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India Budget 2017
On the growth path

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Contents

Introduction

Budget 2017 was unique because it changed the age-old tradition of being presented on the last day of February, and for the first time in independent India, the Railway Budget was combined with the general Budget. However, what was perhaps more unique were the circumstances under which it was being presented. Not only the global headwinds of an unprecedented nature, but also the huge uncertainty regarding where the current year will finally end in terms of GDP growth and related tax collections as well as the mid-year GST roll out and its attendant uncertainties, created complexities in estimating tax revenues for the coming year. In the midst of having to balance fiscal prudence, throw in a good measure of populism to blunt the pain of demonetisation and to spur both private and Government investment to get back to double-digit growth in the medium-term was not going to be easy.

However, it is hard to find a major negative or a large missed opportunity in the proposals, and most of Budget 2017 seeks to do just what it promises—TEC India "Transform, Energise and Clean India."

Demonetisation and its after-effects will continue to remain centre stage for at least the first half of 2017, and while there is no doubt that there will be a blip in the GDP graph for 2016–2017, how soon and by how much the economy will bounce back depends on who you ask, but with both the IMF and the World Bank forecasting between 7.7% and 7.8% for 2018–19, the next target will be to hit the magical double digit.

Demonetisation has also brought the digital agenda to the fore like never before, and having painstakingly laid down in the speech the low rate of tax compliance in the country, the Government recognises that in order to make quantum leaps in the levels of compliance and overall tax revenues, it is only the digital payment infrastructure and GST that can make it happen. The setting up of a Payments Regulatory Board under the Reserve Bank of India is an interesting move, and coupled with a clear intent to implement the recommendation of the Committee of Chief Ministers on digital transactions (many of which have already been introduced in the tax proposals), the narrative will remain centred around the digital economy in the short- to medium-term.

The digitisation agenda and the curbing of the cash economy will also be supported by the bold statements related to cleaning up electoral funding and the issuance of electoral bonds.

The statement on doing away with the FIPB underpinned the reforms in the financial sector. Clear statements on the listing of CPSEs as part of the disinvestment policy and launching a new ETF reflect a continuation of policy decisions that are working well. Listing of security receipts by ARCs and the allocation for recapitalisation of banks, along with some related tax measures, will help deal with the growing NPAs.

On the tax side, the key proposals are mostly in the nature of anti-abuse provisions, and it will be incumbent on the administration to ensure that their implementation does not lead to harassment and targeting of genuine and legitimate transactions. Particularly noteworthy are the provisions relating to withdrawal of the capital gains exemption on sale of equity shares on the stock exchange in certain situations, and unfortunately, this once again has an element of being retrospective in nature. Changes have also been made regarding contribution of assets to a trust and in relation to transfer of shares for lower than the fair value. There have also been several changes aimed at ending litigation and the clarifications on conversion of preference shares to equity, and the taxability of Joint Development Agreements will be hugely welcome.

The area of speedier dispute resolution remains unaddressed, and while there is a proposal for merging the Authorities for Advance Rulings (AAR) under Direct and Indirect tax Laws, the need of the hour is to operationalise additional benches and truly make it a forum for seeking clarity and certainty. The introduction of GAAR will accentuate the need for this to happen, and how the vacancies in the benches can be rapidly filled will be a task that the Government needs to get to with some intensity.

There was a widespread expectation that corporate tax rates will be reduced across the board, particularly with the global developments whereby the US tax rates are expected to go down to 15% under the new administration. With a headline rate of 30% and the high rates of Minimum Alternate Tax (MAT) and Dividend Distribution Tax, India could perhaps lag behind on this key score. Moreover, rather than small tweaks to the rates

and increased credit carry over for MAT, a bold and decisive across-the-board reduction is what should come next. Several positive measures were also announced for the real estate sector (especially affordable housing) and there were some rationalisations for start-ups.

The use of enhanced technical tools and data mining and analytics has already been employed on the demonetisation deposits, and it is expected that more of these measures will be adopted. The reduction in the audit timelines in a phased manner to 12 months is testimony to this.

The BEPS-driven reform agenda also continues with the introduction of thin capitalisation rules.

Leaving the indirect tax rates unchanged and amending only a few critical areas that needed attention is symbolic in that it shows the desire and belief of the Government to roll out GST by 1 July, 2017. The scrapping of the age-old R&D cess is also a major step in this direction. With the reach out efforts planned from 1 April, 2017, and with trade and industry having got an additional three months to ready itself, GST seems on course for now.

With some clever balancing on the fiscal side, and a commitment to reduce the deficit to 3% next year, the Government has its task cut out. It needs to rapidly increase the tax base, and revive the sluggish private investment. With some control on the quality of expenditure and the tax realisations from the demonetisation deposits, there should be adequate elbow room for the Government to continue to push forward with its reform agenda.

Economic Performance

Global economy

Indian Economy

Fiscal consolidation

Fiscal deficit

Demonetisation

Key reforms that helped performance

Outlook

Global economy

The world economic growth for 2016, at an estimated 3.1%, is the weakest growth since 2008–09. This is owed largely to the turbulence in the world financial market in the first half of 2016 due to major setbacks such as Brexit, China's slowdown, low oil prices and overall weakness in the economies of Japan, US and Europe. Meanwhile, these setbacks were offset by stronger than expected economic activity during the second half of 2016 in the advanced economies, especially the US, which saw a deceleration in the unemployment rate, and the UK, which had higher than expected domestic demand following Brexit. Assuming that this trend will continue, the world economy is expected to pick up steam in 2017 and grow by 3.4%, this time on the back of previously lacklustre advanced economies. This is expected to be supplemented by the projected policy stimulus of the new US administration and its global consequences.

On the other hand, Emerging Market and Developing Economies (EMDEs) are projected to grow by 4.5% in 2017, which is 10 basis points lower than the previous projection. Among these economies, China is expected to show strong growth at 6.5% (as compared to the previous estimate of 6.2%) on account of its policy stimulus measures; however, moderation in the growth prospects is expected among large economies such as India, Brazil and Mexico.

Indian economy

India has become the sixth largest manufacturing country in the world, rising up from the previous ninth position, and thus retaining its bright spot in the world economic landscape. Post the demonetization announcement, the pace of remonetisation has picked up, and it is expected that the effects of demonetisation will not spill over into the next financial year.

The IMF expects the Indian economy to grow by 6.6% in 2016–17, which is not only a significant one percentage point lower than the previous estimate, but also brings India back to the status of the second-fastest growing economy, especially as China is expected to outgrow by 6.7%. However, this is cited as the result of short-term disruption caused by the government's move to invalidate high-value currencies, which dampened the economy's biggest growth drivers – consumption and investment demand. Recognising the strength of Indian economic fundamentals, the IMF expects the impact of demonetization to fade away gradually, as it pegs the 2017–18 growth at 7.2%, overtaking China again by a good 0.7 percentage points. The World Bank, however, is more optimistic and has projected a GDP growth of 7% in 2016–17, 7.6% in 2017–18 and 7.8% in 2018–19.

Clearly, what makes India resilient to global flurries, to a great extent, is its rock-solid domestic demand, accounting for about 60% of the GDP. This figure is 37% for China, and this has led the Chinese economy's restructuring and rebalancing to rely less on exports and investment and more on consumption demand.

The broad macroeconomic indicators, based on latest data, are as follows:

Inflation: The retail inflation stayed above the comfort zone of 5% till August 2016, but it started moderating thereafter during the normal monsoon, dropping to a two-year low of 3.4%. The average for the year-to-date (April-December 2016) stood at 4.85%, a tad higher than 4.8% during the same period of the previous year.

Fiscal Deficit: The fiscal deficit as a percentage of GDP was budgeted at 3.5% for 2016–17 in the previous year's budget. This is revised to 3.2% for 2017–18.

Trade Deficit: India's trade deficit narrowed by 25% in the cumulative period of April to December 2016 when it stood at $76.5 billion, as against $100.1 billion in the corresponding period of the previous year. This is on the back of a 7.4% decline in imports coupled with a meagre growth of 0.75% in exports during said period. Imports of both oil and non-oil products dropped during this period by 10.76% and 6.42%, respectively, reflecting the subdued gross capital formation.

Currency: The rupee saw a depreciation of 3.3%, as it stood at an average of ₹67.21 per US dollar during April 2016 to January 2017 against an average of ₹65.03 per US dollar during the same period in the previous year.

Outlook: According to the Central Statistical Organisation's first advance estimates for 2016–17, the GDP is expected to grow by 7.1%, which is slower than 7.6% in the previous year. However, this discounts the impact of demonetization. Factoring in this impact, we expect the growth to decline by another about 50 basis points.

Fiscal consolidation

Continuing on its path of fiscal consolidation, the Budget 2016–17 had projected the fiscal deficit to inch down from 3.9% in 2015–16 to 3.5% in the following year. This was aimed to be achieved despite the committed expenditure as a payout for the implementation of the Seventh Pay Commission.

The government did perform impressively as the receipts surpassed the budget expectations. The non-debt receipts during April–November 2016 grew by 25.8% as against the budgeted growth of 16.4% for the full year. Gross tax revenue also exceeded expected growth as it grew by 21.5% during April–November, while the budget had expected growth of 11.9%. This was achieved particularly through excise duty and service tax collection. The revenue collection also achieved a strong boost from the government's Income Disclosure Scheme, which mopped up over ₹65 thousand crore in a matter of three months.

While keeping itself on track to achieve the Fiscal Responsibility and Budget Management (FRBM) targets, the government formed a committee to review the working of the FRBM Act and examine the feasibility of a fiscal deficit range instead of targets. The review calls for a modification to deal with the dynamic developments that India has undergone from 2003, when the FRBM Act was introduced, until now, when the economy is much larger, open and growing at the fastest rate.

Fiscal deficit

The revised estimate of fiscal deficit in 2016–17 is 3.2% of the GDP, down from a budgeted 3.5%. It is expected to stay at 3.2% in FY2018 and then down to 3.0% in the following year, in accordance with the recommended 3.0% fiscal deficit for the next three years by the newly constituted FRBM committee. The FRBM committee recommends a sustainable debt target with a debt-to-GDP ratio of 60% percent by 2023 and the fiscal deficit to come down to 3.0%.

The gradual decline in fiscal deficit assures prudent fiscal consolidation without sacrificing public expenditure, while private sector investment is expected to be sluggish. The focus now will be on revenue and capital expenditure as the new budget does away with the plan and non-plan expenditure.

The total expenditure in Budget 2017–18 has been placed at ₹21.47 lakh crores. With the abolition of plan and non-plan classification of expenditure, the focus is now on revenue and capital expenditures, said the Union Minister of Finance and Corporate Affairs while presenting the General Budget 2017–18 in Parliament today.

He said that considering the fiscal deficit roadmap for the next three years and the need for higher public expenditure in the context of sluggish private sector investment and slow global growth, the fiscal deficit for 2017–18 has been pegged at 3.2% of the GDP, and he further committed to achieve 3% in the following year, that is, in 2018–19.

Demonetisation

On 8 November, 2016, the government announced the demonetization of ₹500 and ₹1,000 denomination notes, thereby rendering 86% of the cash in circulation as invalid. The government also placed various restrictions on the convertibility of domestic money and bank deposits.

The entire process was aimed at curbing corruption, counterfeiting, terrorist activities and accumulation of black money. With demonetization, the economy was exposed to various long-term benefits on one hand and short term costs on the other. The costs came in the shape of hardships and inconvenience, especially in the informal and cash intensive sectors that felt the loss in income and employment.

It is also hoped that in the long term, demonetisation may lead to higher GDP growth, better tax compliance and greater tax revenues by reducing corruption, laying emphasis on greater digitalization of the economy, increasing flows of financial savings, and ensuring greater formalization of the economy.

While reducing the money supply, demonetisation redefined the use of the monetary policy to accelerate growth and impacted the economy in various ways in an immediate manner. The decline in cash had the following effects:

- Increase in bank deposits with a resultant decline in interest rates on deposits, loans and government securities as well as a decline in real-estate prices
- Increase in financial system savings
- Increase in digitalization
- Increase in income disclosure with a resultant increase in collections by tax and other local authorities

Although GDP and economic activities were impacted adversely temporarily, the estimated effect of demonetization on GDP is in the range of one-fourth to half percentage points, thereby registering the potential GDP growth in the range of 6.5% to 7.5%.

While it is too early to assess the long-term effects of demonetization, it is hoped that this measure would prove to be a catalyst for the following long lasting and far reaching changes:

- Taxing of black money, and thereby reducing the menace of unaccounted money in the economy and shifting towards a formal payment system
- Increase in tax compliance by imposing financial penalties
- Increase in financial savings by channelizing savings into the formal financial system
- Reduction in cash transactions and steering of the economy towards an era of digital payments

Key reforms that helped performance

The year 2016 was one of reforms with the major thrust being on elimination of black money, corrective measures for various sectors, transparency and tackling of the issue of bureaucratic deadwood.

- The foreign direct investment (FDI) policy was further liberalized, resulting in almost 90% of proposals falling under the automatic route. This had a positive impact as the FDI inflows increased from $350 billion to $361 billion over the previous year. This is particularly creditable as it occurred during a period when global FDI flows declined.
- Additionally, the government announced a slew of schemes for the poor, farmers, senior citizens and small businesses towards the end of 2016. Two housing schemes were announced for the urban and rural poor. For the urban poor, the Prime Minister announced 4% and 3% interest exemption on loans of up to ₹9 lakh and ₹12 lakh, respectively, and for the rural poor,a 3% interest exemption was announced on loans of up to ₹2 lakh. Besides, the interest for 60 days on loans taken by the farmers from cooperative banks will be paid by the government.
- The government launched the Income Declaration Scheme that charges a one-time effective tax rate of 45% on undisclosed income or property to give a chance to domestic taxpayers to declare undisclosed income or assets by 30 September, 2016, and avail immunity from prosecution under the Income-tax Act, Wealth Tax Act and Benami Transactions (Prohibition) Act. An estimated amount of ₹65 thousand crores is said to have been collected under this Scheme. Additionally, the Pradhan Mantri Garib Kalyan Yojana (PMGKY), 2016, was notified after the Taxation Laws Second (Amendment) Bill, 2016, came into force on 15 December, 2016. The Bill has been introduced to arrest the illegal exchange of ₹500 and ₹1,000 currency notes and also provides financial support to the PMGKY.
- For micro, small and medium enterprises, the limit of loans that the government guarantees to them was doubled to ₹2 crore. In addition, the cash credit limit to these businesses was raised from 20% to 25%. As for senior citizens, a minimum of 8% interest will be paid to them on deposits of up to ₹7.5 lakh made for 10 years.
- Several measures were announced by the Department of Industrial Policy and Promotion to bring India in the list of the top 50 countries in the World Bank's "Ease of doing business" index, climbing several rungs up the ladder from the current rank of 130. These measures include the following: loading of the e-Biz portal with services required for starting a business; reduction in the number of days to start a business to four days; use of the Shram Suvidha portal for filing returns and challans; and contributions to EPFO and ESIC .
- The General Anti Avoidance Rule (GAAR) is expected to see the light of the day from 1 April, 2017. GAAR prevents companies from routing transactions through other countries to avoid tax.
- The Direct Tax Dispute Resolution Scheme, 2016, came into force on 1 June, 2016, with the purpose of settling retrospective tax disputes with the government. The scheme waives off interest and penalties if the principal amount involved in retrospective tax cases is paid.
- The Benami Transactions (Prohibition) Act was brought into force on 1 November, 2016, as a measure to curb black money. The Act prohibits illegal *benami* transactions and also makes a provision for up to seven years of imprisonment and penalty. The Act also serves as a corrective measure to the real-estate sector and is aimed at making the sector more transparent.
- Another positive step in ensuring transparency and accountability in the real-estate sector was the implementation of the Real Estate (Regulation and Development) Act, 2016, with effect from 1 May, 2016, which provided a boost to the sector as a whole by attracting more investments and opportunities for FDI.
- In line with the JAM troika (Jan Dhan-Aadhaar-Mobile), the Aadhaar (Targeted Delivery of Financial and other Subsidies, Benefits and Services) Act, 2016, provided for efficient, transparent and targeted delivery of subsidies, benefits and services, the

expenditure for which is incurred from the Consolidated Fund of India, to individuals residing in India by assigning unique identity numbers to such individuals.

- The long process of winding up a bankrupt company contributes to overall legal paralysis and locks up assets and intellectual property that could be deployed elsewhere. The Insolvency and Bankruptcy Code, 2016, that governs the liquidation process, insolvency for corporations, and regulation of insolvent professionals would help in alleviating the woes of public sector banks already burdened with bad loans and improving the ease of doing business.
- The enforcement of the Security Interest and Recovery of Debts Laws and Miscellaneous Provisions (Amendment) Act, which amended four key laws including the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act of 2002 and the Recovery of Debts due to Banks and Financial Institutions Act of 1993, is expected to help banks in the case of loan default.
- Schemes such as the Pradhan Mantri Garib Kalyan Yojana (PMGKY) saw higher tax collections as a result of increased disclosure.
- A special scheme for creating employment was launched in the textile sector, and the government now proposes to launch similar scheme for the leather and footwear industries.
- The Union Government has approved the re-designation of the Delhi-Mumbai Industrial Corridor Project Implementation Trust Fund (DMICPTF) as the National Industrial Corridor Development & Implementation Trust (NICDIT). The NICDIT will be the apex body to oversee the integrated development of all industrial corridors across the country. It will implement all five proposed industrial corridors, together covering 15 states.

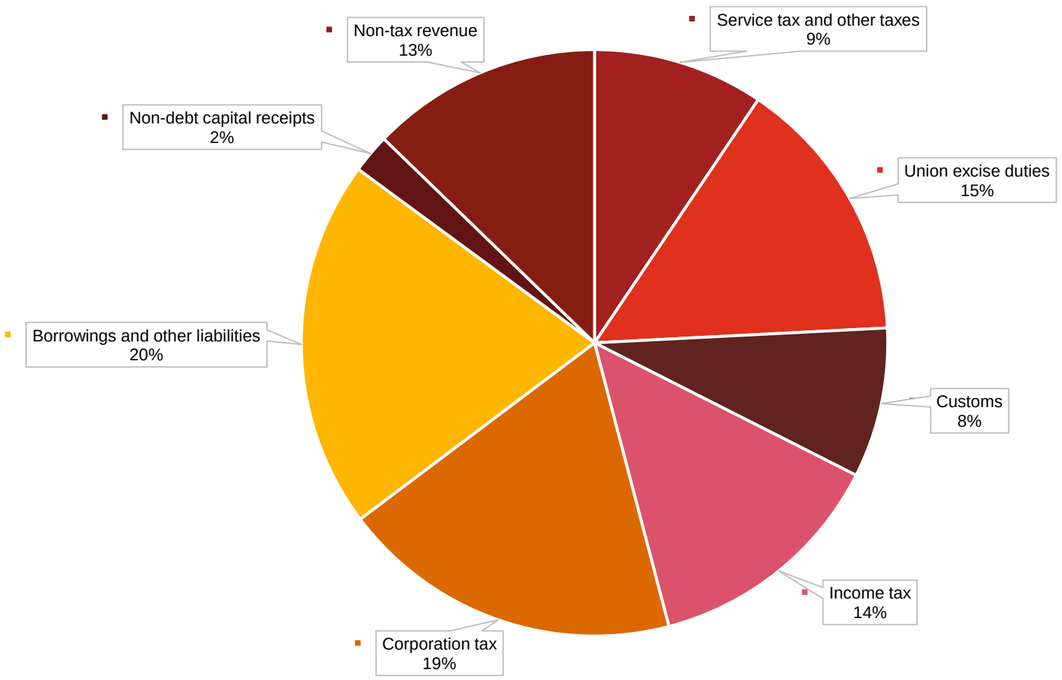
Outlook

- GDP growth is expected to exceed the 7% mark in FY2018 after suffering from the transient negative impact of demonetization in FY2017. On the contrary, demonetization is expected to leave a positive impact on the economy through greater tax compliance, increased digitalization and investments in capital formation. Besides, in order to mitigate the adverse impact of demonetization, several pro-poor and pro-rural initiatives have been taken in the budget to spur demand, contributing towards economic growth.
- Demonetization also led to an increase in bank deposits. Flushed with cash, the banks are expected to cut lending rates. Real-estate prices are also expected to remain low.
- The Goods and Services Tax (GST) Bill is expected to be implemented by 1 July, 2017, and it is likely to lead to spurring growth, competitiveness, indirect tax simplification and greater transparency. Apart from widening of the tax net, GST will also contribute significantly to the GDP. However, although making projections and targets for GST revenue in its first year of implementation would be difficult, we believe that GST will help boost GDP figures, and the estimated impact on the GDP may vary between 1% to 2%.
- While a fiscal deficit of 3.5% of the GDP was achieved in 2016–17, the expected fiscal deficit for 2017–18 is 3.2% of the GDP, which looks achievable given the expected thrust in tax collection after the implementation of GST and also greater tax compliance after demonetization.
- The current account deficit has declined to reach about 0.3% of the GDP in the first half of the year 2017, and it is expected to be at around sub-one percent level in FY2018.
- The festering twin balance sheet has been a pressing concern effecting private investment. While the Indradhanush Scheme aims to infuse ₹70 thousand crores of capital into public sector banks, how far will this address the issue remains to be seen. The survey proposes to set up a Public Sector Asset Rehabilitation Agency (PARA) as a resolution strategy.
- The retail inflation declined substantially to 3.4% at the end of December, and it is expected to be below the Reserve Bank of India's target of 5%.

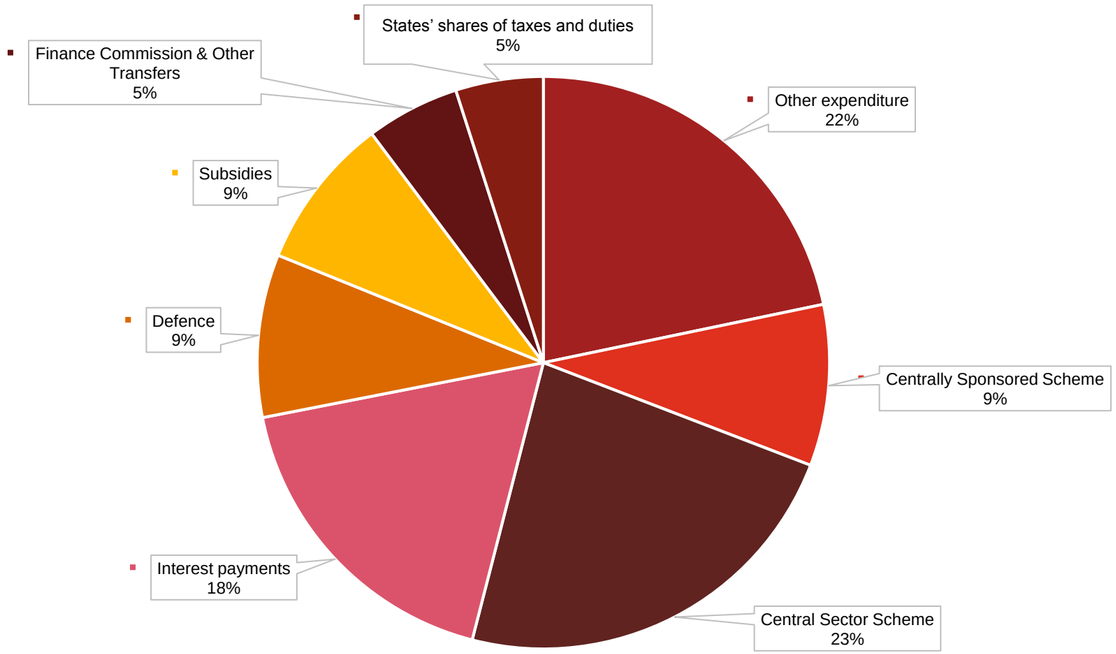
Budget Financials 2016-17

	FY 2015-16 (Actuals) (Billion INR)	FY 2016-17 (Budget) (Billion INR)	FY 2016-17 (Revised) (Billion INR)	FY 2017-18 (Budget) (Billion INR)
Revenue Receipts	11950.25	13770.22	14235.62	15157.71
Capital Receipts	5957.48	6010.38	5908.45	6309.64
Total receipts (1+2)	17907.73	19780.6	20144.07	21467.35
Scheme Expenditure	7251.14	8019.66	8698.47	9450.78
Expenditure on Other than Schemes	10656.69	11760.94	11445.6	12016.57
Total Expenditure (4+5)	17907.83	19780.6	20144.07	21467.35
Revenue account	15377.61	17310.37	17345.6	18369.34
Revenue Receipts	11950.25	13770.22	14235.62	15157.71
Revenue Deficit (7-8)	3427.36	3540.15	3109.98	3211.63
As a percentage of GDP	2.5%	2.3%	2.1%	1.9%
Fiscal Deficit [6-(1+recoveries of loans + other receipts)]	5327.91	5339.04	5342.74	5465.32
As a percentage of GDP	3.9%	3.5%	3.2%	3.2%
Primary Deficit (10-interest payments)	911.32	412.34	512.05	234.54
As a percentage of GDP	0.7%	0.3%	0.3%	1.0%

Where the Rupee comes from



Where the Rupee goes to



Expertspeak

- Overall
- Direct Tax
- Personal Tax
- Indirect Tax
- FPI Impact
- Transfer Pricing
- M&A Tax
- Defence sector
- Healthcare sector
- Digital India - Aadhar payments
- Real Estate sector
- Education Sector
- Financial Technology
- Agriculture sector
- Telecom sector
- Technology Sector
- Cybersecurity
- Start up sector
- Tax-MAT perspective
- Manufacturing sector
- Auto sector
- Infrastructure sector
- Insurance sector
- Make in India

Overall

Shyamal Mukherjee, Chairman, PwC India

"A decent balancing of adding thrust to core areas like agriculture, infrastructure and financial sector, with fiscal prudence. It is an inclusive Budget and the steps taken to address some pressing concerns, especially of the rural economy are welcome. The focus on manufacturing and the impetus given to skill development was much needed for job creation. In the wake of demonetisation, the decisive push towards digital is on expected lines. Clearly a budget reflecting the Government's stated priorities and long-term agenda."

Gautam Mehra - Leader Tax, PwC India

"The FM's commitment to stay with fiscal discipline while continuing with rural and infrastructure spending is a positive outcome. Honouring the Prime Minister's dream of housing for all, changes made for affordable housing sector by granting infrastructure status and relaxation in conditions for claiming tax incentive is welcomed. Other forms of reforms including certainty provided for overseas transfers for offshore funds investors should continue the flow of capital into the country, including continuing the lower 5% withholding tax rate for debt inflow. Reduction in tax rates for medium and small enterprises and middle class individuals should result in 'tax inclusion', which is important given the backdrop of demonetisation and the upcoming GST law. The intent of ease of doing business comes through in the form of domestic TP exemptions, abolition of FIPB, introduction of accountability on tax officers and reduction of timelines for scrutiny."

Direct tax

Rahul Garg, Partner and Leader, Direct Tax, PwC India

"With emphasis on using technology to process the demonetization data and requiring all more than rupees three lacs transactions in other than cash mode, it is expected that we would be on the path to increase tax base and move towards further moderation in rates."

There are several measures to widen the "tax base" –

a) Employing technology and analytics for using demonetization related data

b) Requiring transactions above rupees three lacs to be done only in non cash.

c) Singe page return and

d) No scrutiny for first year

Aravind Srivatsan - Partner Direct Tax, PwC India

Budget 2017 matches upto its promise of being a budget with non inflationary set of tax proposals, seeks to put more cash into the pockets of individual tax payers (income below 5 lacs) with token tax of five percent, renews the pledge of making to reality universal affordable housing, doubling farmers income a reality,a composite allocation of over six lakh crore on the transportation sector (railways, waterways, ports and highways and infrastructure) to create multiplier effect on growth. A tax rate of 25% to MSME sector is good implementation option, to reduce corporate tax rates with in a limited resource available given overall resources.

Personal tax

Kuldip Kumar, Partner and Leader Personal Tax, PwC India

'Those falling in the income group of 50 lakh to 1 crore will end up shelling out more due to levy of surcharge of 10%. Rest of the taxpayers will have some saving due to reduction of tax slab rate from 10% to 5%. Limiting house property loss for adjustment against other income upto 2 lakh in a year would affect adversely to those who have rented out their house and their loss after adjusting mortgage interest is more than 2 lakh."

Indirect tax

Pratik P Jain, Partner and Leader, Indirect Tax -PwC India

"From indirect tax perspective, no major changes were made, which further reconfirms the Government's commitment to introduce GST at the earliest. The fact that services tax rate has not gone up (as widely expected) will make the common man happy. There has also been an attempt to incentivise domestic manufacturing by further rationalising the duty structure, which the industry was looking forward to.
Greater thrust on tax administration is also a welcome step, an area which does not often get the attention it deserves.

Overall, the indirect tax proposals should please India Inc. Also it might well be the last budget relevant from an indirect tax perspective, as in GST regime, there would be limited room for annual changes in tax rates."

FPI impact

Suresh Swamy , Partner, PwC India

"Investors in India focussed FPIs will be happy with this clarification since many of them were staring at a potential tax liability. The rationale for excluding investors in Category III FPIs is however unclear. Some of the India focussed funds are unable to satisfy the broad based criteria in the initial years of set up due to the peculiarity of the definition under the regulations. They will not be able raise funds for investing in India if their investors are likely to be subjected to tax."

Transfer Pricing

Sanjay Tolia, Partner - Price Waterhouse

"On lines of BEPS Action Item 4, interest deduction proposed to be restricted to 30% of EBITDA in case of payment of interest to related party or even to unrelated parties, if the amount is guaranteed by AE. Exemption is provided for banking and insurance companies only at this point. It will be important to extend the exemption to companies requiring heavy investment or having long gestation period, such as infrastructure and utilities."

"Doing business becomes easier, with domestic TP provisions now proposing to covering only tax holiday related transactions."

M&A Tax

Hiten Kotak - Partner and Leader M&A Tax, PwC India

"Budget has several measures to boost foreign investment flow into India. Abolishment of FIPB and proposed liberalisation of FDI policy is an indication that foreign funds would be welcome even in sensitive sectors which were hitherto under approval route. 5% tax on interest on foreign borrowings and masala bonds is extended by 3 years. Amendment that conversion of preference shares into equity should not be taxable is also very timely. Introduction of thin cap rules is in line with international practice. While debt funding in India was always subject to limitations of ECB framework, disallowance of interest beyond 30% of EBIDTA will require MNCs to rethink their funding plans for Indian subsidiaries. Overall it is a very well rounded budget with concrete steps to increase India's attractiveness and foreign fund flow."

Defence sector

Dhiraj Mathur, Partner & Leader – Aerospace & Defence, PwC India

The defence budget for 2017-18 has seen a marginal increase of 5.4% over the last year budget and accounts for 12.22% of the total budget allocation. While the Government has made an allocation for the Make in India programmes and R&D, the capital expenditure has seen a decline from 34.7% to 33.0% of the defence budget. Revenue expenditure has been consistently increasingly, largely due to an increase in pay and allowances in view of the implementation of 7th pay commission recommendations.

Healthcare sector

Dr. Rana Mehta, Leader - Healthcare, PwC India

"Basic healthcare information on a smart Aadhar card could be the first step as a Unique Health identifier for the country. This will be critical in identifying beneficiaries for the social healthcare insurance programmes being rolled out by the government."

"A separate set of regulations for medical devices which are currently clubbed with drugs is long overdue. This will encourage further investment, innovation and bring down the cost to the patient"

Digital India- Aadhar payments

Neel Ratan, Leader- Government and Public Sector, PwC India

"The launch of AADHAAR Pay for people without mobile phones will spearhead the country's transition to digital economy and perhaps make India a global exemplar in the digital arena. Renewed focus on proliferating digital to rural and semi-urban areas will further enhance digital inclusion, bridging the digital divide in the society and fostering financial inclusion."

"The Government seems committed to the cause of bridging the digital divide and taking digital to the masses. Allocation of 10,000 crore for Bharat Net and elimination of service

charges for railway tickets booked via IRCTC will give a major boost to the mission of making India a digital economy. Additional funds for Bharat Net will further spread the tentacles of optical fiber, which is the backbone of Digital India programme. Aadhaar based smart cards for monitoring the health of senior citizens is a great way to leverage the citizen identity database while marrying technology with health. The move will reduce the burden on our health machinery to some extent and open up avenues to explore more applications of digital citizen identity database."

SWAYAM (MOOCs)

"The launch of SWAYAM online platform with over 1500 courses and its tie-up with DTH channels is a welcome and much awaited move to take education to the masses instead of relying on physical infrastructure of schools and classrooms. The launch, alongside the additional fund allocation for Bharat Net, which will enhance the broadband connectivity. The indigenous platform will go a long way in bridging the digital divide in India and has the potential to emerge as the global paradigm in MOOCs."

Real Estate sector

Anish Sanghvi, Partner, PwC India

"This budget did focus on reforms to the real estate sector and specially for affordable housing. Granting infrastructure status has been a long pending demand of the sector which has finally come through***, although currently limited to Affordable Housing only***. Difficulties in claiming incentive for affordable housing have been removed with moving the goal post from built up area to carpet area and completion period enhanced to 5 years. Reduction of period of holding to 2 years to enjoy long term gains rate as well as more avenues to save capital gains tax have been proposed. The litigation around joint development agreements may become history with clarity on timing of taxation at project completion"

Abhishek Goenka, Partner - Real Estate Tax, PwC India

"The FM, as part of various measures, has granted "infrastructure" status to affordable housing sector, which was a wish list for the industry. While this new measure will definitely attract investors and augment resource allocation for the sector, the same should also benefit its allied sectors.

The specific relief granted on the tax front, such as reducing the holding period for immoveable property from 3 to 2 years, and shifting the tax incidence on joint development agreements at the time of completion provides much needed clarity to some of the tax ambiguities plaguing the sector.

However, the statement on relief to developers on notional rent on unsold inventory for a one year period implies that it will otherwise be taxable, and this could result in a rush to liquidate inventory and perhaps, a reduction in prices."

Education Sector

Dhiraj Mathur, Partner - Education, PwC India

This year's Budget has taken the right step in the direction of reforming the higher education sector and improving the quality of education. The proposal to give greater administrative and academic autonomy to good quality institutions including autonomous status would go long way in improving the governance and quality of higher education institutions. Establishing a national test agency, SWAYAM platform, flexibility in curriculum and innovation fund for secondary education are also welcome steps.

Financial Technology

Vivek Belgavi, Leader - FinTech, PwC India

"It is encouraging to see measures around increasing adoption of digital payment transactions in the India both in terms of coverage and incentives. Leveraging government touchpoints such as ration shops and post offices is a good move. Would have expected to see more concrete measures around financial literacy and consumer protection."

Agriculture sector

Ajay Kakra- Leader Food and Agriculture, PwC India

"Overall positive budget for agri sector continuing the focus on Farm Credit, irrigation schemes and Crop Insurance segments for facilitating the farming operations. The same impetus should be continued in the schemes like e NAM, Contract farming reforms and other market reforms to facilitate the trade of agricultural commodities.

The budget allocation of INR 187,280 crore for Agri, Rural and Allied sector has been the highest ever demonstrating increased focus for these sectors. Increased farm credit of INR 10 lakh crore is a step further to have greater access to finance for small and marginal farmers for investing in quality input in farming operations. Further, the creation of micro irrigation fund of 5000 Crores can be very useful for further expanding micro irrigation facilities to farming community."

Telecom sector

Arpita Pal Agrawal, Leader- Telecom, PwC India

"Digital India is a winner in this budget with provisions for Bharat Net, PoS Terminals etc. Telcos will benefit as this will accelerate adoption of data services. However the specific Industry demands related to clarity on pending tax issues have mostly remained unaddressed"

Prabhat Lath – Director, PwC India

1. "In order to further boost 'Make in India' initiative, the Government has proposed to impose a 2% Special Additional Duty (SAD) on imports of populated printed circuit boards (PCB) which was currently exempt. It is expected that such a move might result in the prices of mobile phones manufactured in India using such imported PCBs to go up marginally. On the other hand, this should provide a push to the local manufacturing of PCBs. It should be noted that such change is upto 30 June 2017 as Government expects GST to be introduced from 1 July 2017.
2. Existing exemption of Basic Customs duty on import of co-polymer coated MS tape/ stainless steel tape for manufacture of telecommunication grade optical fibres or optical fibre cables has been withdrawn. This may result in increase in manufacturing cost of such product considering 10% BCD rate would now be applicable.
3. Sub-section (1D) was inserted in by Finance Act, 2012 in section 143 of the Act to provide that processing of a return shall not be necessary where a notice has been issued for scrutiny of tax return filed. The CBDT subsequently issued Instruction No. 1 of 2015 thereby preventing the tax officers from processing of refunds where notice for assessment of return was issued. This has resulted in significant delay in processing of return of income and issue of consequent refunds. Telecom sector was hit significantly by this amendment due to margin pressure and higher tax withholding rates on its service receipts. The sector took the lead to challenge this provision and the Instruction before the Hon'ble Courts and favourable directions were issued by the Courts. The Courts quashed the Instruction holding it to be unsustainable in law.

The Finance Bill has now proposed that section 143(1D) of the Act shall cease to apply in respect of returns filed for AY 2017-18 onwards. Further, a new section 241A has been inserted for returns filed for AY 17-18 onwards to provide that where the tax officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he can withhold the refunds upto the date of assessment by recording reasons to do so and obtaining necessary internal approvals. While the provision of section 241A dilutes the existing provisions of section 143(1D) to some extent, the Government without specifying any reasons has denied clarity for pending refund for assessment years prior to AY 2017-18."

Technology Sector

Sandeep Ladda, Partner and National Leader of Technology & Ecommerce, PwC India

"The government has given a big push towards the digital economy. Schemes around promoting use of BHIM, AadhaarPay, introduction of PoS terminals and related tax exemptions will have a positive impact on the economy. Additionally, Make in India was given a significant boost by increasing the allocation for electronics manufacturing under incentive schemes like M-SIPS and EDF. Further, a carry forward of losses and profit-linked deduction for startups for 3 out of 7 years is also a very welcome announcement and will provide a fillip to startups in the technology sector."

Sandeep Chaufla, Partner - Tax & Regulatory Services, PwC India

(A) Section 194J of the Act provides for a tax withholding of 10% on certain category of payments which inter alia, include fees for technical services and professional services. Various taxpayers have taken a position of withholding tax @10% on payments to call centre companies. This had resulted into an adverse cash flow situation for call centre companies who are reeling under margin pressure and do not have sufficient tax liabilities to utilise the tax withholding. As a result, they file tax return claiming substantial refunds. Further, there is a time lag between filing of lower withholding application and obtaining the certificate. The Finance Bill 2017

proposes to reduce the tax withholding rate on call centre payments to 2% providing significant relief on cash flow aspect to call centre companies. The amendment provides that the payee should be engaged only in the business of call centre.

(B) Section 10AA of the Act provides for deduction in respect of profits and gains from Units operating in Special Economic Zones. In the context of Section 10A, the Hon'ble Supreme Court recently held that the deduction contemplated therein is qua the eligible undertaking of a taxpayer standing on its own and without reference to the other undertakings of the taxpayer. It was held that such deduction is prior to the exercise of arriving at the total income under chapter VIA of the Act. Considering the impact of the aforesaid order in existing provisions of section 10AA of the Act, The Finance Bill by way of an explanation inserted in the provisions of Section 10AA has now proposed to clarify that such deduction shall be allowed from the total income of the taxpayer computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA. This clarification is proposed to be prospective.

(C) Most of the Technology Companies which claim deduction under section 10AA are paying taxes under MAT. However, due to the narrowed gap between the tax rate under MAT and normal provisions of the Act, many of these companies are not able to utilize the MAT credit in subsequent 10 years. The problem is significant because during the tenure of the SEZ benefit, the tax under normal provisions of the Act may be lesser than that under MAT provisions. Considering a genuine loss of tax credit by the taxpayers, the Budget proposes to extend the time limit for utilization of MAT credit to 15 years from existing 10 years.

Cybersecurity

Sivarama Krishnan, Leader- Cybersecurity, PwC India

"The thrust on Digital India and digital payments both require a focus on cyber security. The financial CERT and the attention towards cyber security in financial budget is in right direction. The implementation of the initiative will help secure Digital India."

"The finance minister announced the proposal for establishing a CERT specifically for the financial services sector, which is aligned to the need of the hour and to steps taken by cyber security leaders. Linking regulatory authorities (SEBI and RBI) will help in the development of more comprehensive guidelines and regulations for financial services companies, significantly strengthen threat information sharing (and consequently detection) and compel them to increase their security spending as the CERT takes shape.

The Government in its current budget announcement has only committed to deliver on its promise of 'Digital India.' Certain announcements, such as plans to roll-out 20 lac Aadhaar-based swipe machines, promoting BHIM (Bharat Interface for Money), which already has over 1.25 crore users, and digital systems for payments of Government and defense employees highlight the need for strengthening cyber security in the Government. Measures across multiple areas, such as web application security, device security and secure protocols need to implemented to ensure protection of financial transcations and the Government should develop and release standards for the same."

Start up sector

Abhishek Goenka, Partner – Tax & Regulatory Services, PwC India

Propose to reduce tax for small companies with turnover of less than Rs 50 cr to 25%, says FM

"There was an expectation of an across the board reduction in the rate. Instead, a calibrated approach has been adopted and the reduction is only for companies with turnover of less than Rs 50 crores. I expect that there will be some safeguards against unnecessary arbitrage opportunities by splitting businesses."

Profit linked-deductions for start-ups reduced to 3 years out of 7 years, says FM

"The increased period for profit linked deduction for 3 years out of 7 years as against 5 years is welcome, as start-ups are not expected to make profits for the first few years. The ask was for a 10 year period, but extension to 7 years is nevertheless welcome. The exemption from MAT has however, not been allowed, and an enhanced carry over period will not really help start usps from a cash flow perspective. The proposal to allow start ups to carry forward losses inspite of change in 51% of shareholding provided original promoter shareholding continues is a big relief and a welcome move."

Tax-MAT perspective

Abhishek Goenka , Partner – Tax & Regulatory Services , PwC India

"There was an expectation that the rate of MAT will be reduced in line with its goal of reducing the headline corporate tax rate to 25%. However, instead of that, the rate has been retained and a higher period of 15 years for carry forward for future credit claim has been provided, instead of the existing 10 year period. While this is welcome, a reduction in the rate should have been made."

"With profit linked incentives being phased out, there was a requirement to phase out minimum alternate tax ("MAT"). It appears that MAT may continue for another few years but it has now been proposed to increase the carry forward of MAT credit to 15 years (instead of the existing 10 years). While the expectation was to also reduce the MAT rate from 18.5%, the extended carry forward of MAT credit is a welcome move as it will enable companies' to off-set their future tax liabilities once the profit linked investments are phased out."

Manufacturing sector

Bimal Tanna Leader - Industrial Products PwC India

"While a MAT rate cut and incentives for capex would have certainly boosted sentiments in the manufacturing sector in a big way, reduction in the income tax rate for MSME companies is quite encouraging and the thrust on rural and infrastructure development and affordable housing will benefit the manufacturing sector and stimulate growth in the economy. "

Auto sector

Abdul Majeed, Partner and auto expert- Price Waterhouse, PwC India

"The budget was growth centric with focus on infrastructure and affordable housing. Reduction in individual tax rates in INR 2.5 to 5 lacs category should boost passenger vehicle demand. However, incentives to promote fuel efficient and alternate fuel would have benefitted the sector.'

Infrastructure sector

Manish Agarwal, Partner and Leader Infrastructure, PwC India

"Increased spend on Road and Rail is welcome, as is proposed Amendment to AAI Act to encourage city side development. PPP Model for development of airports in Tier 2 cities will need to be seen.

Recapitalisation of Banks will help to some extent. No clear direction still for implementation of Kelkar Committee recommendations.

Infra status for Affordable Housing is positive, but will need more measures for it to have an impact at the lowest end."

Insurance sector

Joydeep K Roy, Partner & Leader - Insurance, PwC India

On Sankalp Programme:

It is heartening to note the 4000 crore budget allotted to train youth for market-oriented skills under Sankalp. Here, an important skill would be providing training on becoming an insurance agent. Not only will this allow youth in rural areas to become employable, but will also increase the penetration of insurance in the country. It is also important to note that agent commissions are no longer subject to deduction of 5% TDS if agents can issue self declaration that their income is below taxable limits. This is especially beneficial for youth from low-income families in rural areas who can gain training to become certified insurance agents - a key to penetrate insurance further into the heart of the country - Life, Home, Health, 2 wheeler / motor, and others.

On Crop Insurance:

Allocation for new crop insurance scheme 'Pradhan Mantri Fasal Bima Yojana', has been increased. The general insurance industry is expected to grow by 25-30% in 2017 primarily due to last years provision of crop insurance. Therefore this announcement bodes well for the industry and will help to further increase the market.

On capital gains tax investments:

The instruments to be allowed for investments of capital gains are to be expanded by the government from the current restricted list. In the expanded list, they must include

Investment in Pension Schemes to stimulate investment into pension schemes of insurance. The whole country is sitting on a time bomb of inadequate pension provisions for people - and as the populations starts getting older with greater life expectancy, the problems are going to be tremendous. The solutions have to be in place from now only.

On the Digital Thrust:

From the Union Budget it is clear that a primary focus is going to be on encouraging digital platforms and cashless transactions. Therefore taking a cue from this, the Regulator should allow all kinds of personal insurance buying a totally paperless process with no wet signature required from the client. This will again increase the penetration of insurance in remote areas where getting a signature from a customer is sometimes costlier than the premium.

On what more could have been done:

1. Higher allocation of tax savings from investment in insurance in life (with a higher disposable income now), maybe for term insurance only.
2. Higher allocation of tax savings for Medical Insurance premium payment for family and parents.
3. Allocation of tax savings for insurance of Home structure and contents for all homes above 30 sq. m.

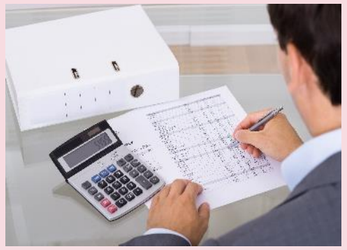
Make in India

Mohammad Saif Athar, Director - Capital Projects & Infrastructure - PwC India

- **Skill Development:** Industry value enhancement, National technical agency, vocational training and apprentice program will support FDI, and mitigate issues related to quality work force availability. Focus needs to be on implementation of these schemes.
- **Productivity enhancement:** Continuing with a focus on improving business operations and productivity of workforce in labour intensive sectors, Government's proposed scheme for Leather and Footwear sector will enable Indian manufacturing to re-inforce its export leadership in this sector and also enable them to move into value added segments and fashion labels
- **Enabling integrated supply chains and reducing logistics cost:** Railways plans of working along with Logistics firms to provide door-door connectivity will bring efficiency in the supply chain by reducing logistics costs and reducing time to reach end markets or supply sources. This will be extremely critical for perishable food items and manufactured products. Also, the investment of Rs. 2000 crore for coastal connectivity road sector projects will provide seamless multi-modal connectivity and augur well with port lead manufacturing plan. Governments plan to focus on proposing a multi-modal logistics plan will enable manufacturing in Indian
- **Tourism as an enabler for Economic Development:** 5 tourism mega economic zones will enable bring global tourism players in India and also drive tourism sectors contribution to GDP. Linking Tourism locations with dedicated Tourist trains will enable footfalls and viability of tourism projects.
- **Connectivity focus to Tier-2 locations will drive manufacturing to new locations:** Proposal to develop new airports in Tier 2 locations is a welcome move for investors looking for enablers to manufacturing locations. Also, it will diffuse the pressure for Industrial land parcels in the periphery of metros and large cities in India
- **Specific focus on successful Electronics Manufacturing Policy:** New allocation of Rs. 745 crore will support approval of pending proposals seeking incentives under the EMC and M-SIPS program.

Key Policy Announcements

Financial Sector



Infrastructure

Food, farming and consumers

General

Financial sector

- Listing and trading of Security Receipts issued by a securitization company or a reconstruction company will be permitted on stock exchanges registered under the Security Exchange Board of India (SEBI). This will enhance capital flows into the securitization industry and effectively deal with bank non-performing assets.
- The Payment and Settlement Systems Act, 2007, will be amended for structural reforms in the payments ecosystem. This is in line with suggestions made by the Committee on Digital Payments constituted by the Department of Economic Affairs. The Payments Regulatory Board is to be set up for replacing the existing board.
- To bring stability, resilience and a holistic framework, a bill on the resolution of financial firms is to be introduced in the Parliament for setting up of a Securities Appellate Tribunal encompassing several financial regulators such as SEBI, Reserve Bank of India (RBI), Pension Fund Regulatory and Development Authority and Insurance Regulatory and Development Authority.
- Systematically important non-banking finance companies (NBFCs) above a certain net worth will be categorized as qualified institutional buyers by SEBI. This will help the initial public offering market become stronger and channelize more investments.
- Online registration of financial market intermediaries such as mutual funds, brokers and portfolio managers, etc., will be implemented.
- Common applications for registration and opening of bank and demat accounts and the issue of a Permanent Account Number for foreign portfolio investors will be implemented.
- The Multi State Cooperative Societies Act, 2002, will be revised to protect the investors from dubious/ ponzi schemes.

Infrastructure

- The affordable housing segment will be accorded infrastructure status.
- To upgrade the infrastructure facilities at airports, the Airport Authority of India Act to be amended to facilitate monetization of land assets.
- The Metro Rail Policy will be introduced with a focus on innovative models of implementation and financing and standardization and indigenization of hardware and software.
- A new Metro Act will be introduced for private participation and investment in construction and operation.
- The Arbitration and Conciliation Act, 1996, will be amended to streamline institutional arrangements for resolution of disputes in infrastructure-related construction contracts, public-private partnerships and public-utility contracts.

Food, farming and consumers

- A Model Act on contract farming law will be introduced for adoption by States with the view to ensure better price realization for farmers.
- State governments will consider amendments in the Agriculture Produce Market Committee Act to remove perishable items.
- The Drugs and Cosmetics Rules will be amended to ensure the availability of drugs at reasonable prices and to promote the use of generic medicines.
- A new regulatory framework for medical devices will be introduced in harmony with international standards to attract investments and enhance the affordability of devices.
- To provide employment opportunities for women and with focus on the ease of doing business and adoption of modern business practices, the Model Shops and Establishment Bill, 2016, has been shared with the States for their consideration and adoption.

General

- The Foreign Investment Promotion Board is proposed to be phased out in 2017–18.
- The Negotiable Instruments Act will be amended to enforce the realization of payments in case of dishonour of cheque.
- There will be amendment of laws/ introduction of new laws enabling confiscation of assets in India in the case of economic offenders who have fled the country.
- The National Testing Agency will be set up as an autonomous organization to conduct all entrance examinations for higher education institutions. The Central Board of Secondary Education, All India Council for Technical Education and other premier institutions will focus on academics.
- Labour laws to be rationalized into four codes, that is relating to wages, industrial relations, social security and welfare, and safety and working conditions from an ease-of-doing business perspective.

Direct tax proposals

Personal Tax

Corporate Tax

Transfer Pricing

Financial Services and Real Estate

Personal Tax

Tax rates

The rate of income tax is proposed to be reduced to 5% (from 10%) for income between INR 2.5 to INR 5 lakhs. This is likely to bring tax saving of at least INR 12,875 for all taxpayers with an income exceeding INR 5 lakhs. Other tax slab and rates remain unchanged.

Comparative chart of tax rates applicable to individuals are as follows:

Total income	Proposed tax rate* (AY 2018-19)	Existing tax rate* (AY 17-18)
Up to INR 250,000**	Nil	Nil
INR 250,001 to INR 500,000	5%	10%
INR 500,001 to INR 1,000,000	20%	20%
Above INR 1,000,000	30%	30%

** Education cess and surcharge as applicable*

***Basic exemption limit for resident individuals above 60 years but less than 80 years of age at any time during the FY is INR 300,000 and for resident individuals 80 years of age or more is INR 500,000 (unchanged).*

Surcharge

A surcharge of 10% on tax payable is proposed for individuals having an income of INR 50 lakhs to INR 1 crore.

Maximum marginal tax rate (MMR) for individuals having income up to INR 1 crore will change to 33.99% (from 30.9%). There is no change in the MMR of 35.54% for income above INR 1 crore (wherein a surcharge of 15% applies).

Tax rebate

The rebate for the low income earners (under section 87A) is proposed to be reduced to INR 2,500 from the present limit of INR 5,000 and will be available only in case of income up to INR 3.5 lakhs
(earlier, INR 5 lakhs).

Long-term capital asset

The holding period in respect of immovable properties to qualify as long-term capital asset has been proposed to be reduced to 24 months from 36 months.

The base year for computation of capital gains for old capital assets acquired before 1 April, 1981 has been proposed to move to 1 April, 2001. Now the cost of acquisition of assets acquired before 1 April, 2001 shall be allowed to be taken at fair market value as of 1 April, 2001.

Exemption on withdrawal from National Pension Scheme (NPS)

In case of partial withdrawal from the NPS, it has been proposed to exempt withdrawal up to 25% of the contribution made by the individual.

Deduction for NPS contribution

It is proposed to increase the deduction up to 20% of the gross total income (earlier 10%) for a non-employee contributing to NPS. This has been proposed to bring parity in the deduction available to employees (10% of employer and 10% of employee contribution) shall be subject to the overall ceiling limits.

Tax on certain long-term equity share or units

Equity shares in a company or a unit of an equity-oriented fund acquired on or after 1 October, 2004, on which STT has not been paid on purchase, is proposed to be taxed as long-term capital gains. Presently, the capital gains arising on transfer of above assets is exempt from tax, if the sale transaction suffers STT.

Restriction of set off of loss from house property

Under the existing provisions, loss from house property is allowed to be set off against any other income (without any limit). It is now proposed to limit such set off to INR 200,000. Any unabsorbed loss from house property can be carried forward to set off against income from house property up to eight years.

Withdrawal of deduction for investment in equity savings scheme

To promote investment in equity savings schemes, deduction for such investment was introduced in Finance Act, 2012, to the extent up to 50% of the amount invested or INR 25,000 whichever is lower, subject to prescribed conditions.

It is proposed to withdraw this deduction with the sunset clause i.e., investments made until 31 March, 2017, will be eligible for the deduction for next two years i.e., till 31 March, 2019, subject to fulfilment of conditions.

Restriction on cash donations

The maximum limit of cash donations deductible under section 80G has been proposed to be reduced to INR 2,000 from INR 10,000.

Exemption from capital gains taxation on reinvestment in specified bonds

Section 54 EC allows for an exemption from long-term capital gains in respect of investments made in certain specified bonds i.e., NHAI or RECL. It is now proposed to extend the exemption in respect of investments to be made in certain other bonds to be notified by the central government.

Withholding on rent

It is proposed that individuals paying rent of INR 50,000 or more for a month/ part of the month during the previous year should withhold income tax at the rate of 5% in the last month of the previous year or last month of tenancy.

Filing of return

A simplified tax return form (one page) is proposed to be introduced for individuals having taxable income (other than business income) up to INR 5 lakhs.

Corporate Tax

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	INR 10 million < taxable income ≤ 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 25% (plus applicable surcharge and education cess) for domestic companies having total turnover/ gross receipts in the previous year (2015-16) not exceeding INR 500 million. In other cases, the tax rates remain unchanged at 30% (plus applicable surcharge and education cess). Effective tax rates are as under.

For a domestic company having total turnover/ gross receipts in the previous year (2015-16) not exceeding INR 500 million:

Particulars	Taxable income ≤ INR 10 million	INR 10 million < taxable income ≤ INR 100 million	Taxable income > INR 100 million
Corporate tax	25.00%	25.00%	25.00%
Surcharge	-	7.00%	12.00%
Corporate tax + surcharge	25.00%	26.75%	28.00%
Education cess thereon	3.00%	3.00%	3.00%
Effective tax rate	**25.75%**	**27.55%**	**28.84%**

For a domestic company having total turnover/ gross receipts in the previous year (2015-16) exceeding INR 500 million:

Particulars	Taxable income ≤ INR 10 million	INR 10 million < taxable income ≤ INR 100 million	Taxable income > INR 100 million
Corporate tax	30.00%	30.00%	30.00%
Surcharge	-	7.00%	12.00%
Corporate tax + surcharge	30.00%	32.10%	33.60%
Education cess thereon	3.00%	3.00%	3.00%
Effective tax rate	**30.90%**	**33.06%**	**34.61%**

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

Rate of taxation for the slab of taxable income between INR 0.25 million to INR 0.5 million reduced from 10% to 5%. Rate of taxation for the remaining slabs of taxable income remain unchanged.

Changes in rate of surcharge

For assesses having taxable income exceeding INR 5 million but not exceeding INR 10 million, surcharge to be levied at 10%. For assesses having taxable income exceeding INR 10 million, surcharge to be levied at the rate of 15%.

However, the maximum marginal tax rate (MMR) would remain unchanged at 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 taxpayers 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

A. Widening the ambit of tax deduction at source (TDS) provisions

1. Rent

Hitherto, under section 194-I, payment of rent by an individual or HUF that is liable for tax audit under section 44AB of the Act in the preceding year, was liable to withholding tax. Section 194-IB is proposed to be inserted in the Act requiring withholding tax at the rate of five per cent on rent payments exceeding INR 50,000 per month, or part thereof, by an individual or an HUF (other than those covered under section 194-I).

Such tax is to be deducted at the time of credit of rent, for the last month of the previous year or the last month of tenancy (if such property is vacated during the year), or at the time of payment of such rent, whichever is earlier.

If tax is required to be deducted under section 206AA (where the deductee does not furnish PAN), such deduction shall not exceed the amount of rent payable for the last month of the previous year or the last month of tenancy, as the case may be.

Further, such deductor is not required to obtain any tax deduction account number as per section 203A of the Act.

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

2. Payment under joint development agreement

Payment of monetary consideration (i.e., not in kind), if any, to an individual or HUF under a Joint Development Agreement [referred to in proposed section 45(5A)] shall attract withholding tax of ten per cent of such sum.

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

B. Beneficial provisions for call centre business

The existing provision (section 194J), provides for withholding tax rate of ten per cent on payment to resident for, *inter alia*, fees for professional services or fees for technical services.

In order to promote ease of doing business, payment or credits covered under section 194J of the Act to a person engaged only in the business of operation of call centre shall attract reduced withholding tax of two per cent.

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

C. Non-deduction of tax in case of exempt compensation under RFCTLAAR Act, 2013

The existing provisions, *inter alia*, provide that any person paying compensation shall deduct tax at source at the rate of ten per cent on the compensation or enhanced compensation or consideration on account of compulsory acquisition of any immovable property (other than agricultural land) under any law for the time being in force, subject to certain conditions specified therein.

Section 96 of the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013 (RFCTLARR Act), *inter alia*, provides that income-tax shall not be levied on award or agreement made subject to limitations mentioned in section 46 of the said Act. However, there is no provision in the Act to avoid withholding of tax under section 194LA on such payments.

Thus, to rationalise the provisions, it is proposed to amend section 194LA to provide that no deduction shall be made where such payment is made in respect of any award or agreement which has been exempted from levy of income-tax under section 96 (except those made under section 46) of the RFCTLARR Act.

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

D. Extension of eligible period of concessional tax rate on interest in case of external commercial borrowing and extension of benefit to rupee denominated bonds

1. Extension of eligible period in case of external commercial borrowing

The existing provisions of section 194LC of the Act provide that the interest payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond, including long-term infrastructure bond, shall be eligible for

concessional TDS of five per cent, in respect of borrowings made before 1 July, 2017.

Taking cognisance of representations for the extension of the eligible period, it is proposed to amend section 194LC to provide that the concessional TDS rate of five per cent on such interest payment will now be available in respect of aforesaid borrowings made before 1 July, 2020.

The proposed amendment shall be applicable from AY 2018-19 onwards.

2. *Extension of benefit to rupee denominated bonds (masala bonds)*

Consequent upon demand from various stakeholders for granting benefit of lower rate of TDS to rupee denominated bonds, a press release dated 29 October, 2015 was issued clarifying that TDS at the rate of five per cent would be applicable to these bonds in the same way as it is applicable for offshore dollar denominated bonds.

In order to give effect to the above, it is proposed to amend section 194LC and extend the benefit to rupee denominated bonds issued outside India before 1 July, 2020.

This amendment will take effect retrospectively from 1 April, 2016 in relation to the assessment year 2016-17 and subsequent years.

E. *Extension of eligible period of concessional tax rate on borrowing from FII and QFI - Applicable in relation to the assessment year 2018-19 and subsequent years*

The existing provisions, *inter alia*, provide for a lower TDS rate of five per cent in the case of interest payable at any time before the 1 July, 2017 to FIIs and QFIs on their investments in government securities and rupee denominated corporate bonds provided that the rate of interest does not exceed the rate notified by the central government in this behalf.

Considering the representations received from stakeholders, it is proposed to amend section 194LD to provide that the concessional rate of five per cent TDS on interest will now be available on interest payable before the 1 July, 2020.

The proposed amendment shall be applicable from AY 2018-19 onwards.

F. *"Person responsible for paying" clarified in case of section 195(6)*

The existing provisions, *inter alia*, specify the "person responsible for paying" for withholding tax purposes. However, the provisions do not clarify the person responsible for furnishing information in relation to payments to non-resident under section 195(6) of the Act.

The proposed amendment clarifies that the "person responsible for paying" for the purpose of furnishing information as above shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

The proposed amendment shall be applicable from AY 2017-18 onwards.

G. *Omission of jewellery from TCS provisions*

Section 271DA is proposed to be inserted in the Act for levying penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST (i.e., for receiving cash payment of more than INR 0.3 million from a person in a day, subject to certain exceptions). It is proposed to consequentially amend section 206C to omit the provision relating to tax collection at source at the rate of one per cent of sale consideration on cash sale of jewellery exceeding INR 0.5 million.

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

G. *Strengthening of PAN quoting mechanism in the TCS regime*

It is proposed that any person paying any sum or amount, on which tax is collectable at source under Chapter XVII BB shall furnish his permanent account number to the person responsible for collecting such tax, failing which tax shall be collected at the twice the rate mentioned in the relevant section under Chapter XVII BB or at the rate of five per cent, whichever is higher.

A non-resident not having a permanent establishment in India is exempted from this requirement.

Certain other conditions covering certain scenarios have also been provided in this proposed section.

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

Minimum alternate tax (MAT)

Proposed amendment in relation to carry forward of MAT credit

Under the existing provisions, a company is eligible for MAT credit to the extent of excess of MAT liability over the tax liability under the other provisions of the Act.

The Finance Bill, 2017 has proposed that the MAT credit to the extent of difference between the foreign tax credit allowed against MAT over such credit allowable against the tax under the other provisions of the Act shall not be eligible to be carried forward.

Further, the time limit for carry forward and utilization of MAT credit has been increased from 10 to 15 years.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Proposed amendment in relation to rationalization with Indian Accounting Standards ("Ind AS")

Under the existing provisions of section 115JB, book profit is computed by making certain prescribed adjustments to the net profit in the profit and loss account drawn up as per Indian GAAP.

Since Ind AS has been introduced and is applicable to certain companies and the book profit based on an Ind AS compliant financial statement is likely to be different from that based on existing Indian GAAP, the Finance Bill, 2017 has proposed introduction of certain provisions for computing book profit in case the financial statements of a company are prepared as per Ind AS.

The proposed amendment shall be applicable from AY 2017-18 onwards.

Dividend

Taxability of dividends

In addition to resident individuals, HUF and firms, the tax rate of 10% on dividend received in excess of INR 1 million shall now be applicable to all residents, except for domestic companies and certain funds, trusts and institutions covered under section 10(23C) and section 12AA. This tax is in addition to the tax payable by a company on dividend distributed.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Merger/ Acquisitions, including capital gains

Conversion of preference shares into equity shares

Conversion of preference shares into equity shares to be tax exempt

Under the extant provisions, the conversion of a bond or debenture of a company into equity shares is specifically exempt from capital gains tax, but such a conversion of preference shares is not. In order to maintain parity, a similar benefit is proposed to be extended to the conversion of preference shares of a company into equity shares. It is proposed that the cost of acquisition and period of holding of the preference shares shall be considered while determining the cost of acquisition and period of holding of equity shares acquired on such conversion.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Holding period for long-term capital gains in case of immovable property

Holding period for immovable property (land or building) reduced from 36 months to 24 months

Currently, any capital asset that is an immovable property, held for more than 36 months, is considered a long-term capital asset for the purpose of capital gains. With a view to promote the real-estate sector and to make it more attractive for investment, the holding period for land or building is proposed to be reduced to 24 months to qualify as a long-term capital asset.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Consolidation of plans within a mutual fund scheme

The Finance Act, 2016 granted an exemption from capital gains to transfer of units pursuant to consolidation or merger of mutual fund plans within a scheme. It is now proposed that the cost of acquisition and period of holding of the units in the consolidating plan of mutual fund scheme shall be considered while determining the cost of units and period of holding of the units in the consolidated plan of mutual fund scheme.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Long-term capital gains (LTCG) exemption under section 10(38)

LTCG exemption not available on shares purchased after 01 October, 2004 if no securities transaction tax (STT) is paid at the time of acquisition

Currently, transfer of a long-term capital asset that is an equity share of a company is exempt from capital gains tax provided the transfer has been subject to STT. The Finance Bill, 2017 proposes that in relation to equity shares acquired on or after 01 October, 2004, exemption from capital gains on transfer shall be available only where STT was paid at the time of acquisition also. However, certain exceptions are expected like acquisition of shares in IPO, FPO, bonus or rights issue by a listed company, acquisition by non-residents in accordance with FDI policy etc., through a notification.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Rupee-denominated bonds

Transfer of rupee-denominated bonds issued outside India by a non-resident to another non-resident exempt from capital gains

The Finance Bill, 2017 proposes that transfer of rupee-denominated bonds (issued by an Indian company outside India) held by a non-resident to another non-resident shall be exempt from capital gains. It is further proposed that the benefit provided by the Finance Act, 2016 excluding the forex appreciation of rupee-denominated bonds in the capital gains computation at the time of redemption, shall also be extended to secondary holders of such bonds.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Shifting the base year from 1981 to 2001

Currently, indexation benefit is available on cost of acquisition and cost of improvement for assets classified as long-term while computing capital gains. Further, for assets purchased prior to 01 April, 1981, the cost of acquisition is either the fair market value of the asset as on 01 April, 1981 or the actual cost, at the option of the assessee.

With a view to reduce the difficulties faced by the assessee with respect to availability of information for fair market value as on 01 April, 1981, it is proposed to change the base year to 2001. The assessee shall now have the option to consider the fair market value of the asset as on 01 April, 2001 as the cost of acquisition.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Cost of acquisition in tax-neutral demerger of foreign company

Under the existing provisions, transfer of shares of an Indian company in a demerger of a foreign company to another foreign company is exempt from tax. With a view to rationalize the provisions, it is proposed that the cost of acquisition of shares of the Indian company in the hands of the demerged foreign company shall be considered as the cost in the hands of the resulting foreign company.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Fair market value deemed as full consideration for shares other than quoted shares in certain cases

Fair market value to be substituted as full value consideration in cases where consideration is less than such fair value

Under the current provisions, the value adopted for stamp duty purposes can be substituted as the full value of consideration for computing capital gains on transfer of immovable property where the consideration received or accruing is less than such value. A similar provision is proposed to be introduced for transfer of shares other than quoted shares (as defined) under which the fair market value of such shares will be substituted as full value of consideration in case the consideration received or accruing is less than the fair market value.

Rules to determine the fair market value of such shares will be prescribed.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Tax framework for start-ups in India

Proposed rationalization of conditions for claiming profit-linked deductions by eligible start-ups

Profit-linked deductions to be claimed by eligible start-ups for three consecutive years out of seven years beginning from the year in which such start-up is incorporated

Under the existing provisions, 100% deduction of the profits and gains derived by an eligible start-up, which is set-up before 1 April, 2019, from eligible business involving innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property, is allowed, subject to other prescribed conditions.

Such deduction is allowed for any three consecutive years, out of five years beginning from the year in which such start-up is incorporated.

In light of the fact that start-ups may take time to earn profits from their business, such deduction is proposed to be allowed for any three consecutive years, out of seven years beginning from the year in which such start-up is incorporated.

This amendment will apply in relation to assessment year 2018-19 and subsequent years.

Carry forward and set off of past losses

Eligible start-ups, as referred to in section 80IAC, shall be allowed to carry forward losses incurred in any prior year and set off against income of the previous year, only if all the shareholders holding shares in the prior year continue to hold those shares in the year of set off as well.

Presently, as per section 79, a company (in which the public is not substantially interested) can carry forward losses incurred in any prior year and set it off against income of the previous year, only if more than 51% the shareholders of such company beneficially holding shares carrying voting power on the last day of the prior year in which the loss was incurred, continue to beneficially hold these shares on the last day of the previous year in which set off is claimed.

It is now proposed to amend section 79 to provide that in case of eligible start-up companies referred to in section 80IAC, such carry forward of losses and set off against income of the previous year shall be allowed only if all the shareholders holding shares in the prior year in which loss was incurred, continue to hold those shares in the year of set off as well. Further, only the losses incurred during the period of seven years beginning from the year in which such company was incorporated would be allowed to be carried forward.

The exceptions provided under section 79 in relation to changes in shareholding due to death of a shareholder, or gifting of shares to relatives of the shareholders or change in the shareholding of an Indian company that is a subsidiary of a foreign company on account of amalgamation or demerger of a foreign company shall continue as per existing provisions of section 79.

This amendment will apply in relation to assessment year 2018-19 and subsequent years.

Small taxpayers…

Exclusion from requirement to audit books of account

An eligible individual opting for the presumptive taxation scheme as per section 44AD(1) shall be excluded from the requirement to get his/ her accounts audited

Presently, every individual carrying on a business or profession shall get its accounts audited under section 44AB, if the total sales, turnover or gross receipts exceed INR 1 crore. A press release dated 20 June, 2016 was issued by the CBDT clarifying that if an eligible individual opts for the presumptive taxation scheme as per section 44AD(1) of the Act, he/ she shall not be required to get his/ her accounts audited if the total turnover or gross receipts of the relevant previous year does not exceed INR 2 crore.

It is now proposed to incorporate the above press release in law through an amendment to section 44AB of the Act.

This amendment will apply in relation to assessment year 2017-18 and subsequent years.

Reducing tax rate of small unorganized sector offering income on presumptive basis in order to boost digital payments

Tax rate for income to be computed on presumptive basis is proposed to be reduced

Under the existing provisions of section 44AD of the Act, in case of certain assesses (i.e. an individual, HUF or a partnership firm other than LLP), carrying on any business (other than transportation, agency, brokerage and commission) and having a turnover of INR 2 crore or less, the profit is deemed to be 8% of the total turnover or gross receipts.

The CBDT, in a press release dated 19 December, 2016, mentioned that to achieve the Government's mission of moving towards a less cash economy and to incentivise small traders/ businesses to proactively accept digital payments, it has been decided to reduce the existing rate of deemed profit of 8% under section 44AD of the Act to 6% in respect of the amount of total turnover or gross receipts received through the banking channel/ digital means for the financial year 2016-17. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act shall continue to apply in respect of total turnover or gross receipts received in cash. The press release also clarified that the legislative amendment in this regard shall be carried out through the Finance Bill, 2017.

It is now proposed to amend the law to give effect to the above press release.

Exemptions, deductions and incentives

Rationalisation of tax incentives, deductions and exemptions

Tax exemption for the sale of leftover stock of crude oil stored as part of strategic reserves

With the objective of encouraging foreign companies to store their crude oil in India and to build up the country's strategic oil reserves, an exemption is granted under extant provisions to foreign companies earning income from storage of crude oil in a facility in India and sale thereof to any person resident in India, subject to prescribed conditions. The exemption is available for storage and sale pursuant to the agreement or arrangement entered into with/ approved by the Central Government. However, there was no clarity with respect to income earned from sale of crude oil out of the leftover stock after the expiry of said agreement or arrangement.

Considering the strategic nature of the project benefitting India by augmenting its strategic petroleum reserves, it is proposed to exempt the income earned by foreign companies from sale of leftover stock of crude oil from a facility in India after the expiry of the aforementioned agreement or arrangement, subject to conditions to be notified by the Central Government in this regard.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Rationalisation of provisions relating to computation of profit-linked deduction for special economic zone units

Section 10AA of the Act provides for the deduction of profits and gains earned by special economic zone (SEZ) units from the total income of the taxpayer, subject to fulfilment of certain conditions.

In the context of section 10A of the Act (containing similar provisions as section 10AA and in statute till AY 2011–12), an issue arose as to whether deduction is to be allowed from the total income of the undertaking or from the total income of the taxpayer, and the Courts have taken a view that said deduction is to be allowed from the total income of the undertaking.

It is proposed to clarify that the deduction under section 10AA with respect to the profit of an SEZ unit shall be allowed from the total income of the taxpayer computed in accordance with the provisions of the Act before allowing the deduction under section 10AA. Further, the amount of deduction would be restricted to such total income.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Proposed amendments for disincentivising cash payments

Cash payment made to a person exceeding ₹10,000 per day to be ignored while considering the actual cost of asset as well as investment-linked deduction

Under the existing provisions of section 40A of the Act, revenue expenditure incurred in cash exceeding certain monetary thresholds is not allowed as deduction while computing the total income except in certain specified circumstances.

However, there is no provision for disallowing capital expenditure incurred in cash. In order to discourage the cash mode of payment even for capital expenditure, the following amendments are proposed.

Actual cost of asset:

Expenditure incurred on acquisition of asset (individual or aggregate) exceeding ₹10,000 per day shall be ignored for the purposes of computing the actual cost unless such payment is made

- by an account payee bank cheque/ draft; or
- through the electronic clearing system through a bank account.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Investment-linked deduction:

Investment-linked deduction is provided under section 35AD of the Act in respect of the specified capital expenditure.

This deduction shall not be allowed in respect of expenditure incurred on acquisition of asset for payment (individual or aggregate) exceeding ₹10,000 per day unless such payment is made

- by an account payee bank cheque/ draft; or
- through electronic clearing system through a bank account.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Proposed amendment in respect of disallowance of revenue expenditure incurred in cash

- The monetary threshold for disallowing revenue expenditure incurred in cash under section 40A of the Act has been reduced from ₹20,000 to ₹10,000.
- Further, the mode of payment specified under section 40A of the Act has been expanded to cover the use of the electronic clearing system through a bank account in addition to an account payee bank cheque/ draft.
- The proposed amendment shall be applicable from AY 2018–19 onwards.

Proposed amendment in respect of the restriction on cash donation

- Under the existing provisions of section 80G, deduction is allowed in respect of donation exceeding ₹10,000 if the same is paid by any mode other than cash. The aforesaid limit is now proposed to be reduced from ₹10,000 to ₹2,000.
- The proposed amendment shall be applicable from AY 2018–19 onwards.

Determination of the actual cost of an asset in case of withdrawal of an investment-linked deduction under section 35AD of the Act

The actual cost of a capital asset in case of withdrawal of an investment-linked deduction under section 35AD of the Act is proposed to be the actual cost to the taxpayer as reduced by the amount of depreciation as per the rates in force as if such asset was used for business purposes from the date of acquisition

The existing provisions of Section 35AD of the Act, inter alia provides for investment-linked deduction in respect of a specified business on the amount of specified capital expenditure. Further, section 35AD(7B) provides that if any asset on which the benefit of section 35AD is claimed and allowed is used for a purpose other than specified business, the benefit of deduction already granted under section 35AD shall be deemed to be the income of the assessee.

The existing provisions of the Act did not provide any clarity on the determination of actual cost for the purposes of allowance of depreciation of such assets in cases in which the deduction allowed is subsequently withdrawn under section 35AD(7B) of the Act.

In order to provide clarity, it is proposed that the actual cost of a capital asset in case of a withdrawal of an investment-linked deduction under section 35AD shall be the actual cost of such capital asset to the taxpayer as reduced by the amount of depreciation calculated as per the rates in force, which would have been allowable had such capital asset been used for business purposes from the date of acquisition.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Disallowance of payment made to residents for non-deduction of tax while computing income from other sources

Payment made to residents that are subject to deduction of tax shall not be allowed as a deduction if tax not deducted

Under the existing provisions of section 58 of the Act, certain amounts are not deductible in computing the income under the head "income from other sources."

A disallowance of 30% of the expenditure is made for non-deduction of tax from payment to resident under section 40(a)(ia) of the Act while computing income under the head "profits and gains of business and profession."

In order to improve the tax deduction compliance, it is proposed to extend the aforesaid disallowance (30% of the expenditure) for non-deduction of tax on payment to resident under section 40(a)(ia) of the Act to the computation of income under the head "income from other sources."

The proposed amendment shall be applicable from AY 2018–19 onwards.

Proposed hike in limit of provision for bad and doubtful debts for specified banks

Limit for deduction in respect of provision for bad and doubtful debts for specified banks proposed to be increased from 7.5% to 8.5%.

Under the existing provisions of the Act, the entities, including

- a scheduled bank (not being a bank incorporated by or under the laws of a country outside India); or
- a non-scheduled bank; or

- a co-operative bank other than a primary agricultural credit society; or
- a primary co-operative agricultural and rural development bank;

can claim deduction in respect of provision for bad and doubtful debts up to 7.5% of the total income, subject to satisfaction of certain conditions.

It is proposed to enhance the aforesaid deduction limit from 7.5% to 8.5% of the amount of the total income with the earlier conditions being continued.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Scope of deductions allowable on actual payment basis proposed to be widened

Deduction of interest to co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank proposed to be allowed only when such interest is actually paid

Under the existing provisions of section 43B of the Act, any sum payable by a taxpayer as interest on any loan and advances from a scheduled bank is allowed as a deduction only on actual payment of such interest.

It is proposed to extend the scope of said provisions on the interest payable by the taxpayer on the loans and advances obtained from co-operative banks other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Taxability of interest on bad and doubtful debts in case of co-operative banks

Receipt of interest by co-operative banks (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank in respect of categories of bad and doubtful debts prescribed by the Reserve Bank of India proposed to be chargeable to tax when such interest is credited to the profit and loss account or actually received, whichever is earlier

Under the existing provisions of the Act, any interest income received by certain institutions, banks or corporations in relation to certain categories of bad and doubtful debts shall be chargeable to tax when such interest is credited to the profit and loss account or when such interest is actually received, whichever is earlier.

It is now proposed to extend the scope of the above provision to co-operative banks (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank) in order to level the playing field between the co-operative banks and scheduled banks.

The proposed amendment shall be applicable from AY 2018–19 onwards.

Exemption of income of Chief Minister's Relief Fund and Lieutenant Governor's Relief Fund

Under the extant provision, exemption is provided in respect of certain funds that inter alia include the Prime Minister's National Relief Fund. Similar exemption is proposed to be extended to the Chief Minister's Relief Fund and Lieutenant Governor's Relief Fund retrospectively, with 1 April, 1998, being the date from which payment to these funds is allowed as a deduction under section 80G of the Act.

Charitable trusts and institutions

Restrictions on application by way of corpus donation

To ensure that their income is actually expended towards charitable purposes, it is proposed to amend section 11 to provide that any contribution by a trust out of its income to another charitable trust or institution with a specific direction that it shall form part of the corpus of the recipient trust or institution shall not be treated as application of income for charitable or religious purposes.

A similar amendment is proposed in respect of contributions made by a specified trust, educational institution, hospital or medical institution as referred to in section 10(23C) to a charitable trust or institution for determining application of income.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Cost of acquisition in respect of transfer of asset of a trust that ceases to be for charitable purposes

To ensure that the intended purpose of exemption granted to a charitable trust or institution is achieved, a new "exit tax" was introduced from 01 June, 2016 on accreted income of a registered charitable trust/ institution that claimed to be exempt from tax in earlier years, when the trust ceases to be for charitable purposes.

This exit tax is leviable on the fair market value of the assets minus the liabilities on a specified date.

It is proposed that for the purposes of computing capital gains at the transfer of such asset of the trust or institution, the "cost of acquisition" of such capital asset on which exit tax has been paid shall be the fair market value of the asset taken into account for computation of the exit tax.

This proposed amendment is applicable retrospectively from 01 June, 2016.

Fresh registration to be obtained in case of modifications of the objects of the trust

It is proposed that in case a charitable trust or institution, which has been granted registration under section 12A/ 12AA, adopts or undertakes modifications of its objects that do not conform to the conditions of registration, it would be required to obtain fresh registration under such section within a prescribed timeline.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Requirement of filing the return of income by the trust within the prescribed timeline to claim exemption

It is proposed to insert an additional condition that a charitable trust or institution would be required to file its Return of Income within the time prescribed under the Act in order to claim exemption under section 11 of the Act.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Incorporation of BEPS recommendation

Proposed amendment to limit deduction of interest in certain cases

Under the existing provisions, interest paid by an Indian company to any non-resident associated enterprise is allowable as a deduction without any limit, as long as the interest fulfils the arm's length test as per the Indian transfer pricing regulations. There are no thin capitalisation provisions in the existing law.

In order to incorporate the recommendations of the OECD G-20 Committee in its report on Base Erosion and Profit Shifting (BEPS) Action Plan 4, a new section 94B is proposed to be introduced to provide that

- Where an Indian company or a permanent establishment of a foreign company pays interest or similar consideration exceeding INR 10 million, in respect of any debt from a non-resident associated enterprise of, any excess interest as defined shall not be deductible in computation of income from business.
- Excess interest is defined as the total interest in excess of 30% of the earnings before interest, taxes, depreciation and amortisation (EBITDA) or interest paid to associated enterprises, whichever is lower.
- In case the debt is issued by a lender that is not an associated enterprise but the associated enterprise provides an explicit or implicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by the associated enterprise.
- This section does not apply to an Indian company or a permanent establishment of a foreign company, which is engaged in the business of banking or insurance.
- The excess interest, which is disallowed can be carried forward to the following assessment year and allowed as a deduction against profits of the subsequent years, subject to the maximum allowable interest expenditure stated above. The excess interest can be carried forward only for eight assessment years immediately succeeding the assessment year in which excess interest is computed.
- The terms associated enterprise, debt and permanent establishment have been defined for the purposes of this provision.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Place of effective management (POEM)

No changes have been proposed with respect to the place of effective management (POEM) criteria for tax residency of foreign companies. Thus, the provisions pertaining to POEM under the Act would continue to be applicable with effect from 1 April, 2016, that is from FY 2016–17.

The Central Board of Direct Taxation (CBDT) has recently issued Circular No. 6 of 2017, dated 24 January, 2017, laying down the final guidelines for the determination of the POEM of a foreign company. The final guidelines take forward the concept laid down in the draft guidelines for POEM determination based on the bifurcation of companies engaged in active business outside India and other companies. It further provides clarification on certain key areas. A few illustrations have also been provided to highlight the applicability of principles enumerated in the guidelines.

The Notification, as contemplated under section 115JH of the Act with respect to applicability of various provisions to a foreign company, which is treated as a resident on account of its POEM being in India, is still awaited.

General Anti-Avoidance Rules (GAAR)

No changes have been proposed in the General Anti-Avoidance Rules (GAAR) provisions. Thus, GAAR provisions under the Act would come into force with effect from 1 April, 2017, that is from FY 2017-18.

The CBDT has recently issued clarifications on the implementation of GAAR provisions vide Circular No. 7 of 2017, dated 27 January, 2017. While the clarifications address many areas, it would be preferable if the government presents illustrative cases for providing guidance on the overall applicability of GAAR provisions as were suggested in the 2012 Expert Committee Report.

Assessment, appeals and other procedural provisions

- **Reduction in time-limit for revising return of income**

  The existing provision allows the taxpayer to revise return of income 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.

  In order to expedite assessment, the above time frame for filing revised return has been curtailed. It is now proposed that the taxpayer would be eligible to revise its tax return only up to the end of the assessment year or before the completion of assessment, whichever is earlier.

  The proposed amendment shall be applicable w.e.f 01 April, 2018 onwards.

- **Processing of return within the prescribed time and withholding of refund in certain cases**

  Under the existing provisions, the processing of the return (and therefore the consequential grant of refund, if any) shall not be necessary where a notice for scrutiny assessment has been issued.

  For returns related to AY 2017-18 onwards, it is now proposed that there would be no debar for processing of a tax return on the ground that a notice for scrutiny assessment has been issued.

  However, the authorities have been empowered to withhold the refund arising out of such processing till the completion of assessment by recording reasons and with the prior approval of the Principal Commissioner or Commissioner.

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

  It is proposed to rationalize the timelines to complete assessment, reassessment and recomputation by amending the provisions of section 153. The proposed time-limits are tabulated below:

Particulars	Time-limit
Assessment or best judgement assessment	Under the existing provisions, the time-limit provided is 21 months from the end of the assessment year. It is now proposed to reduce the above time-limit as follows: Assessment Year: Time-limit (to start from end of the assessment year) 2018-19: 18 months 2019-20 onwards: 12 months
Reassessment	Under the existing provisions, the time-limit provided is 9 months from end of the financial year in which the notice for reassessment was served. It is now proposed to increase the above time-limit to 12 months. This proposed amendment shall be applicable on notice issued on or after 01 April, 2019
Fresh assessment pursuant to orders passed by the Income-tax Appellate Tribunal (ITAT) or revisionary order passed by the Principal Commissioner/ Commissioner	Under the existing provisions, the time-limit provided is 9 months from end of the financial year the order of ITAT is received or revisionary order is passed by the specified authorities. It is now proposed to increase the above time-limit to 12 months. This proposed amendment shall be applicable on orders passed or received on or after 01 April, 2019
Order giving effect to the order of appellate authorities requiring further verification	Time limit for passing the order shall be same as applicable for passing fresh assessment in pursuant to directions of appellate authorities. The proposed amendment shall be applicable from 01 June, 2016 onwards.

- **Grant of foreign tax credit**

  In order to align with the rules issued earlier for claiming foreign tax credit, it has been proposed that in cases where the assessee has not been given credit of certain taxes paid outside India since the tax was under dispute, the assessee can approach the tax officer within 6 months from the end of the month in which the dispute is settled with prescribed documents.

  The assessing officer has been empowered to pass an order granting consequential relief by invoking the power conferred under section 154.

  The proposed amendment shall be applicable from AY 2018-19 onwards.

- **Rationalisation of advance tax provisions**

  In the Finance Act, 2016, the benefit of presumptive basis taxation was extended to professionals by introducing the provisions of section 44ADA.

  It is now proposed that such professionals would be required to pay advance tax in single instalments on or before 15 March of every financial year. Such relaxation in payment of advance tax is already available to the eligible assessee opting for presumptive taxation under section 44AD.

  Consequential amendment is also proposed in section 234C.

  The proposed amendment shall be applicable from AY 2017-18 onwards.

- **Fees for delayed filing of return**

  In order to penalize the taxpayers for non-filing of return within the due date, it is proposed to levy a fee on such defaulters in respect of return of income related to AY 2018-19 onwards. The fees would be levied in the following manner:

  – INR 1,000 where total income does not exceed INR 0.5 Million

  – In other cases, INR 5,000 where return is not filed by 31 December of the relevant AY; else, INR 10,000

  Consequently, it is provided that penalty enshrined in section 271F for delay shall not be applicable for such cases.

- **Interest on refund due to deductor**

  Interest payable by the Government on refunds has been increased so as to provide simple interest @ 0.5% per month or part of a month thereof on the refund due to tax deductor. The interest shall be granted from the date of claim of refund/ tax paid until the date of grant of refund.

  The proposed amendment shall be applicable w.e.f 01 April, 2017 onwards.

- **Penalty on professionals for furnishing incorrect information**

  A new section has been proposed to levy penalty of INR 10,000 on specified persons (i.e. accountant, registered valuer or merchant valuer) for furnishing incorrect information in any report or certificate furnished by them under any provision of the Act or the Rules. The said penalty shall not be imposable if there is reasonable cause for the failure.

  The proposed amendment shall be applicable w.e.f 01 April, 2017 onwards.

- **Scope of appealable orders before ITAT widened**

  It is proposed to expand the scope of the appealable orders before the Tribunal to now cover orders passed by the prescribed authority in case of any funds, institutions established for charitable purpose or any trust or institutions established for religious purposes under section 10 (23C).

  The proposed amendment shall be applicable w.e.f 01 April, 2017 onwards.

Other provisions/ amendments

Proposed amendments to clarify interpretation of terms used in a tax treaty

For terms defined in a tax treaty, that definition to be used and if not so defined therein but defined in the Act, the meaning under the Act and any explanation by Central Government to be used.

Under sections 90(1) and 90A(1) of the Act, the Central Government is empowered to enter into tax treaties with other jurisdictions for granting relief in respect of doubly taxed income.

As per existing provisions of sections 90(3) and 90A(3) of the Act, any term used in a tax treaty but not defined in such tax treaty or the Act shall have the meaning assigned to as may be notified by the Central Government, provided it is not inconsistent with the provisions of the Act or the tax treaty.

It is now proposed that where any term used in such tax treaty is defined therein, the said term shall be assigned the same meaning, and where the term is not defined in the tax treaty but defined in the Act, it shall be assigned the meaning under the Act and any explanation issued by the Central Government.

Proposed amendment to tax income from transfer of carbon credits

Under the existing provisions, there is no clarity on taxability of income from transfer of carbon credits. While the tax authorities seek to tax such income as business income at applicable tax rates, there are divergent judicial rulings on this aspect.

In order to provide clarity on the taxation of income from transfer of such carbon credits, it is proposed to insert a new section 115BBG, which provides that the income from transfer of carbon credits will be taxable at 10% and no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision for computation of such income. Carbon credit is also proposed to be defined.

The proposed amendment shall be applicable from AY 2018-19 onwards.

Income from other sources

Proposed amendments to tax receipt of cash or property without adequate consideration

Receipt of cash or property by any person from any other person without consideration or inadequate consideration in excess of INR 50,000 to be taxed.

Currently, the anti-abuse provisions of section 56(2) for receipt of money or property without consideration or inadequate consideration are applicable only to Individuals, HUF and in some specific cases, to firms and companies. In order to cover all types of assesses under the scope of this section, it is proposed to insert a new clause (x) to provide that receipt of the sum of money or the property by any person from any other person without consideration or inadequate consideration in excess of INR 50,000 shall be chargeable to tax in the hands of the recipient under the head “Income from other sources.”

Exceptions are provided in respect of specified situations similar to those covered in current section 56(2)(vii), such as receipt of money from relative, under will, etc. It is proposed to widen exception (as compared to section 56(2)(vii)) by including receipts by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47.

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

Restriction on cash transactions

As a measure to discourage generation and circulation of black money, insertion of new provisions to curb cash transactions of INR 3,00,000 or more and consequential penalty provisions for contravention of such provisions.

It is proposed to insert a new section 269ST, which will provide that no person shall receive an amount of INR 3,00,000 or more:

(a) In aggregate from a person in a day;

(b) In respect of a single transaction; or

(c) In respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account. However, provision of this section shall not apply to:

- Any receipt by Government, any banking company, post office savings bank or co-operative bank.
- Any other persons or class of persons or receipts, which may be notified by the Central Government.
- Transactions of the nature of loans, deposits and specified sum referred to in section 269SS are proposed to be excluded from the scope of the said section.

It is also proposed to insert a new section 271DA to provide for levy of penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST. The penalty is proposed to be equal to the amount of such receipt.

The said penalty shall however not be levied, if the person proves that there were good and sufficient reasons for such contravention.

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

Transfer Pricing

- **Introduction of secondary adjustments**

  Secondary adjustments seek to give an economic effect to the primary transfer pricing adjustment as if the underlying transaction had actually taken place at arm's length. Many jurisdictions, including the US, Germany, France and Netherlands, provide for secondary adjustments, and the same may take the form of a deemed dividend, equity contribution or loan.

  The provisions define a secondary adjustment as an adjustment in the books of accounts of the taxpayer and the associated enterprise. Further, there is a requirement to repatriate the excess money available with the associated enterprise to India. If such excess money is not repatriated within the prescribed time limit, the same will be considered as an advance made by the taxpayer to the associated enterprise, and interest will be computed on the same. The manner of computation of interest, that is the rates, duration, etc., will be prescribed in due course.

  Secondary adjustments will be required in case of the following primary adjustments:

  - *Suo-moto* adjustment offered by the taxpayer
  - Adjustment made by the Assessing Officer and accepted by the taxpayer
  - Adjustment determined by an Advance Pricing Agreement (APA)
  - Adjustment made as per safe harbor rules
  - Adjustment arising as a result of a Mutual Agreement Procedures (MAP) resolution

  The provisions indicate that secondary adjustments would not apply for the Financial Year 2015–16 or prior years, but only if the primary adjustment does not exceed ₹10 million. In all other cases, it would appear to apply.

  Further clarity is required in terms of how the provisions will be applied to periods prior to 1 April, 2017 (the date the provisions would come into force), how an adjustment could be made in the books of accounts of the associated enterprise, possibility of securing double taxation relief when the associated enterprise does not agree to the adjustment, etc.

- **Restrictions on interest deductions**

  The Base Erosion and Profit Shifting (BEPS) Action Plan 4 of the Organisation for Economic Co-operation and Development recommended alternate approaches for countries to limit tax base erosion through interest deductions and other financial payments. As India's response to the above action plan, Budget 2017 proposes to limit tax deduction of specified interest expenses.

  The provisions will apply to taxpayers that are Indian companies or permanent establishments of foreign companies in India. Taxpayers engaged in banking or insurance business have been excluded.

  The provisions will apply to interest or similar expenses paid (including those paid on existing debt) to (a) overseas associated enterprises or (b) third-party lenders for whom the underlying debt is backed by an implicit or explicit guarantee or equivalent deposit from overseas associated enterprises.

  Any interest paid for the year under consideration in excess of 30% of the earnings before interest, taxes, depreciation and amortization of the taxpayer will be treated as excess interest. Excess interest disallowed in a year will be eligible for carry forward up to eight consecutive years subject to the above limits. The provisions will not apply to interest paid or payable up to ₹10 million.

  It is relevant to note that the provisions do not correspondingly limit the withholding tax liability or taxability of the non-resident associated enterprise on the interest income.

  The provisions will apply from the Financial Year 2017–18 and will apply to interest claimed as a deduction from business income.

- **Rationalization of domestic transfer pricing provisions**

  With a view to reduce transfer pricing compliance and facilitate the ease of doing business, payment of expenditure to specified persons, such as directors, parent and sister companies, etc., are proposed to be excluded from domestic transfer pricing provisions with effect from Financial Year 2016–17. Going forward, domestic transfer pricing provisions will only apply to intercompany transactions if one or both the parties are involved in activities eligible for tax holidays.

Financial Services and Real Estate

Funds

Indirect transfer

- It has been clarified that indirect transfer provisions will not be applicable to investment held by non-residents, directly or indirectly, in Category I or Category II foreign portfolio investments. This amendment is applicable with retrospective effect from 1 April, 2012.
- The Budget speech mentions that a clarification will be issued to state that the indirect transfer provisions shall not apply in case of redemption of shares or interests outside India as a result of or arising out of redemption or sale of investment in India, which is chargeable to tax in India.

Income from investments

- Conversion of preference shares into equity shares shall not be regarded as taxable transfer.
  - The holding period of preference shares shall be considered to determine the holding period of equity shares obtained on conversion.
  - The cost of acquisition of preference shares shall be available as the cost for the equity shares obtained on conversion.
- The benefit of long-term capital gains tax exemption under section 10(38) shall be available to shares acquired after 1 October, 2004, only if such shares have been acquired by paying securities transaction tax (STT).
  - Exemption for genuine cases in which the STT could not have been paid such as acquisition of shares in an initial public offering, follow-on public offers, bonuses or rights issued by a listed company, acquisition by a non-resident in accordance with the foreign direct investment policy, etc., will be separately notified
- The sale consideration for transfer of shares other than the quoted shares shall be deemed to be the fair market value (FMV; determined in accordance with the prescribed method) if the actual consideration is lower than such FMV.
- It has been clarified that the concessional rate of 10% for long-term capital gains arising from transfer of capital assets, being shares of closely held companies, will be available with retrospective effect from 1 April, 2013.
- Concessional tax rate of 5% on interest payable to foreign institutional investors and qualified foreign investors on their investments in government securities and specified rupee denominated corporate bonds has been extended to 1 July, 2020.
- Additional tax of 10% applicable on dividend income in excess of ₹1 million has been extended to all Indian residents other than the company and certain assessees qualifying under section 10(23C).
- The base year for cost inflation index is proposed to be changed from 1 April, 1981, to 1 April, 2001, for capital gains computation for all capital assets.
  - The FMV as on 1 April, 2001, shall be treated as the cost of acquisition of assets acquired prior to 1 April, 2001, and the cost of improvement shall include only those expenses that are incurred after such date for computation purposes.
- Section 56 provides for taxation in case of receipt of sum of money or property by any person without consideration or inadequate consideration in excess of ₹50,000. However, these provisions are currently applicable only in the case of Individuals or Hindu Undivided Families (HUF) and in certain cases to a firm or company. It is proposed to widen this section to receipt by any person.

Special taxation regime for offshore funds

Currently, section 9A provides for a special regime in respect of offshore funds, whereby the fund management activity carried out through a fund manager in India shall not constitute a business connection nor trigger residency for such an offshore fund in India. Said section is subject to various conditions, one of which provides that monthly average of the corpus of the fund should not be less than ₹100 crore. It is proposed to provide that this condition shall not apply in the previous year in which the fund is being wound up.

Mutual funds

- Currently, consolidation of plans of mutual funds is not regarded as a taxable transfer. Amendments are proposed to provide that
  - The cost of acquisition of units in the consolidating plan shall be deemed to be the cost of acquisition of the units in the consolidated plan; and
  - The period of holding of the units in the consolidated plan shall include the period of holding of the units in the consolidating plan.
- Under section 80CCG, deduction from total income was allowed to new retail investors for investment in listed equity shares or listed units of an equity-oriented fund for a period of three consecutive years, subject to various conditions and up to a maximum amount of ₹25,000 per year.
  - Deduction under section 80CCG is no longer available to new retail investors from AY 2018–19 onwards.
  - New retail investors who had claimed deduction for AY 2017–18 or prior years will continue to be entitled to deduction until AY 2019–20 if otherwise eligible.

Banks

- Limit for deduction of provision for bad and doubtful debts for scheduled domestic banks/ non-scheduled banks/ certain co-operative banks is proposed to be enhanced from 7.5% to 8.5% of total income computed before making deduction under this clause and Chapter VIA.
- Any sum payable as an interest on any loan from certain co-operative banks shall be allowable as deduction only if it is actually paid on or before filing of the return of income.
- Benefit of offering interest on bad or doubtful debts on receipt basis is now extended to specified co-operative banks.
- Proposed provisions relating to limitations on interest deduction in certain cases will not apply to an Indian company or permanent establishment of a foreign company that is engaged in the business of banking.

Pension

- Exemption provided to partial withdrawal by an employee subscriber from the National Pension System Trust to the extent that it does not exceed 25% of the amount of contribution made by him or her in accordance with the conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013, and regulations made thereunder.
- Self-employed individuals will be eligible for deduction up to 20% (instead of the existing limit of 10%) of the gross total income in respect of the contribution made to the National Pension System Trust.

Rupee denominated bonds

- Concessional tax rate of 5% is extended to interest paid on rupee denominated bonds (popularly known as Masala bonds) issued by an Indian company to non-resident investors up to 30 June, 2020, retrospectively from AY 2016–17.
- Transfer of rupee denominated bonds of an Indian company issued outside India by a non-resident to another non-resident shall not be regarded as taxable transfer.
- Currently, exemption is available on gains arising on account of rupee appreciation against a foreign currency at the time of redemption of a rupee denominated bond of an Indian company subscribed by a non-resident investor. It is proposed to extend this exemption to secondary holders of such bonds as well.

Insurance

- No requirement to deduct tax at source on payments made to insurance agents, being Individual and HUF, subject to such agents providing a self-declaration stating that their income is below the taxable limit.
- Proposed provisions relating to limitations on interest deduction in certain cases will not apply to an insurance company.

Real Estate

Exemptions, deductions and incentives…

Relaxation of tax deduction for developers of affordable housing projects

Relaxation has been proposed in the conditions to qualify for 100% profit-linked deduction in the business of developing qualifying affordable housing projects. These are as follows:

- Size of residential unit will be measured as "carpet area"* and not as "built-up area,"
- Completion of project for claiming deduction will be increased from three years to five years from receipt of approval, and
- Size restriction of 30 square metres (323 square feet) for residential units shall apply only to metro cities (i.e. municipal limits of Chennai, Delhi, Kolkata and Mumbai).

* Carpet area as defined in the Real Estate (Regulation and Development) Act, 2016

Capital gains exemption

Capital gains exemption has been proposed to be extended to specific capital assets transferred by Individuals/ Hindu Undivided Families under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015.

Others…

Clarification on taxability of joint development agreements

Taxability of a joint development agreement ('JDA') has been provided in cases in which consideration to the property owner is in the form of share in the project

With a view to minimise hardships faced by property owners, it has been proposed to introduce provisions in relation to the taxability of capital gains on the execution of JDAs by the owners of immovable properties.

Type of property owner – The provisions are proposed to be applicable to Individuals and Hindu Undivided Families.

Timing – It has been proposed that capital gains should be chargeable to tax in the year in which the completion certificate for the (whole or part of the) project is issued by the competent authority. If the share in the project is sold prior to receipt of the completion certificate, the capital gains should be taxable in the year of actual transfer of the share in property.

Deemed consideration for levying tax on the share in the project – For the purpose of computation of capital gains, the aggregate of the stamp duty value of the relevant share of the project on the date of issue of the completion certificate and cash consideration received shall be deemed to be the total consideration.

Tax cost base for eventual sale of share in the project – Deemed consideration considered for the purpose of the above capital gains computation will be considered as the cost while computing capital gains at the time of eventual sale of share in the project.

Tax deduction at source – The provisions relating to deduction of tax at source at the rate of 10% should be applicable on the portion of cash consideration.

No notional income under the head income from house property

With a view to provide breathing time to real-estate developers for liquidating their inventory, it is proposed that the annual value of building and land appurtenant thereto shall be considered to be nil (i.e. no notional income under the head income from house property) if

- The building and land appurtenant thereto is held as stock-in-trade, and
- The building and land appurtenant thereto is not let out during the whole (or any part) of the year.

The above benefit should be available for a period up to one year from the end of the financial year in which the construction completion certificate is obtained from the relevant authority.

Loss under income from house property

Loss from house property up to ₹0.2 million will be set-off against the income under other heads in the same financial year. Loss above ₹0.2 million is eligible to be carried forward for a period of eight years and can be set-off against income from house property only.

Withholding tax provisions…

TDS on rent

It is proposed to provide for tax deducted at source ('TDS') at the rate of 5% on rent payable by an Individual/ Hindu Undivided Families (other than those liable to tax audit) to any resident, where such rent exceeds ₹50,000 for a month or part thereof.

Compensation under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013

It has been proposed that no deduction of tax should be applicable on compensation paid for acquiring immovable property under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013.

Indirect tax proposals

Excise

Service Tax

Customs Duty

R&D Cess Act

Goods and Services Tax Act

Excise

There are no major changes to Central Excise since GST is likely to be implemented soon.

The limited changes are largely towards incentivizing goods that promote digital economy and are primarily used in the renewable energy sector.

Changes to Excise Act, 1944

The general rate of excise duty remains unchanged at 12.5%.

Rate changes (effective from 2 February, 2017; applicable until 30 June, 2017)

Goods	Existing rate (%)	New rate (%)
Catalyst for use in the manufacture of case components of wind operated electricity generator	12.5	Nil
Resin for use in the manufacture of case components of wind operated electricity generator	12.5	Nil
Membrane sheet and tricot/ spacer for use in the manufacture of reverse osmosis (RO) membrane for household type filters	12.5	6%
Solar tempered glass for use in the manufacture of (a) Solar photovoltaic cells or modules; (b) Solar power generating equipment or systems; (c) Flat plate solar collectors; (d) Solar photovoltaic module and panel for water pumping and other applications	Nil	6%
Parts/ raw material for use in the manufacture of solar tempered glass for use in (a) Solar photovoltaic cells or modules; (b) Solar power generating equipment or systems; (c) Flat plate solar collectors; (d) Solar photovoltaic module and panel for water pumping and other applications	12.5	6%
All items of machinery required for initial setting up of fuel cell based system for generation of power or for demonstration purposes	12.5	6%
All items of machinery required for balance of systems operating on bio-gas, or bio-methane or by-product hydrogen	12.5	6%

- Excise duty on micro ATMs as per standards version 1.5.1, fingerprint reader/ scanner, iris scanner, miniaturised point-of-sale (POS) card reader for mPOS (other than mobile phones or tablet computers) and parts and components for use in the manufacture of such products has been exempted till 30 June, 2017.
- Excise duty rate on all parts for manufacture of LED lights or fixtures, including LED lamps has been reduced to 6% until 30 June, 2017.

- Exemption on POS devices and goods used for manufacture of POS devices has been extended by three months until 30 June, 2017.
- Excise duty rate on motor vehicles for transportation of more than 13 persons including the driver has been reduced to 12.5% with retrospective effect from 1 January, 2017.

Changes to Central Excise Rules, 2002

- Time limit of three months (further extendable by six months, subject to sufficient cause being shown) has been prescribed for deciding the remission of duty (effective 2 February, 2017).

Clarification

- It has been clarified that non-applicability of exemptions under notifications issued under Section 5A of the Central Excise Act, 1944 is only in respect of excisable goods produced or manufactured by an EOU and cleared to DTA. Thus, EOUs are eligible to claim excise exemption in respect of inputs/ raw materials procured by them domestically and utilized for manufacture of goods that are cleared by them to DTA.

Other changes *(applicable from the date of assent of the Finance Bill, 2017)*

Advance ruling

- Changes made in provisions for advance ruling (for excise, customs and service tax). These include
- Authority for advance ruling would be same as under Income Tax
- Fee for application of advance ruling increased to Rs. 10,000
- Time to pronounce ruling increased from 90 days to six months from date of receipt of application
- Existing cases shall stand transferred

Cenvat credit (effective 2 February, 2017)

- Time limit of three months from the date of receipt of application (further extendable by six months) has been prescribed for approval of requests regarding transfer of unutilized cenvat credit lying in accounts in case of transfer of business (e.g. on account of sale, merger, amalgamation or lease)

Service tax

The effective rate of service tax remains unchanged. Further, no major changes made in service tax exemptions or legislative provisions.

1. Changes in exemptions with effect from 2 February, 2017

- Scope of exemption for services provided by Indian Institutes of Management by way of 2-year full-time post-graduate programmes has been widened – earlier, only residential programs were exempted; however, all 2-year full-time post-graduate programmes would now be exempted.
- Exemption has been provided to services of transport of passengers provided by airlines to the government against viability gap funding (VGF), embarking or terminating from a Regional Connectivity Scheme Airport. Exemption is available up to one year from date of commencement of such airports.

2. Changes effective from date of enactment of Finance Bill, 2017

- Exemption from service tax for services by way of carrying out any process amounting to manufacturing or production of goods (excluding liquor for human consumption) shifted from Negative List to Mega Exemption Notification. There is no change in effective taxability.

  Exemption for intermediate production process as job worker has been restricted to cases where such process does not amount to manufacture. In case the process amounts to manufacture, exemption is already covered in another clause.

3. Changes effective from retrospective date

- Retrospective exemption to life insurance services provided by Army, Naval and Air Force Group Insurance Funds to members of defence forces. The amendment is effective from 10 September 2004.
- Retrospective exemption for payment of service tax on one-time upfront amount (premium, salami, cost price and development charge by whatever name called) for long-term lease of 30 years or more of industrial plots by State Government Industrial Development Corporation or Undertaking. The amendment is effective from 1 June, 2007 to 21 September, 2016. The following should be noted:
- This change is line with a similar exemption issued from 22 September, 2016 onwards.
- Refund is to be filed for service tax already collected. Application for refund is to be filed within a period of six months from the date of enactment of Finance Bill, 2017.
- Retrospective amendments have been introduced for valuation of works contract where taxable value recovered from customer includes the value of land as well. In such cases, the amendment prescribes that the value for payment of service tax would not include the value of land.

Customs duty

With GST on the anvil, the Finance Minister has not announced any significant change in Customs laws. While the general effective customs duty rate has remained unchanged, the Finance Minister has exempted import duties on specific products, inputs and raw materials to promote the "Digital India" and "Make in India" initiatives of the government.

Rate of duty

Median rate of BCD has been retained at 10%.

Changes to Customs Act, 1962

- Concept of "beneficial owner" has been introduced under Customs law to widen the ambit of definitions of importer and exporter.
- "International courier terminal" and "Foreign post office" are included in the definition of "Customs station."
- Excess duty paid by importer in specified cases will be kept outside the ambit of unjust enrichment for the purpose of claiming refund.
- Bill of entry for home consumption/ warehousing is to be filed by the end of next day (excluding holidays) from the date on which the vessel, aircraft or vehicle carrying the goods arrives at a customs station. Charges as prescribed are to be levied in case of delayed presentation of bill of entry.
- Person-in-charge of a conveyance entering or departing from India is required to provide passenger and crew information in the specified format, manner and time to the proper officer. Penalty not exceeding INR 50,000 is to be prescribed for non-compliance.
- Period for payment of import duty has been prescribed as follows:
  - In case of self-assessment – on the date of presentation of bill of entry
  - In case of assessment, re-assessment or provisional assessment – within one day (excluding holidays) from the date on which the bill of entry is returned to the importer by the proper officer for payment of duty
- Facility for storage of imported goods in a public warehouse pending clearance has been extended to goods imported for warehousing before their removal. Further, the revised provision does not allow storage of imported goods pending clearance in a private warehouse.
- For goods imported or exported by post, a label or declaration accompanying the goods shall no more be treated as entry for the purpose of Customs Act. Board will prescribe the form and manner in which such entry shall be made.
- A person, other than the applicant, who is party to a show cause notice that is pending/ settled by the Settlement Commission shall also be allowed to make an application for settlement of cases.
- Settlement Commission has been empowered to rectify an error apparent on the face of record within three months from the date of passing order.

The above changes are effective from the date of enactment of Finance Bill, 2017.

Changes to Customs Tariff Act, 1975

- Exemption to three categories of non-actionable subsidies (such as for research activities, disadvantaged regions in exporting country and promotion of existing facilities to new environmental requirements) from the scope of anti-subsidy investigations has now been withdrawn.
- Extension of classification for all personal imports through courier service to Chapter 9804.

The above changes are effective from the date of enactment of Finance Bill, 2017.

Changes in customs duty rates

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

Goods on which BCD rate exempted/ reduced		
Goods	**Existing rate (%)**	**New rate (%)**
Liquefied natural gas (LNG)	5	2.5
• Micro ATMs as per standards version 1.5.1; • Fingerprint reader/ scanner; • Iris scanner; • Miniaturised POS card reader for mPOS (other than mobile phones or tablet computers); • Parts and components for use in the manufacture of aforesaid goods.	7.5	NIL
All items of machinery, including instruments, apparatus and appliances, transmission equipment and auxiliary equipment (including those required for testing and quality control) and components, required for (a) initial setting up of fuel cell based system for generation of power or for demonstration purposes; or (b) balance of systems operating on bio-gas or bio-methane or by-product hydrogen	Varied rates	5
Catalyst and resin for use in the manufacture of cast components of wind operated electricity generator, subject to actual user condition	7.5	5
Solar tempered glass or solar tempered (anti-reflective coated) glass for manufacture of solar cells/panels/modules, subject to actual user condition	5	NIL

Goods on which BCD rate exempted/ reduced		
Goods	**Existing rate (%)**	**New rate (%)**
Hot rolled coils for use in manufacture of welded tubes and pipes falling under heading 7305 or 7306	12.5	10
Magnesium oxide (MgO) coated cold rolled steel coils for use in manufacture of cold rolled grain oriented steel (CRGO) falling under 7225 11 00	10	5
All parts used in the manufacture of LED lights or fixtures including LED Lamps	Varied rates	5
All inputs used in the manufacture of LED (light emitting diode) driver or metal core printed circuit boards for LED lights and fixtures or LED Lamps	Varied rates	5
o-Xylene	2.5	NIL
Medium quality terephthalic acid (MTA) and qualified terephthalic acid(QTA)	10	5
Wattle extract	*7.5*	*2.5*
Myrobalan fruit extract	7.5	2.5
Vinyl polyethylene glycol	10	7.5

Goods on which BCD rate increased		
Goods	**Existing rate (%)**	**New rate (%)**
Cashew nut, roasted, salted or roasted and salted [20081910] – immediate effect	30	45
Parts of filtering or purifying machinery and apparatus for liquids or gases – immediate effect	7.5	10
Co-polymer coated MS tapes/ stainless steel tapes for use in manufacture of telecommunication grade optical fibres or optical fibre cables	*NIL*	*10*

Goods on which SAD exempted /reduced		
Goods	**Existing rate (%)**	**New rate (%)**
Catalyst and resin for use in the manufacture of cast components of wind operated electricity generator, subject to actual user condition	*4*	*Nil (valid till 30 June, 2017)*

Goods on which SAD exemption withdrawn		
Goods	**Existing rate (%)**	**New rate (%)**
Populated PCBs for use in manufacture of mobile phones, subject to actual user condition	*Nil*	*2 (valid until 31 June, 2017, post which the rate would increase to 4%)*

- Export duty imposed on following goods:

Goods on which export duty imposed		
Goods	**Existing rate (%)**	**New rate (%)**
Other aluminium ores, including laterite falling under tariff classification 2606 00 90, with immediate effect	*0*	*15*

The above changes will be effective from 2 February, 2017.

- Limit for availing customs duty exemption on import of goods through postal parcels, packets and letters has been increased from "duty payable of INR 100" to "CIF value of INR 1,000 per consignment."
- Exemption limit for duty-free imports (exempted from BCD, CVD and SAD] of buckles, "D" ring, eyes, rivets, studs, etc. imported by a manufacturer of leather footwear, synthetic footwear or other leather products for exports has been increased from 3% to 5% of the FOB value of goods exported during the preceding financial year.

The above changes will be effective from 2 February, 2017.

R&D Cess Act

- R&D Cess Act is proposed to be repealed from 1 April, 2017. In such case, w.e.f April 2017, no R&D Cess would be paid on import of technology under a foreign collaboration.
- In such case, no adjustment from service tax would be required w.e.f 1 April, 2017.

Goods and Services Tax Act

- The Finance Minister reiterated the progress made on the GST front and also highlighted the momentum of the government to introduce GST at the earliest.
- The following were highlighted in relation to GST:
  - GST Council has finalized its recommendations on most issues based on consensus;
  - Preparation of IT system for GST is on schedule;
  - Extensive reach-out efforts to trade and industry for GST will commence from 1 April, 2017.

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+91-40 44246000

Kolkata

56 & 57, Block DN.
Ground Floor, A- Wing
Sector - V, Salt Lake
Kolkata – 700 091,
West Bengal
+91-033 2357 9101/ 4400 1111

Mumbai

PwC House
Plot No. 18A,
Guru Nanak Road(Station Road),
Bandra (West), Mumbai – 400 050
Maharashtra
+91-22 6689 1000

Gurgaon

Building No. 10,
Tower - C
17th & 18th Floor,
DLF Cyber City,
Gurgaon – 122002
Haryana
+91-124 330 6000

Pune

7th Floor, Tower A - Wing 1,
Business Bay, Airport Road, Yerwada,
Pune – 411 006
Maharashtra
+91-20 4100 4444

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