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Budget 2015 Snapshot

Key proposals for Financial Services Sector

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Key direct tax proposals

- No change in the income-tax rate and education cess. For corporates, the Finance Minister has stated that over the next four years, the corporate tax rate will reduce from 30% to 25%
- Surcharge increased for domestic companies
  - From 5% to 7% where income is above INR 10 mn;
  - Form 10% to 12% where income is above INR 100 mn
  - This additional surcharge shall not apply to non-resident corporate taxpayers
- Wealth tax is abolished and replaced by an additional surcharge of 2%, in cases where the income of the resident individual taxpayer exceeds INR 10 mn
- General Anti Avoidance Rules ('GAAR') provisions deferred by two years and are now effective from 1 April 2017.
  - Explanatory Memorandum provides that GAAR provisions should apply prospectively to investment made on or after 1 April 2017
- Currently, a foreign company is treated as resident of India, if during the year, control and management of affairs is wholly situated in India. The concept of 'control and management' is being replaced by 'place of effective management' A foreign company will now be regarded as a tax resident of India, if its place of effective management is in India , at any time during the year, is in India
- A penalty @ 2% of the value of transaction could be levied if the Indian entity fails to furnish information relating to offshore transaction having the effect of directly or indirectly transferring its right of management or control
- In the case of transfer of a capital asset in a demerger, the cost of acquisition of such asset in the hands of the resulting company shall be the cost for which the demerged company acquired the asset as increased by the cost of improvement incurred by the demerged company
- To promote the inflow of technology, the rate of tax is reduced from 25% to 10% on royalties and fees for technical services received by non-resident tax payers
- Threshold for applicability of domestic transfer pricing has been increased from INR 50 mn to INR 200 mn
- The person responsible for making payment to a non-resident is now required to provide information about such payment to Indian Revenue authorities, even if such payment is not chargeable to tax in India
- As per the Finance Minister's speech, Direct Taxes Code may not be enacted

- The limit for deduction towards contribution to National Pension Scheme has been increased to INR 150,000
- The limit of deduction of health insurance premium increased from INR 15,000 to INR 25,000 and for senior citizens the limit is increased from INR 20,000 to INR 30,000
- A comprehensive new law to deal with the issue of black money is to be introduced in Parliament. Under the new law, in the event of concealment of income / assets or inadequate disclosures of foreign assets, a taxpayer could be prosecuted for a period up to ten years and could also be subject to a penalty at the rate of 300% of tax sought to be evaded

Key policy announcements

- The government is to appoint an expert committee to evaluate the proposition of eliminating multiple prior permissions with a pre-existing regulatory mechanism and suggest draft legislation for this purpose
- Amendments proposed under the Prevention of Money Laundering Act to penalise and prosecute persons making false declaration/documents in the transaction of any business relating to customs; and to enable powers to attach and confiscate equivalent asset in India where assets located abroad cannot be forfeited
- The intent to consider concealment of income or evasion of tax in relation to a foreign asset a predicate offence; suitable provisions to be introduced under the Prevention of Money Laundering Act
- Move towards a cashless society by introducing incentives to spur debit and credit card usage; measures to be introduced to disincentivise cash usage
- A proposal to give powers to the Central Government to regulate equity capital flows; RBI to solely manage debt instruments. All existing capital account regulations to continue until modified or rescinded by the Government
- A proposal to seize and confiscate Indian assets in case of any foreign exchange, foreign security or immovable property situated outside India (exceeding the value of prescribed thresholds) held in contravention of the provisions of the Foreign Exchange Management Act
- The government to introduce a Sovereign Gold Bond, as an alternative to purchasing metal gold

Key indirect tax proposals

- Affirmed the introduction of GST from 1 April 2016
- Service tax rates proposed to be increased to 14% and education cess and secondary and higher education cess withdrawn
- Swachh Bharat Cess @ 2% on the value of taxable services proposed to be introduced
- Advance ruling benefit extended to resident firms, LLPs, sole proprietors and one person company
- Manpower supply and securities services are fully taxable under a reverse charge
- Permitted maintenance of digital invoices and records
- All reimbursements of costs may be included in the value of taxable services
- Provisions relating to penalty amended
- Single premise registration proposed to be granted in two days

CENVAT Credit

- Time limit for taking CENVAT credit on inputs and input services increased from six months to one year
- CENVAT credit of service tax paid under a partial reverse charge can be taken on payment of service tax even where the value is not paid
- CENVAT credit deemed to be used on the last day of the month
- The manner of determining utilisation of CENVAT credit has been introduced
  - First from opening balance
  - Then from admissible credit used during the month
  - Lastly from inadmissible credit used during the month

Key policy announcements

Banking

- In order to operationalise the International Financial Services Centre (IFSC) at Gujarat, a notification under FEMA 1999, shall be issued by the RBI in March 2015, making regulations relating to setting up of financial institutions in the IFSC zone
- Proposal to introduce measures that will incentivise credit or debit card transactions, and disincentivise cash transactions
- Proposal to bank the un-bank and fund the un-fund by establishing MUDRA bank to re-finance micro-finance institutions
- The inclusion of an Indian postal network to the formal financial system thereby increasing the access of people to these systems
- Monetisation by the banks of gold deposits placed by the jewelers
- There is an intention to set up an autonomous Bank Board Bureau to improve the Governance of Public Sector banks. Such a Bank Board Bureau will search and select PSB heads and assist them in developing differentiated strategies/ capital raising plans
- Proposal to improve liquidity in MSME sector by establishing electronic Trade Receivables Discounting System ('TReDS') which shall finance trade receivables of such MSMEs

Non-banking Finance Companies

- RBI registered NBFCs having an asset size of INR 5000 mn and above will be considered to be a 'Financial Institution' under the Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002

Capital Markets

- A proposal to merge the Forwards Markets Commission with SEBI to strengthen the regulation of commodity forward markets and to reduce wild speculation
- Deepening of the Indian bond market by setting up a Public Debt Management Agency which intends to bring both India's external borrowings and domestic debt under one roof
- Permitting tax free infrastructure bonds for projects in the rail, road and irrigation sectors
- The concept of a task force to establish a sector-neutral Financial Redressal Agency that will address grievances against all financial service providers
- Proposal to place the Indian Financial Code, Bankruptcy Code, Benami Transactions (Prohibition) Bill in the Parliament for consideration

Key direct tax proposals

Banking

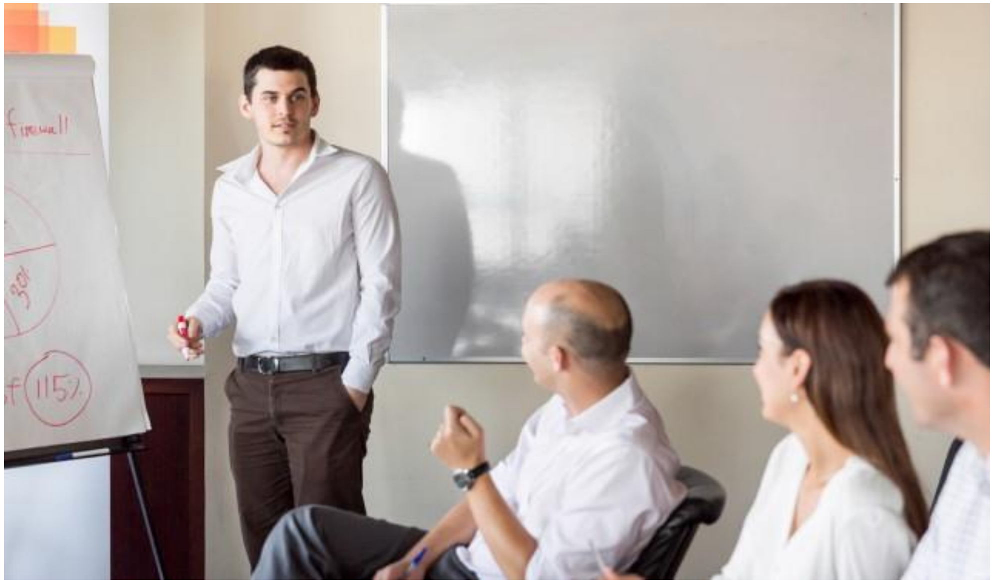
- Interest payable by an Indian branch to its head office or other offshore branches is taxable in India, and is deemed to be a separate and an independent person from its head office or offshore branches for taxation purposes
- Interest payable on recurring deposits exceeding INR 10,000 covered within the TDS ambit with effect from 1 June 2016
- Computation of interest income for the purposes of deduction of tax should be made with reference to the income credited or paid by the banking company which has adopted core banking solutions, and not branch wise

Capital Markets

- As notified by the SEBI, the Clearing Corporations of India are mandated to establish a fund, called Core Settlement Guarantee Fund ('CSGF') for each segment of each recognised stock exchange to guarantee the settlement of trades executed in respective segments of the exchange

  The following income earned by CSGF, which is established by the Clearing Corporation of India are exempt from tax:

  - Income from contributions received from specified persons;
  - Income by way of penalties imposed by the recognised clearing corporation and credited to the CSGF; or
  - Income from investments made by CSGF
  - However, this income shall be deemed to be the income of the year in which it is shared, and shall be chargeable to tax in that year
- Definition of GDRs are proposed to be amended to include GDRs issued against shares of listed companies
- The definition of derivatives under SCRA has been amended to include repo and reverse repo, commodity derivatives and such other instruments as may be declared by the Central Government as derivatives



Key policy announcements

- In a bid to attract foreign investments, distinction between different types of foreign investments in Indian companies, especially Foreign Portfolio Investment and Foreign Direct Investment, to be done away with
- Proposal to provide thrust on deepening Indian bond market. Setting up a Public Debt Management Agency in order to bring it to the same level as the equity market

Key direct tax proposals

- No change in base tax rates applicable to FPIs. However, a surcharge rate for foreign non-corporate entities increased from 10% to 12%, where the total income of such entities exceeds INR 10 million
- GAAR provisions deferred by two years and are now effective from 1 April 2017.
  - Explanatory Memorandum provides that GAAR provisions should apply prospectively to investment made on or after 1 April 2017
- Taxability of income of foreign funds whose fund manager is located in India has been clarified. Fund management activity carried out through an eligible fund manager shall not constitute a business connection in India of the eligible fund
- The threshold for a foreign company to be treated as a resident of India has been reduced. Currently, a foreign company is treated as a resident of India only if it is wholly managed and controlled from India. It is proposed that a foreign company will be a resident in India if its place of effective management is situated in India at any time during the year. However, the mere presence of an eligible fund manager in India will not affect the residential status of the eligible investment fund
- Minimum Alternate Tax ('MAT') provisions will not be applicable to capital gains income of FPIs. It is clarified that for computing book profits, capital gains (other than short-term capital gains on which STT is not chargeable) should be excluded. Effectively, there should be no MAT on most of the FPIs. However, MAT provisions may apply to other incomes (like interest income) which are subject to a lower rate of tax. By implication, this change may also mean that all foreign investors including FPIs should be required to maintain books of accounts, calculate book profits and fulfil related compliances
- Clarification of offshore transfers (Refer Private Equity & VCs tab)
- Sunset clause for provision relating to applicability of 5% tax rate to FPIs on income from certain corporate bonds and government securities, extended from 31 May 2015 to 30 June 2017

Key direct tax proposals

- Transfer of units (where held as a capital asset) under a consolidation scheme of a mutual fund not to be regarded as a taxable 'transfer'
  - Consolidation is of two or more schemes of equity oriented fund or two or more schemes of a fund other than equity oriented fund
  - Consolidation of scheme to be in accordance with the SEBI (Mutual Funds) Regulations, 1996
  - Cost of acquisition of units in the consolidating scheme deemed to be the cost of acquisition of the units in the consolidated scheme
  - Period of holding of units in the consolidated scheme to include the period of holding of units in the consolidating scheme
- Where income distributed by a mutual fund is subject to income distribution tax (other than equity oriented funds), effective tax rates on such distribution, consequent to an increase in surcharge from 10% to 12% are tabulated below

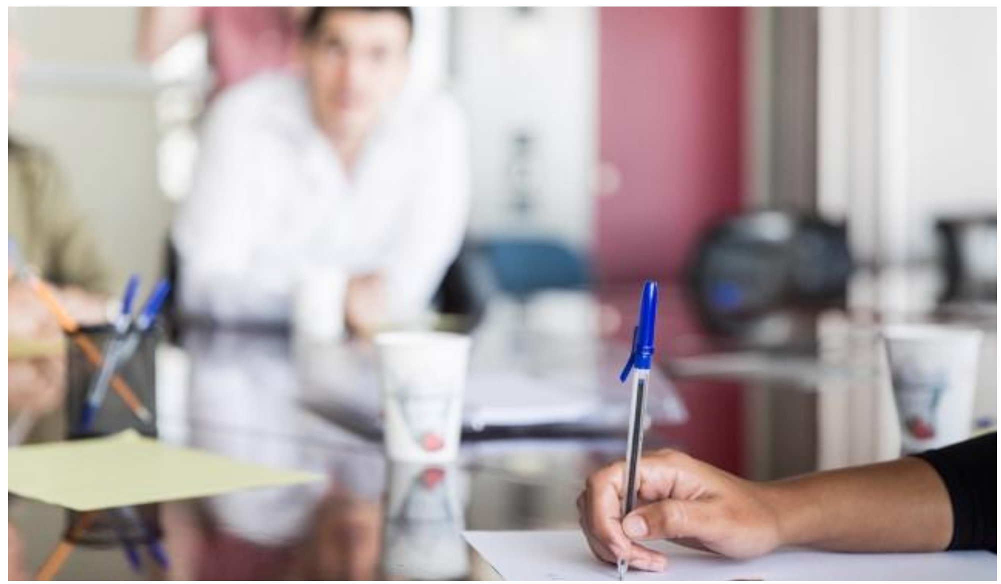
Income distributed to	Existing effective tax rate*	Proposed effective tax rate#
Individuals and HUFs	37.77%	38.45%
Persons other than Individuals and HUFs	48.56%	49.44%
Non-residents by infrastructure debt fund	5.96%	6.07%

*Inclusive of surcharge @ 10% and education cess @ 3%
#Inclusive of surcharge @ 12% and education cess @ 3%

- Safe harbour for the management of offshore funds from India, subject to conditions (Refer FIIs / FPIs tab)

Key indirect tax proposals

- Exemption withdrawn on services provided by:
  - A mutual fund agent to a mutual fund or asset management company
  - Distributor to a mutual fund or AMC
- For the above, service tax is now payable on a reverse charge basis by the Mutual Fund/AMC



Key policy announcements

- The distinction between foreign direct investments and foreign portfolio investments is to be done away with; composite caps to be notified
- Foreign investments allowed in Alternative Investment Funds ('AIF')

Key direct tax proposals

- GAAR has been deferred by two years. An explanatory memorandum provides for grandfathering of all investments made up to 31 March 2017

Overseas transfers

- 50% threshold of the fair value of total assets will be used to determine the *situs* of overseas asset in India
- These provision will apply only if value of the assets exceed INR 10 crores
- Proposal to tax only proportionate value in India, in respect of which rules will be prescribed
- Exemptions for:
  - Small shareholders holding not more than 5% (together with associate enterprise) and not having any right of management and control
  - Offshore restructuring
- Vague reporting obligation for the Indian company/ entity
- CBDT to clarify the applicability of indirect transfer provisions to dividends paid by foreign companies to its shareholders

Domestic AIF's

- Tax 'pass-through' status provided for all Category-I and Category-II of AIFs ('Investment funds') governed by SEBI (Alternative Investment Funds) Regulations, 2012
- Tax 'pass-through' also extended to LLPs and body corporate
- Business income not eligible for 'pass-through', and taxable in the hands of Investment funds
- The explanatory Memorandum provides that AIFs will be notified as a category entitled to receive income without deduction of taxes at source
- Income payable by Investment Funds subject to deduction of tax at source at 10%
- MAT may not be applicable to income arising to investors in Investment funds
- Express provisions provided for filing a return of income by Investment funds

Other amendments

- Place of Effective Management - Refer to the FIIs / FPIs tab
- Taxability of income of foreign funds - Refer to the FIIs / FPIs tab
- Specific exclusion of applicability of MAT to FPIs may raise questions on the applicability of MAT to other foreign investors which are not registered as FPIs

Key policy announcements

- 'Housing for all' - To build 60 million houses in urban and rural areas
- National Investment and Infrastructure Fund to be set up for making investment in infrastructure finance companies
- Road Sector - To complete 100,000 km of under construction roads and providing sanction for another 100,000 km
- 'Electrification by 2020' - for the balance 20,000 villages
- Introduction of a new bill to curb benami transactions in real estate
- Increase in outlay by INR 700 billion for infrastructure in 2015-16
- Tax free infrastructure bonds to be issued for projects in the rail, road and irrigation sector
- Five new Ultra Mega Power Projects (4,000 MWs each) to be set up in plug-and-play mode

Key direct tax proposals

Migration to REITs / InvITs

- Sale of units (received under swap) either during the IPO or subsequently post listing (subject to STT):
  - Exempt from tax if long term
  - Taxable at 15% if short term
- MAT continues to apply on swap of SPV shares with REIT units
- Capital gains tax continues to apply on transfer of property to REIT
- Cumulative holding period of SPV shares and REIT / InvIT units - More than 36 months to qualify as long term capital asset

Rental income of REIT

- Pass through status at REIT level
- No tax to be deducted by tenants paying rental income to REIT
- REIT to deduct tax at source on distribution:
  - Resident unit holders: 10%
  - Non-resident unit holders: At rates in force (the rates provided in respective tax treaties to be available)

Other amendments

- Prohibition on payment of cash of INR 20,000 or more for transfer of immovable property
  - Subject to penal consequences that can extend up to the cash amount involved
  - Penal consequences to apply even if the transaction is reversed
- Income earned by members of Association of Person from JDA / consortium agreements not to be included in book profits for MAT purposes
- Wealth-tax Act abolished

Key indirect tax proposals

- Exemption of construction, erection, commissioning or installation related services pertaining to an airport or port has been withdrawn

Key policy announcements

- Pradhan Mantri Suraksha Bima Yojana to provide accidental death cover of INR 200,000 for a premium of INR 12 per year
- Pradhan Mantri Jeevan Jyoti Bima Yojana to provide both natural and accidental death cover of INR 200,000 at a premium of INR 330 per year for the age group of 18-50
- 'Atal Pension Yojana' is to be launched where new accounts could be opened by 31 December 2015, to provide a defined pension. The government will contribute 50% of the beneficiaries' premium amount for a period of five years, up to INR 1,000 each year

Key direct tax proposals

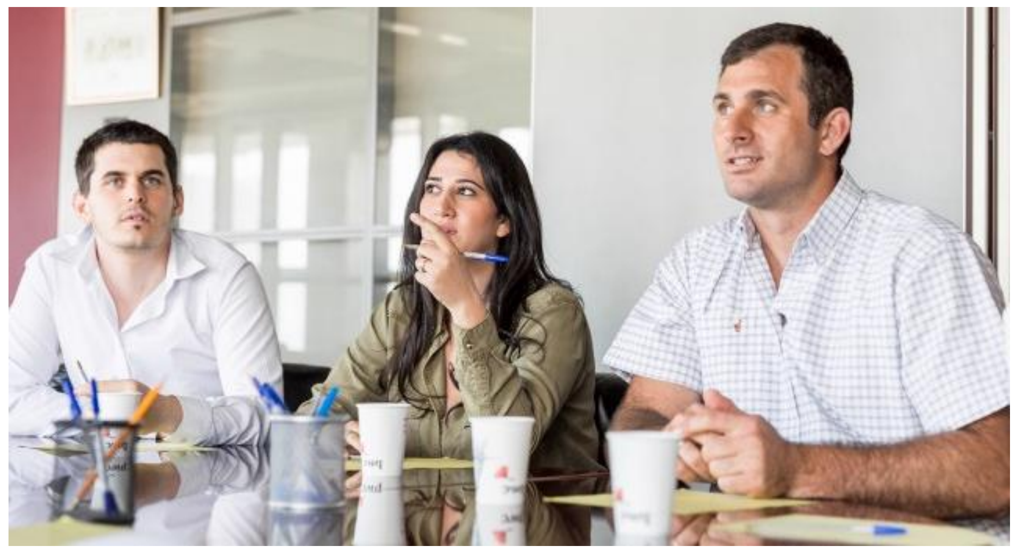
- Deduction limit for any amount paid under an annuity plan of an insurance company, increased from INR 100,000 to INR 150,000
- The recipients of any proceeds under non-qualifying life insurance policies can now furnish a self-declaration to the life insurance company for non-deduction of tax. This provision would apply from 1 June 2015
- In respect of amounts paid to a scheme of an insurance company for maintenance of a disabled dependent, deduction is now allowed for INR 75,000 in place of INR 50,000. Where the dependent person suffers from a severe disability, a deduction is now allowed for INR 125,000 in place of INR 100,000
- Tax is to be deducted only at the time of payment of interest (and not on accrual of interest) on compensation awarded by Motor Accident Claim Tribunal. This provision would apply from 1 June 2015

Key indirect tax proposals

- Composition rates amended

Service	Old rate	New rate
Life insurance (first year premium)	3%	3.5%
Life insurance (subsequent year premiums)	1.5%	1.75%

- Life insurance service provided by way of Varishtha Pension Bima Yojna would be exempted from 1 April 2015



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