India Budget 2015

Looking at a new horizon

February 2015

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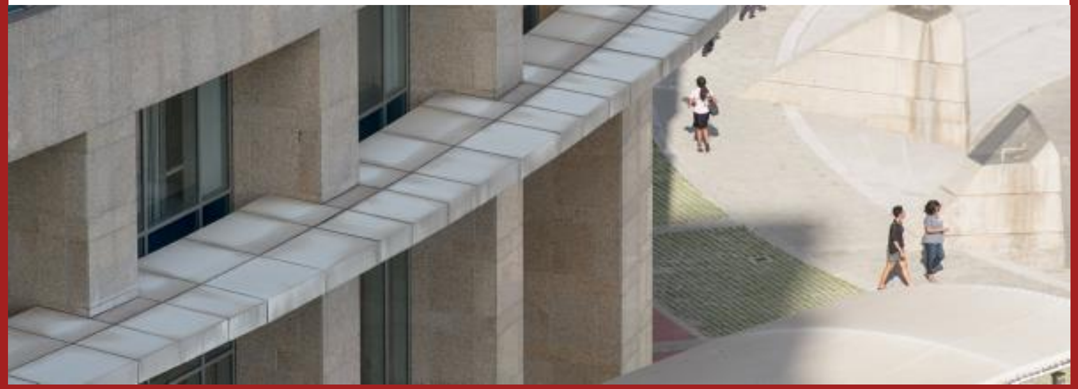

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Pressure to deliver on poll promises

In the last Budget in July 2014, the new Government had extremely limited time at its disposal after forming the Government and before the Budget and no one really expected them to deliver much. However, given the overwhelming mandate it was given, this time, there was pressure to deliver on as yet undimmed high expectations, mainly that it will reverse the trend of low GDP growth rates and control inflation. The Finance Minister would seem to have delivered on these three counts, because he has projected GDP growth rate for FY 2015-16 to be between 8 and 8.5% and effectively held out that double digit growth rates were within striking distance. On inflation, he has been helped partly by fall in global oil and gas prices. He has also announced creation of Unified National Agriculture Market which would loosen the grip of middlemen and agencies like APMCs on pricing of agricultural products which have not always been responsive to government's nudges and signals.

Popular initiatives: Walking the talk

Make in India, Swachh Bharat Abhiyaan and Minimum Government, Maximum Governance are Prime Minister Modi's 'pet projects' that have caught on. Now, to this list is added 'Housing for All by 2022'. The Government had even before the budget shown the will to translate mere words into changes and initiatives on the ground. The budget has seen a proposal of imposing a "Swachh Bharat" cess at 2% on certain services. A few more projects that bear the prime Minister's imprimatur in their naming have been introduced, including Paramparagat Krishi Vikas Yojna and Pradhan Mantri Gram Sinchai Yojna to provide what the FM has called "Per drop, More crop".

Greater inclusiveness is also another ongoing theme, with the JAM Trinity as the spearhead – a combination of Jan Dhan Yojna, Aadhar and Mobile numbers, which will allow transfer of benefits of welfare spending directly to intended beneficiaries at low cost, with minimal leakage or cash handling. However, the other big reform, namely GST, has only seen reiteration of intent, with no further roadmap, which has been a bit of disappointment.

Infrastructure, as expected, is a big beneficiary of increased directed spending of as much as INR 700 billion. Other areas of attention are improved allocative and operational efficiencies of Government expenditure with more targeted subsidies and greater Ease of Doing Business by dismantling some hindrances to doing business that do not add value.

On the tax front, a bold initiative has been the announcement of a 4-year roadmap to reduce corporate tax rates to 25% from the current level of 30%, though the first move towards that may take at least a year more.

Strengthening the regulatory regime in Financial Markets

A big step taken is the proposal to merge the Forwards Markets Commission with SEBI to reduce the volatility due to speculation in Commodity Forward Markets and greater control on capital flows in the form of Equity. At the same time, three different proposals involve monetisation of privately held gold, and offering private citizens financial alternatives to investing in unproductive bullion assets.

New GDP calculation causing cognitive dissonance

A few weeks before the Budget, the new Government announced a change in its GDP calculation methodology and base year – in a trice, India shot from having a GDP growth rate that was looking sluggish to outstripping China's growth rate. The Government has described the change as moving from factor prices to market prices – which they say is more in line with global practice, along with advancing the base year from 2004-05 to 2011-12.

Most economists (including RBI Governor Raghuram Rajan) are, however, disoriented with this measure because the abrupt switch is creating cognitive dissonance amongst analysts – like wearing someone else's glasses. Hence, this time, instead of GDP growth rate, most are looking for directional signals from policy decisions.

Demographic challenge before demographic dividend

The median Indian is 23 years old. This is a demographic blessing – but one that India can encash only if the Government can find ways to train and employ the ever-swelling numbers of employable age youth gainfully and deliver on their aspirations. Encouraging start-ups in the IT industry and scaling them up through incubation and facilitation besides removing of obstacles from big business which creates high employment are some of the methods for creating millions of new jobs. The Kelkar Committee had noted that our labour force grew at roughly 2.5% p.a., and that if elasticity of employment to GDP growth was taken to be 0.4, it meant that if GDP growth slipped below 6%, unemployment would rise.

The FM has shown acute awareness of this truth. Fortunately, as the Economic Survey 2015 observed, India has reached a rare sweet spot that could launch it on a double digital medium term growth territory. Indeed, our PwC report titled "Future of India – The Winning Leap" had observed that India could, given the right circumstances, grow at a CAGR of 9% in the next 20 years.

The importance of this has recently came home in Delhi's state elections. The new Government has done well to imbibe lessons from this and has introduced more funding for the unfunded, besides more spending on infrastructure, employment generation, health and education.

India as a single, frictionless market

India's brand of robust federalism combined with the archetype of the argumentative Indian will has so far stopped any movement towards a genuinely frictionless single market, with the stumbling block being the sheer number of state tax laws. GST promises to make the current system of tax look like a bad dream.

For several decades, most of us have seen new products that caught the imagination of the market selling in the millions within days in advanced markets like US and Europe, and wondered how this could be possible when selling anything even in the thousands was a herculean task for most Indian manufacturers. In recent times, E-commerce companies have shown us the way - with millions of smart phones being sold in seconds on flash sales conducted on fiercely competing e-Commerce platforms – thanks to the frictionless online marketplace model initially unhindered by the mind boggling variety of state and local levies and procedures. Here at last the proof of the concept that a friction less market which is not under a cloud of legality can unleash the true power of India's vast population of aspirational spenders. Unfortunately, other than reiteration of the intent to continue on the path of GST, the FM announced no other plans or roadmap.

Economic performance

- The challenges faced in this 2015-16 budget
- Fiscal consolidation
- Dismantling the planning commission
- Tax policy and tax administration
- Financial sector reforms
- Infrastructure
- Achieving high performance in government
- Implications and outlook

The challenges faced in this 2015-16 budget

This was an unusual budget making exercise for three reasons:

- This was the first full year budget of the new BJP government, and they were expected to show a strategy for the coming 4 years.
- This is the first majority in the Lok Sabha in 30 years.
- There is an unusual opportunity for fundamental change in expenditure, through the combination of the shuttering of the Planning Commission and through increasing the resource flow to state governments.

Fiscal consolidation

Mr. Modi was a fiscally prudent finance minister in Gujarat, and that kind of approach was expected in New Delhi also. Three factors have shaped the fiscal situation:

- The government got a windfall on account of reduced crude oil prices, which reduce the magnitude of oil-related subsidies. They have also reduced subsidies on some petroleum products.
- When the 14th Finance Commission took the resource share of the states up, from 30% to 42%, this need not have any adverse impact for central finances as it should merely involve expenditures down to the state government level (where they belong). But this requires clarity and energy in reforming the machinery of central expenditure.
- India's fiscal dynamics in recent years was greatly assisted by the inflation crisis. From February 2006 onwards, buyers of government bonds repeatedly experienced inflation that was greater than expected. When this happens, the seller of bonds benefits; the INR 100 which is paid back to the bondholder is worth less than the INR 100 that was expected at the time the bond was issued. As a consequence, from 2006 till 2013, even though there was substantial fiscal indiscipline, the fundamental indicators of debt soundness – debt/GDP and interest/GDP – did not worsen much. Year on year, the growth of interest payments was modest. *This problem is now hitting India in reverse*. Global deflation has collapsed inflation in India. Now bond holders are experiencing lower inflation when compared with what was expected at the time of bond issue. Now the *buyer* of bonds is benefiting; the INR 100 which is paid back to the bondholder is worth *more* than the INR 100 which was expected at the time the bond was issued.

Fiscal consolidation

When the Indian credit rating was teetering on the brink of sub-investment grade, the country committed to a certain fiscal adjustment trajectory. This fiscal adjustment trajectory has been changed by asking for one more year to reach the 3% target in 2017-18.

The Finance Bill proposes to amend the FRBM Act, thus showing that flouting the FRBM Act is all too easy.

A sound test of the correct fiscal stance is the following rule: *"Barring a year with a bad business cycle downturn, we should have a primary surplus; Primary deficits should happen no more than (say) in two years out of 10"*. Last year's primary surplus was -0.8% and the next year's is budgeted at -0.7%. This suggests that the Indian fiscal situation is wrong by roughly 1% of GDP.

Non-interest expenditure is budgeted to grow by only 4.06%. The problem lies in interest payments, which are budgeted to grow at 10.89%, because of which India is experiencing a gain in primary deficit of only 0.1 percentage points.

Looking forward, there is a basic drag owing to inflation surprises. In coming years, interest/GDP and debt/GDP could get worse. It would have been better to run a tight ship and get to a primary surplus of -0.2% this year and +0.5% next year. Debt/GDP only goes down when we combine small primary surpluses with high GDP growth.

Dismantling the planning commission

The planning commission was not in the Constitution of India. The failures of the planning commission, and the concepts of plan vs. non-plan expenditure, are central to the failures of the Indian State. Mr. Modi took a big step forward by announcing the abolition of the planning commission.

This requires a corresponding re-engineering of government around the theme of accountability.

Some re-engineering that flows from closing down the Planning Commission has been done, but a lot of it has not been done. Most ‘plan schemes’ have not been dismantled. There is no articulation of what the post-Planning-Commission world will look like. There is no talk of planning how to redesign the Indian fiscal system in this new world.

Tax policy and tax administration

Bad tax policy and administration are hampering GDP growth. For many years now, the tax/GDP ratio has been declining. In 2014-15, gross tax revenues (net to centre) had a shortfall of INR 1131.33 billion or 8.3%.

India has a tax rate of 44% on corporate income, combining corporate tax and the dividend distribution tax – one of the highest tax rates in the world. If the intent is to cut the rate of corporate taxation, it could have started now.

The finance minister reiterates that a good GST will be built. The bottleneck is in implementation. We need sophisticated teams who can think through policy and administration of GST. A credible implementation strategy for GST is not yet visible.

An integral feature of the Modi campaign was the objective of reducing the complexity of doing business. One major element of the difficulties which firms have faced is the tax system. There should have been a strategy on reforming tax policy and administration.

Financial sector reforms

The announcements are:

Financial markets

- Merge commodity futures and the government bond market into SEBI, and setup the Public Debt Management Agency.

International finance

- Regulation-making power on equity related capital flows to shift to Government.
- Build out GIFT as an International Financial Services Centre (IFSC).

Monetary policy

- A 'Monetary Policy Framework Agreement' has been signed with RBI, which gives RBI an inflation target of "below 6%". The RBI Act will be amended to provide for a Monetary Policy Committee.

Deeper institution building

- Setup commercial divisions in courts of India.
- Setup Task force for creating Financial Redress Agency.
- Introduce Indian Financial Code "*sooner rather than later*"

Pension reforms

- There are a slew of social security proposals. Employees will be given the choice of opting out of EPF and going into NPS instead.

Bankruptcy process

- Bring a comprehensive Bankruptcy Code in fiscal 2015-16, which will meet global standards, and provide necessary judicial capacity.

Refinancing micro-finance institutions

- A 'MUDRA Bank' which will be a PSU which will refinance micro finance institutions.

Financial sector reforms (contd.)

Financial markets:

The vision for organised financial trading by all expert committees has been to harness economies of scale and economies of scope by unifying all organised financial trading. Government bonds and commodity futures will now be with SEBI.

The Bond-Currency-Derivatives Nexus is a deeply interconnected set of markets combining spot and derivatives markets on government bonds, corporate bonds and on currencies. All these markets are tightly interlinked through arbitrage.

Under the old arrangement, RBI was keen to prevent the Bond-Currency-Derivatives Nexus from emerging, and SEBI only had jurisdiction on corporate bonds with maturity over 1 year. The new arrangement consists of government bonds and corporate bonds of maturity over 1 year with SEBI, with everything else in the Bond-Currency-Derivatives Nexus with RBI.

International finance:

It makes sense to shift regulation-making power on capital controls out of RBI. Regulation-making for only equity flows will shift to the government. There is room for improving capital controls regulations on equity flows, but the potential gains are small. The large gains are on capital controls for debt flows.

International Financial Services Centres (IFSCs) like GIFT City are a good idea. We will know GIFT City will actually work only when a concrete management mechanism is put into place and starts smoothly delivering results.

Financial sector reforms (contd.)

Monetary policy:

From 1934 onwards, RBI has had the power to create money, but there has been no monetary policy framework which delivered low and stable inflation. The July 2014 budget speech had promised that for the first time, a monetary policy framework would be put into place. Now, we are told that a “Monetary Policy Framework Agreement” has been signed between MOF and RBI, which gives RBI an inflation target of "below 6%". The text of the agreement is not released, so it is not possible to understand whether this has been done properly.

The RBI Act is to be amended to provide for a Monetary Policy Committee. There are subtle design issues associated with setting this up. We have to wait and see the extent to which sound thinking has gone into the Monetary Policy Framework Agreement, and in this future amendment of the RBI Act.

Deeper institution building:

Four “task forces” are in motion on establishing the institutional architecture of the draft Indian Financial Code – The Public Debt Management Agency, the Resolution Corporation, the Financial Sector Appellate Tribunal and the Financial Data Management Centre.

A fifth task force will be created: the ‘Financial Redress Agency’, which will hear aggrieved customers of financial services across the entire Indian financial system. It constitutes one more building block towards enacting and enforcing the Indian Financial Code.

The budget speech promised to introduce the Indian Financial Code in Parliament. This is the centrepiece of the Indian financial reforms: a single, coherent, modern, well thought out law that replaces haphazard 61 laws which govern finance in India today.

Financial sector reforms (contd.)

Pension reforms:

EPFO is mandatory for most employees of non-trivial private firms. Now that the institutional machinery of the national pension System (NPS) is working, it will be given as a choice to workers in the EPF. This is a big step forward in terms of developing pension planning for millions of households, and long-term institutional investment in the country.

However, alongside this, are a worrisome set of announcements of 'social security' proposals. Extreme care is required on understanding the fiscal consequences of such proposals, with number crunching going out into the next 75 years. It is not clear that such analysis has been done.

Bankruptcy process:

The Vishwanathan Committee is working on improving the bankruptcy process. The Budget speech has promised a much more ambitious objective: to bring a comprehensive Bankruptcy Code in fiscal 2015-16, which will meet global standards, and provide necessary judicial capacity.

Refinancing micro-finance institutions:

'Mudra bank' is an old style socialist initiative, which is inconsistent with all the other modern elements of financial sector reforms.

Infrastructure

Before the budget speech, there was a lot of talk of a great wave of public investment in infrastructure which was going to revitalise the economy. The numbers are now visible – spending on roads will go up by INR 140 billion, on railways by INR 100 billion. Off-balance-sheet borrowing of INR 200 billion a year is proposed. If all these are summed up, this comes to less than 0.4% of GDP. This is not going to make a difference to the demand side of the economy, even if we think that all this spending hits the economy in 2015-16 itself.

However, a group of initiatives could constitute genuine progress on infrastructure. Legislation on replacing multiple prior permissions by a pre-existing regulatory mechanism; new laws on procurement, disputes and infrastructure regulation.

Other reforms

NITI, we are told, will work on creation of a Unified National Agriculture Market. This is a very important area. We have to cautiously see the extent to which modern thinking, and high quality execution, is brought into the work of NITI on this question.

A strict policing environment is proposed on overseas assets.

Conclusion

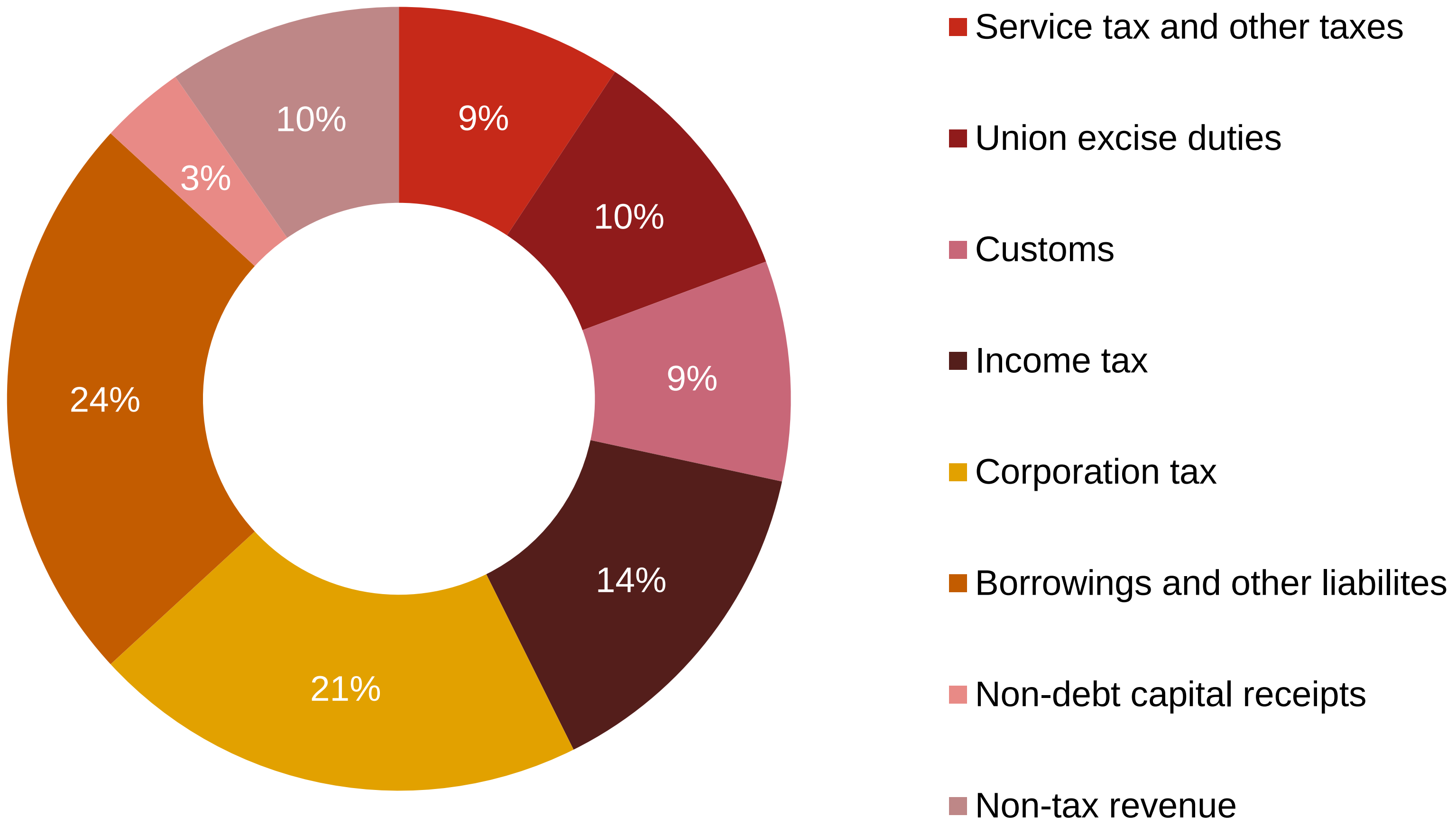
For long, Narendra Modi showed a willingness to solve problems at the root cause in Gujarat, in contrast with superficial fixes, compromises, and defence of the status quo in New Delhi. The first budget shows glimmers of the Modi way in a few areas, but it settles for the conventional approach of compromise and defence of the status quo. Transformative initiatives like abolition of the Planning Commission, have not been followed through to their logical conclusion.

It is one thing to get through the political conflicts and agree on a line in the budget speech. It is a different matter to get execution. The management challenge, of establishing high quality teams on the policy priorities, is the defining question about the Indian government.

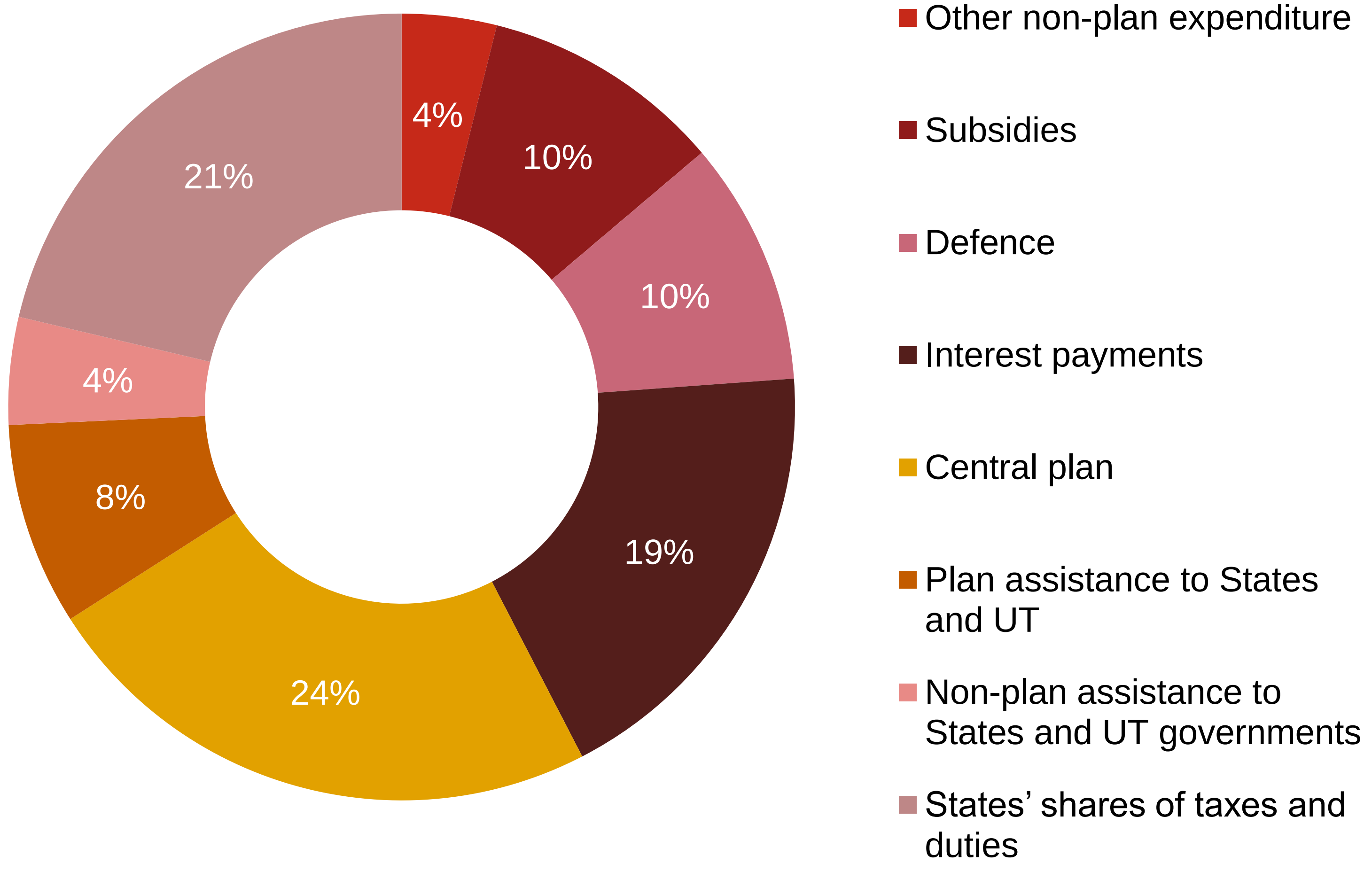
The first right wing government in India's history, with a clear majority in the Lok Sabha, was expected to unveil a game plan from here till 2019. Budget 2015 has some good elements, and with good execution, they will make an important difference. But there are many pressing problems without solutions in sight.

Budget financials

Where the Rupee comes from



Where the Rupee goes to



Budget financials

SN	Billion (INR)	FY 2013-14 (Actuals)	FY 2014-15 (Budget Estimates)	FY 2014-15 (Revised Estimates)	FY 2015-16 (Budget Estimates)
1	Revenue Receipts	10147.24	11897.63	11262.94	11415.75
2	Capital Receipts	5447.23	6051.29	5548.64	6359.02
3	Total receipts (1+2)	15594.47	17948.92	16811.58	17774.77
4	Non-plan expenditure	11061.2	12198.92	12132.24	13122.00
5	Plan expenditure	4533.27	5750.00	4679.34	4652.77
6	Total ependiture (4+5)	15594.47	17948.92	16811.58	17774.77
7	Revenue expenditure	13717.72	15681.11	14887.8	15360.47
8	Capital expenditure	1876.75	2267.81	1923.78	2414.3
9	Revenue deficit (7-1)	3570.48	3783.48	3624.86	3944.72
10	As a percentage of GDP	3.10%	2.90%	2.90%	2.80%
11	Fiscal deficit [6-(1+recoveries of loans+other receipts)]	5028.58	5311.77	5126.28	5556.49
12	As a percentage of GDP	4.40%	4.10%	4.10%	3.90%
13	Primary deficit (10-interest payments)	1286.04	1041.66	1012.74	995.04
14	As a percentage of GDP	1.10%	0.80%	0.80%	0.70%

Expertspeak

- Overall
- Direct Taxes
- Personal Taxes
- Indirect Taxes
- Aerospace & defence
- Pharmaceuticals, Healthcare
- Agriculture and Natural Resources
- Real Estate, Infra, Construction
- Technology
- Auto
- Financial Services
- Energy
- Entertainment & Media
- Telecom
- Social Sector
- Manufacturing

PwC Practice Leaders' Comments

Overall

Budget's proposals are reflective of the Government's intent to move towards double digit growth with its emphasis on 'Make in India', infrastructure development, ease of doing business and continued focus on social priorities and overall development needs of the country.

Noteworthy measures include reduction in tax rates, stringent provisions to tackle black money, removal of ambiguity on taxation of indirect transfer, eliminating MAT on FIIs, providing pass through status to AIFs and REIT, deferral of GAAR, new bankruptcy framework and steps to develop startup ecosystem.

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

The budget 2015 reflects optimism of the new Government in the growth of the Indian economy. It also reflects a short-term to long-term vision for the economy (even looking beyond the current term of the government to provide for better housing, Swachch Bharat, road and digital connectivity) and is not merely an exercise of balancing the revenues and expenses for the next fiscal. In the midst of high hopes, the proposals lay down the roadmap for accelerating growth, enhancing investment and passing on the benefit of growth to the common man. It also seeks to rationalize the fiscal laws, attempts to boost investor confidence, increase job opportunities and above all looks at improving the social infrastructure and providing social security cover to the larger populace.

Some of the highlights- Rationalizing tax provisions to effectively tap AIFs, REITs, Monetizing gold, simplification of foreign investment policy, phased reduction of corporate tax rate over the next 4 years whilst phasing out exemptions, stringent measures to tackle black money, facilitating 'MAKE IN INDIA' through fiscal proposals like additional depreciation to manufacturing units, deduction for wages paid to new workmen, reduction in TDS on FTS/ Royalty, reinforcing GST implementation, etc. More importantly, the proposals reflects that this government listens to the suggestions from industry, professionals etc- much needed amendments on indirect transfers, deferral of GAAR, progressively bringing down the inverted duty regime etc.. Overall, good progressive and rational budget.

***Shyamal Mukherjee**, Leader - Tax, PwC India*

Union Budget has focused a lot on the enabling environment such as ease of doing business and making the FDI and FPI limit fungible. There are a large number of measures on the non-tax side. On the tax side, reiteration of GST introduction from 1 April 2016 is encouraging and the hike in service tax was expected.

The intention to phased reduction of corporate tax over next 4 years from 30% to 25% is a great positive, but not reducing MAT and DDT, both of which are at 20%, is somewhat disappointing. However, the reduction of withholding tax on royalty from 25% to 10% is an excellent move, including from a Make in India perspective. Deferral on GAAR, addressing issues on REITs and addressing issues on indirect transfers are all quite encouraging, but details need to be seen.

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

Direct Taxes

The reduction in the tax rates for Royalty and FTS should benefit FM channel operators and music streaming sites/ apps who pay royalties to Foreign IP right holders. The withholding tax rate of 10% can be applied even without taking the tortuous route of obtaining benefit under the tax treaties. The royalty cost would be reduced in cases where the tax is pushed on to the payer. However, the payee would need to have a PAN for this beneficial rate.

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

PwC Practice Leaders' Comments (contd.)

Personal Taxes

Having raised the basic exemption limit and 80C limit etc last year, there was hardly any scope for further concession. Raising the limit of health insurance premium, transport allowance exemption and additional deduction of 50,000 for NPS will help taxpayers to save little more in taxes. However, super rich tax payers (having taxable income exceeding 10 million) will have to shell out more due to increase in surcharge from 10 to 12%. Abolition of wealth tax will give savings to those who are having taxable wealth. There is a greater focus in the budget on curbing of black money.

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

While a record increased allocation to the social sector marks the spirit of inclusiveness in the budget, the act of fine balancing is quite apparent. Commitment to introduce GST from 1 April 2016 is welcome. Ease of doing business has undoubtedly been a guiding principle, as seen by the host of measures aimed at that direction; promise of phased reduction in corporate tax rate from 30% to 25%, deferment of GAAR, clearing ambiguities on indirect transfer, according pass through status to REITs and AIFs being the prominent ones. Looming uncertainties such as 7th pay commission obligations, enhancement of states' share of revenue and above all ability to introduce GST according to plan hold the key to how these propositions would be implemented.

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

Indirect Taxes

Industry friendly reforms such as increase in time for availing credit to 1 year are welcome. Tax rates increase (from 12.36% to 14%) can be accepted, but the proposed levy of 'Swachh Bharat Cess' @ 2% would be regarded as steep by industry. GST introduction projected in 2016 but no concrete roadmap for the same is yet visible.

***Vivek Mishra**, Partner ant Leader, Indirect tax, PwC India*

Aerospace and Defence

The most important driver for achieving self-sufficiency in defence manufacturing is acquisition of technology by Indian companies. The reduction in Royalty WHT from 25% to 10% for technology purchase is therefore a very important and welcome measure. It will significantly reduce the inputs costs of Indian companies. The 30% weighted deduction on wages for new or existing units hiring an additional 50 workers will also benefit companies that are entering manufacturing in this sector. The 11% increase in budget is also welcome. Overall limited but very effective provisions that will promote indigenization.

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

Pharmaceuticals, Healthcare

Health Insurance as an alternative to ESI contribution will promote choice for workers and encourage competition. Health Insurance Premium enhancement is in line with rise in premiums. Will help the growth of the health Insurance sector and enhance coverage.

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

Agriculture and Natural Resources

The budget clearly displays the commitment of the government towards the agricultural sector. Specific focus on irrigation and rural employment schemes will surely have a positive impact the farm household income. Further the move towards creating a unified agricultural market is well placed in the wake of GST implementation.

***Ajay Kakra**, Associate Director, Agri & Natural Resources, PwC India*

PwC Practice Leaders' Comments (contd.)

Real Estate, Infra, Construction

Real Estate

The Hon'ble Finance Minister has made quite a few announcements in Budget 2015 for the Real Estate sector. There is renewed emphasis on "Housing for All" by 2022 but no direct benefits on Affordable Housing. Promoter-level capital gains tax on migration to REITs has been rationalized, which should kick start the REITs industry. Although, Minimum Alternate Tax on the migration to discourage promoters to immediately initiate the process. Clarity on tax pass-through for domestic Real Estate Funds should act as a catalyst in attracting significant investment. Removal of wealth tax should also be a positive for property investors.

Bhairav Dalal*, Associate Director, PwC India*

REIT

REIT will now become functional post removal of long term capital gains tax on exit by sponsors in REIT and rental income of REIT being made complete pass through

Ashutosh Chaturvedi *- Partner Tax M&A, PwC India*

MNREGA

The finance minister's announcement of "highest ever allocation of INR 50 billion to MNREGA may have a significant impact on availability and cost of labour for construction. The Real Estate and Construction Sector being still largely labour dependent would have a significant adverse impact. The industry was expecting some labour reforms to help with the availability of skilled manpower. The concerns around rights of workmen and opportunities for employment could have been addressed in a different and mutually beneficial manner.

Harpreet Singh*, Partner, Risk Advisory Services, PwC India*

Housing

The Finance Ministers announcement of 60 million housing units by 2020, while encouraging, needs to be backed up by strong policy directives in the area. Successive budgets have acknowledged the need for increased focus in the housing sector; however, there has been very little done on ground in this direction by earlier governments. We will have to wait to understand the implementation strategy that should back such an announcement

Harpreet Singh, *Partner- Risk Advisory Services, PwC India*

PPPs

The FM recognised that rebalancing risks is key to enabling PPPs; and we should see new concession structures this year. The PPP environment will also improve as the Public Contracts Dispute Resolution Bill and the Regulatory Reform Law make progress. "Plug-and-play" level of readiness before tendering projects, and pre-defined guidelines instead of individual approvals, will help bidders focus on what they are best at i.e. efficient delivery. But these measures will take time to implement. In the meanwhile, the increased public spending, should get the construction activity going.

Manish Agarwal*, Partner and Leader - Capital Projects & Infrastructure*

PwC Practice Leaders' Comments (contd.)

Technology

The Government has introduced certain key measures such as the place of effective management concept which could be relevant to IT/ITeS companies having outbound operations. With introduction of GST and improvements in financial infrastructure of the postal network of India, e-Commerce companies are likely to get respite. Service tax rates have been increased from 12.36% to 14% impacting Technology sector players. Reduction in withholding tax rate from 25% to 10% on royalty and fees for technical services is likely to encourage Tech startups and facilitate technology transfer to India. With a view to provide fillip to the start-ups in technology industry, the Government has set aside USD 165 million to support all aspects of Start Ups, which is a welcome announcement.

***Sandeep Ladda**, Partner and Leader, Technology, PwC India*

Auto

The budget is trying to push for sustain and inclusive growth which is good to boost consumption and should definitely help auto sector. A clear roadmap on GST, increased investment in infrastructure, agriculture investment and reforms, increased allocation to electrical vehicles and a focus on skill development will also support auto demands."

***Abdul Majeed**, Auto Expert and Partner, PW.*

Financial services

Asset management

Based on Finance Minister speech, we can say that providing clarity on tax treatment for offshore Funds managed by domestic Fund Managers could pave the way for 'Make in India' in the Asset Management sector.

Allowing foreign investment in Alternative Investment Funds (AIFs) and extending pass through tax treatment for Category I and II AIFs could ease significant challenges for domestic PE Funds and act as catalysts in attract significant foreign investment.

***Gautam Mehra,** Partner, PwC India*

Insurance

Announcements made in the budget today are a further booster to the insurance sector. In line, with PwC's initial wishlist expectations, Budgetary provisions for higher tax limits in health insurance will help the insurance sector and also attract further positive attention from the international markets. Now, if we can only get the Insurance Ordinance also converted to the Act, it would make for the perfect start to the next financial year

***Anuraag Sunder**, Managing Consultant - Financial Services, PwC India*

NBFCs

Introduction of SARFAESI act for NBFC's and bringing in a comprehensive Bankruptcy Act will increase Deal activity as Financial Institutions will be significantly more empowered to sell-off businesses which have an unviable debt structure.

We also expect that centralising pricing guidelines which were earlier under section 6 (master circular for Foreign Investments) to the Government could enhance the kind of equity instruments that a foreign investor could subscribe will increase the ability to attract to more foreign investment and consequently more deals.

***Munesh Khanna**, Deals Advisory partner, PwC India*

PwC Practice Leaders' Comments (contd.)

The long drawn need and request of the Non-Banking Financial Company (NBFC) sector has been finally acceded by the government by providing SARFAESI coverage to systemically important NBFCs (asset size in excess of INR 5 billion).

Consequent upon getting the coverage, NBFCs will now find a way to recover debts and foreclose the security which consequently will further strengthen their recovery capabilities. This was one of the key recommendation of the working group constituted by the RBI under the Chairmanship of Smt. Usha Thorat to review the regulatory framework for NBFCs.

Mayur Gala *- Associate Director - Financial Services, PwC India*

Foreign Investors

The foreign investing community has lots to cheer for in this budget.

Capital gains earned by FPIs will be excluded from book profits from while computing MAT. This will put to rest the ongoing issue of MAT being levied on FPIs on Capital gains. However, the larger issue of non-applicability of MAT provisions due to non-maintenance of books of account in India by foreign companies (including PE funds) has gone unaddressed.

GAAR has been deferred by two years. All investment made up to 31 March 2017 will be grandfathered. It is also clarified that GAAR will apply only prospectively. Large scale concern expressed by the investing community has been addressed.

The tax rate of 5% on interest on G-secs and Corporate bonds earned by FPIs will apply up to 30 June 2017.

Relocation of asset managers to India has been given a big fillip. It has been clarified that presence of eligible fund managers in India will not create business connection for the eligible offshore funds in India. The current brain drain is therefore likely to be reversed.

Suresh Swamy*, Partner - Financial Services, PwC India*

Energy

1. The intent to drive new investment in generation through 20 GW UMPP and 175 GW of renewable energy by 2022 is welcome and necessary, but to continue to attract investors its necessary to revive the distribution sector and its ability to pay.
2. The proposal to revitalise PPP models with certain risks shared by the government addresses a serious need to finance new infrastructure development. Further, the proposal for a Regulatory Reform Law can expedite decisions for cost recovery, and should help revive or improve viability of stalled energy and infrastructure projects.
3. The increase in Clean Energy Cess and Service tax will increase cost of coal by 4 to 6 paise per kWh and comes on top of increase in rail freight earlier this week. This has been a recurring feature and should spur investments in coal washeries and in renovation of old power plants.

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

PwC Practice Leaders' Comments (contd.)

Entertainment & Media

Budget 2015 has many references to the E&M industry though there are no large announcements. GDP growth target for FY16 expected at 8%-8.5% will provide fillip to the growth in the advertising industry. Clarity in GST timetable is significant for the E&M industry as entertainment tax being subsumed into GST will not only help bring uniformity in taxes across states but also help bring in transparency in collections for box office revenues. There are however many small references and reliefs provided to the industry. These include exempting film exhibition industry from service tax and thereby taking away any scope for any dual taxation with entertainment tax. Reduction in customs duty on import of digital cameras and its accessories used for film production will also help in curtailing production costs. While removal of certain entertainment activities from the negative list may prima facie seem unfavourable, we believe that this will bring uniformity in taxation which has been overall direction of the Budget and will thus be beneficial to the industry in the long term."

***Smita Jha Leader**- Entertainment & Media Practice India, PwC India*

Telecom

The reduction of tax rate on royalty and FTS from 25% to 10% is an excellent move in reducing the cost of telecom services while dealing with non-treaty countries. However, making the requirement of submitting form 15CA and 15CB applicable to all foreign payment whether chargeable to tax or not is going to increase compliance task enormously for Telecom operators who have to make several foreign payments every month on account of use of hubbing, roaming services etc.

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

Social Sector

Overall look out for social sector from this budget is average. Amongst the new programs announced the Pradhan Mantri Suraksha Bima Yojna and Pradhan Mantri Jeevan Jyoti Bima Yojana are in right direction to enhance social security. The focus on skill development also is a measure in right direction. Not much has been talked about in budget speech on other flagship programs largely initiated by previous government. The allocations and resource sharing arrangement with states may change on basis of recommendations of 14th finance commission and therefore the impact on schemes on rural employment, education, health and livelihood etc. need to be studied in detail.

***Ashok Varma**, Partner, Government Reforms and Infrastructure Development, PwC India*

Manufacturing

The budget is a step in the right direction insofar as the 'Make in India' and 'Skill India' campaigns are concerned. Overall, a growth oriented budget that encourages investment generation and job creation in the country.

The thrust given to infrastructure development will have a positive rub off for the manufacturing sector and will stimulate growth. While some of the steps taken by the FM will certainly help in attracting investors and ease doing business in India, we would have wanted more from the FM given the spotlight on 'Make in India' like reduction in the MAT rate for the manufacturing sector.

***Bimal Tanna**, Partner and Leader, Industrial Products*

Key policy announcements

- *Regulatory framework – Proposed Measures*
- *Foreign investment*
- *Banking structural reform*
- *NBFCs / MFIs*
- *Anti-money laundering measures*
- *Monetising Gold*
- *Payment and Settlement Systems*
- *Agricultural Produce Marketing Reform*

Key policy announcements

Regulatory framework – Proposed Measures

- To introduce new laws – Indian Financial Code, Benami Transactions (Prohibition) Bill
- To legislate comprehensive bankruptcy code of global standards in fiscal 2015-16 towards increasing ease of doing business.
- To set up a task-force to establish sector-neutral Financial Redressal Agency
- To merge SEBI and FMC for rationalising the regulatory framework; corresponding provisions under the Securities Contract (Regulation) Act and the Forward Contracts (Regulation) Act proposed
- To appoint an Expert Committee to evaluate the proposition of eliminating multiple prior permissions with a pre-existing regulatory mechanism and suggesting a draft legislation for this purpose
- To give RBI operational control of the Public Debt Management Agency through amendments in the RBI Act
- To exempt income of Core Settlement Guarantee Fund established by Clearing Corporations as under SEBI's mandate

Key policy announcements (contd.)

Foreign investment

- Proposal to allow foreign investment in Alternative Investment Funds (AIFs)
- Proposal to do away with differentiation between types of foreign investment (FDIs, FIIs, etc); instead provide composite caps for foreign investment
- 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.
- 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 provisions of Foreign Exchange Management Act

Banking structural reform

- An autonomous Bank Board Bureau to select and assist Heads of Public Sector Banks with strategy and capital raising plans; eventually to set up a Holding and Investment Company to hold all Public Sector Banks

NBFCs / MFIs

- A Micro Units Development Refinance Agency (MUDRA) Bank to be set up to provide refinance and credit guarantees to microfinance institutions; Bank to indirectly benefit small businesses owned by SC/ST/OBC
- Registered NBFCs with asset size above INR 5 billion to be considered as Financial Institutions in terms of SARFAESI Act, 2002

Key policy announcements (contd.)

Anti-money laundering measures

- 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
- Intent to consider concealment of income or evasion of tax in relation to a foreign asset a prosecutable offence; provisions yet to be introduced under the Prevention of Money Laundering Act

Monetising Gold

- Introduce Gold monetisation scheme; scheme to allow depositors to earn interest in their metal accounts
- Develop a Sovereign Gold Bond, as an alternative to purchasing metal gold
- Develop Indian Gold Coin with Ashok Chakra on its face; aimed at reducing demand for coins minted outside India and recycle gold available in the country

Payment and Settlement Systems

- Move towards cashless society by proposed introduction of incentives to spur debit and credit card usage

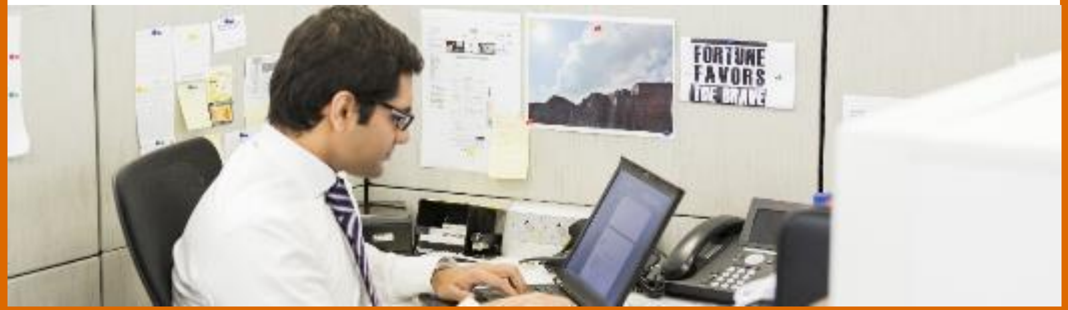
Agricultural Produce Marketing Reform

- Creation of a Unified National agricultural market for the purposes of moderating price rise of agricultural produce

Direct tax proposals

Tax Rates

Personal tax



Corporate tax

GAAR and other anti-avoidance measures / Direct tax code

Rationalisation of tax provisions and Others

Other provisions

Tax rates

Foreign Company

Corporate tax rates remain unchanged at 40% (plus applicable surcharge and education cess)

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

Note: Effective tax rate for income upto INR 10 Million remains unchanged at 41.20%

Domestic Company / Partnerships

Tax rates remain unchanged at 30%* (plus applicable surcharge and education cess). The rate of surcharge is increased by 2% to 7%/12% (as against 5%/10% earlier) resulting in an increase in effective tax rates.

Particulars	Taxable income > INR 10 Million, but < INR 100 Million	Taxable Income > INR 100 Million
Tax rate	30.00%	30.00%
Surcharge	7.00%	12.00%
Tax + Surcharge	32.10%	33.60%
Education Cess thereon	3.00%	3.00%
Effective tax rate	33.06%	34.61%

Note: Effective tax rate for income upto INR 10 Million remains unchanged at 30.9%.

* It is proposed to reduce corporate tax rates from 30% to 25% over the next 4 years in a phased manner starting from Financial Year 2016-17

Tax rates (contd.)

Individuals / HUF / BOI

There is no change in the slabs / tax rates. The surcharge for such assessees whose total income is more than INR 10 Million is increased to 12% (as against 10% earlier). Thus, the Maximum Marginal Tax Rate ('MMR') in such cases would increase from 33.99% to 34.61%.

MAT / AMT

Tax rates of both MAT and AMT remain unchanged at 18.5% (plus applicable surcharge and education cess). Effective rate on account of increase in surcharge is 20.39% (if income > INR 10 Million, but < INR 100 Million) or 21.34% (if income > INR 100 Million).

DDT

- The base rate of DDT also remains unchanged at 15% [plus applicable surcharge (increased from 10% to 12%) and education cess).

Wealth Tax

Wealth Tax has been abolished w.e.f. Financial Year 2015-16 and onwards. This is however sought to be compensated by the additional 2% surcharge in high income cases.

Personal Tax - Incentives, deductions and allowances

Investment Benefits

Additional deduction for contribution to National Pension Scheme

In order to encourage people to contribute towards National Pension Scheme, an additional deduction upto INR 50,000 will be available on the employee's contribution. This is in addition to the deduction available upto 10% of salary within an overall limit of INR 150,000.

Investment in Life Insurance Corporation ('LIC') Annuity Plan / any other Pension Fund

The limit of eligible deduction for investment in LIC Annuity Plan or any other Pension Fund is proposed to be increased to INR 150,000 from the existing

INR 100,000.

Contributions for the benefit of girl child

Contributions/ investments made by an individual in the name of girl child to notified securities/schemes will be eligible for deduction under section 80C. Interest earned on Sukanya Samriddhi account will also be exempt.

Transport allowance exemption increased

For salaried individuals, exemption on account of transport allowance is proposed to be doubled to INR 1,600 per month from the existing limit of INR 800 per month.

Personal Tax - Incentives, deductions and allowances (contd.)

Relief with respect to medical treatment, etc.

Health insurance premium/Health check-up/Medical expenditure

The existing deduction available for payment towards health insurance premium and preventive health check-up has been enhanced by INR 10,000 as under:

Existing limits –

INR 15,000 for individual, spouse and dependent children

INR 20,000 for senior citizens, including payment for parents

Proposed limits –

INR 25,000 for individuals, spouse and dependent children

INR 30,000 for senior citizens, including payment for parents.

It is proposed that medical expenditure incurred for very senior citizens (80 years and above) will be deductible up to INR 30,000 if no payment has been made towards any existing health insurance policy for such individuals.

Relief for persons with disability

Deduction available to a person/dependant with disability has been enhanced from INR 50,000 to INR 75,000. In case of a person/dependant with severe disability, the limit has been increased from INR 100,000 to INR 125,000.

Personal Tax - Incentives, deductions and allowances (contd.)

Medical treatment of specified diseases

Under the existing provisions, a certificate is required from a specialist doctor in a Government hospital for claiming deduction for expenditure incurred for medical treatment of specified diseases. It is now proposed that it will suffice if a prescription is obtained from a specialist doctor (not necessarily from a Government hospital) for this purpose.

In addition, the limit in case of very senior citizens (80 years or above) is proposed to be increased to INR 80,000 from INR 60,000.

Proposals for Tax Deduction at Source

Withholding tax on salary payments

Under the existing provisions, while determining withholding tax on salary, the employer is authorized to allow certain deductions, exemptions, or set-off of certain losses, etc. after obtaining necessary evidence/documentary proof from the employees. For example, house rent allowance, interest payment for claiming loss from self-occupied house property, etc. However, the existing provisions do not contain any specific guidance regarding the nature of evidence / documents to be obtained from the employees in this regard thereby resulting in lack of uniformity.

To bring clarity, it is proposed to amend the provisions to provide that the employer shall obtain from the employees evidence / documentary proof in such form and manner as may be prescribed by the CBDT in due course.

Personal Tax - Incentives, deductions and allowances (contd.)

Withholding tax on provident fund withdrawals

Tax deduction at source on withdrawal of accumulated balance has been simplified. It is proposed that in case of premature withdrawals of INR 30,000 or more, where employers manage their own private provident fund trust, tax will be withheld @10%. If PAN is not furnished by the employee, tax will be withheld at maximum marginal rate. The amendment is proposed to be effective from June 1, 2015.

Relief from withholding tax on payments from LIC

It is proposed that individuals not having taxable income and receiving payments under LIC upto INR 100,000 can claim relief of non-deduction of tax at source by submitting Form 15G / 15H.

Disclosure of foreign assets

While the Wealth Tax Act has been abolished, it is proposed that assets currently covered in Wealth Tax returns will be disclosed in the individual's Return of Income.

Stringent provisions are proposed to be introduced for non-disclosure of foreign assets and any concealment of income. Concealment of income and non-reporting of foreign assets may lead to prosecution and penalty of 300% of the tax on such concealed income. A new law will be introduced shortly in this regard.

Corporate tax

- General Anti Avoidance Rules ('GAAR')
- Direct Taxes Code ('DTC')
- Concept of place of effective management introduced
- Royalty and FTS - reduction in tax rates
- Indirect transfer provisions – Clarifications
- Rationalising MAT provisions
- Additional incentives for manufacturing units in Andhra Pradesh and Telangana
- Allowance of balance additional depreciation
- Deduction for employment of new workmen
- Additional funds / institutions notified for deduction under section 80G
- Tax implications on migration to Business Trust ('BT')
- Rental income earned by Real Estate Investment Trusts ('REITs')
- Taxability of interest payments to a foreign bank by its Indian branches
- Consolidation of mutual fund schemes
- Withholding tax on interest payments
- Beneficial rate of TDS for interest on debt investments
- Intended 'safe harbour' rules for fund managers
- Tax pass-through treatment to Category II AIF
- Tax exemption for Core Settlement Guarantee Fund
- Taxation of GDRs
- Transfer Pricing : Threshold for specified domestic transactions
- Tax Return / Assessment / Appeal procedures - Rationalisation
- Other provisions
- Charitable institutions
- Penalties

General Anti Avoidance Rules (GAAR)

GAAR has been deferred by 2 years so as to implement it as part of a comprehensive regime to deal with OECD's BEPS project of which India is an active participant. Importantly, it has been clarified that GAAR would apply prospectively to investments made on or after April 1, 2017.

Direct Taxes Code (DTC)

The DTC enactment has been put to rest as most of its provisions have already been legislated as part of the current income tax law.

Residential status of foreign companies - Concept of place of effective management introduced

Presently, a foreign company is considered resident in India if the control and management of its affairs is situated wholly in India.

To curb the creation of shell companies which are incorporated outside India but controlled from India, the concept of Place of Effective Management ('POEM') is now being introduced. PoEM is an internationally recognized concept and accepted even by the OECD.

It is proposed that a foreign company will be resident in India, if its PoEM is in India at any time during the year. The term 'PoEM' has been explained to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

It is also proposed that in due course a set of guiding principles for determination of PoEM would be issued.

Royalty and fees for technical services - reduction in tax rates

In order to reduce hardship faced by small entities and facilitate technology inflows, it is proposed to reduce the rate of tax on royalty and fees for technical services earned by non-residents, from 25% to 10%.

Indirect transfer provisions – Clarifications

The retrospective insertion of indirect transfer provisions in Budget 2012 had resulted in several ambiguities on the applicability of these provisions, thereby impacting investor sentiments. In order to address these concerns, an Expert Committee was constituted by the Government. Several recommendations of the Committee now find place in the current Budget.

Key amendments proposed are as under:

- A foreign company or entity shall be deemed to derive its value substantially from Indian assets if the fair market value of Indian assets represent at least 50 per cent of value of all the assets owned by such foreign company or entity, subject to minimum value of Indian assets of INR 100 million.
- Indian assets would include both tangible as well as intangible assets (without reduction of liabilities).
- Specified valuation date is 31 March or accounting year end date (as the case may be), preceding the date of transfer. However, if there is an increase in book value of the assets between balance sheet date and date of transfer, by 15% or more, then valuation date would be date of transfer.
- Capital gains tax would be proportional to the value of assets located in India.
- To provide relief to the minority shareholders, capital gains exemption is proposed to be granted if transferor (along with its associated enterprises) does not hold –

(i) right of control or management, and

(ii) voting rights or share capital or interest exceeding five per cent, in the foreign company or entity at any time in the 12 months preceding the date of transfer.

Indirect transfer provisions – Clarifications (contd.)

Similar exemption is also granted to indirect minority shareholders.

Following additional clarifications would be prescribed through the Rules:

- Manner of determination of FMV of the Indian assets vis-a vis global assets
- Method for determination of proportionate value of Indian assets

The Indian concern in which such foreign company or entity has investments would be under an obligation to furnish necessary information within prescribed time. Specific penalty is proposed for non-compliance with the above obligation.

Indirect transfer on account of foreign company amalgamation and demerger

The transfer of shares of a foreign company, deriving value substantially from assets in India, on account of amalgamation or demerger of foreign companies has now been specifically exempted subject to the following conditions:

- In case of amalgamation
  - At least 25% of the shareholders of the amalgamating foreign company continue to remain shareholders of the amalgamated foreign company; and
  - The transfer does not attract capital gains tax in the country of the amalgamating company
- In case of demerger
  - In value terms, $3/4^{th}$ of shareholders of demerged foreign company become shareholders in resulting foreign company; and
  - The transfer does not attract capital gains tax in the country of the demerged company

Consequential amendment has also been proposed for availability of cost of acquisition of shares of the foreign company in the hands of amalgamating / demerged company to the amalgamated / resulting company.

Rationalising MAT provisions

- It is proposed that MAT provisions will not be applicable to capital gains income of FPIs. Consequently, in computing book profits, capital gains (other than short-term capital gains on which STT is not chargeable) would be excluded.
- Under the present MAT provisions, a company which is a member of an association of persons or body of individuals is liable to MAT on its share of income even if no income tax is payable on the same under the normal provisions.
- As a rationalization measure, it is proposed to amend MAT provisions to provide that the company’s share of income credited to its profit and loss account (on which no income tax is payable as per normal provisions), shall be reduced from the book profits for the purposes of MAT provisions. Correspondingly, the book profits shall be increased by the amount of expenditure relatable to that income.

Additional incentives for manufacturing units in Andhra Pradesh and Telangana

Given the Government's commitment to promote backward areas of Andhra Pradesh and Telangana, the current budget has introduced the following incentives for these regions:

Additional investment allowance:

- Additional investment allowance shall be available for setting up manufacturing undertaking, at 15% of the cost of new plant and machinery. In line with existing provisions, such incentive will not be available to certain specified assets (such as office appliances, computer software, etc).
- The incentive shall be available on plant and machinery acquired and installed during 1 April 2015 to 31 March 2020, in the year of installation.
- In case of sale or transfer of such plant and machinery within a period of 5 years from date of installation, the incentives availed shall become taxable in the year of transfer. This would be in addition to capital gains which may arise on account of such transfer. However, such restrictions are not applicable on transfer in course of business or corporate reorganization.
- This incentive is over and above the existing deduction available under Section 32AC.

Additional depreciation:

Additional depreciation of 35% (as against the current rate of 20%) shall be available on new plant and machinery acquired and installed during 1 April 2015 to 31 March 2020, in the year of installation. In line with existing provisions, such incentive is not available to certain specified assets (such as office appliances, computer software, etc).

Deduction for employment of new workmen

- The existing provisions provide for a special deduction for employment of new workmen by an Indian company deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is 30% of additional wages paid to new regular workmen employed by the Indian company in such factory for 3 years, including the year in which such employment is provided. Further, the term 'additional wages' is defined to mean wages paid to new regular workmen in excess of 100 workmen employed during the previous year.
- With a view to encourage generation of employment, it is proposed to extend the benefit of deduction to all assessees having manufacturing units (rather than restricting it to Indian companies). Further, to enable smaller units to claim this deduction, it is proposed to extend the benefit to units employing even 50 regular workmen (instead of 100 regular workmen).

Allowance of balance additional depreciation

Under the existing provisions, additional depreciation is restricted to 50% if the new asset is put to use for a period less than 180 days. This can result in deferral of investment by assessee to beginning of next year to avail full deduction. It is now proposed that balance additional depreciation of 50% shall be allowed in the subsequent year.

Additional funds / institutions notified for deduction under section 80G

- Under the existing provisions, donation made to certain notified funds and charitable institutions formed for the social purpose of national importance are eligible for deduction @ 100%.
- It is proposed to widen the scope of these provisions to include two additional funds namely, 'Swachh Bharat Kosh' (for improving sanitation facilities in rural / urban areas and school premises) and Clean Ganga Fund (for rejuvenation of river Ganga).
- The amendment shall retrospectively apply from Assessment Year 2015-16, but would not include the amount spent in pursuance of Corporate Social Responsibility under the Companies Act. Further, it is proposed to provide that any donor will be eligible for deduction in case of contributions made to 'Swachh Bharat Kosh' however, only resident donors shall be eligible for deduction in case of contribution to 'Clean Ganga Fund'.

Tax implications on migration to Business Trust (BT)

- Currently, taxability of gains arising on swap of shares of the special purpose vehicle ('SPV'), being an Indian company, with the units ('Swap Units') of BT is deferred till transfer of such Swap Units. Further, concessional capital gains tax regime is not available to the gains arising on transfer of such Swap Units i.e. long term capital gains is taxable at 20% and short term capital gains is taxable at 30%. This results in disadvantageous tax position vis-à-vis direct Initial Public Offering ('IPO') of the SPV.
- In order to give a boost to setting up of BT, it is proposed that the gains arising on transfer of Swap Units of BT would be exempt from tax in case of long term capital gains and would be subject to concessional tax rate of 15% in case of short term capital gains. This capital gains tax treatment would be available at the time of IPO or subsequent sale on stock exchange (subject to levy of STT).
- Minimum alternate tax ('MAT') would continue to apply to holding companies on gains arising from swap of shares of the SPV for units of the BT.
- No capital gains tax exemption would be available on swap of other assets with units of BT.

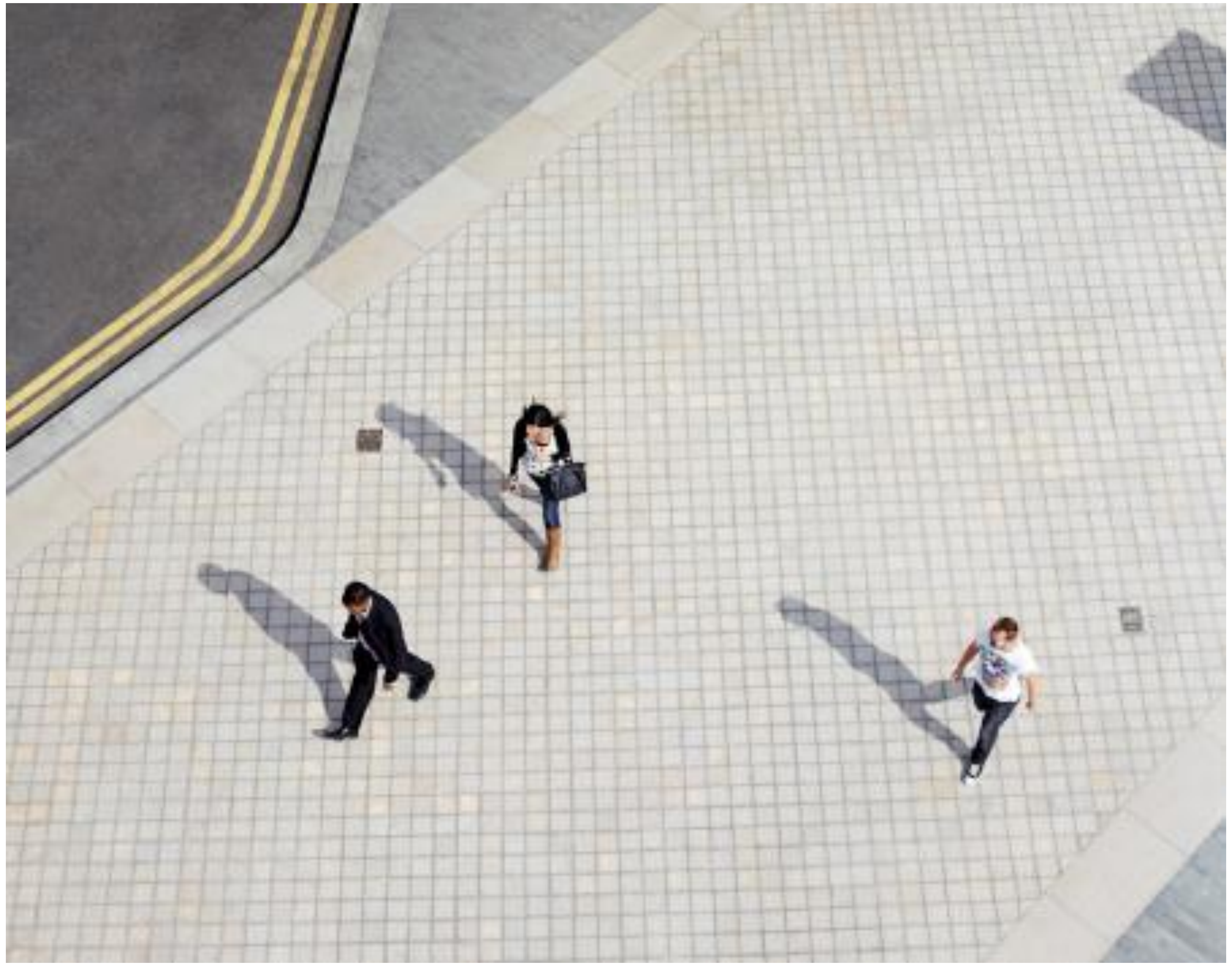
Rental income earned by Real Estate Investment Trusts (REITs)

- Currently, rental income earned by REITs from real estate asset directly owned by it is subject to tax in the hands of REITs. Any distribution of income by REITs which is attributable to such rental income is exempt from tax in the hands of the unit holders.
- Pass-through status is now proposed to be provided to REITs in respect of income earned from renting, leasing or letting out any real estate asset owned directly by the REITs. Thus, the rental income would be exempt in the hands of REITs.
- On distribution of rental income, REITs would now be required to deduct tax at source at 10% in case of resident unit holders and at the applicable tax rates in case of payment to non-residents.
- Tax would not be required to be deducted at source under section 194-I by the tenants on payment of rental income to the REITs.

Taxability of interest payments to a foreign bank by its Indian branches

With an intent to provide clarity on the taxability of interest payments by Indian branch of foreign banks, it is proposed that:

- Indian branch of foreign banks shall be deemed to be a separate and independent person from its head office or offshore branches (in the context of payment of interest by the Indian branch);
- The payer branch in India will withhold income-tax on such interest payments.
- This overrules certain tax rulings which held that interest paid by Indian branch of a foreign bank is not taxable in hands of head office or offshore branches.



Consolidation of mutual fund schemes

- Recent years have also seen mergers / consolidation of mutual fund schemes either due to regulatory requirements or similar investment strategies across schemes.
- It is now proposed to provide tax neutrality to unit holders upon consolidation or merger of mutual fund schemes i.e. consolidation shall not be regarded as a taxable event in the hands of the unit holders.
- The key condition for such tax neutrality is that the schemes should be of the same type, i.e. the consolidation is of two or more schemes of "an equity oriented fund" or two or more schemes of "other than equity oriented funds".
- The cost of acquisition of the units of consolidated scheme shall be the cost of units in the consolidating scheme and the period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the unit holder.

Withholding tax on interest payments

- TDS will now be applicable on interest paid by banks on recurring deposits if such interest paid exceeds the threshold limit of INR 10,000 per year.
- Currently, the interest income for the purpose of TDS is computed with reference to a branch of bank / cooperative society. It has been proposed that, for entities which have adopted core banking solution, TDS on interest should be computed on the interest paid at the entity level (and not at a branch level).
- Currently, payment of interest to members by a co-operative society is not subject to TDS. It is proposed that this benefit shall not apply on interest on time deposits by the co-operative banks to its members.
- It is proposed that TDS shall be applicable only on payment (and not accrual) of interest on compensation awarded by Motor Accident Claim Tribunal.

Intended 'safe harbour' rules for fund managers

- Comprehensive provisions on tax treatment of income of foreign funds whose fund managers are located in India have been proposed.
- Last year, the definition of capital assets was amended to include securities held by foreign institutional investors; however the risk of funds being considered as residents on account of fund managers' activities in India existed.
- It is now proposed that fund management activity carried out through eligible fund manager shall not constitute business connection in India of the said fund. Also the investment fund shall not be considered as resident in India merely because the fund manager undertaking fund management activities is situated in India.
- The "safe harbour" benefits mentioned above will be available to investment funds and fund managers who fulfill certain conditions as specified. The key conditions specified for investment funds include diversified holding at the fund level and for fund managers include registration with appropriate authority in India, as applicable.

Beneficial rate of TDS for interest on debt investments

It has been proposed to extend the concessional rate of 5 per cent for TDS on interest on debt investments by foreign investors by two years i.e. until July 1, 2017.

Tax pass-through treatment to Category II AIF

The present provisions provide a "tax-pass through status" to:

- the Domestic Venture Capital Fund (either incorporated as a Trust or a Company); or
- Category I Alternative Investment Funds.

In order to cover the provisions applicable to other form of collective investment vehicles, the provisions have been extended to Category I and Category II AIFs ('Investment Funds'). The salient features of the regime are as under:

- Income of Investment Funds will not be taxable in the hands of Investment Funds but taxable in the hands of investors.
- Business income will not be eligible for 'pass-through', and will be taxable in the hands of Investment Funds.
- Income payable by Investment Funds will be subject to deduction of tax at source at 10%.
- Receipt of income by such Investment Funds will not be liable to TDS and a notification giving effect to the proposal shall be issued.
- MAT may not be applicable to income arising to investors in Investment funds.
- Express provisions have been provided for filing return of income by Investment Funds.

Tax exemption for Core Settlement Guarantee Fund

- Under the provisions of Securities Contracts (Regulation) (Stock Exchanges and Clearing Corporations) Regulations, 2012, notified by SEBI, the Clearing Corporations are mandated to establish a fund, called Core Settlement Guarantee Fund ('Core SGF') for each segment of each recognised stock exchange to guarantee the settlement of trades executed in respective segments of the exchange. Core SGF acts as a second layer of defense, against which no exposure is allowed and thus, is always available in sufficiently liquid form.
- Broadly the contribution to Core SGF is from the Clearing Corporation ('CC'), Stock Exchange and clearing members in pre-specified proportion. Penalties levied by CC are also credited to Core SGF.
- Presently, income of the Investor Protection Fund (by way of contributions) set up by recognised stock exchanges in India, or by commodity exchanges in India or by a depository is exempt from taxation. On similar lines, it has been proposed to exempt specified income of Core SGF. Specified income includes contributions as mentioned above, income by way of penalties levied and income from investments made by the Core SGF.
- However, where any amount standing to the credit of the Fund and not charged to income-tax during any previous year is shared, either wholly or in part with the specified person (clearing corporation/stock exchange), the amount so shared shall be deemed to be the income of the previous year in which such amount is shared.

Taxation of GDRs

- The Depository Receipts Scheme, 2014 has been notified by the Department of Economic affairs (DEA) in October 2014, replacing the "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through depository receipt mechanism) Scheme, 1993. As per the new scheme, DRs can be issued against the securities of listed, unlisted or private or public companies against underlying securities which can be debt instruments, shares or units etc. Further, both the sponsored issues and unsponsored deposits and acquisitions are permitted.
- Although the scheme has expanded scope of depository receipts, the tax benefits under the Act were intended to be provided in respect of sponsored GDRs and listed companies only. Accordingly, it is proposed to amend the Act in order to continue the tax benefits only in respect of such GDRs as defined in the earlier depository scheme.

Transfer Pricing : Threshold for specified domestic transactions

The threshold for specified domestic transactions in order to attract transfer pricing provisions has been increased from INR 50 million to INR 200 million.

Tax Return / Assessment / Appeal procedures - Rationalisation

Filing of tax return – Educational and other institutions financed by Government covered

- Universities, educational institutions, hospitals and other institutions for medical treatment which are substantially financed by government will now be mandatorily required to file return of income.

Search and Seizure assessment – A clarification

- It has been clarified that in case of search and seizure assessment, if any books of account or documents (seized or requisitioned) pertain to any person other than the person being assessed, then such other person can also be assessed by the jurisdictional Assessing Officer.

Provisions to avoid repetitive appeals

A new section is introduced to provide that where a question of law arising in case of an assessee for any assessment year is identical to the one pending before the Supreme Court for another assessment year for the same assesse (due to the appeal or a special leave petition filed by the revenue), then the Commissioner or Principal Commissioner may direct the Assessing Officer to make an application to the Tribunal for filing the appeal after the decision of the Supreme Court becomes final and the order is in favour of the revenue. This is subject to the acceptance from the assessee that the question of law is identical.

This provision is introduced to avoid repetitive filing of appeals by the revenue on the same issue resulting in needless litigation.

Tax Return / Assessment / Appeal procedures – Rationalisation (contd.)

Levy of interest for default in payment of advance tax

It is proposed to amend the period for which interest is payable under section 234B in case of reassessments so as to align it with the objective of the section. Accordingly, the period for which the interest is to be computed will begin from the 1st day of the assessment year to the date of the reassessment order.

Expansion in ambit of appeals to Income Tax Appellate Tribunal

Appeal can now be filed before Tribunal against an order passed by the prescribed authority (Chief Commissioner and Director General) with respect to exemption to any university or other educational institution existing solely for educational purposes, and any hospital or other institution existing solely for philanthropic purposes.

Expansion of revisionary jurisdiction

The interpretation of expression 'erroneous in so far as it is prejudicial to the interests of the revenue' has been a contentious one. It is now expressly clarified that the revisionary proceedings can be initiated in case the Commissioner is satisfied that the Assessing Officer's order has been passed:

- Without making inquiries or verification
- Allowing relief without inquiring into the claim
- Not in accordance with any order, direction or instruction issued by the CBDT
- Not in accordance with any decision of the jurisdictional High Court or Supreme Court which is prejudicial to the assessee.

Tax Return / Assessment / Appeal procedures – Rationalisation (contd.)

Two additional benches created in Authority for Advance Rulings (Income Tax) – one in New Delhi and one in Mumbai

Via Press Release dated February 25, 2015, the Union Cabinet has approved creation of two additional benches to enable increased disposal and reduced pendency of the applications.

Accountants not to issue reports / certificates in certain circumstances

It is proposed that except for the purpose of representing the assessee before any tax authority, a chartered accountant cannot act as accountant for an assessee if he is related to the assessee. The meaning of related party for different classes of the assessee has been defined separately. This provision has been inserted to ensure the independence of the auditor.

Further, a person who has been convicted by a court for an offence involving fraud will be disqualified to act as an Authorised Representative for a period of ten years from the date of conviction.

TDS, TCS and Tax Deduction and Collection Account Number ('TAN') Provisions

The mandatory requirement of obtaining TAN will not be applicable for persons as may be notified by the Central Government.

It is proposed to insert provisions to enable correction in and processing of TCS statements on same lines as TDS.

Tax Return / Assessment / Appeal procedures – Rationalisation (contd.)

It is also clarified that the intimation generated on processing TCS statements will be regarded as a notice of demand and will also be subject to rectification and appeal.

Further, where interest is charged for any period on the tax amount specified in the intimation, it is clarified that no interest would be charged under section 220(2) on the same amount for the same period.

Rationalisation of provisions on Settlement Commission

In order to rationalise the provisions of Settlement Commission, numerous amendments have been proposed:

- If a reassessment notice has been issued for any one year, an assessee can approach Settlement Commission for other assessment years involving similar issue relating to escapement of income provided that a valid return of income has been furnished.
- If the final settlement order does not provide for terms of settlement, the proceedings will be considered as abated from the day on which such order was passed.
- The assets seized or requisitioned under search and seizure may now be adjusted against the tax liability arising on application made before the Settlement Commission.
- Provisions for levy of interest for default in payment of advance tax have been rationalized.

Tax Return / Assessment / Appeal procedures - Rationalisation (contd.)

- If an assessee has already approached the Settlement Commission, certain related persons will not be allowed to file settlement application. The meaning of related person for individual, company, firm, AOP and HUF has been defined separately.
- An offender under the proposed Bill on Black Money will not be allowed to approach Settlement Commission.

Measures to curb black money

- Under the existing provisions, no person shall take or accept any loan or deposit exceeding rupees twenty thousand otherwise than by account payee cheque or by an electronic transfer. To curb generation of black money, any sum of money receivable or payable in relation to transfer of immovable property exceeding rupees twenty thousand, is also proposed to be covered under this restriction.

Other provisions

Reporting of payments to non-residents

- In order to further scrutinize the payments to non-residents, it is proposed that payer shall be under obligation to report specific information in the prescribed form (whether or not such payment is chargeable to tax).

Procedure for giving foreign tax credit

- It is proposed to grant powers to the CBDT to lay down the procedure for granting relief of any tax paid by Indian residents in any foreign country or specified territory.

Withholding tax on payments to transporters

- Presently, all transporters, irrespective of their size, are eligible to claim exemption from withholding tax by furnishing their PAN to the deductor/payer.
- An amendment has been proposed to exempt only small transport operators from the purview of withholding tax. The exemption shall now be available only to such transporters who own less than 10 goods carriage at any time during the previous year and who have also furnished a declaration to this effect along with PAN to the deductor/payer. This amendment will take effect from 1 June 2015.

Cost of acquisition and period of holding in case of demerger – Clarification

- It is now clarified that the cost of acquisition and period of holding of the asset related to the demerged company shall be available to the resulting company.

Charitable institutions

Definition of 'charitable purpose'

- The definition of charitable purpose has been expanded to include 'yoga'.
- Presently, in case of an institution carrying on 'advancement of any other object of general public utility', where trade, commerce or business activities are undertaken (and where the receipts exceed a certain threshold), the institution cannot claim a charitable/tax exempt status.
- With a view to protect genuine institutions which carry on trade, commerce or business as a part of their charitable activities, it is proposed to rationalise the definition and provide that carrying on the aforesaid activities would not impact the charitable status of the institution, if the following conditions are satisfied:
  - Such activities are undertaken in the course of actual conduct of charitable activities; and
- Aggregate receipts from such activities does not exceed 20% of the total receipts of the charitable institution during the year.

Conditions for availing benefit of income accumulation

- In order to bring clarity with regard to the period within which the charitable institution is required to file Form No. 10 with the tax authorities and to ensure timely filing of the return of income, it is proposed that benefit of income accumulation for future will be available only if both, the return of income and Form No. 10 are filed within the due date of filing original return of income.

Penalties

Quantification of concealment penalty

It is proposed to clarify the meaning of "tax sought to be evaded" for purpose of levy of concealment penalty, especially where tax is paid as per MAT/ AMT i.e. it shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under MAT/AMT provisions. However, if an amount of concealed income is considered both, under general provisions and for MAT/AMT purposes, then such amount shall not be considered in computing tax sought to be evaded under MAT/AMT provisions.

Miscellaneous

- Monetary penalty of INR 100,000 has been provided for non-furnishing of details in case of payments to non-residents
- Monetary penalty of INR 500,000 has been provided if eligible investment fund fails to furnish prescribed statement / information / document

Indirect tax proposals

Goods and Services Tax (GST)

Service Tax

Central Excise and Customs

CenVAT Credit

Goods and Services Tax (GST)

Positive reiteration of GST rollout by 1 April 2016

The FM unequivocally stated that GST will be introduced in April 2016. However, this seems difficult given the amount of work remaining to amend the Constitution and enact the new law.

Goods and Services Tax (GST) (contd.)

Government positive on implementing GST from 1 April 2016

The Finance Minister emphasized the transformative role that GST is expected to play in the Indian economy. Mr. Jaitley reiterated that the Government is making progress in bringing out the GST, and that there is no slippage from the target date of April 1, 2016. However, given the amount of work that has to be done, this looks ambitious.

Customs Duty (contd.)

While the general effective customs duty rate has increased (on account of the increase in excise duty), the Finance Minister has specifically reduced the duty on import of specific inputs and raw materials in order to address inverted duty structure concerns of the manufacturing sector. Other key changes include rationalization of penalty provisions and extension of advance ruling options to resident firms.

Customs Duty (contd.)

Rate of Duty

Median Rate of BCD retained at 10%

Changes in Customs Act, 1962

Advance Ruling option extended to ‘resident firms’ (to include partnership firms, sole proprietorships and one person companies)

Customs Duty (contd.)

The above change will be effective from 1 March 2015

Following changes introduced in penalty provisions

- The above benefit of reduced penalty would also be available where the order confirming the demand is not passed till enactment of Finance Bill, 2015 and the duty, interest and penalty (if applicable) is paid within thirty days from such enactment
- No remanded case can be referred to the Settlement Commission

The above changes will be effective from the date of enactment of Finance Bill, 2015

Act of contravention of law	Condition	Duty & Interest	Penalty
Not involving fraud, collusion, mis-statement, etc.	Paid within 30 days from receipt of SCN	Yes	No
Not involving fraud, collusion, mis-statement, etc.	Paid within 30 days of communication of order	Yes	25% of penalty
Involving fraud, collusion, mis-statement, etc.	Paid within 30 days from receipt of SCN	Yes	15% of duty
Involving fraud, collusion, mis-statement, etc.	Paid within 30 days of communication of order	Yes	25% of duty

Customs Duty (contd.)

Changes in Customs duty rates

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

Goods on which BCD rate reduced		
Goods	Existing Rate (%)	New Rate (%)
Butanes	5	2.5
Sulphuric acid for manufacture of fertilizers	7.5	5
Isoprene	5	2.5
Styrene, Ethylene dichloride (EDC) and Vinyl chloride monomer (VCM)	2.5	2
Anthraquinone	7.5	2.5
Butyl acrylate	7.5	5
Over Load Protector (OLP), positive thermal coefficient, c-block compressor and crankshafts for manufacture of refrigerator compressor	7.5	5
Evacuated tubes with three layers of solar selective coating for use in the manufacture of solar water heater and system	7.5	Nil
Sub-parts, parts, components or accessories for manufacture of tablet computer	7.5	Nil
Active Energy Controller (AEC) for manufacture of Renewable Power System (RPS) inverters	7.5	5
Digital Still Image Video Cameras with minimum resolution of 800 x 600 pixels, at minimum 23 frames/ second, for at least 30 minutes in a single sequence, using the maximum storage (including the expanded) capacity/ Parts and components of above	10/ 5	Nil
Organic LED TV panels	10	Nil
Black Light Unit module for manufacture of LCD and LED TV panels	10	Nil
Magnetron (upto 1 KW)for manufacture of domestic microwave ovens	5	Nil
Specified goods for use in manufacture of Flexible Medical Video Endoscope	7.5	2.5
Artificial Heart (left ventricular assist device)	5	0
Specified goods for manufacture of pacemakers	10/7.5	0

Customs Duty (contd.)

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

Goods on which SAD exempted/reduced		
Goods	**Existing Rate (%)**	**New Rate (%)**
All goods [except populated PCBs] for manufacture of ITA bound goods	4	Nil
Specified goods for manufacture of pacemakers	4	Nil
All inputs for manufacture of LED driver or MCPCB for LED lights and fixtures or LED lamps	4	Nil
Naphtha, Styrene, Ethylene dichloride, Vinyl chloride monomer	4	2
Melting scrap of iron or steel, Stainless steel scrap, for the purpose of melting	4	2
Copper, brass and aluminium scrap	4	2

BCD rate increased on following goods:

Goods on which BCD rate increased		
Goods	**Existing Rate (%)**	**New Rate (%)**
Commercial motor vehicles (other than those imported in CKD form or electrically operated motor vehicle)	10	20
Metallurgical coke	2.5	5

- Concessional BCD rate benefit on import of specified goods for use in manufacture of electrically operated and hybrid motor vehicle extended till 1 April 2016
- Export Duty on upgraded Ilmenite reduced from 5% to 2.5%
- Increase in Additional Duty of Customs (Road Cess) on imported HSD and Motor Spirits (Petrol) from INR 2 per litre to INR 6 per Litre.
- *The above changes will be effective from 1 March 2015*

Central Excise

The key changes in excise seem to revolve around the ease of doing business in India and, on a larger platform, the Make in India initiative. This is evidenced in both the substantive as well as the procedural amendments. There is the move to rationalize the excise duty rate @ 12.5% and the removal of education cesses. Penalty provisions are rationalized, timelines for registration substantially reduced, assesses are allowed to issue digitally signed invoices and maintain records in electronic formats. Further, advance ruling options have also been extended to resident firms.

Central Excise (contd.)

Rate of duty

Rationalization of general rate of excise duty from 12.36% to 12.5% (and removal of 2% education cess and 1% secondary and higher education cess)

Changes in Excise Act, 1944

- Advance Ruling option extended to 'resident firms' (to include partnership firms, sole proprietorships and one person companies) – Such change will be effective from 1 March 2015
- Specific provisions for recovery of excise duty short paid during course of audit/ investigation/ verification in cases related to fraud, collusion etc. to bring uniformity in treatment of all cases removed
- Separate provisions for recovery of excise duty where non-payment or short payment of duty is reflected in periodic returns to be notified
- Relevant date for issuance of notice where only interest is required to be recovered is the date of payment of duty to which interest relates

Central Excise (contd.)

- Relevant date for issuance of notice where return has been filed would be date of filing of return (whether filed within due date or not)
- Penalty provisions have been rationalized as under:

Act of contravention of law	Scenario	Duty & Interest	Penalty
Not involving fraud, collusion, mis-statement, etc.	Pertaining to recovery of duty not paid/levied or short paid/levied or erroneously refunded	Yes	Higher of 10% of duty or INR 5,000
	If paid within 30 days from date of issue of notice	Yes	Nil
	If paid within 30 days from date of receipt of order	Yes	25% of penalty
Involving fraud, collusion, mis-statement, etc.	Pertaining to recovery of duty not paid/levied or short paid/levied or erroneously refunded	Yes	100% of duty
	Above cases where transaction is recorded (between 8 Apr 2011 to assent to Finance Bill 2015)	Yes	50% of duty
	If paid within 30 days from date of receipt of notice	Yes	15% of duty
	If paid within 30 days from date of receipt of order	Yes	25% of duty

Central Excise (contd.)

- New penalty provisions would be applicable only in cases where no show cause notice has been issued prior to the date on which the Finance Bill, 2015 receives assent. Specified penalty provisions prescribed to close existing proceedings where SCN has already been issued
- Any remanded case cannot be referred to the Settlement Commission
- Penalty increased from INR 2,000 to INR 5,000 for cases related to dealing with confiscation of goods

The above changes will be effective from the date of enactment of Finance Bill, 2015

Changes in Central Excise Tariff Act, 1985

- Tariff rate of excise rate on following items has been increased
- Cement - INR 900 per tonne to INR 1,000 per tonne
- Waters, including mineral waters and aerated waters - 12% to 18%
- Cut tobacco – INR 60 per kg to INR 70 per kg
- Petrol and HSD – Reduction in effective central excise duty rate and increase in Additional Duty of Excise (Road cess) on petrol and HSD. Aggregate excise duty remains the same

The above changes are effective from 1 March 2015

Central Excise (contd.)

Changes in Central Excise Rules, 2002

- Changes introduced for direct dispatch of goods to customers and job workers to be in line with cenvat credit change
- ‘Export’ defined to mean taking goods to a place outside of India including supplies to vessel / foreign aircraft
- Issuance of digitally signed invoices and preservation of records in electronic form allowed
- Registration process simplified to ensure grant within 2 working days of application

The above changes are effective from 1 March 2015

Central Excise (contd.)

Swings in excise duty rates (illustrative)

Change in excise duty rates		
Goods	Existing Rate (%)	New Rate (%)
Condensed milk put in unit containers and peanut butter	Nil	2 (without cenvat credit) 6 (with cenvat credit)
Specified sacks and bags of polymers and ethylene	12	15
Leather footwear of MRP exceeding INR 1,000	12	6
Pig iron SG grade and ferro silicon magnesium for manufacture of wind operated generators	12	Nil
Tablet computer	12	2 (without cenvat credit) 12.5 (with cenvat credit)
Parts, components and accessories for use in manufacture of tablet computer and its sub-parts	Varied rates	Nil
Mobile handsets including cellular phone (when cenvat credit claimed)	6	12.5
Wafers used in manufacture of IC modules for smart cards	12	6
All inputs for use in manufacture of LED driver and MCPCB for LED lights and Fixtures & LED Lamps	12	6
Specified rates for pacemakers	Varied rates	Nil
Chassis for ambulance	24	12.5
All goods manufactured and cleared in packaged form from mini cement plant	6% + 120 PMT	6% + 125 PMT
All goods manufactured and cleared in packaged form from other than mini cement plant	12%+ 120 PMT	12.5%+ 125 PMT

The above changes are effective from 1 March 2015

Central Excise (contd.)

Abatements (illustrative)

Goods (to be MRP based)	Abatement on MRP (%)
Condensed milk (Heading 0402 91 10 and 0402 99 20)	30%
Extracts of tea including iced tea (Heading 2101 20)	30%
All Waters (other than mineral waters and aerated waters) (All goods falling under heading 2202)	35%
LED lights or fixtures including LED lamps	35%
Footwear	25% (reduced from 35%)

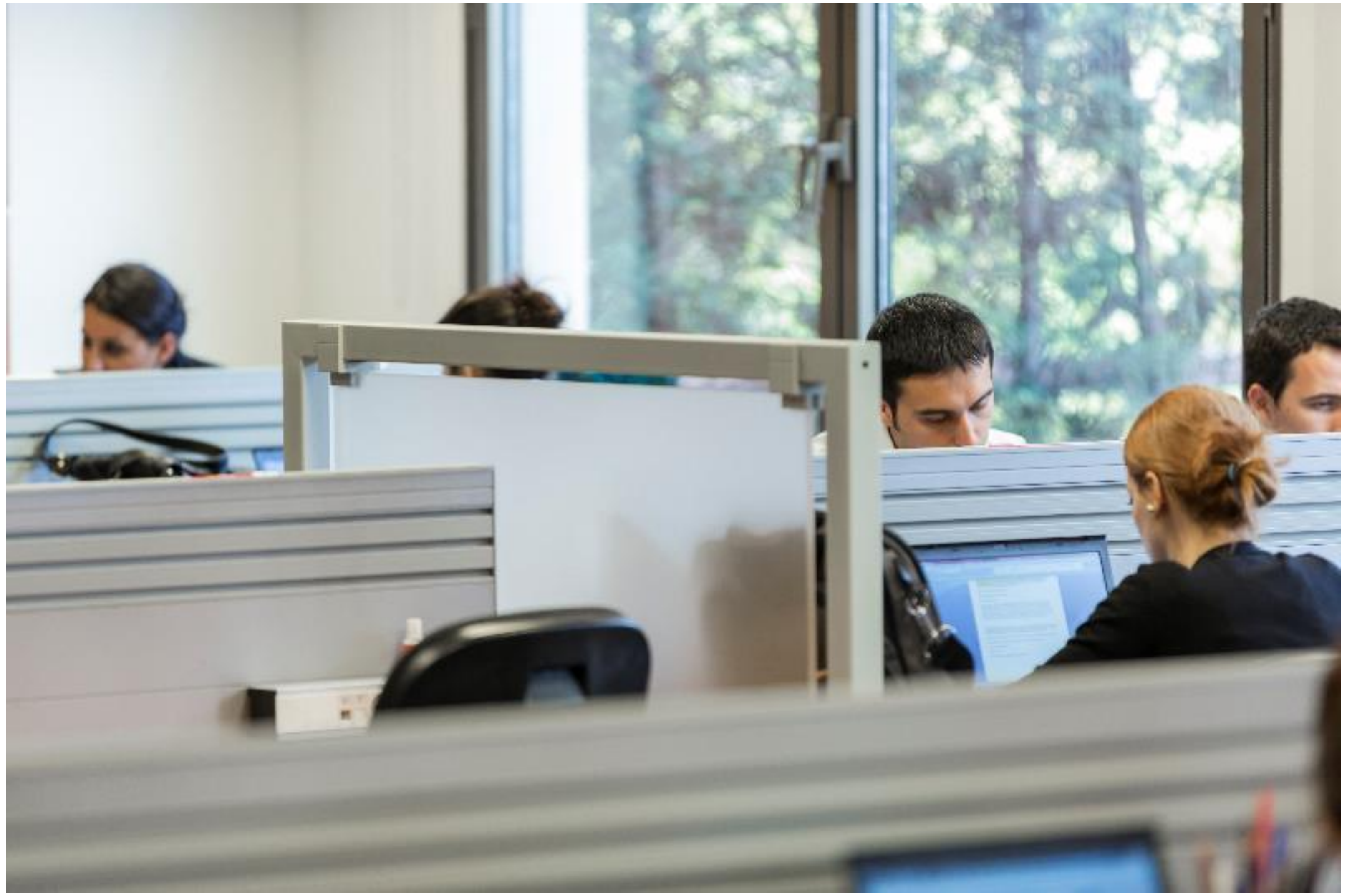
The above changes are effective from 1 March 2015

Other changes

- Validity period of concessional excise duty of 6% granted to specified goods used in the manufacture of electrically operated vehicles and hybrid vehicles extended
- For ICB related projects of claim excise exemption, conditions of customs exemption will apply mutatis mutandis
- Changes in excise duty rate for various types of pan masala, cigarettes and specified tobacco products
- Exemption on specified battery packs extended up to 31 March 2016
- Clean energy cess increased from INR 100 to INR 200 per tonne
- Clarification issued for 'place of removal' as follows:
  - For manufacturer exporter - Port/ICD/CFS where the goods are handed over for further delivery to the foreign buyer
  - Merchant exporter - Factory gate, warehouse or depot of the manufacturer where the goods are handed over to the transporter

CENVAT credit

The Finance Minister has ushered some welcome changes in the CENVAT provisions, key amongst which include increase in time limit to avail CENVAT credit on inputs and input services from 6 months to 1 year. Further, manufacturers can take CENVAT credit against inputs and capital goods sent directly to the job worker's premises. CENVAT credit on capital goods allowed even if the goods remain with the job worker for an extended period of 2 years (instead of 6 months earlier)



CENVAT credit (contd.)

- Time limit for availment of CENVAT credit on inputs and input services increased from 6 months to 1 year from the date of issuance of invoice, bill or challan
- ‘Exempted goods’ to include ‘non-excisable goods’ removed from the factory for a price, which means that the proportionate CENVAT credit pertaining to inputs or input services used in or in relation to the manufacture of non-excisable goods is not allowed
- Inputs and capital goods allowed to be sent directly to job worker’s premises at the direction of manufacturer or service provider
- Capital goods can remain with job worker for a period of 2 years (instead of 6 months allowed earlier) without requiring the reversal of CENVAT credit availed by the manufacturer
- Provisions related to recovery of CENVAT credit wrongly taken or erroneously refunded have been elaborated. Though the CENVAT credit which has been wrongly taken and utilised would still be recovered with interest, the manner of determining utilisation of credit has been prescribed (based on first-in, first-out FIFO method) as follows:
  - First from opening balance
  - Then from admissible credit availed during the month
  - Lastly from inadmissible credit availed during the month

CENVAT credit (contd.)

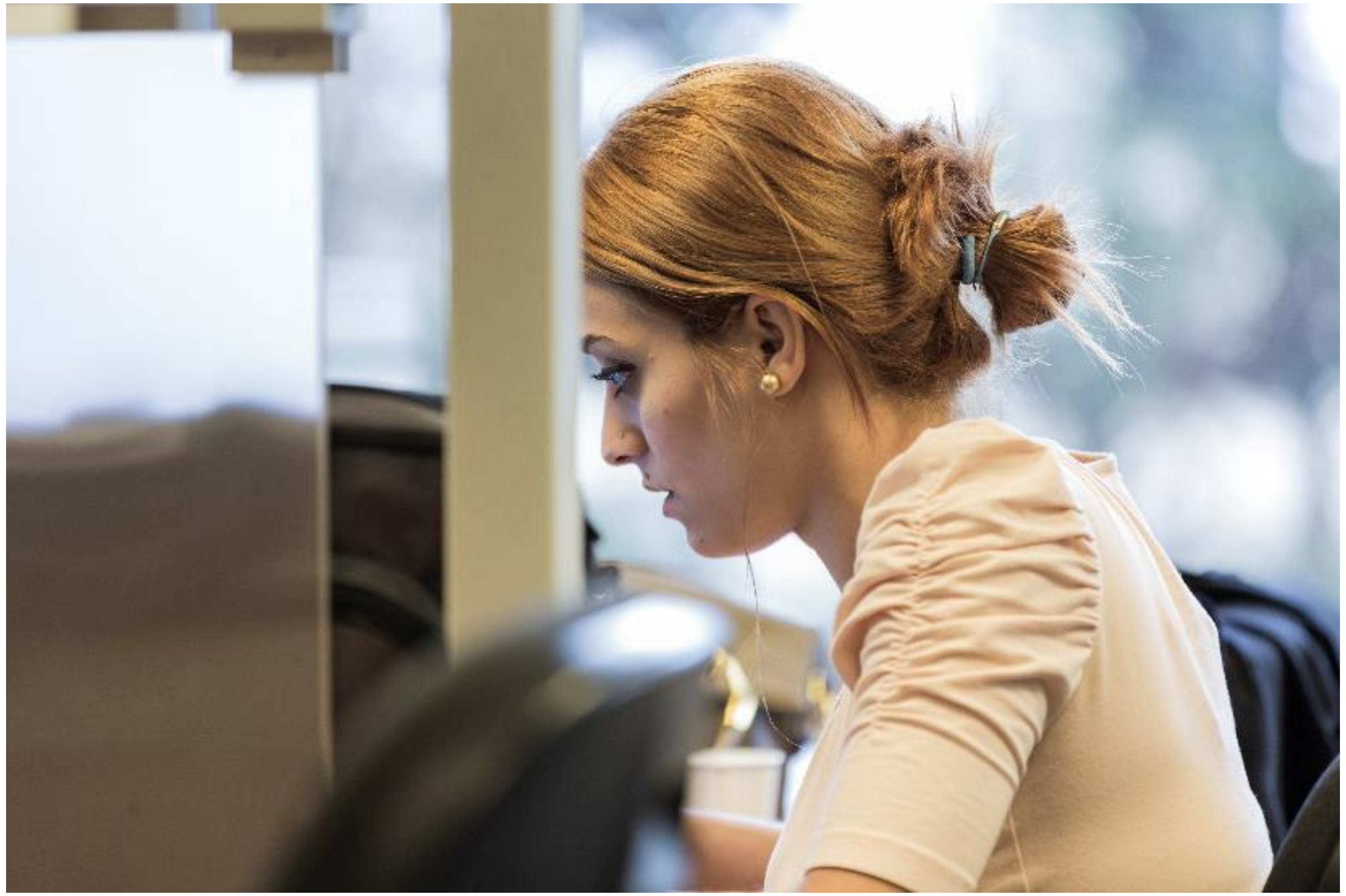
The above changes will be effective from 1 March 2015

- Penalties for contravention of CENVAT provisions have been amended to align with the corresponding penalties applicable under the Service tax or the central excise regulations, as the case may be

The above changes will be effective from the date of enactment of Finance Bill, 2015

- Credit of service tax paid by the recipient of service under partial reverse charge can be taken immediately on payment of tax; there is no need to wait for the payment of full value of service. This change brings consistency in provisions applicable to full or partial reverse charge cases

The above changes will be effective from 1 April 2015



Service tax

Services to bear a bigger tax burden

There has been a rate increase and the introduction of Swachh Bharat Cess. 12.36 percent to 16 percent is an extremely sharp rate increase, which will certainly get an adverse reaction from industry. Similar to excise, digitalization of records is a good move as the same has made compliances easier. Further, the completion of registration process has been accelerated to 2 days.

Service tax (contd.)

Service Tax rate increased from 12.36 percent to 14 percent

Effective service tax rate has been increased from 12.36 percent to 14 percent. As soon as the increased tax rate becomes effective, education cess and secondary and higher education cess will no longer be applicable on service tax.

The revised tax rate will be effective from a date to be notified by the Central Government after the enactment of Finance Bill.

Enabling provision introduced to levy Swachh Bharat Cess

In line with the Prime Minister's initiative for Swachh Bharat Yojana, the Central Government has been empowered to impose Swachh Bharat Cess on any or all the taxable services at the rate of up to 2 percent. The cess has been introduced to fund and promote the Swachh Bharat initiative. The overall indirect tax burden will increase due to rise in the service tax rate, tweaking of the Negative List and curtailing of Mega Exemption Notification.

The revised tax rate will be effective from a date to be notified by the Central Government after the enactment of Finance Bill.

Service tax (contd.)

Broadening of tax base

Negative List trimmed

- **Access to amusement facility will be subject to service tax**
  - Currently, the access to amusement facilities is not taxable as it is covered under the negative list. The Finance Minister has proposed omission of this entry from the negative list. The change will be effective from the notified date.
- **Job-work activity for manufacture of alcohol for human consumption brought under the purview of service tax**
  - Services of carrying out any processes for production or manufacture of alcoholic liquor for human consumption are proposed to be made taxable by removing it from the negative list.
  - At the same time, it is proposed to make job-work process carried out for production of alcoholic liquor for human consumption taxable by removing it from Mega Exemption. The proposals would be with effect from a date to be notified after the enactment of the Finance Bill, 2015.
- *All services provided by Government or local authority to business entities will be subject to service tax*
  - Currently, the support services provided by the Government or local authority to business entities are covered under the negative list. The Finance Minister has expanded the service tax base by deleting support services provided by Government to business entities with effect from a date to be notified after the enactment of the Finance Bill, 2015.

Service tax (contd.)

Significant trimming of exemptions as well

- Exemption for services provided to Government, Local/Governmental authority restricted for specified structures
  - Currently, there is exemption for construction and related services for specified types of original work structures, when provided to Government, Local/Governmental authority. However, the Finance Minister has reduced the exemption with effect from 1 April 2015 to a selective original work structures as mentioned below:
    - Historical monument, archaeological site, archaeological excavations or antiquity
    - Canal, dam or other irrigation works
    - Pipeline, conduit or plant for water supply, water treatment or sewerage treatment or disposal

- *Exemption of services of construction, erection, commissioning or installation of original works pertaining to an airport/port withdrawn*
  - Currently, the services of construction, erection, commissioning or installation of original works pertaining to airports, ports, railways, monorails and metros is exempted. The services to ports and airports will be taxable with effect from 1 April 2015.

Service tax (contd.)

Significant trimming of exemptions as well

- Exemption of services by an artist in folk, classical art form of music, dance or theatre limited only to cases where amount charged is up to INR 1,00,000 per performance
  - Currently, there is a blanket exemption to all the services provided by a performing artist in folk, classical art form of music, dance or theatre. The Finance Minister has curtailed the exemption to services of artist only when the amount per performance is not more than INR 1,00,000. This is effective from 1 April 2015.

- *Exemption for transportation service of food stuff by rail/vessels/road limited to milk, salt, food grains including rice, pulses and flour*
  - Currently, the transportation service by rail/vessels/road of foodstuff such as flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil excluding alcoholic beverages is exempted. However, the Finance Minister has limited the exemption to transportation of only milk, salt, food grains, including rice, pulses and flour. The revised exemption will be effective from 1 April 2015.

Service tax (contd.)

Significant trimming of exemptions as well

- Exemption of services provided by a Mutual fund agent and distributor to a Mutual Fund ('MF')/Asset Management Company ('AMC') withdrawn
  - Currently, the service provided by a Mutual fund agent and distributor to a MF/AMC is exempted. However, the Finance Minister has removed this exemption and made a corresponding amendment in the reverse charge notification as well as definition of person liable to pay service tax with the intention to bring the mutual fund agents at par with the insurance agents. Hence, the services provided by a mutual fund agent and distributor would fall under full reverse charge mechanism and the MF/AMC would be liable to pay service tax. This change will be effective from 1 April 2015.

- Exemption of services by a selling or marketing agent of a lottery ticket to a distributor withdrawn
  - currently, the service provided by a selling or marketing agent of a lottery ticket to a distributor is exempt. However, this exemption has been rescinded. Further, from now onwards, the services provided by a selling or lottery ticket agents to distributor would fall under full reverse charge mechanism and the distributor would be liable to pay service tax. This change will be effective from 1 April 2015.

Service tax (contd.)

Significant trimming of exemptions as well

- Exemption to service of departmentally run public telephone, guaranteed public operating only local calls and service of making telephone calls from free telephone at airport and hospital when no bill is issued stands withdrawn
  - The Finance Minister has curtailed the exemption by omitting all the services of making telephone calls with effect from 1 April 2015.
- Rescinding of existing service tax exemption for services provided by a commission agent located outside India to an exporter in India with immediate effect
  - Currently, the service provided by a commission agent located outside India to an exporter in India is exempted through a notification. However, the exemption has become redundant as the place of provision of service of the commission agent will be outside India due to the amendment in the definition of intermediary service.

Service tax (contd.)

Exemptions introduced

Scope of Mega Exemption Notification widened

- Though the FM has trimmed the exemptions in the Negative list and Mega Exemption Notification, there are some services which have been exempted, such as:
  - Any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment was exempt. The scope of this exemption is widened to include all ambulance services by any person.
  - Life insurance services provided by way of Varishtha Pension Bima Yojna are now exempted.
  - Services provided by a Common Effluent Treatment Plant Operator for treatment of effluents are exempted.
  - Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables which do not change or alter the essential characteristics of the fruit and vegetables are exempted.
  - Services provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve are exempted. Though these services when provided by the Government or local authority were already covered by the Negative list.
  - Services provided by way of exhibition of movie by the exhibitor/theatre owner to the distributor are exempted.
  - These changes will be effective from 1 April 2015.

Service tax (contd.)

Exemptions introduced

Scope of Mega Exemption Notification widened

- Enlarging the exemption for road transport services provided for export goods
- Goods transport agency services provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport was exempt from service tax. Scope of this exemption is widened to exempt such services when provided for transport of export goods by road from place of removal/ inland container depot/ container depot to a land customs station.
- These changes will be effective from 1 April 2015.

Service tax (contd.)

Penalties streamlined along with some harsh measures

- Recovery of unpaid self-assessed tax without issuance of show cause notice
  - The unpaid amount of service tax assessed and declared in the service tax return by the taxpayer can now be recovered even without issuance of show cause notice.
- New penal provisions
  - In cases not involving fraud, collusion, willful misstatement or suppression of facts, separate set of penalties have been introduced.
    These are as follows:
  - The maximum amount of penalty would be 10 percent of service tax liability;
  - No penalty will be imposed if service tax and interest is paid within 30 days of service of Show Cause Notice;
  - A reduced penalty of 25 percent of the penalty imposed by the officer if the assesse pays the service tax along with interest and reduced penalty is paid within thirty days of issuance of Order;
  - If the service tax amount gets modified in the appellate proceedings then the penalty shall accordingly be modified. This benefit of reduced penalty will be available if the service tax, interest and reduced penalty is paid within thirty days of such appellate order.

Service tax (contd.)

- In cases involving fraud, collusion, willful misstatement or suppression of facts, separate set of penalties have been introduced. These are as follows:
  - Penalty shall be equivalent to the service tax liability;
  - Penalty equivalent to 15 percent of the service tax liability ,if service tax, interest and reduced penalty is paid within thirty days of issuance of SCN;
  - A reduced penalty equivalent to 25 percent of the service tax amount, if service tax along with interest and reduced penalty is paid within thirty days of issuance of order;
  - In cases where the service tax amounts gets modified in the appellate proceedings then the penalty shall accordingly be modified. This benefit of reduced penalty will be available if the service tax, interest and reduced penalty is paid within thirty days of such appellate order.
- Power to waive penalty removed
  - This is a major change wherein the power to waive penalty has been taken away in genuine cases wherein there was reasonable cause for default on the part of the tax payer. The removal of the discretionary power can lead to undue financial hardship to a bonafide taxpayer.

Service tax (contd.)

Modifications to Abatement and Reverse Charge Mechanism

- Uniform abatement prescribed for transport by rail, road and vessels
- Currently, service tax is payable at different rates on the following services:
  - Rail transport for goods and passengers at 30 percent;
  - Goods transport by road by a goods transport agency at 25 percent; and
  - Goods transport by vessels at 40 percent
- The FM has announced a uniform abatement rate of 70 percent for all the above mentioned services. This abatement is now available only when CENVAT credit is not availed on inputs, capital goods and input services. Earlier, abatement on services of rail transport for goods and passengers could be availed without any such CENVAT credit availment condition.
- This streamlines multiple abatement rates prescribed earlier in the Service Tax Laws.
- This modification will be effective from 1 April 2015.

Service tax (contd.)

- Abatement for executive (business/ first class) air travel reduced
  - This amendment has created a bifurcation in the 60 percent abatement available to services of transport of passengers by air (with or without accompanied belongings) as follows:
    - Economy Class – abatement of 60 percent; and
    - Other than economy class – abatement of 40 percent
- This modification will be effective from 1 April 2015.

Modification in the reverse charge notification

- The words ‘ Percentage of service tax payable by the person receiving the service’ are to be replaced with ‘Percentage of service tax payable by any person liable for paying service tax, other than the service provider’ with effect from 1 March 2015.
- This would mean that under the reverse charge mechanism, persons liable to pay service tax would include in its net greater number of players, and not just the service provider and the service receiver. This would address the specific business transactions such as that of the aggregator model, discussed below.

Service tax (contd.)

- Service tax levied on 'aggregators' under the reverse charge mechanism
  - The term ‘aggregator’ is introduced in the Service Tax Rules to mean a person who has a web-based model where he brings together service providers and customers under his brand.
  - The introduction has addressed business following the aggregator model especially services provided by online cab services companies. Aggregator is liable to pay service tax under the reverse charge basis. It has been further stated that if the aggregator does not have any physical presence in India, any person representing the aggregator shall be liable to pay service tax.
  - In addition, if the aggregator does not have any representative, the aggregator will have to appoint somebody for the purpose of discharging service tax.
  - This modification will be effective from 1 March 2015.
- Manpower supply and security services brought under full reverse charge
  - To bring about simplicity with respect to services provided on a reverse charge basis, the FM has brought the following services under the full reverse charge mechanism:
    - Supply of manpower services; and
    - Security services

Currently, the services fall under partial reverse charge mechanism wherein the service receiver is liable to pay 75 percent of the tax and the service provider pays 25 percent. With this amendment, the service receiver would now be liable to pay service tax at 100 percent of the value of supply of manpower services and security services.

Service tax (contd.)

Compliance facilitation

- Procedure for registration simplified
  - Service tax registration will be granted within 2 days of filing of an online application for single premises. An appropriate Order No. 1/15-ST dated 28.02.2015 deals with this issue. Further, the requirement of filing physical documents has been done away with effect from 1 March 2015.
- Digitally signed invoices along with an option to maintain electronic records allowed
  - A new rule has been inserted that gives an option to authenticate, by means of digital signature, any invoice, bill or challan or consignment note. Further, an option has been provided to preserve the records in an electronic form and every page of the record so preserved would be authenticated by digital signature. The Board shall notify the procedure to be followed by a person issuing digitally signed invoices and preserving digitally signed records.
  - This position already exists legally because of certain provisions under the Information Technology Act and therefore, this provision is a clarification rather than a new provision.

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