and the procedures for imports as well as stay of foreign aircraft have been simplified.

Provision has also been made for the regional connectivity scheme (RCS) for reviving unserved/underserved airports/airstrips owned by state governments/AAI. However, increasing the excise duty on aviation turbine fuel from 8–14%, except for supply to Scheduled Commuter Airlines from the RCS airports, is likely to slow down the turnaround of the sector.

***Dhiraj Mathur**, Partner, Aerospace & Defence, PwC India*

Healthcare

The National Dialysis Programme launched under the NRHM along with exemption on excise duty on certain dialysis equipment will enhance services in the public and private sector. Private dialysis centres are growing by 15% CAGR. If reduction in the price of dialysis equipment happen by ~5%, it will provide an additional 2 to 3% growth to the private dialysis sector. The programme has a potential of pushing current growth of 9% in public dialysis facilities between 15 to 17%.

***Dr Rana Mehta**, Leader, Healthcare, PwC India*

Digital Economy

The digital economy has clearly surfaced taxing challenges and the BEPS action plan also acknowledges this. The Finance Bill proposes a 6% equalisation levy in relation to specified services (defined as online advertising and related services as well as any other notified services). One wonders whether this is a precursor to expanding the scope to goods, and it also remains to be seen what the other notified services will be.

***Ketan Dalal**, Senior Tax Partner, PwC India*

PwC Practice Leaders' Comments

Infrastructure

Several infrastructure sector plans are making progress within ministries, and hence their limited mention in the Budget speech is not a negative. The Sagarmala programme is preparing specific projects, and the hybrid annuity model will supplement the additional budgetary allocation for highways.

Whether the tax concessions for affordable housing will be sufficient to attract developers to the really low-cost end needs to be seen. The central government's move to develop regional airports jointly with the respective states is a good way to get this programme started. I hope the possibility of bringing in private operations into this model is also considered.

Manish B Agarwal, *Leader, Infrastructure, PwC India*

Mechanism for public dispute resolution body and renegotiation of PPP contracts is the key to private investment in roads

Vikash Kumar Sharda, *PwC India*

Real Estate

While certain tax reforms have been introduced for the real estate sector, the long-pending demand for grant of industry status continues to remain. An exemption from the DDT in the REIT structure demonstrates the government's intent of promoting the listing of REITs. With this exemption, the REIT listing will not be too far from becoming a reality. The government has introduced a tax holiday and deductions on affordable housing projects, which clearly shows that it is keen in making their vision of 'housing for all' a reality.

Abhishek Goenka, *Partner, Tax, PwC India*

In the real estate sector, 'housing for all' seemed to be the flavour of the Budget. Direct and indirect tax benefits for affordable housing should catapult the smart city initiative. Additional deduction of interest will incentivise first homebuyers to own houses. The REIT/InvIT market should finally take off now that the FM has granted dividend distribution tax exemption. Overall, the Budget should have a progressive effect on the real estate sector.

Bhairav Dalal, *Partner, Tax, PwC India*

Government / Public Sector

Renewed focus on ensuring ease of doing business will create a positive investment climate for global investors as well as foster a culture of start-ups with the much-awaited amendment of the Companies Act. This will have a cascading effect with youngsters becoming job creators rather than job seekers, constructively channelising the energy of India's youth and catapulting the nation to the league of developed nations.

The National Career Service is emerging as a robust go-to-portal for job seekers. The move to interlink the portal with state employment exchanges will eliminate bottlenecks and fast-track the filling up of job vacancies. Moreover, the announcement of 100 model career centres for the National Career Service portal will revive the traditional job search and massively add to the reliability of the portal, making it the preferred mode for searching jobs.

Neel Ratan, *Partner and Leader, Government and Public Sector, PwC India*

Oil & Gas

Offshore frontier area gas pricing announcement made in Budget 2016 is encouraging. It is in the same direction as the announcement made in September 2015, permitting market prices for marginal fields gas. Growing the supply-demand deficit and the need to grow the E&P sector have led the government of India to take steps towards gas price decontrol. We hope to see lesser government intervention while determining the price and deciding who to sell to, in the long-term.

Deepak Mahurkar, *Leader, Oil and Gas, PwC India*

Education

The Budget has correctly focussed on improving the quality of education. Numerous surveys consistently highlight the poor educational outcomes in our institutions. The proposed Higher Education Financing Agency for improvement in the infrastructure of education institutions by raising CSR funds is a novel idea to raise funds. Establishing a digital library for certificates is welcome: it will help students and also check fraudulent degrees being submitted.

Dhiraj Mathur, *Partner, Education, PwC India*

PwC Practice Leaders' Comments

Transfer Pricing

The Finance Bill 2016 has ushered in a new documentation regime aligned with the OECD BEPS Action 13 (Transfer pricing documentation and CbCR). The new regime will apply for FY 2016–17 to Indian parent resident companies with a consolidated turnover in excess of 5,395 crore INR for FY 2015–16. The Indian Revenue will be able to access CbC documentation of companies having parents' residence outside India through the mutual exchange of information agreements. Further, heavy penalty provisions for non-compliance have been proposed. Going forward, taxpayers will have to balance the need for increased compliance and transparency; this will require increased collaboration across the geographies where they operate.

In line with its stated objective to reduce disputes, the government has also proposed that orders of the Dispute Resolution Panel (DRP) will no longer be appealable by the tax department. Hopefully, this will provide finality to the ongoing disputes at the tax administration level and reduce the quantum of disputes reaching the courts.

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Sanjay Tolia, *Expert, Transfer Pricing*

Regulatory

The ease of doing business clearly emerges as the underlying theme for various policy announcements. FIPB approval has been dispensed away with in insurance, provident fund, asset reconstruction and other financial services sector activities (except banking) to mitigate multiple regulatory interventions, which was causing unnecessary delays. FDI in marketing of food products made in India; calibrated marketing freedom in the oil and gas sector for new discoveries/areas; opening up of the road transport sector in the passenger segment; reinvigoration of the model by enabling dispute, renegotiation and credit rating framework, permitting sponsors to own 100% the ARCs and FPIs and also 100% in security receipts issued by ARCs will create opportunities for further domestic and foreign investments.

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FDI in marketing of food products made in India, calibrated marketing freedom in oil & gas sector for new discoveries/ areas, opening up of road transport sector in passenger segment, reinvigoration of PPP model through enabling dispute, renegotiation & credit rating framework, permitting sponsors to 100% own the ARCs and FPIs also 100% in security receipts issued by ARCs shall create opportunities for further domestic and foreign investments.

Akash Gupt, *Leader, Regulatory Services, PwC India*

FDI in marketing of food products produced and manufactured in India is a radical step in strengthening the Make in India initiative of the government. The principle should be expanded to all other category of products that are manufactured in India with substantial indigenisation.

Goldie Dhama, *Partner, Regulatory Services, PwC India*

PwC Practice Leaders' Comments

Power / Energy

Over the years, the government has consistently increased taxes on the use of coal.Given the higher base, the proposed doubling of cess impacts us more, increasing the cost of generation by 12 paise per kWh, which translates to around 16-18 paise per kWh at the retail level. Withdrawal of income tax exemption for new power projects was expected, given the large new capacity addition in recent years and low PLFs at 64%. Existing power generators with untied capacity will benefit as state utilities sign more PPAs to capture prevailing lower prices. Generators will also enjoy a higher IRR of around 0.6%, at a given tariff, compared to projects coming in post April 2017.

Reduction in accelerated depreciation (AD) benefit from 80 to 40% marks a further shift of the renewable energy sector away from non-traditional investors, and towards pure-play power companies.

This weaning away of subsidy is necessary for a healthy growth of the industry, but the cut in AD and withdrawal of IT exemption will see solar tariffs go up in new bids by around 10 paise per kWh. Similarly, state regulators will have to offer higher feed-in tariffs for wind and solar power to attract investments without these benefits.

In the immediate period, cut in accelerated depreciation (AD) will spur a higher level of wind and solar investment in the first half of 2016 as companies will vie to secure the most of the remaining tax break. Both, OEMs and EPC firms are likely to do brisk business.

Kameswara Rao, *Leader, Energy Utilities and Mining, PwC India*

Telecom…

The existing provisions provide for amortization of licence fee paid for providing telecom services spread over the period of license. Since spectrum fee paid towards obtaining right to use radio-frequency is distinct from license obtained to provide telecom services, such spectrum fee payment is arguably an "intangible/ business/ commercial right' that was eligible for depreciation u/s 32 of the I.T Act. In many cases, the tax department had taken a different view by construing such payments as akin to payment made for obtaining license and consequently, allowed deduction u/s 35AB spread over the period of spectrum.

The Finance Bill 2016, proposes to insert a new section-35ABA (w.e.f AY 2017-18) that provides that payments made towards spectrum would be accorded treatment akin to license fee payment. Accordingly, for existing businesses, starting with the year in which payment is made, spectrum fees paid shall be allowed as deduction spread over no. of years for which the spectrum would be in force. As per the memorandum, this has been done to reduce future litigation on this issue. Other provisions dealing with situations like transfer proceeds for spectrum being more or less than un-amortized expenditure, would continue to apply as it applies in case of license fee payments. Tax treatment for claims made in the earlier years, where the proposed section did not exist, ought not be covered by this amendment.

The Government had issued guidelines in October 2015, allowing trading of spectrum between Telcos. However, there was no clarity provided by the government on tax treatment of payments made/ received for such spectrum trading. Based on the analogy that acquisition of spectrum represented 'acquisition of right to use frequency', a position being considered was that such payments were not subject to service tax.

The Finance Bill proposes that assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is a "declared" service that is subject to service tax. Since this is proposed to be included as "declared service", it does not vitiate the position that it is actually a right to use the spectrum, so the position on no withholding on such payments ought to continue.

Sandeep Chaufla, *Partner, PwC India*

PwC Practice Leaders' Comments

…Telecom

The telecom operators had a long pending demand to provide relief from the litigation on account of allegations of the revenue authorities that the independent distributors appointed for distribution of pre-paid products are agents of the telecom operators and thus, margin paid to them qualifies as 'commission' subject to the tax withholding at the rate of 10%. While the industry argued this to be in nature of discount, the tax authorities have alleged it to be commission liable to tax withholding under section 194H of the Income -tax Act, 1961 ('the Act').

The government has reduced the tax withholding rate on commission/brokerage under section 194H of the Act from existing 10% rate to 5% w.e.f. June 01, 2016. While this does not provide complete relief in regard to the long pending demand of the telecom sector to reduce the tax withholding rate to 1%, the proposed reduction to 5% shall still reduce the exposure to the litigation significantly. It should also reduce the cost in cases where tax withholding on commission payments is grossed up and paid by the telecom operator.

Prabhat Lath, *Director - Tax and Regulatory Services, PwC India*

Key Regulatory Proposals…

To boost foreign investment and facilitate ease of doing business in India, following amendments are proposed in the FDI regulations:

Investment sector /activity	Proposed	Existing
FDI in marketing of food products produced and manufactured in India	100% under approval route	Not permitted
FDI in Insurance Sector	49% under automatic route	Up to 26% under automatic route; beyond 26% and up to 49% approval route
FDI in Pension Sector	49% under automatic route	Up to 26% under automatic route; beyond 26% and up to 49% approval route
FDI in Asset Reconstruction Companies (ARCs)	100% under automatic route	Up to 49% under automatic route; Beyond 49% approval route
FDI in Indian Stock Exchanges - Cap for investment by Non-resident investor/entity	15% under automatic route	5% under automatic route

- Hybrid Instruments will now be considered as eligible FDI Instruments, subject to certain conditions – List of hybrid instruments awaited
- No FIPB permission will henceforth be required for foreign investment in regulated financial services activities outside of 18 specified NBFC activities
- Sponsor of an ARC will now be allowed to hold up to 100% stake (presently 50%) in the ARC; non-institutional investors to be allowed to invest in Securitisation Receipts
- Certain relaxation proposals for FPI investments
  - 100% investment now permitted (presently 74%) of each tranche in securities receipts issued by ARCs subject to sectoral caps
  - 49% stake now permitted (presently 24%) in listed Central Public Sector Enterprises other than banks
  - Investment permitted in unlisted debt securities and pass through securities issued by securitisation SPVs

Foreign investment…

- Foreign investors will now be accorded Residency Status against the current practice of granting business visa up to 5 years at a time, subject to prescribed conditions
- Necessary amendments will be introduced in Companies Act facilitating registration of companies in one day and also addressing other challenges in doing business in India, including for start-ups
- A comprehensive Code on Resolution of Financial Firms will be introduced to deal with bankruptcy situations in banks, insurance companies and financial sector entities
- A Financial Data Management Centre will be set up to facilitate integrated data aggregation and analysis in the financial sector
- Measures will be introduced to rejuvenate corporate bond market – dedicated fund to provide credit enhancement to infrastructure projects, guidelines for large borrowers to access alternative source for financing needs
- Centre State Investment Agreement will be introduced to ensure fulfilment of the obligations of the State Governments under the Bilateral Investment Treaties signed by India with other countries

Direct tax proposals … 1

Personal Taxes

Corporate Tax

Transfer Pricing

Financial Services and Real Estate Tax

BEPS-related reforms, GAAR, POEM

Personal taxes…

Personal tax rates…

Tax and surcharge

While the basic exemption and tax rates have not been amended, the Government has proposed to increase the surcharge from 12% to 15% for individual/HUF having a taxable income exceeding INR 10,000,000.

Effective tax rate for such individuals would be 35.54%.

Income by way of dividend earned by an individual from domestic companies in excess of INR 1,000,000 per annum will be taxable at the rate of 10%. Further, no deductions of any expenditure incurred/set off of losses shall be allowed against such dividend income. It would be pertinent that the tax payable by the individual is in addition to the Dividend Distribution Tax paid by the Company.

Effective June 1, 2016, the advance tax instalments for individuals has been increased to 4 instalments, starting June 15, 2016, as compared to 3 instalments previously.

Tax rebate

To incentivize small individual tax payers, a rebate from tax of INR 2,000 has been proposed to be increased to INR 5,000. This rebate is available to resident individuals whose income does not exceed INR 500,000.

House rent deduction

Self-employed/salaried individuals who are residents not receiving house rent allowance and residing in rented premises were entitled to a deduction of INR 2,000 per month, subject to other conditions. This limit has now been proposed to be increased to INR 5,000 per month.

Personal taxes…

Personal tax rates…

The deduction is available only to resident individuals not owning a house. The amount of deduction available would be the least of the following:

- Rent paid in excess of 10% of the total income*
- INR 5,000 per month/INR 60,000 per annum
- 25% of the total income* for the year

**Total income would mean the income before providing deduction as above.*

Interest on housing loan

One of the conditions to claim deduction of interest on housing loan is that the construction of the house needs to be completed within three years from the end of the financial year in which the loan is borrowed.

As various real estate projects take more time for completion, an increase in the time limit for the completion of construction from 3 years to 5 years has been proposed.

Deduction for first home buyers towards interest

A deduction of INR 50,000 available for interest payable for first-time home buyers, provided the cost of the house does not exceed INR 5,000,000 and the amount borrowed does not exceed INR 3,500,000.

This is in addition to the interest deduction of INR 200,000 available towards self-occupied house property under Section 24(1).

Personal taxes…

Personal tax rates

Parity on tax treatment towards unrealized rent and arrears of rent received

Currently, a deduction of 30% is available only for the arrears of rent received during the financial year whereas the unrealized rent received subsequently did not enjoy the benefit of a 30% deduction. These two provisions are dealt with in two separate sections under existing provisions.

The disparity in tax treatment for arrears of rent and unrealized rent has been done away with by merging various sections and providing a 30% deduion when the unrealized rent/arrears of rent is received. It is not necessary for the individual to own the house in the year of receipt of arrears of rent or unrealized rent.

Investment avenues for long-term capital gains

Sec 54EE – In order to raise funds for the "Start-up Action Plan," the Government has proposed to provide an exemption from long term capital gains on sale of any long term capital asset, if the sale consideration is invested in units of a specified fund.

The specified fund will be notified by the Central Government in due course and the maximum deduction available will be INR 5,000,000. The investments should be held for a minimum period of three years to avail the exemption.

Sec 54GB – Currently, an individual/HUF selling a residential property has the option to reinvest the long-term capital gain by subscribing to shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006, subject to conditions specified therein, and a sunset clause that ends by March 31, 2017.

Now, it has been proposed to widen the scope of this section to include subscription to shares of eligible start-ups with no cap on reinvestment of the capital gain. Investments under this provision can be made up to March 31, 2019.

Where such eligible start up is a technology driven start up, it will be entitled to utilise the proceeds of such equity shares in computers or computer software.

Personal taxes…

Personal tax rates

Employer contribution to superannuation fund:

Employer contribution to superannuation funds is taxable as perquisite in the hands of the employee if the contribution exceeded INR 100,000. Now, the limit has been revised to INR 150,000.

Receipt of National Pension Scheme (NPS)

Currently, NPS follows Exempt, Exempt and Tax (EET).

It has been proposed to exempt the withdrawal from NPS to up to 40% of the accumulated balance, when an individual opts out of the scheme. However, it is proposed that nothing would be taxable if the amount is received by the nominee due to death.

Taxation of Employer contribution to the recognized provident fund (RPF)

Employer contribution to RPF up to 12% of salary is not liable to tax as a perquisite. It has now been proposed to exempt employer contribution to RPF only up to INR 150,000. Accordingly, employer contributions in excess of INR 150,000 will now be fully taxable.

While employer contributions to PF in excess of INR 150,000 is now fully taxable, contribution to NPS up to 10% of salary without any cap on absolute numbers remains exempt.

Taxability on withdrawal of RPF and Superannuation Fund

Currently, withdrawal of RPF is exempt from tax subject to certain conditions.

In order to bring parity with the taxability of NPS, it is proposed to exempt only 40% of the withdrawal of accumulated balances of RPF and superannuation fund.

It is also proposed to provide portability from RPF/Superannuation to NPS by amending the required schedules in the Income tax Act.

It may be pertinent to note that, recently, the Employees Provident Fund Organisation (EPFO) has amended the PF scheme wherein an employee can withdraw only the employee's contribution to provident fund along with interest before the age of 58 years and the employer's contribution to provident fund can generally be withdrawn only on attaining the age of 58 years.

Personal taxes

Personal tax rates

Moving towards pensioned society – A comparative analysis

Particulars	NPS	RPF	Superannuation
Exemption on employer's contribution	10%	Lower of 12%/INR 150,000	Up to INR 150,000
Exemption on withdrawal	Up to 40%	Up to 40%	Up to 40%
Accretion	Exempt	Exempt	Exempt
Exit restrictions	Partially apply	Apply on employer contribution	Not applicable

Transactions not considered as "Transfer"

A new clause is proposed to be introduced wherein the sale of "Sovereign Gold Bond" by an individual will not be treated as sale/transfer, thereby exempting the individuals from capital gains on sale of such bonds.

This has been introduced to motivate individuals to invest in the gold bond scheme rather than possessing physical gold and to bring in parity on the tax treatment.

e-assessments

During the fiscal 2015–2016, the Government had introduced a pilot project in few cities regarding e-assessments wherein the assessee need not physically go to the tax office to attend tax hearings. As it has been welcomed positively by the tax payers, the Government has now proposed to broaden the e-assessment model to seven mega cities of India.

Corporate Tax …1

Tax Rates

Withholding Tax

Dividend, Capital Gain, M&A

Startups & Small taxpayers

Exemptions, Deductions Incentives

Charitable Trust Amendment

Amnesty Scheme

Transfer Pricing

Financial Services & Real Estate

Corporate Tax … 2

BEPS, GAAR, POEM

Assessment, Appeal procedural

Dispute Resolution Scheme

Others

Tax rates…

Foreign Company

Corporate tax rates remain unchanged at 40% (plus applicable surcharge and education cess). Effective tax rates remain unchanged as under:

Particulars	Taxable income < INR 10 Million	Taxable income > INR 10 Million, but < INR 100 Million	Taxable Income > INR 100 Million
Corporate tax	40.00%	40.00%	40.00%
Surcharge	-	2.00%	5.00%
Corporate tax + Surcharge	40.00%	40.80%	42.00%
Education Cess thereon	3.00%	3.00%	3.00%
Effective tax rate	41.20%	42.02%	43.26%

Domestic Company

Corporate tax rate reduced to 29% (plus applicable surcharge and education cess) for domestic companies whose total turnover / gross receipts does not exceed INR 50 Million. In other cases, the tax rates remain unchanged at 30% (plus applicable surcharge and education cess). Effective tax rates are as under:

Particulars	Turnover / Gross receipts < INR 50 Million		Turnover / Gross receipts > INR 50 Million		
	Taxable Income < INR 10 Million	Taxable Income > INR 10 Million < INR 50 Million	Taxable Income < INR 10 Million	Taxable Income > INR 10 Million < INR 100 Million	Taxable Income > INR 100 Million
Corporate tax	29.00%	29.00%	30.00%	30.00%	30.00%
Surcharge	-	7.00%	-	7.00%	12.00%
Corporate tax + Surcharge	29.00%	31.03%	30.00%	32.10%	33.60%
Education Cess thereon	3.00%	3.00%	3.00%	3.00%	3.00%
Effective tax rate	29.87%	31.96%	30.90%	33.06%	34.61%

Tax rates

In case of newly set-up domestic companies (i.e. set-up or registered on or after 1 March 2016), engaged solely in the business of manufacture or production of article or thing, an option is provided to tax income at the rate of 25% (plus applicable surcharge and education cess), if the company while computing its total income has not claimed any deduction (such as under section 10AA, accelerated depreciation, additional depreciation, investment allowance, expenditure on scientific research, etc.). The option is to be exercised in prescribed manner before the due date of furnishing the return of income.

Partnership Firm/ LLP

Tax rates remain unchanged. Effective tax rate of 30.9%, if taxable income is less than INR 10 Million and 34.61% if taxable income exceeds INR 10 Million.

Individuals/ HUF/ BOI

No change in the slabs / tax rates. The surcharge for assessees whose total income is more than INR 10 Million increased to 15% (as against 12% earlier). Thus, the Maximum Marginal Tax Rate ('MMR') in such case would increase from 34.61% to 35.54%.

MAT/ AMT

Tax rates of both MAT and AMT remain unchanged at 18.5% (plus applicable surcharge and education cess).

Tax on Dividends

Rate of DDT remains unchanged at 15% (plus applicable surcharge of 12% and education cess of 3%).

Non-corporate resident assessees earning more than INR 1 Million of dividend to pay tax at 10% (plus applicable surcharge and education cess) in addition to the DDT paid by the company.

Withholding tax provisions - *Amendments applicable from 1 June 2016*

A. Rationalisation of tax deduction at source (TDS) provisions

The Income Tax Simplification Committee, constituted by the central government in October 2015 under the Chairmanship of Justive R V Easwar had made several recommendations in its report released in January 2016 to promote the ease of doing business in India and simplifying the compliance procedures under the IT Act. Several recommendations made by the committee in relation to TDS provisions have been accepted. To rationalise these provisions, the existing threshold limits and the rates of TDS are proposed to be revised as under:

- Revision in threshold limit of TDS:

Present section	Heads	Existing threshold limit (INR)	Proposed threshold limit (INR)
192A	Payment of accumulated balance in Employee's Provident Fund	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
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
194LA	Payment of compensation on compulsory acquisition of non-agricultural land or any building	2,00,000	2,50,000

Withholding tax provisions - *Amendments applicable from 1 June 2016*

- Revision in the rates of TDS:

Present section	Heads	Existing rate of TDS	Proposed rate of TDS
194DA	Payment in respect of life insurance policy	2%	1%
194EE	Payment in respect of NSS deposits	20%	10%
194D	Insurance commission	Rate in force - (currently, 10%)	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

B. No TDS on rent in certain cases

To reduce the compliance burden, it is proposed that no withholding tax shall apply on rent payments made to assessees (other than companies or firms), subject to furnishing the necessary self-declaration.

Withholding tax provisions - *Amendments applicable from 1 June 2016*

C. Higher withholding tax rate not to apply on payments to non-residents for failure to furnish PAN

The existing provisions, *inter alia*, provide that any person who is entitled to receive any amount on which tax is deductible at source shall furnish his PAN to the deductor, failing which a higher TDS rate will be applicable. The provisions also apply to non-residents with an exception for payment of interest on specified long-term bonds.

To reduce the compliance burden, it is proposed that the provisions of this section shall not apply to other payments to non-residents, subject to such conditions as may be prescribed.

D. Tax collection at source (TCS) provisions extended to other categories of transactions

The existing provisions, *inter alia*, provide that the seller shall collect tax at source at the specified rate from the buyer at the time of sale of the specified items.

To reduce the quantum of cash transaction in sale of any goods and services and for curbing the flow of unaccounted money in the trading system and to bring high value transactions within the tax net, it is proposed that the seller shall also collect tax at 1% from the purchaser on the following items:

- Sale of motor vehicle of value exceeding INR 10,00,000.
- Sale in cash of any goods (other than bullion and jewellery) exceeding INR 2,00,000*.
- Provision of any services in cash (other than payments on which TDS is applicable) exceeding Rs. 2,00,000*.

** Excluding a certain class of buyers to be prescribed.*

Capital Gains

Conversion of Company into Limited Liability Partnership

An additional condition has been included for claiming tax neutrality on conversion of a Company into a Limited Liability Partnership viz. the total book value of the assets of the company, in any of the 3 years preceding the year in which the conversion takes place, should not exceed INR 50 million.

This is over and above the existing conditions which, inter alia, state that the gross receipts, turnover or total sales in any of the preceding 3 years do not exceed INR 6 million.

Consolidation of plans within a mutual fund scheme

Currently, any transfer by a unit holder of units pursuant to consolidation of schemes of a mutual fund is not regarded as taxable. A similar benefit is proposed to be extended to transfer of units pursuant to consolidation or merger of mutual fund plans within a scheme.

Beneficial tax treatment for non-residents on sale of shares of a private company

Under the extant provisions, long-term capital gains arising on transfer of securities, whether listed or unlisted, are taxed @ 10%. With a view of clarifying the position, it has been stated that long term capital gains arising from a transfer of shares of a company in which the public is not substantially interested shall be charged @ 10%.

Rupee denominated bonds

Capital gains arising in case of appreciation of rupee denominated bonds (issued by Indian corporates outside India, as a measure of raising money overseas between the date of issue and the date of redemption) shall be exempt from tax, with a view to providing relief to the non-resident, bearing the risk of currency fluctuation.

Tax framework for Start-ups in India…

Introduction of beneficial corporate tax rates for newly setup domestic companies in the manufacturing sector

Presently, a domestic company is taxable at the rate of 30% (plus applicable surcharge and education cess). In order to provide relief to newly setup domestic companies, it is proposed to insert new section 115BA to the Act to provide reduced corporate tax rate of 25% (plus applicable surcharge and education cess) with effect from April 1, 2017, at the option of the company, on satisfaction of the following conditions cumulatively:

(i) the company has been setup and registered on or after 1 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 in its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowances, 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;

(iv) the company has not claimed set-off of loss carried forward from any earlier assessment years, if such loss is attributable to the deductions referred in the clause (iii) above; and

(v) the option of seeking benefit of reduced corporate tax rate of 25% is furnished in the prescribed manner before the due date of furnishing of income.

In case of a company other than a domestic company, the rates of tax continue to remain the same. Also, the rates of surcharge and education cess remain unchanged.

Tax framework for Start-ups in India…

Tax Incentives

- The Government's objective is to establish a fund of funds which intends to raise INR 25,000 million annually for four years to funds start-ups. The Government has proposed the following tax incentives for the start-ups with an outlook to stimulate the 'start-up ecosystem' in the country and enable a rising crusade in the preliminary phase of their business:
- It is proposed to insert new section 80 IAC to allow 100% deduction of the profits and gains derived by an eligible start-up, which is set-up before April 1, 2019, from eligible business involving innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property, subject to other prescribed conditions. Such deduction is to be allowed for three consecutive years out of five years beginning from the year in which such start-up is incorporated. An eligible start-up is a company engaged in eligible business which fulfils the following conditions:

  - it is incorporated on or after April 1, 2016 but before 1 April, 2019;
  - the total turnover of its business does not exceed INR 250 Million in any of the previous years beginning on or after 1 April, 2016 and ending on 31 March, 2021; and
  - it holds a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.

Tax framework for Start-ups in India…

- It is proposed to insert new section 54EE to the Act to exempt capital gains tax, if the long term capital gains proceeds arising from transfer of long term capital assets are invested within six months from the date of the transfer, before 1 April, 2019, by a taxpayer in units of such Specified Fund setup to finance the start-ups, as may be notified by the Central Government. This exemption is subject to the condition that the amount remains invested for three years (securitization of units deemed as transfer) failing which the exemption shall be withdrawn. The investment in the units of the Specified Fund shall be allowed up to INR 5 Million.

- As per the existing provisions, exemption from tax on long term capital gains to individual or HUF is allowed in respect of the gains arising on account of transfer of a residential property, if such capital gains are invested in subscription of shares of a company which qualifies to be a Small or Medium Enterprise (SME) under the Micro, Small and Medium Enterprises Act, 2006 subject to other conditions specified therein.

- It is proposed to extend the benefit of this provision to investment of capital gains in subscription of shares of an eligible start-up before 31 March, 2019, subject to the condition that the individual or HUF holds more than 50% shares of the company and such company utilises the amount invested in shares to purchase new asset before due date of filing of return by the investor.

Tax framework for Start-ups in India…

- Further, under the existing provision, the SME is required to invest the proceeds received from the individual or HUF in the purchase of new asset being new plant and machinery but does not include, *inter-alia*, computers or computer software. With a view to avoid the incidence of the aforesaid condition on technology driven start-ups where computers or computer software form the core asset base, it is proposed to amend the section to include computers or computer software in the scope of the expression "new assets" in case of technology driven start-ups so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the official Gazette.

Small Taxpayers…

Increase in threshold limits set forth for audit of books of accounts

As regards the provisions dealing with the audit of books of accounts, it is proposed to increase the prescribed threshold of gross receipts of persons carrying on profession from INR 2.5 Million to INR 5 Million with effect from 1 April, 2017.

Introduction of presumptive taxation for persons having income from profession

The Government has proposed to introduce presumptive taxation scheme with effect from 1 April, 2017 by inserting new section 44ADA for resident individuals, HUF and partnership firms excluding Limited Liability Partnership Firms (herein collectively referred as 'covered taxpayers') earning income from specified profession, with an outlook to reduce the compliance burden and enable ease of doing business.

Under this scheme, the income of the covered taxpayer with gross receipts not exceeding INR 5 Million shall be estimated at 50% of such gross receipts and no separate deduction under section 30 to 38 of the Act shall be allowed.

Further, the covered taxpayers are not required to maintain books of accounts or get them audited, unless they claim that their profits and gains from the specified profession are lower than the profits and gains determined under the presumptive scheme and their total income exceed the maximum amount not chargeable to income-tax.

Small Taxpayers…

Amendments in presumptive taxation for persons having income from business

Following amendments are proposed with effect from 1 April, 2017:

- Under the existing provisions of presumptive taxation scheme, eligible business refers to any business except the business of plying, hiring or leasing goods carriages, whose total turnover or gross receipts in the previous year does not exceed INR 10 Million. The budget has now proposed an increased threshold of INR 20 Million
- It is also proposed that the expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per the provisions of the Act, while now allowed as a deduction from the presumptive taxable income, shall henceforth not be deductible.
- It is also proposed that
  - where an eligible taxpayer declares profit for any previous year in accordance with the provisions of this section, however he declares profit for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of the presumptive taxation scheme,
  - then he shall not be eligible to claim the benefit of the provisions of this presumptive taxation scheme for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of this presumptive taxation scheme.
- Lastly, the budget has proposed to drop the exemption available from advance tax compliances, henceforth requiring the tax payers covered by the presumptive taxation scheme to pay full amount of advance tax liability on or before March 15 of each financial year.

Exemptions, Deductions and Incentives…

Rationalisation of tax incentives, deduction and exemptions:

Incentives for Promoting Housing for all

With a view to provide affordable housing as part of the larger objective of 'Housing for all', the Government has proposed to amend the Act to provide 100% deduction of profits of a tax payer developing and building affordable housing projects, if such housing project is approved by competent authority after 1 June, 2016 but before 31 March, 2019 subject to certain conditions.

The key conditions for claiming the deduction are as follows:

- Project is completed within a period of three years from the date of approval;
- Where project is in four metro cities (*viz.* Delhi, Mumbai, Chennai & Kolkata) or within 25 km from the municipal limits of these cities:
  - project land should not be less than 1000 square metres; and
  - Size of residential units is not more than thirty square metres;
- In case of project in any other area:
  - project land should not be less than 2000 square metres; and
  - Size of residential units is not more than sixty square metres;
- Where residential unit is allotted to an individual, no other unit shall be allotted to him or his immediate family;
- Built-up area of shops and commercial establishments does not exceed 3% of aggregate built-up area;
- Profits on which above deduction is claimed, no deduction under any other provisions shall be permitted

This amendment is proposed to be effective from AY 2017-18 onwards.

Exemptions, Deductions and Incentives…

Incentives for investment in Plant and Machinery

- Under extant provisions, a manufacturing company is entitled to an investment allowance @15% of actual cost of new plant and machinery acquired and installed during the same financial year, if the actual cost of new plant and machinery exceeds INR 250 million.
- This dual condition of acquisition and installation in the same financial year was causing genuine hardship to tax payers in cases where assets were acquired but could not be installed in the same financial year.
- To rationalise this, it is proposed that acquisition of the plant and machinery can be made in any financial year provided the installation is made before 31 March, 2017, in order to avail the benefit of investment allowance of 15%. Further, in case installation of the new asset is in a year other than the year of acquisition then the investment allowance shall be allowed in the year in which the new asset is actually installed.

This amendment is proposed to be effective retrospectively from AY 2016-17 to AY 2017-18.

Exemptions, Deductions and Incentives…

Tax incentive for employment generation

Under extant provisions, a tax payer engaged in the business of manufacturing of goods in a factory is eligible for deduction of 30% of additional wages paid to new regular workmen in a factory for period of three years, provided there is an increase of at least 10% in total number of workmen employed compared to the preceding year and the workmen are employed for not less than 300 days in a year.

It is now proposed to extend this employment generation incentive to tax payers across all sectors (who are subject to tax audits), where emoluments paid to an employee are less than or equal to INR 25,000 per month. Additionally, it is proposed to reduce minimum number of days of employment from 300 to 240 days. Also, the condition of requiring minimum 10% increase in employment of workmen on year on year basis is proposed to be removed. It is proposed that the benefits of this incentive would also be available in the first year of business, on emoluments paid to all employees.

However, no deduction shall be allowed in respect of cost incurred for employees for whom the Government has paid entire contribution under Employees' Pension Scheme and for employees who do not participate in recognized provident fund.

This amendment is proposed to be effective from AY 2017-18 onwards.

Exemptions, Deductions and Incentives…

Tax exemption for storage and sale of crude oil stored as part of strategic reserves

The Indian Strategic Petroleum Reserves Limited (ISPRL) is in the process of setting up underground storage facility for storage of crude oil as part of strategic reserves. The Government now intends to attract foreign oil companies for sharing financial burden of building and maintaining of such strategic reserves. In order to grant tax neutrality to these foreign companies, the Government has proposed to exempt income of such foreign companies arising on account of storage of crude oil in a facility in India and sale of crude oil therefrom to Indian tax resident. Such foreign companies shall undertake such activities pursuant to arrangement with or approved by the Central Government. The Government shall notify such foreign companies and its arrangement with such foreign companies.

This amendment is proposed to be effective retrospectively from AY 2016-17 onwards and the objective is to encourage foreign companies to store their crude oil in India and to build up strategic oil reserves.

Exemptions, Deductions and Incentives…

Exemption to Foreign Mining Companies (FMC) in respect of display activities related to rough diamonds in Special Notified Zone (SNZ)

Under the extant provisions, activities of mere display of uncut and unassorted diamonds by FMC's without any actual sale taking place in India, may lead to creation of business connection of such FMC in India, potentially exposing such activity of FMC to tax in India.

In order to facilitate the FMCs to undertake activity of mere display of uncut diamond (without sorting or sale) in the SNZ, it is proposed that no income of FMC shall be taxable in India from or through such activities confined to display of uncut and unassorted diamonds in a SNZ.

This amendment is proposed to be effective retrospectively from AY 2016-17 onwards.

Exemptions, Deductions and Incentives…

Investment linked deduction extended to select infrastructure facilities

It has been proposed to provide an investment linked deduction to Indian companies or their consortium engaged in the business of developing or operating and maintaining or developing, operating and maintaining of a new infrastructure facility. The specific infrastructure facilities include:

- Road (including toll road, a bridge or a rail system);
- Highway project (including housing or other activities being an integral part of the highway project;
- a water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system);
- Port, airport, inland waterway, inland port or navigational channel in the sea

The taxpayers should have entered into agreement with Central or State Government or local authorities in respect of such activities relating to specified infrastructure facilities.

This amendment is proposed to be effective from AY 2018-19 onwards.

With profit linked deductions now paving the way to investment linked deductions, it has been proposed that the deduction under section 80-IA as available on the above infrastructure facilities will have a sunset clause on 31 March, 2017 for commencement of the operations. With the same being replaced by a deduction of 100% of capital expenditure incurred on setting up of the said infrastructure facility with effect from 1 April, 2017.

Exemptions, Deductions and Incentives…

Amortization of cost of spectrum fee for Telecom operators

The extant provisions of the Act prescribe for amortisation of license fee paid for operating telecommunication services over a period of useful life of telecom license. However, there was lack of clarity as to whether spectrum fees paid for by a telecom service provider will also fall within the scope of such amortization provisions or will be eligible under depreciation claims at the rate of 25%, treating the spectrum fees as an intangible asset.

The Government has proposed to insert a new provision to allow amortization of capital expenditure incurred and actually paid by the tax payer for acquiring right to use spectrum for telecommunication services, in equal instalments over the period of useful life of the spectrum license.

This amendment will be effective from AY 2017-18 onwards.

Exemptions, Deductions and Incentives…

Extending benefits of initial additional depreciation to companies engaged in transmission of power

Presently, tax payers engaged in the business of generation and distribution of power, enjoy additional depreciation of 20% on the cost of new plant and machinery acquired and installed.

It is proposed to extend this benefit to tax payers engaged in the business of transmission of power.

This amendment is proposed to be effective from AY 2017-18 onwards.

Exemptions, Deductions and Incentives…

Phasing out of deductions and exemptions

The Finance Minister in his last budget speech had indicated the intention of the Government to reduce corporate tax rate from 30% to 25% over a period of five years, subject to phasing out of exemptions and deductions. Broad guiding principles for phasing out exemptions and deductions were put for public comments in November 2015, which basically stated that:

- Profit linked, investment linked and area based deductions will be phased out for corporate as well as non-corporate tax payers.
- Provisions having a sunset date will not be modified to an advance sunset date and also, sunset dates provided in respective provisions shall not be extended.
- Depending upon structure of other provisions having no terminal date, sunset date of 31 March, 2017 shall be provided -
  - either for commencement of the activity:; or
  - for claim of benefit.
- Removal of weighted deduction with effect from 1 April, 2017.

Exemptions, Deductions and Incentives…

Based on the above guiding principles, the Government has now proposed insertions/revisions of sunset dates to provisions prescribing profit linked deductions. Such proposals are tabulated below:

Provisions permitting deduction of profits	Proposed amendment
Newly established units in Special Economic Zones [Section 10AA]	Sunset date for commencing manufacture or production of article or thing or starting provision of services – 31 March, 2020
Tax payer engaged in development, operation, maintaining of infrastructure facility [Section 80-IA]	Sunset clause for start of operations – 31 March, 2017
Developer of Special Economic Zones [Section 80-IAB]	Sunset clause for start of development of Special Economic Zones – 31 March, 2017
Tax payer engaged in production of mineral oil and natural gas [Section 80-IB]	Sunset clause for start of operations – 31 March, 2017

Exemptions, Deductions and Incentives…

Similarly, the Government has also proposed phase out plan of weighted average deduction of certain expenditures and such proposals are tabulated below:

Provisions permitting weighted deduction of expenditure	Deduction up to 31 March, 2017	Deduction from 1 April, 2017 to 31 March, 2020	Deduction from 1 April, 2020 onwards
Payments to scientific research association, universities, etc. [Section 35(1)(ii)]	175%	150%	100%
Contribution to scientific research company [Section 35(1)(iia)]	125%	100%	100%
Contribution to social science or statistical research company, universities, etc. [Section 35(1)(iii)]	125%	100%	100%
Payment to National Laboratory, universities, etc. for undertaking approved programme of scientific research [Section 35(2AA)]	200%	150%	100%
Expenditure on company's approved in-house research and development [Section 35(2AB)]	200%	150%	100%
Expenditure on eligible projects or scheme [Section 35AC]	100%	NIL	NIL
Deduction in respect of specified business categories, such as cold chain facility, warehousing facility for storage of agricultural produce, cross-country natural gas/oil distribution [Section 35AD]	150%/100%	100%	100%
Expenditure on agricultural extension project [Section 35CCC]	150%	100%	100%
Expenditure on skill development project [Section 35CCD]	150%	150%	100%

Exemptions, Deductions and Incentives…

Others

Payment to Indian Railways for use of railway assets to be allowed on payment basis

- Under the extant provisions, certain payments like tax, duty, cess, social security contribution of employees, interest on certain borrowings, are allowed as deduction only on payment basis. i.e. the year in which the amount is actually paid by the tax payer or if it is paid on or before the due date of furnishing of the return of income for the relevant year.
- It is proposed to extend this provision to any sum payable by the tax payers to Indian Railways for the use of railway assets.

This amendment is proposed to be effective from AY 2017-18 onwards.

Losses not to be set-off against deemed undisclosed income

- Presently, there is no explicit provisions prohibiting setting off of any losses with income of the taxpayer assessed as cash credits or unexplained investments or unexplained money or unexplained expenditure or undisclosed investments or amount borrowed or repaid on hundi.
- It is proposed to amend the existing provisions to expressly provide that set off of any loss shall not be allowable in respect of income of the taxpayer assesses as assessed as cash credits or unexplained investments or unexplained money or unexplained expenditure or undisclosed investments or amount borrowed or repaid on hundi.

This amendment is proposed to be effective from AY 2017-18 onwards.

Exit tax on a charitable organisation which ceases to exist or ceases to be "charitable"

In order to ensure that the intended purpose of exemption availed by a trust/institution is achieved, a new 'exit tax' effective 01 June, 2016 has been introduced on accreted income of a registered charitable trust/institution which was claimed exempt from tax in earlier years. This would apply to a charitable trust/institution where it:

Is converted into a non-charitable organisation; or

Merges with an unregistered organisation or an organisation with objects not similar to its own; or

Is dissolved and fails to transfer its assets to specified registered charitable organisations within a period of 12 months from the end of the month in which the dissolution takes place.

The exit tax is leviable on the fair market value of the assets minus the liabilities (as per valuation method to be prescribed) on a date to be specified.

Taxation to be at the maximum marginal rate for which no credit can be taken by the Trust/Institution or any other person and would be leviable even if the Trust/Institution does not have any other income chargeable to tax in the relevant previous year.

Subsidy or grant not taxable in specified cases

Finance Act, 2015 had included all forms of subsidy or grant received from any authority as income of the recipient with an exception i.e., if such subsidy or grant has been reduced from the cost of the asset.

The exclusion from taxability of subsidy or grant has been enlarged and it has now been proposed that subsidy or grant paid by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or a State Government shall not be treated as an Income of the recipient.

Amnesty…

The Income Declaration Scheme

Government proposes to introduce one-time window for tax payers to report their undisclosed income.

Salient features of the scheme:

- Limited period compliance window proposed to be effective from 1 June, 2016.
- One time opportunity to report undisclosed income pertaining to any period prior to AY 2017-18 with the Principal Commissioner or Commissioner.
- Income to be declared to include:
  - For which tax payer has failed to furnish a tax return;
  - For which tax payer has failed to disclose in a return filed prior to introduction of this scheme;
  - Which has escaped assessment due to omission/failure on part of the tax payer to furnish a return or to disclose fully and truly all material facts necessary for the assessment.
- Tax rate (including Krishi Kalyan Cess and penalty) works out to 45% of undisclosed income. No deduction in respect of any expenditure or allowance to be allowed.
- Undisclosed income reported in form of investments in assets to be computed based on fair market value of such assets to be prescribed.
- Tax (including cess and penalty) needs to be paid on/ before the date to be specified by the Central Government.
- Wealth tax provisions not to be invoked in respect to undisclosed assets. Nothing contained in the declaration shall be admissible as evidence against the declarant for the purposes of prosecution under the Income-tax Act and Wealth Tax Act.

Amnesty

- Any declaration made by misrepresentation or suppression of facts shall be void and deemed never to have been made.
- Undisclosed income declared not to affect finality of completed assessments.
- Central Government empowered to pass order within 2 years to remove the difficulty and CBDT to frame necessary Rules for carrying out the provisions of this Scheme.

Carve out - The Scheme will not be applicable in following circumstances:

- Where notices have already been issued under specified sections.
- Search or survey has been conducted and the time for issuance of notice under the relevant provision has not expired.
- Information is received under an agreement with foreign countries regarding such income.
- Cases covered under Black Money law.
- Persons notified or covered under specified legislations.

Other Provisions

Buyback of unlisted shares by a domestic company effective 1 June, 2016

Under the current provisions, where a domestic company undertakes buyback of shares pursuant to section 77A of the Companies Act, 1956, the difference between the consideration paid by the company and the amount which was received by the company for issue of such shares is subjected to buyback tax.

It is now proposed to expand the scope of this section to include purchase of own shares by a company in any manner permitted under the corporate laws.

Further, Rules will be prescribed to ascertain the amount which was received by the company for issue of such shares.

Shares received by Individuals and/or HUFs pursuant to amalgamation or demerger - Rationalisation

The current provisions provide that where a firm or a company receives shares pursuant to an amalgamation or demerger of a company, the same shall not be subject to tax. It is now proposed to extend a similar benefit to an individual or HUF receiving shares of a company pursuant to an amalgamation or demerger of the company.

Taxation of Non-compete fees and exclusivity rights in case of Profession

The extant provisions of the Act taxes non-compete fees and consideration for non-sharing of similar business or commercial rights in relation to carrying out of business, as "profits and gains of business or profession."

It is proposed to extend the applicability of such provisions to cover similar receipts in relation to any profession.

Further, under the current provisions, cost of improvement in relation to right to carry on any business is considered as nil. It is proposed to amend the definition to include professions as well, that is, the cost of improvement in relation to right to carry on any profession shall also be considered as nil.

This amendment is proposed to be effective from AY 2017–2018 onwards.

The Direct Tax Dispute Resolution Scheme, 2016

With an objective of reduce huge backlog of cases and enable the Government to realize its dues expeditiously, the Direct Tax Dispute Resolution Scheme, 2016 has been proposed in relation to

(a)'tax arrears' ; and
(b)'specified tax'.

The Scheme applicable for 'tax arrears' is as follows:

- 'Tax arrears' refers to tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, in respect of which appeal is pending before the Commissioner of Income-tax or Commissioner of Wealth-tax, as on 29 February, 2016.
- Pending appeal could be against an assessment order or penalty order;
- Upon filing of declaration, the pending appeal shall be deemed to be withdrawn;
- Declarant would be liable to pay tax at applicable rate plus interest upto the date of assessment. However, where disputed tax exceeds INR 10 lacs, 25% of the minimum penalty leviable shall also be required to be paid;
- In case of pending penalty appeal, 25% of minimum penalty leviable shall be payable alongwith the tax and interest payable on account of assessment or reassessment;
- Immunity from penalty that exceeds the penalty payable as per the Scheme;
- Waiver of interest to the extent it exceeds the amount of interest referred in the Scheme.

The Scheme applicable for 'specified tax' is as follows:

- 'Specified tax' refers to any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Income-tax or Wealth-tax Act, as the case may be, for the period prior to the date of enactment of such amendment and a dispute in respect of which is pending as on 29 February, 2016.
- For availing the benefit, the declarant shall -
  - Withdraw litigation pending before the appellate authority or Courts or in arbitration conciliation or mediation;
  - Furnish a proof thereof before making the declaration;
  - Furnish an undertaking in the prescribed Form waiving all its rights to seek or pursue any legal remedy available.
- Immunity from imposition of penalty under the Income-tax and Wealth-tax Act;
- Waiver of interest.

The Direct Tax Dispute Resolution Scheme, 2016

The Revenue shall determine the amount payable by the declarant within 60 days of receipt of the application and the declarant is required to pay such sum within 30 days of passing the order and furnish the proof of payment.

Assessee shall not be entitled for the benefits of the Scheme, if -

- conditions of the Scheme are violated ; or
- any material particular furnished in the declaration is found to be false.

If the application is found to be invalid then all the said pending proceedings would be deemed to have been revived.

The declarant under the Scheme shall also get immunity from prosecution proceedings under the Income-tax and Wealth-tax Act.

However, in the following cases, a person shall not be eligible for the Scheme:

- Cases where prosecution has been initiated before 29 February, 2016;
- Search and Survey cases where declaration is in respect of tax arrears;
- Cases relating to undisclosed foreign income and assets;
- Cases based on information received under DTAA under section 90 or 90A of the Income-tax Act where the declaration is in respect of tax arrears;
- Persons notified under Special Courts Act, 1992;
- 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.

Transfer Pricing

BEPS related documentation requirements

Transfer pricing penalties

Other amendments

Transfer Pricing

BEPS related documentation requirements

FB 2016 has proposed to introduce three layered transfer pricing documentation requirement. Taxpayers will now be required to prepare a master file, local file and country by country reporting (CbCR). While the detailed contents of these documents will be provided through rules, the requirements are expected to align with the OECD BEPS Action 13 on transfer pricing documentation and CbCR.

The new regime will be applicable for financial year (FY) 2016-17. The first filing will be due by 30 November 2017.

The CbCR will be applicable only for large taxpayers, that is, taxpayers having an annual consolidated group turnover of over € 750 million in the immediately prior year. For FY 2016-17, this requirement is applicable for taxpayers having a group consolidated turnover of approximately INR 53,950 million for FY 2015-16.

In alignment with the OECD BEPS Action 13, the CbCR will include the following information for each entity in the Group:

- Revenue, profit/ loss before tax, tax paid, tax accrued, stated capital, accumulated earnings.
- Number of employees.
- Tangible assets, not being cash or equivalents.
- Details of each group entity, including main business activity of each entity.
- Any other prescribed information.

Indian resident parent companies will be required to file the master file, local file and CbCR with Indian tax authorities.

For Indian subsidiaries with parent companies resident outside India, the CbCR will ordinarily be filed by the parent entity in their home country or by a designated entity in its home country. The Indian tax authorities will access the CbCR through mutual exchange of information agreements with such country, failing which the Indian subsidiary will be required to furnish the report.

Significant penalty provisions for non-compliance and furnishing inaccurate information have been proposed.

Transfer Pricing

Transfer pricing penalties

Penalty provisions proposed from FY 2016-17 are summarized below.

- **Penalty for non-compliance with new documentation requirements**
  - Penalty for failure to furnish master file: INR 500,000
  - Penalty for failure to furnish the CbCR or further information in respect of the CbCR: INR 5,000 – 50,000 per day depending upon period of delay
  - Penalty for providing inaccurate information in the CbCR: INR 500,000

In the above cases, establishing reasonable cause for failure could mitigate the levy of penalty.

- **Penalty for transfer pricing adjustments**

Existing penalty provisions	Proposed penalty provisions
100-300% of tax on transfer pricing adjustment, in absence of good faith and due diligence.	No penalty, where transfer pricing documentation is maintained, transaction declared and material facts disclosed. Penalty at 50% of tax on transfer pricing adjustment, where transfer pricing documentation is not maintained. Penalty at 200% of tax on transfer pricing adjustment, where transaction is not declared or material facts are not disclosed.

- Other penalties for non-maintenance of documentation, failure to report a transaction, furnishing incorrect information or documents, failure to furnish accountant's report or requested documentation will continue to apply.

Transfer pricing

Other amendments

- The time available for completing transfer pricing assessments will reduce by three months, consequent to the change in timelines for completing normal assessments. For example, in respect of assessments for FY 2012-13, the transfer pricing assessments will need to be concluded by October 2016 instead of January 2017.
- Further, the time available for completing transfer pricing assessments excludes the time for which the assessment is stayed by the Court, or where a reference for exchange of information with other countries has been made to the competent authority. Where the time available for completion of transfer pricing assessments excluding such period is less than 60 days, the time available to the transfer pricing officer will now be extended to 60 days.

Financial Services Tax

Funds

REITs/InvITs (“Business Trust”)

Securitisation Trusts

International Financial Services Center (“IFSC”)

Real Estate

Mutual Funds

Insurance

Gold bonds scheme and Gold monetization scheme

Rupee denominated bonds

Retirement benefits

Other provisions

Annexure 1

Financial Services Tax…

Funds

Alternative Investment Funds (AIFs)

Category I or II AIFs to deduct tax at source at the following rates on the income payable to investors from 1 June, 2016:

- Residents – 10%
- Non-residents – at rates in force

Investors of Category I or II AIFs can apply for obtaining a certificate of tax deduction at lower/ nil rate

Safe Harbour

Safe harbour provisions now extended to funds established or incorporated or registered outside India in a country or a specified territory notified by the Central Government, irrespective of whether India has a Double Taxation Avoidance Agreement (DTAA) or Tax Information Exchange Agreement with such country.

Further, the restriction that the fund shall not carry on or control and manage any business from India has now been done away with

Financial Services Tax…

REITs/ InvITs (Business Trust)

No Dividend Distribution Tax (DDT) applicable on divided distributed by Special Purpose Vehicle (SPV), subject to following:

- 100% of the equity shares of SPV held by a Business Trust – Except where shares are to be mandatorily held by another entity as per law.
- Dividends should be distributed out of profits made after the acquisition of SPV by Business Trust.

Dividend received would be exempt for Business Trust as well as investors in such Business Trust.

Below is an illustrative numerical cash flow table.

PAT (SPV level)	100	100
Less DDT	16.91	Nil
Distributed to BT	83.09	100
Taxation at BT level	Nil	Nil
Distributed to investor	83.09	100
Taxation at investor level	Nil	Nil
Net income for investor	83.09	100
% Increase in cash flows	20.36%	

Financial Services Tax…

Securitisation Trusts

With effect from 1 June, 2016, tax pass-through status accorded to Securitisation Trusts:

Income earned by Securitisation Trust to be exempt from tax.

Income from investments in Securitisation Trust to be taxable directly at the investor level.

- Income paid or credited by Securitisation Trust to be taxable in the same nature and proportion as that for Securitisation Trust.

Income accruing or arising to Securitisation Trust but not distributed to the investors shall be deemed to have been credited to the account of the investors on the last day of the FY:

- Such income not taxable on subsequent distribution

The Securitisation Trust to deduct tax at source at the following rates on the income payable to investors:

- Resident individuals or HUFs – 25%
- Other residents – 30%
- Non-residents – At rates in force

Investors of a Securitisation Trust can apply for obtaining a certificate for tax deduction at lower/nil rates

Financial Services Tax…

International Financial Services Center (IFSC)

Long-term capital gains arising from transactions undertaken on a recognised stock exchange located in an IFSC are exempt where the consideration is paid/ payable in foreign currency.

MAT applicable for companies located in an IFSC at the rate of 9% if the income is derived solely in convertible foreign exchange.

No DDT in the hands of the company located in an IFSC, provided the income is derived solely in convertible foreign exchange.

No Securities Transaction Tax (STT) payable by any person for transactions carried on a recognised stock exchange located in an IFSC, where the consideration is paid/ payable in foreign currency.

Financial Services Tax…

Real Estate

100% profit linked deduction from business of developing qualifying affordable housing projects. However, MAT to apply. Refer to Annexure 1 for conditions to qualify as an affordable housing project.

Investment linked incentives reduced from 150% to 100% of capital expenditure incurred w.e.f. 1 April, 2017, for:

- Qualifying hospitals,
- Warehousing facilities,
- Cold chain facilities, and
- Specified housing projects

Profit linked incentives for SEZ developers to be phased out for development of SEZs commencing w.e.f. 1 April, 2017.

Profit linked incentives to SEZ units to be phased out for units commencing activities w.e.f. 1 April, 2020.

Additional interest deduction for housing loans availed by first time individual home buyers up to INR 50,000 subject to the following conditions:

- Loans from specified financial institutions sanctioned between 1 April, 2016, to 31 March, 2017.
- Loan <= 35 Lakhs
- Value of residential property <= 50 Lakhs

Arrears of rent and unrealized rent taxable in the year of realisation. Standard deduction of 30% allowed against such realisation.

Deemed sale consideration being stamp duty value for transfer of land or building held as a capital asset to be reckoned as on the agreement date, where

- the registration date is different from agreement date, and
- at least some portion of the consideration is paid through banking channels on or before the agreement date.

Financial Services Tax…

Mutual Funds

Currently, any transfer by a unit holder of units pursuant to the consolidation of schemes of a mutual fund are not regarded as taxable. A similar benefit is proposed to be extended to transfer of units pursuant to consolidation or merger of mutual fund plans within a scheme.

Exemption from capital gains tax if the long-term capital gains proceeds are invested in units of such specified fund as may be notified by the Central Government:

- The investment in the units of such fund shall not exceed INR 5 million.
- The exemption will be withdrawn if units of such specified funds are transferred within a period of 3 years from the date of its acquisition. Further, availing a loan or advance within the 3-year period on security of units of such specified funds to be deemed as a transfer of such units.

Financial Services Tax…

Insurance

Threshold for withholding tax on insurance commission reduced from INR 20,000 to INR 15,000.

Withholding tax rates reduced on payment under:

- life insurance policy – from 2% to 1%
- National Savings Schemes - from 20% to 10%
- insurance commission – from 10% to 5%
- commission or brokerage – from 10% to 5%

Financial Services Tax…

Gold bonds scheme and Gold monetization scheme

Deposit certificates issued under the Gold Monetisation Scheme, 2015

- Deposit certificates to be excluded from the definition of “capital asset” w.r.e.f. AY 2016–2017.
- Interest income on such deposit certification to be exempt w.r.e.f. AY 2016–2017.

Sovereign Gold Bonds issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015

- Gains derived by an individual on redemption of Sovereign Gold Bonds issued by the Reserve Bank of India under the Sovereign Gold Bond Scheme, 2015, to be exempt from tax.

Financial Services Tax…

Rupee denominated bonds

In case of non-residents, any gain arising on account of appreciation of rupee at the time of redemption of rupee denominated bond of an Indian company shall be ignored for the purpose of capital gains computation.

Financial Services Tax...

Retirement benefits

National Pension Scheme (NPS)

- Amounts payable to an employee on closure or opting out of an NPS Trust to be exempt from tax, to the extent it does not exceed 40 per cent of the total amount payable.
- Transfer of accumulated balance of superannuation fund and/ or recognised provident fund to NPS Trusts to be exempt from tax.
- Amounts received by a nominee on the death of the account holder under the NPS Trust not to be deemed as income of the nominee.

Other retirement benefits

- Withdrawal of accumulated balance in a recognised provident fund and/ or superannuation fund to be exempt, if:
  - the withdrawal is from contributions made on or after 1 April, 2016, and
  - the withdrawal does not exceed 40 per cent of the contributions made by an employee (other than excluded employees).

Financial Services Tax…

Other provisions

Provision for bad and doubtful debts to be allowed as a deduction to Non-Banking Finance Companies for an amount not exceeding 5% of the gross total income.

Clarification regarding MAT provisions not applicable to a foreign company (foreign investors under the Foreign Direct Investment or Foreign Portfolio Investment route), with retrospective effect from FY 2001–2002, if:

- it is resident of a country with which India has a DTAA, and it does not have a permanent establishment in India, in accordance with the provisions of the relevant DTAA; or
- it is resident of a country with which India does not have a DTAA, and it is not required to seek registration under Indian corporate laws.

STT rate increased to 0.05% from 0.017% for sale of option in securities, where the option is not exercised.

Financial Services Tax…

Annexure 1

- Project is approved between 1 June, 2016, and 1 April, 2019.
- Project completed within 3 years from the date of first approval by the relevant authority.
- Project deemed to be completed on obtaining Completion certificate from the relevant authority.
- Built-up area of commercial space within the project to not exceed 3% of aggregate built-up area.
- Location of project within Chennai, Delhi, Mumbai or Kolkata or within 25 kms. from their municipal limits
  - Project land to be of at least 1000 square meters
  - Residential units <=30 square meters
  - Project to utilize 90% of permissible floor area ratio.
- Project located elsewhere
  - Residential Project land to be of at least 2,000 square meters of identical units <=60 square meters
  - Project to utilize 80% of permissible floor area ratio.

BEPS-related reforms, GAAR, POEM

BEPS-related

GAAR

POEM

Place of Effective Management (POEM), General Anti-Avoidance Rules (GAAR)

POEM

Determination of residency of foreign company on the basis of POEM is proposed to be deferred by one year to provide clarity and address certain concerns in respect of its implementation. POEM will now be applicable from 1 April, 2017.

Necessary provisions will be introduced for adaptation, modification and exception in the existing provisions of the Act for computation of income, set off and carry forward of losses, etc. in case a foreign company becomes resident in India due to its POEM being in India, for the first time.

GAAR

No changes have been proposed in the GAAR provisions. The Finance Minister reiterated commitment to implement GAAR from 1 April, 2017.

Base Erosion and Profit Shifting (BEPS)

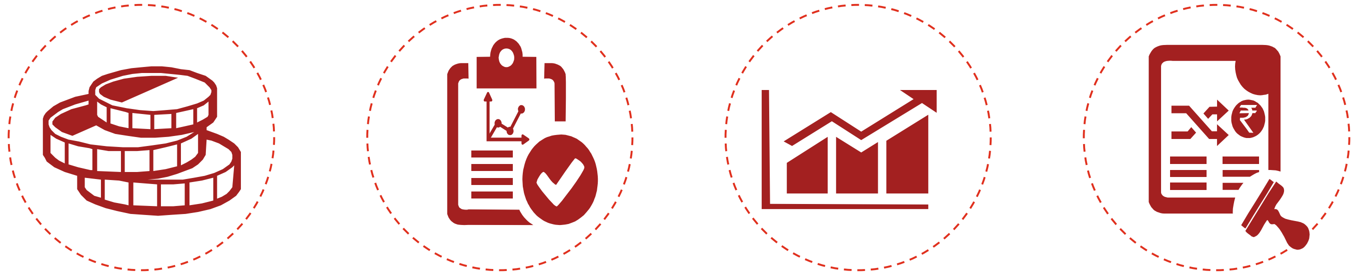
Taxation of royalty income from Patents

- Action Plan 5 (Harmful Tax Practices) of the BEPS project recommended the nexus approach which prescribes that income arising from exploitation of Intellectual property (IP) should be attributed and taxed in the jurisdiction where substantial research and development (R&D) activities are undertaken rather than the jurisdiction of legal ownership only.
- In line with this and to encourage indigenous research and development activities and to make India a global R&D hub, it is now proposed that royalty income of a resident (patentee) in respect of a patent developed and registered in India shall be taxable @ 10% (plus surcharge and cess) on the gross amount of royalty. No expenditure or allowance in respect of such royalty shall be allowed.
- Patentee would mean the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with the Patents Act, 1970.
- For MAT purposes, it is proposed that the said royalty income would be reduced while calculating book profits and the relatable expenditure would be added back to the book profits.
- This amendment is proposed to be applicable from 1 April, 2017.

BEPS

Equalisation levy…

- Action Plan 1 (Digital Economy) of the BEPS project discussed a final withholding tax on certain payments for digital goods or services provided by a foreign e-commerce provider or imposition of a equalisation levy on consideration for certain digital transactions received by a non-resident, from a resident or from a non-resident having permanent establishment (PE) in another contracting state.
- In view of this, the Finance Bill, 2016 proposes to insert a separate Chapter VIII titled "Equalisation Levy" to provide for an Equalisation Levy of 6% of the amount of consideration for any "specified service" receivable by a non-resident, from a resident in India and who carries on business or profession, or from a non-resident having a permanent establishment in India.
- "Specified service" is defined to mean online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government.
- 'Online' is defined to mean a facility or service or right or benefit or access that is obtained through the Internet or any other form of digital or telecommunication network.



BEPS

…Equalisation levy

- The equalisation levy shall not be charged where:
  - (a) the non-resident providing the specified service has a PE in India and the specified service is effectively connected with such PE
  - (b) the aggregate amount of consideration for the specified service received or receivable in a previous year by the non-resident does not exceed Rs. 100,000.
  - (c) where the payment for the specified service is not for purposes of carrying out business or profession.
- The said income arising to the non-resident from the specified service and chargeable to an equalisation levy shall be exempt from income tax.
- The payer shall deduct the said equalisation levy from the amount payable to the non-resident and deposit with the Central Government by the 7th day of the following month.
- The consideration payable for the specified service shall be disallowed for the payer in case of default in deduction/ payment of equalisation levy but allowable in the subsequent year of payment.
- Other procedural provisions have also been specified for:
  - Furnishing of annual statement by the payer providing relevant details and processing of the same
  - Rectification of mistake
  - Interest @ 1 percent per month on delayed payment of equalisation levy
  - Penalty for failure to deduct or pay the equalisation levy/failure to furnish statement
  - Provisions for filing appeal to CIT(A), Appellate Tribunal, etc.
- The provisions shall come into force from a date to be notified by the Central Government

BEPS

Documentation requirements - Country by Country Report

- It is proposed that the three layered transfer pricing documentation requirement for tax payers in the form of preparing a Master File, Local file and Country by Country Report will be introduced. For further details see separate section under Transfer Pricing.

Assessment, Appeals and Other procedural provisions

Proposed amendments in order to rationalize time provided for filing of tax returns and completion of assessment proceedings with due time

Mandatory filing of tax return within the prescribed due date for the purpose of carry forward and set off of loss of specified business (e.g. cold chain facility, warehousing facility, natural gas, housing project, hotels etc.):

Under the existing provisions, loss, which has not been determined in pursuance of return filed within the due date, shall not be eligible to be carried forward and set-off. There are no similar provision for losses emanating out of specified businesses.

In order to align the same with other business losses, it is proposed that loss arising from specified business shall not be allowed to be carried forward and set-off unless the tax return has been filed within the prescribed due date.

- **Tax filing requirement to be evaluated without considering exempt long-term capital gains:**

Under the existing provisions a return of income is not required to be filed mandatorily for certain tax payers even if they have long term capital gains, since the same is exempt from tax. However, it is now proposed a return is liable to be filed if the income without giving effect of such exemption exceeds the maximum amount not chargeable to tax.

The proposed amendment shall be applicable w.e.f. 1 April, 2017

- **Option to revise belated return of income :**

The existing provisions do not permit an assessee to revise a belated return of income. It is now proposed that a belated tax return can be revised at any time before the expiry of one year from the end of the relevant assessment year or before the completion of assessment, whichever is earlier.

The proposed amendment shall be applicable w.e.f. 1 April, 2017

Assessment, Appeals and Other procedural provisions

- **Reduction in time-limit for filing belated return:**

  The existing provisions permit the assessee to file a belated return within one year from the end of the relevant assessment year or completion of assessment, whichever is earlier.

  It is now proposed to reduce the time above time limit by one year i.e. till the end of the relevant assessment year or completion of assessment, whichever is earlier.

  The proposed amendment shall be applicable w.e.f. 1 April, 2017

- **Non-payment of tax not to render return defective :**

  It has been proposed that, a tax return, which is otherwise valid, would not be treated defective merely because self-assessment tax and interest payable has not been paid on or before the date of furnishing of the return.

  The proposed amendment shall be applicable w.e.f. 1 April, 2017

- **Scope of adjustments while processing return enlarged**

  In order to remove the mismatches between the return and information available with the Department, it has been proposed to expand the scope of adjustments while processing the tax return to include the following cases:

  - Disallowance of any loss claimed, if the return of the previous year for which set-off of loss is claimed, is furnished beyond the prescribed time-limit
  - Consider disallowance of any expenditure reported in the audit report, if not considered in the computation of income.
  - Deny the specified tax holiday benefits (such as sections 10AA, 80-IA, 80-IB etc.), if the return is furnished beyond the prescribed time-limit
  - Mismatch of income reported in Form 26AS or Form 16A or Form 16
  - Opportunity of being heard shall be given to the assesse before making the aforesaid adjustments.

  The proposed amendment shall be applicable w.e.f. 1 April, 2017

Assessment, Appeals and Other procedural provisions

- **Processing of return of income to be mandated before regular assessment :**

  Currently, processing of return is not mandatory for the purpose of issuance of a notice for initiating scrutiny assessment. It is now proposed that before making an assessment of return of income it is mandatory to process the same and that income/ loss be computed after making adjustments on account of arithmetical error or apparent incorrect claim.

  The proposed amendment shall be applicable w.e.f. 1 April, 2017

- **Basis for reopening of assessment widened**

  It has been proposed that the assessments can be reopened by the assessing officer on the basis of information/ documents called by the prescribed income-tax authority for the purpose of verification of information.

  The proposed amendment shall be applicable w.e.f. 1 June, 2016

- **Change in time-limit for assessment, reassessment and recomputation**

  The Budget seeks to replace section 153 to rationalise the timelines to complete the assessment, reassessment and recomputation and also reduces the time to pass such orders w.e.f. 1 June, 2016. The salient features in comparison to the existing provisions are tabulated below:

Assessment, Appeals and Other procedural provisions

Particulars	Revised Time-limit w.e.f 1st June, 2016
Assessment or best judgement assessment	Twenty-one months (earlier two years) from the end of the assessment year in which income was first assessable
Reassessment	Nine months (earlier one year) from the end of the financial year in which notice for reassessment was served
Reference made to the Transfer Pricing Officer	Period available for completion of assessment or re-assessment shall be extended by twelve months
Fresh assessment pursuant to orders passed by the Income-tax Appellate Tribunal (ITAT) or revisionary order passed by the Principal Commissioner/ Commissioner	Nine months (earlier one year) from the end of the financial year in which order of the ITAT is received or revisionary order is passed by the specified authorities
Orders giving effect to order of appellate authorities	Three months from the end of the month in which order of the CIT(A)/ ITAT/ High Court/ Supreme Court is received or revisionary order is passed by the specified authorities. Additional period of six months to give effect to the order upon request from the AO to specified authorities.
Order giving effect to any finding or direction contained in the order of any appellate or revisionary authority	• Twelve months from the end of month in which order is received or passed. • Transitional provision included to provide that in case of order received or passed before 1st June 2016, the income of the assessee shall be assessed, reassessed or recomputed on or before 31 March 2017

Assessment, Appeals and Other procedural provisions

- **Change in time limit for assessment in search cases**

  In line with the above reduction in timelines, similar reduction of three months has been proposed with respect to assessment orders passed in relation to search related cases w.e.f. 1 June, 2016.

  The proposed amendment shall be applicable w.e.f. 1 Jnue, 2016

- **Revenue's right to appeal against the DRP directions taken away**

  In line with the decision of the Government to minimise litigation, it is proposed to takeaway Revenue's right to file an appeal before the Tribunal against the directions of the DRP.

  The proposed amendment shall be applicable w.e.f. 1 June, 2016

- **Time limit for rectifying orders by the Tribunal reduced to six months**

  In order to bring certainty, it is proposed to reduce the existing time limit of four years from the date of order to six months from the end of the month in which the order was passed, for rectifying any mistake apparent from the record.

  The proposed amendment shall be applicable w.e.f. 1 June, 2016

Assessment, Appeals and Other procedural provisions

- **Single Member Bench to dispose off cases where total income does not exceed fifty lakh rupees**

  Single Member Bench now empowered to dispose off any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed INR 50 lakhs, as against INR 15 lakhs earlier.

  The proposed amendment shall be applicable w.e.f. 1 Jnue, 2016

- **Rationalisation of rate of penalty in case of search**

  The existing provisions, for levy of penalty (for residual category) in cases where search was initiated, gave a discretion to the Revenue to levy a penalty ranging from 30% to 90% of undisclosed income. In order to reduce the discretion, a flat rate of 60% has now been proposed. This proposed amendment shall be applicable w.e.f. 1 April, 2017

- **Scope of levy of penalty widened**

  Existing provision provided for levy of penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspection, etc. The scope has been widened to include penalty of INR 10,000 on each default or failure to comply with a –

  - notice issued under sub-section (1) of section 142 or sub-section (2) of section 143; or
  - direction issued under sub-section (2A) of section 142.

The proposed amendment shall be applicable w.e.f. 1 April, 2017

Assessment, Appeals and Other procedural provisions

- **Provision of bank guarantee in lieu of attachment of property**

  Under the existing provisions, to protect the interest of Revenue, the Assessing Officer has power to provisionally attach any property of the assessee during the pendency of assessment or reassessment proceedings.

  Instead of attachment of the property, it is now proposed that upon furnishing of bank guarantee the Assessing Officer shall revoke such attachment. The bank guarantee shall be:

  - from a scheduled bank; and
  - 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 interests of the revenue.

  Bank guarantee could be invoked, if the assessee:

  - Fails to pay the demand within the prescribed time; or
  - Fails to renew the bank guarantee.

  If the Assessing Officer is satisfied that the bank guarantee is not required then he shall release it forthwith.

  The proposed amendment shall be applicable w.e.f. 1 June, 2016

- **Time bound disposal of applications for grant of immunity/ reduction/ waiver of penalty and reduction/ waiver of interest**

  It is now proposed to provide a time limit of 12 months for disposing of an application for –

  - grant of reduction or waiver of penalty
  - grant of immunity from penalty under section 273AA
  - grant of reduction or waiver of interest

  The proposed amendment shall be applicable w.e.f. 1 June, 2016

Assessment, Appeals and Other procedural provisions

- **Rationalisation of advance tax payment schedule for all assessees**

  Now, all assessees (including individuals) would also be liable to pay Advance tax in four installments (i.e. by 15 June – 15%, 15 September – 45%, 15 December – 75% and 15 March – 100%) instead of three installments (i.e. by 15 September – 30%, 15 December – 60% and 15 March – 100%).

  Further, assessees opting for presumptive bases of taxation under section 44AD, would also be required to pay the entire advance tax in one instalment i.e. on or before the 15 March of the financial year.

  The proposed amendment shall be applicable w.e.f. 1 June, 2016

- **Payment of interest on refund**

  Provisions towards payment of interest on refund due to assessee, have been amended as follows:

i. *Refund on account excess payment of Advance tax, TDS or TCS*

- Where the return is filed after the due date, the period for grant of interest on refund to begin from the date of filing of return.

i. *Refund on account of self-assessment tax*

- It is now specifically provided that, refund on account of self-assessment tax would be eligible for interest. The interest would be payable for the period beginning from the date of payment of self-assessment tax or filing of return, whichever is later.

Assessment, Appeals and Other procedural provisions

i. *Failure to give timely effect to appellate/ revision order*

- If refund is not granted within 3 months from the end of the month or such extended period, in which the appellate/ revision order is received by the specified Revenue authorities, then an additional interest of three percent per annum is payable till the date of issuance of refund. However, the above would not apply in cases where fresh assessment is to be conducted pursuant to appellate/ revision order.

This proposed amendment shall be applicable w.e.f. 1 June, 2016

- **Rationalisation of penalty provisions**

The concept of concealment of particulars of income, furnishing of inaccurate particulars of income, etc. have now been substituted with (a) under-reporting of income and (b) misreporting of income.

Few scenarios of computation of under-reporting of income are tabulated below:

Sr. No.	Scenario	Amount of under-reporting of income
	Income assessed for the first time	
i.	Return is furnished	Difference between the assessed income and income determined under section 143(1)(a)
ii.	No return is furnished	• For Company, firm or local authority – Assessed income • Others – difference between assessed income and income not chargeable to tax
	Others	
iii.	Income is not assessed for the first time	Difference between assessed income for the year and amount of income assessed in preceding order.

Assessment, Appeals and Other procedural provisions

Mechanism has also been prescribed for computing the under-reporting of income in case of Minimum Alternate Tax, Alternate Minimum Tax and loss scenarios.

However, where the assessee offers satisfactory explanation or additions are made on basis of estimates etc., it is provided that such cases will not be treated as under reporting of income.

The section also provides for scenarios which would not constitute under-reporting of income.

Quantum of Penalty:

a. Fifty per cent of the tax payable computed in the following manner:
   - In the case of company, firm or local authority – tax payable is computed by treating under reported income as the total income
   - In any other case – tax payable is thirty per cent of the under-reported income.

a. Misreporting of income - penalty at the rate of two hundred per cent of the tax payable.

The cases of misreporting of income have been specified as under:

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

The proposed amendment shall be applicable w.e.f. 1 April, 2017

- **Immunity from penalty and prosecution in certain cases**

The Assessing Officer is now empowered to grant of immunity from:

- imposition of penalty for under reporting; and
- initiation of proceedings for prosecution.

However, such immunity from penalty would not be available for misreporting of income.

Assessment, Appeals and Other procedural provisions

To avail such immunity, the assessee would have to fulfill the following conditions:

- it has paid the tax and interest due as per the order of assessment or reassessment within the period specified in the notice of demand;
- it does not prefer an appeal against such assessment or reassessment order;
- it files an application with the Assessing Officer in the prescribed Form within a period of one month from the end of the month in which the order of assessment or reassessment is received.

Upon fulfilment of the above conditions and after expiry of the time limit for filing of an appeal before the first appellate authority, the Assessing Officer shall within a period of one month from the end of the month of filing the application, would either accept or reject the application.

The order disposing the application for immunity shall be final.

In case the Assessing Officer proposes to reject the application then an opportunity of being heard shall be granted. Further, the period beginning from the date on which such application is made to the date on which the order rejecting the application is served on the assessee shall be excluded for calculating the period of limitation for filing of appeal before the first appellate authority.

The proposed amendment shall be applicable w.e.f. 1 April, 2017

- **Guidelines for grant of stay of demand issued by CBDT vide office memorandum dated 29th February 2016.**

The stay of demand related scheme has been relaxed and streamlined. The revised conditions for granting stay are specified hereunder:

- Upon payment of 15% of the disputed demand, the Assessing Officer shall stay the demand till the disposal of appeal by the CIT(A);
- Depending on the nature of addition, if the Assessing Officer is of the view that payment of an amount higher or lower than 15% is warranted, then he shall refer the matter to the administrative Pr. CIT/ CIT to decide the quantum of stay;
- If the assessee is aggrieved by the above order, he may approach the Pr. CIT/ CIT for review;
- Stay applications to be decided within two weeks of its filing before the respective income-tax authority;
- The Assessing Officer is authorized to impose such conditions as he may think fit.

Indirect tax proposals

Customs Duty

Excise

Service Tax

CENVAT Credit

Central Sales Tax

Dispute Resolution Scheme

Customs Duty

While the general effective customs duty rate has remained unchanged, the Finance Minister has reduced the duty on import of specific inputs and raw materials to promote the "Make in India" initiative of the Government.

Rate of Duty

Median Rate of BCD retained at 10%.

Changes in Customs Act, 1962

- The government has proposed to shift from physical control to record based control for customs bonded warehouses. Following are a few relevant changes:
  - A new class of warehouses (i.e., special warehouse) has been proposed, in which revenue sensitive notified goods will be kept under the physical control of Customs Authorities
  - Warehousing bond amount has been increased from twice to thrice the amount of duty assessed along with prescribed security
- The ordinary period of limitation for issuance of show cause notice increased from one year to two years.
- Retrospective amendment to extend exemption from safeguard duty in case of Advance Licence and Duty Free Import Authorization Scheme. Consequential refund of duty paid in the past.
- Period of warehousing extended for 100% EOU, EHTP, STPI or any warehouse wherein manufacture or other operations have been permitted:
  - Capital goods : Till their clearance from warehouse (currently 5 years)

Customs Duty

- Other than capital goods : Till their consumption or clearance from the warehouse (currently 3 years)

The above changes are effective from the date of enactment of Finance Bill, 2016

- Facility of deferred payment of customs duty for certain class of importers proposed. Proposed details and date to be notified.
- New Baggage Rules 2016 have been notified. Following are the limits of free baggage generally allowed (other than used personal effects, travel souvenirs and specified prohibited articles):

Particulars	Amount in INR
Passengers (other than infant) arriving from Nepal, Bhutan or Myanmar	15,000
Passengers (other than infant) arriving from countries other than Nepal, Bhutan or Myanmar	50,000

- Simplified Rules issued for the Import of Goods at Concessional Rates of Duty for the Manufacture of Excisable Goods. Clearance of imported goods will be on the basis of self-declaration, instead of obtaining permissions from Central Excise Authorities.
- Interest rate on delayed payment of Customs duty has been reduced from 18% to 15%.

The above changes are effective from 1 April, 2016

Customs Duty

Changes in Customs duty rates

To provide a boost to the manufacturing sector and to, *inter alia*, address the issues of inverted duty structure, the following concessions are introduced:

Goods on which BCD rate reduced		
Goods	**Existing Rate (%)**	**New Rate (%)**
Silica Sand	5	2.5
Wood in Chips or particles for manufacture of paper, paperboard and news print	5	Nil
Specified fibres, filaments/yarns in Chapters 54 and 55	5	2.5
Brass scrap	5	2.5
Parts, components and accessories for use in manufacture of Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder, network video recorder, and CCTV camera/IP camera	7.5/10	Nil
Specified electrolysers, membranes and their parts required by caustic soda/potash unit based on membrane cell technology	2.5	Nil
Refrigerated containers	10	5
Machinery, electrical equipment, other instruments and their parts (except populated PCBs) for use in the fabrication of semiconductor wafers and LCD	7.5/10	Nil
Machinery, electrical equipment, other instruments and their parts (except populated PCBs) for use in assembly, testing, marking and packaging of semiconductor chips	7.5/10	Nil

Customs Duty

Goods on which SAD exempted		
Goods	**Existing Rate (%)**	**New Rate (%)**
Wood in chips or particles for manufacture of paper, paperboard and news print	4	Nil
Machinery, electrical equipment, other instruments and their parts (except populated PCBs) for use in fabrication of semiconductor wafers and LCD	4	Nil
Machinery, electrical equipment, other instruments and their parts (except populated PCBs) for use in assembly, testing, marking and packaging of semiconductor chips	4	Nil
Parts, components and accessories for use in manufacture of Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder, network video recorder, and CCTV camera/IP camera	4	Nil
Disposable sterilized dialyzers and micro barrier for artificial kidneys	4	Nil

Customs Duty

Goods on which BCD rate increased		
Goods	**Existing Rate (%)**	**New Rate (%)**
Imitation jewellery	10	15
Industrial solar water heaters	7.5	10
Solar tempered glass/solar tempered (anti-reflective coated) glass for use in manufacture of solar cells/modules/panels	Nil	5
Cashew nuts in shell	Nil	5
BCD on natural latex rubber made balloons	10	20
Plans, drawings and designs	Nil	10
Primary aluminium products	5	7.5
Other aluminium products	7.5	10
Zinc alloys	5	7.5
Specified products from Chapters 84 and 85	7.5	10
Charger/Adapter, Battery and Wired Headsets/Speakers for use in manufacture of mobile handsets including cellular phones	Nil	7.5/10
Specified Telecommunication equipment of Chapter 85	Nil	7.5/10
E-Reader	Nil	7.5
Golf Cars	10	60
Specified Products from Chapter 90	7.5	10

Customs Duty

Goods on which SAD Exemption Withdrawn		
Goods	**Existing Rate (%)**	**New Rate (%)**
Populated printed circuit boards for manufacture of personal computers	Nil	4
Populated printed circuit boards for manufacture of mobile phones	Nil	2
Charger/Adapter, Battery and Wired Headsets/Speakers for use in manufacture of mobile handsets including cellular phones	Nil	4

Customs Duty

Goods on which Export Duty reduced		
Goods	**Existing Rate (%)**	**New Rate (%)**
Iron ore lumps (below 58% Fe content)	30	Nil
Iron ore fines (below 58% Fe content)	10	Nil
Chromium ores and concentrates of all sorts	30	Nil
Bauxite (natural) calcined and not calcined	20	15

Customs Duty

- Benefit of Project Import Scheme @ 5% BCD extended for "cold chain, including pre-cooling unit, pack houses, sorting and grading lines and ripening chambers".
- Concessional BCD rate benefit on import of specified goods for use in the manufacture of electrically operated and hybrid vehicles has been extended without time limit.
- BCD exempted on tools and tool kits for maintenance, repair and overhauling of aircraft. Further, procedure simplified for availing exemption for import of goods for maintenance, repair and *overhauling* of aircraft.
- Limit on stay up to 60 days for foreign aircraft undertaking maintenance, repair or overhauling has been increased to 6 months or such extended period as approved by DGCA.

The above changes will be effective from 1 March 2016

Customs duty exemption on import of specified goods (by Government/ contractors/ PSU's) for defense purposes proposed to be withdrawn from 1 April, 2016.

Excise

The key changes in Central Excise are largely towards further incentivizing domestic value addition to promote Make in India. Duty changes have been introduced to cover the entire supply chain. The changes are expected to promote the domestic manufacturing industry. Facility to revise returns extended to Central Excise would help in ease of compliance. To consolidate multiple levies and their ripple effects of cascading, certain cesses (generating negligible revenues) levied by various Ministries proposed to be abolished. Administrative measures proposed to reduce the backlog of pending matters through the creation of 11 new benches of CESTAT. Provisions introduced to improve the credit flow and reduce ambiguities.

Rate of duty

- General rate of excise duty remains unchanged @ 12.5%.

Changes in Excise Act, 1944

- Rate of interest on late payment of Excise duty reduced from 18% to 15%.

The above changes are effective from 1 April, 2016

- The ordinary period of limitation for issuance of show cause notice increased from one year to two years.

The above changes are effective from the date of the enactment of the Finance Bill, 2016

Excise

Changes in Central Excise Rules, 2002

- Optional centralized registration extended to manufacturers of articles of jewellery (excluding articles of silver jewellery, other than those studded with diamonds, rubies, emeralds or sapphires) having different factories/ premises/ offices.
- Manual attestation of a copy of digital invoices meant for transporters not required.
- Single registration allowed for two or more units if the following conditions are fulfilled:
  - units are located within the same jurisdiction
  - manufacturing process undertaken are interlinked, and
  - units do not operate under any area-based exemption notification
- Changes in procedure for payment of rebate of duty on excisable goods used in goods exported to countries other than Bhutan.

The above changes are effective from 1 March, 2016

- Number of returns reduced from 27 to 13
- Hundred percent EOU also required to file annual returns.

The above changes are effective from 1 April, 2016

- Facility of revision of excise returns (both monthly returns and annual return) introduced – Monthly excise return can be revised within the same calendar month in which original return filed. Annual return can be revised within 1 month from the date of filing original return.

The above change is effective from a date to be notified

Excise

Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001, subsumed

- Central Excise (Removal of Goods at Concessional Rates of Duty for Manufacture of Excisable Goods) Rules, 2001 replaced with Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016. Key changes are as follows:
  - Duty exemptions to importer/ manufacturer based on self-declaration instead of obtaining permissions from the Central Excise authorities.
  - A single combined application can be filed providing information for multiple supplier manufacturers.

Excise

Changes in excise duty rates

Change in excise duty rates		
Goods	**Existing Rate (%)**	**New Rate (%)**
Branded readymade garments of RSP of Rs. 1,000 or more	Nil	2 (without CENVAT credit) 12.50 (with CENVAT credit)
All goods of cotton, not containing any other textile material, bearing a brand name or sold under brand name and having RSP of Rs. 1,000 or more	Nil 6 (with CENVAT credit)	2 (without CENVAT credit) 12.50 (with CENVAT credit)
Articles of jewellery (other than silver jewellery studded with specified stones)	Nil	1 (without CENVAT credit) 12.50 (with CENVAT credit)
Waters, including mineral waters and aerated waters, containing added sugar/other sweetening matter/ flavoured	18	21
Aviation turbine fuel (except when supplied to a Scheduled Commuter Airlines (SCA) from the Regional Connectivity Scheme airports)	8	14
Specified micronutrients when used for manufacture of fertilizer	12.5	6
Ready-mix Concrete manufactured at the site of construction for use in consctruction work at such site	2 (without CENVAT credit) 6 (with CENVAT credit)	Nil
Sacks and bags of all plastics	12.5/15	15
Rubber sheets and resin rubber sheets for soles and heels	12.5	6
Gold bars (other than tola bars)	9	9.5
Silver	8	8.5
Specified goods for manufacture of centrifugal pumps	12.5	6
Lithium-ion batteries (except for mobile handsets)	12.5	4 (without CENVAT credit) 12.5 (with CENVAT credit)
Parts and sub-parts for manufacture of lithium-ion batteries (except for mobile handsets)	12.5	Nil
Charger or adapter, battery, wireless headsets and speakers (for manufacture of mobile handsets)	Nil	2 (without CENVAT credit) 12.5 (with CENVAT credit)
Parts and sub-parts for manufacture of charger or adapter, battery, wireless headsets and speakers (for manufacture of mobile handsets)	Nil	Nil

Excise

Change in excise duty rates		
Broadband modem, routers, set-top boxes for internet, Digital Video Recorder (DVR) or Network Video Recorder (NVR), CCTV camera or IP camera and Reception apparatus for television (not designed for video display)	Nil	4 (without CENVAT credit) 12.5 (with CENVAT credit)
Parts and sub-parts for manufacture of Broadband modem, routers, set-top boxes for internet, Digital Video Recorder (DVR) or Network Video Recorder (NVR), CCTV camera or IP camera and Reception apparatus for television (not designed for video display)	12.5	Nil
Parts of railway or tramway locmotives or rolling stock	12.5	6
Railway or tramway track fixtures and fittings	12.5	6
Safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installation or air fields and parts thereof	12.5	6
Refrigerated containers	12.5	6
Tools and tool kits when procured by MROs for maintenance, repair, and overhauling of aircraft	12.5	Nil
Capital goods and spares thereof, raw materials, parts, material handling equipment and consumables, for repairs of ocean-going vessels by a ship repair unit	12.5	Nil
Disposable sterlized dialyzer or micro barrier of artificial kidney	12.5	Nil
Specified goods (like raisins/ adhesives) required for manufacture of rotor blades and parts thereof for wind operated electricity generators	Nil	6
Solar lamp and improved cookstoves	12.5	Nil
Carbon pultrusion required for manufacture of rotor blades and parts thereof for wind operated electricity generators	12.5	6

Excise

Abatements

Goods (to be MRP based)	Abatement on MRP (%)
All Footwear falling under Chapter 64	30% (increased from 25%)
All goods falling under tariff heading 3401 and 3402 (such as soaps, organic surface active agents, etc)	30% (earlier abatement provided to specified goods)
All goods falling under tariff heading 7607 (Alluminium foil not exceeding 0.2mm)	25%
Wrist wearale devices (Smart watches) (falling under tariff heading 851762)	35%
Accessories of motor vehicles	30%

Excise

Other Changes

- Area based exemptions to units engaged in production of refined gold or silver withdrawn
- Benefit of SSI Scheme has been extended to specified jewellery manufacturers for clearances upto INR 6 crores in a financial year (provided that the preceding year's turnover has not exceeded INR 12 crores)
- Increase in excise duty rate for various types of pan masala, cigarettes and specified tobacco products
- Rate of Clean Energy Cess (renamed as Clean Environment Cess) increased to INR 400 per tonne
- Infrastructure Cess has been levied on motor vehicles as under:
  - Petrol/ LPG/ CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc @1%
  - Diesel driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1500cc @ 2.5%
  - All other categories of motor vehicles (not covered above or otherwise exempted like electric/ hybrid vehicles etc.) @4%
- Concessional rate of Excise duty of 6% on specified goods for the use in the manufacture of electrically operated vehicles and hybrid vehicles extended without time limit. Benefit extended to hybrid electric engines.

The above changes are effective from 1 March, 2016

Excise

- Oil Industries Development Cess on domestically procured crude oil has been amended from tariff value basis (INR 4500 per metric tonne) to an *ad valorem* rate of 20%
- Specified cesses levied by various Ministries (e.g., salt cess, tobacco cess) has been proposed to be abolished

The above changes are effective upon enactment of the Finance Bill, 2016

- Clarified that area based exemption available in case of substantial expansion undertaken in North-east & Sikkim
- Clarified that excise duty exemption available on supply of goods to the projects financed by UN or an international organization also available to sub-contractors

Service Tax

Effective service tax rate increased to 15%– Additional Krishi Kalyan Cess of 0.5% proposed to be introduced from 1 June, 2016.

There have been considerable pruning of exemptions (including for services provided by Government) which shows the Government's intent to widen the tax base. On a positive side, interest rates have been rationalized and various key exemptions have been provided.

***Krishi Kalyan* Cess of 0.5% on all taxable services from 1 June, 2016**

Krishi Kalyan Cess has been imposed on all services at the rate of 0.5% percent to garner funds for the agriculture sector. The overall general effective rate of service tax would increase to 15% (14% service tax, 0.5% Swachh Bharat Cess and 0.5% *Krishi Kalyan* Cess) from 14.5%.

The credit of *Krishi Kalyan* Cess would be available for setting off against output *Krishi Kalyan* Cess. However, no such enabling provision has been introduced in the CENVAT Credit Rules, 2004 as yet.

The revised tax rate will be effective from 1 June, 2016.

Service Tax

Broadening the tax base

- *Increase in ambit of declared services – Assignment of spectrum and subsequent transfers taxable*

It has been proposed that assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof would be a service (as declared services). This change would be effective from enactment of the Finance Bill, 2016.

- *Negative List trimmed*
  - *Transportation of passengers, with or without accompanied belongings, by a stage carriage (except non air-conditioned stage carriage)– From 1 June, 2016*

    The current service tax exemption on transportation of passengers, with or without accompanied belongings, by a stage carriage is proposed to be withdrawn from 1 June 2016. Further, abatement of 60% is proposed on the same (i.e. tax to be paid on 40% of value) subject to the condition that no credit of inputs, input services and capital goods has been claimed.

    However, exemption would continue on such services provided by non air-conditioned stage carriage.

  - *Transportation of goods by vessel – From 1 June, 2016*

    Exemption on transportation of goods by a vessel from place outside India up to the customs station of clearance withdrawn.

Service Tax

- *Significant trimming of exemptions*
  - *Services provided by senior advocate – Effective 1 April, 2016*

    Exemption on services provided by a senior advocate to an advocate or partnership firm of advocates withdrawn. However, services by a senior advocate would be exempt when the service is provided to a person other than a person ordinarily carrying out any activity relating to industry, commerce or any other business or profession.
  - *Services provided by a person represented on an Arbitral Tribunal – Effective 1 April, 2016*

    Exemption on services provided by a person represented on an Arbitral Tribunal to the Arbitral Tribunal withdrawn.
  - *Services provided to construction, erection, commissioning or installation of original works monorail and metros – Effective 1 March, 2016*

    Exemption to construction, erection, commissioning or installation of a monorail or metro withdrawn in respect of contracts entered into on or after 1 March, 2016. Exemption would continue on such contracts entered into before 1 March, 2016 on which appropriate stamp duty has been paid.
  - *Transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway – Effective 1 April, 2016*

    Exemption is being withdrawn on transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway.

Service Tax

Exemptions introduced/ restored

- *Scope of Mega Exemption Notification widened*

  Though the Finance Minister has trimmed down the exemptions in the Negative list and Mega Exemption Notification, there is a sigh of relief on introduction and broadening the scope of exemptions for the following services:

  - Services of life insurance provided by way of annuity under the National Pension System regulated by the Pension Fund Regulatory and Development Authority;
  - Services provided by Securities and Exchange Board of India (SEBI) set up under SEBI Act, 1992, by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market;
  - Services provided by Employees‟ Provident Fund Organization (EPFO) to employees;
  - 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;
  - Services provided by Insurance Regulatory and Development Authority (IRDA) of India;
  - 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;

Service Tax

- Services provided by way of skill/vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners;
- Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship;
- Exemption limit for services provided by a performing artist in folk or classical art forms of music, dance or theatre, is being increased from Rs 1 lakh to Rs 1.5 lakh per performance

Above exemptions are effective from 1 April, 2016.

- Construction, erection etc. of a civil structure or any other original works pertaining to the "In-situ Rehabilitation of existing slum dwellers using land as a resource through private participation" component of Housing for All (HFA) (Urban) Mission/ Pradhan Mantri Awas Yojana (PMAY), except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers;
- Construction, erection etc., of a civil structure or any other original works pertaining to the "Beneficiary-led individual house construction/ enhancement" component of Housing for All (HFA) (Urban) Mission/ Pradhan Mantri Awas Yojana (PMAY);
- Construction, erection, etc., of original works pertaining to low cost houses up to a carpet area of 60 sq.m per house in a housing project approved by the competent authority under the "Affordable housing in partnership" component of PMAY or any housing scheme of a State Government;
- 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), admissions to which are made through Common Admission Test conducted by IIMs, 5 year Integrated Programme in Management and Fellowship Programme in Management

Above exemptions are effective from 1 March, 2016

Service Tax

Exemptions restored

- *Exemption from Service tax on following services provided to specified government entities restored (these had been removed in earlier financial years):*
  - construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works during the period 1 July, 2012 to 29 January, 2014 – Effective enactment of Finance Bill, 2016
  - construction, erection, commissioning or installation of an airport or port, during the period 1 April 2015 to 29 February 2016 under a contract which had been entered into before the 1 March 2015 and on which appropriate stamp duty, where applicable, had been paid before that date – Effective enactment of Finance Bill, 2016. Further, subsequent exemption extended on such contracts from 1 March 2015 to 1 April 2020 by including the same in the Mega Exemption Notification
  - construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structure for specified purposes during the period 1 April 2015 to 29 February, 2016 under a contract entered into before the 1 day of March, 2015 and on which appropriate stamp duty, where applicable, had been paid before that date - effective enactment of Finance Bill, 2016. Further, subsequent exemption extended on such contracts from 1 March 2015 to 1 April 2020 by including the same in the Mega Exemption Notification. The specified purposes include:
    - civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession
    - a structure meant predominantly for use as (i) an educational, (ii) a clinical, or(iii) an art or cultural establishment
    - a residential complex predominantly meant for self-use or the use of Government employees or other specified persons

Service Tax

If Service tax has already been deposited on the aforesaid services, refund can be claimed within 6 months from the date on which the Finance Bill, 2016 receives the assent of the President

- *Services withdrawn from Negative List and included under the Mega Exemption (without any change in effective rate of tax)*
  - Specified educational services – On enactment of Finance Act, 2016
  - Transportation of goods by aircraft – Effective 1 June 2016
- *Exemption provided to biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators – Effective 1 April 2016*

  Exemption extended to services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to the incubatees.

- *Exemption provided to IT software recorded on media covered under Legal Metrology Act, 2009 – Effective 1 March 2016*

  Service tax is being exempted on IT software recorded on a media on which it is required, under the provisions of the Legal Metrology Act, 2009 to declare the retail sale price subject to the following conditions:
  - Value of the package has been determined under Section 4A of the Central Excise Act 1944
  - Appropriate duties of excise (in case of domestic transaction)/ Additional Duty of Customs (in case of imports) has been paid
  - Declaration to be made by service provider on the invoice relating to such service that no amount in excess of the retail sale price declared on such media has been recovered from the customer

The purpose of this exemption is to lay down the rules for identification of software which would attract service tax or excise duty/ CVD and to ensure that the levy of excise duty/ CVD and service tax is mutually exclusive.

Service Tax

Changes in abatement

Changes in existing abatements – Effective 1 April 2016

Description	Current abated rate (post abatement)	New abated rate (post abatement)	Comments
Services of a tour operator (other than a tour only for the purpose of arranging or booking accommodation)	- 25% for package tour - 40% in other cases	30%	Abatement rates rationalized
Construction of a residential unit where carpet area is less than 2000 square feet and the amount charged is less than Rs. 1 crore	25%	30%	Uniform rate for all construction services
Transport of goods in container by rail by any person other than Indian Railways	30%	40%	Earlier all services of transport by rail attracted tax at a uniform abated rate of 30%. Abated rate of 40% for services by person other than Indian Railways on the condition that CENVAT credit on inputs and capital goods, has not been availed
Services of goods transport agency in relation to transportation of used household goods	30%	40%	Earlier, there was no separate rate for transport of used household goods (abated rate for other than used household goods remains at 30%)

New abatements

Description	Abated rate (post abatement)	Conditions
Transport of passengers, with or without accompanied belongings, by an air-conditioned stage carriage – Effective 1 June 2016	40%	CENVAT credit on inputs, capital goods and input services should not be availed
Services provided by a foreman of chit fund in relation to chit – Effective 1 April 2016	70%	CENVAT credit on inputs, capital goods and input services should not be availed

Service Tax

- *Other changes – Effective 1 April 2016*
  - Credit availment of input services allowed under abated scheme for the following services:
    - Transport of goods by rail by Indian Railways
    - Transport of passengers by rail
    - Transport of goods in a vessel

Changes in reverse charge mechanism notification

- Services provided by mutual fund agents/distributors to a mutual fund or an asset management company has been removed from the ambit of reverse charge.
- Services of senior advocate are being excluded from reverse charge – Hence, senior advocates would be liable to charge service tax on their services.
- All services provided by Government are being covered under reverse charge mechanism. Earlier only support services provided by the Government were covered under reverse charge.

Above changes are effective 1 April 2016

Point of Taxation

Clarification for point of taxation for new levy – Effective 1 March 2016

Rule 5 of Point of Taxation Rules applies when a new service comes into the service tax net.

An Explanation is proposed to be inserted in Rule 5 stating that such rule would be applicable in case of new levies as well apart from new taxable services. Hence, in case of new levies (such as Swachh Bharat Cess or Krishi Kalyan Cess), the point of taxation would need to be determined as per Rule 5.

Service Tax

Compliance and other changes

- Interest provisions rationalized – Interest provisions have been rationalized from the date the Finance Bill, 2016 receives assent of the President. The interest provisions would be as under:
  - Delayed payment of service tax – 15%
  - Service tax collected by not deposited – 24%
- Composition rate for single premium annuity policies revised to 1.4%, from 1 April 2016, hitherto which was taxable at 3.5%
- Annual return – Annual returns introduced for service tax. Returns to be filed by 30 November of the succeeding financial year (effective 1 April 2016)
- The ordinary period of limitation for issuance of show cause notice increased from 18 months to 30 months
- Personal penalty waiver if Service tax and interest paid within 30 days of show cause notice
- Power to arrest now applicable only where assessee collects Service tax amounting to Rs 2 crore or more but doesn't deposit the same within six months
- Exporter of goods extended retrospective rebate of service tax paid on services used beyond factory during the period 1 July 2012 to 2 February 2016.

Above changes are effective from enactment of Finance Bill, 2016

CENVAT Credit

- CENVAT credit available on outbound transportation of goods by vessel
- Credit of Basic Excise duty cannot be used for payment of output NCCD liability. NCCD liability can be offset by using only NCCD credit.
- Infrastructure Cess can neither be paid from CENVAT credit nor is available as CENVAT credit.

Above changes are effective from 1 March 2016

- Scope of credit on capital goods widened to include wagons (falling under tariff heading 8606 92); specified equipment and appliance used in an office located within a factory; goods installed outside the factory used for pumping of water, for captive use in the factory.
- Capital goods of value upto ten thousand rupees per piece to now qualify as inputs for availment of credit
- Credit to be allowed on jigs, fixtures, moulds, dies, or tools falling under Chapter 82, even when directly sent to another manufacturer or job worker premise
- The permission granted by the authorities to send inputs to a job worker and its clearance from the job worker's premise has been enhanced from one year to three years
- Relevant dates for filing refund claims on account of exports by a service provider defined as one year: from the date of receipt of payment in convertible foreign currency (where provision of service has been completed before receipt of payment); or from the issuance of invoice (where payment for the service had been received in advance prior to date of issue of invoice).

CENVAT Credit

- CENVAT Credit on grant of right to use natural resource by government or any other person is to be availed proportionately over a period of such right.
  - Where such rights are further assigned, balance CENVAT credit not exceeding Service tax charged on such subsequent assignment, shall be allowed in the same financial year.
- Rule 6 of the CENVAT Credit Rules has been revised and rationalized. New Rule provides two methods to determine the quantum of reversal which are briefly mentioned below:
- **Option 1:**
  - Pay an amount equal to six percent of the value of exempted goods and seven percent of value of exempted goods; or
- **Option 2:**
  - CENVAT Credit exclusively attributable to exempt goods and service shall not be available
  - CENVAT Credit exclusively attributable to taxable goods and services shall be available
  - CENVAT Credit of common inputs/input services shall be availed on the basis of formula prescribed under Rule 6(3A) – proportionate basis
  - Where final products or output services were not provided during the preceding financial year, CENVAT credit available shall be deemed to be fifty percent.
- Banking companies, financial institutions and NBFCs given the option to reverse proportionate CENVAT Credit (as per above stated options) in addition to the earlier option of 50% adhoc reversal.

CENVAT Credit

- CENVAT credit of capital goods used exclusively in manufacture of exempted goods or provision of exempt services permitted after a period two years from the date of commencement of production or provision of services.
- For capital goods received after the commencement of commercial production or provision of exempt services, CENVAT credit to be available after expiry of two years from the date of installation of such Capital goods
- Rule 7 of the CENVAT Credit Rules has been changed to include distribution of credit to outsourced manufacturing units (such as job-worker). Key changes are provided below:
  - Credit attributable to a particular unit to be distributed to that unit.
  - Credit attributable to more than one unit but not to all units, to be distributed to such units on the basis of their turnover.
  - Credit attributable to all units to be distributed to all units proportionately.
  - Outsourced manufacturing unit shall maintain separate accounts for input service credit received for each of the input service distributor.
- Provision of Rule 6 shall not apply to distribution of credit by an input service distributor.
- Manufacturers with multiple manufacturing units allowed to take credit of inputs received from common warehouse on the basis of invoice issued by such warehouse.
- Mechanism for utilization of CENVAT credit on FIFO basis (introduced last year) deleted.

The above changes are effective from 1 April 2016

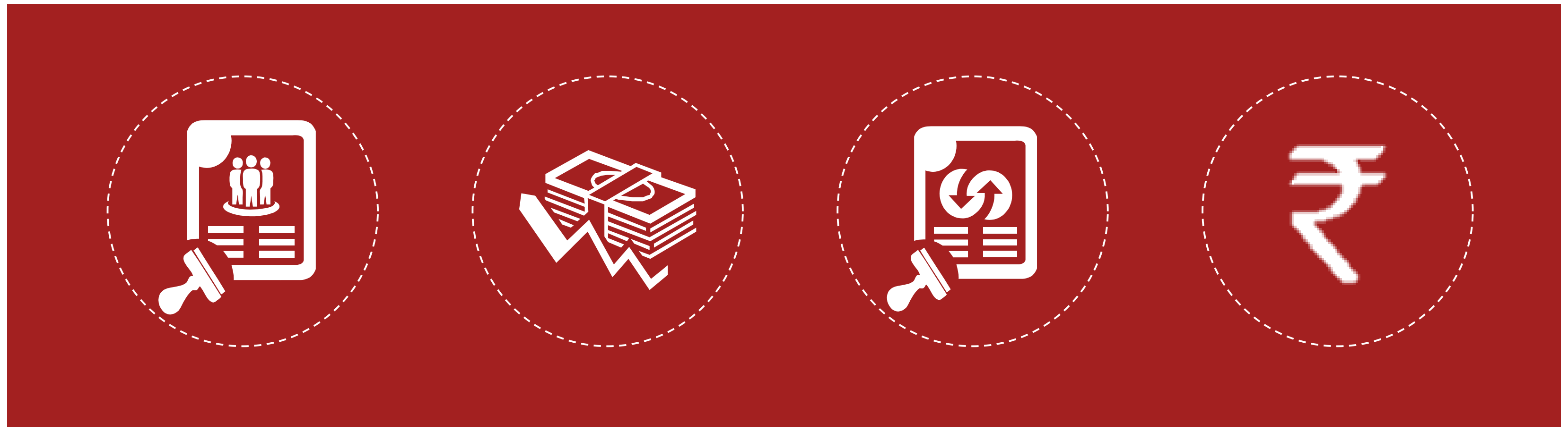
Central Sales Tax

- Sale of gas introduced in a common pipeline in one State and taken out in another State which gets co-mingled with other gas in the pipeline shall be treated as an inter-state sale.

Indirect Tax Dispute Resolution Scheme, 2016

Mechanism introduced for efficient disposal of pending customs, excise and service tax litigation

- Applicable to matters pending before the Commissioner (Appeals) as on 1 March 2016
- Scheme effective from 1 June 2016 and declaration by applicant can be filed up to 31 December 2016
- The scheme offers immunity from prosecution upon payment of tax, interest and 25% penalty
- Scheme not be applicable to:
  - any search and seizure proceeding
  - where prosecution for any offence has been instituted before 1 June 2016
  - any order in respect of narcotic drugs or other prohibited goods
  - any order in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988
  - any detention order under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974



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