

# BUDGET ANALYSIS 2016

J P Chawla & Co. LLP  
Chartered Accountants

Taxation | Audit | Outsourcing | Regulatory | Transaction Advisory | Consultancy Services



# CONTENTS

1.	Foreword	3
2.	Economic Outlook	5
3.	Budget at Glance	12
4.	Direct Tax Proposals	
	a. Tax Rates	15
	b. Corporate Tax	17
	c. Personal Tax	24
	d. Anti Tax Avoidance measures	26
	e. International Tax	27
	f. Transfer Pricing	30
	g. Withholding Tax	33
	h. Other Points	35
5.	Indirect Tax Proposals	
	a. Service Tax	45
	b. Customs	51
	c. Central Excise	59
6.	Start-Up India	66
7.	FDI & Other Proposals	70
8.	Glossary	72

## FOREWORD

Changes Changes !!! We all know that only thing constant is change !! This has been so true for this transformational budget presented by our Finance minister on the leap day of the leap year 2016.

Indian economy has achieved robust growth despite very unfavourable global conditions. India has been hailed as a 'bright spot' amidst a slowing global economy by IMF. Growth of Economy has accelerated to 7.6% in 2015-16. Foreign exchange reserves have touched highest ever level of about 350 billion US dollars.

Budget 2016 has tried to be pragmatic, futuristic and dynamic to push the Indian vision of growth while the whole world slows down.

Start-up is the new mantra, with push towards low tax rates & exemptions for SME, Manufacturing entities and start-ups involved in new technology and Innovation.

The determination of residency of foreign company on the basis of Place of Effective Management (POEM) has been be deferred by one year while commitment to implement General Anti Avoidance Rules (GAAR) from 1.4.2017 has been reiterated.

The budget also brings in BEPS initiative with introducing CBC reporting for MNEs of certain size. Another idea taken from BEPS is introduction of new equalisation levy at the rate of 6%.

To encourage creation and retention of technology in India a new patent box regime is being introduced at reduced tax rate of 10%

It also introduces certain new initiatives in dispute resolution mechanisms in both direct & indirect tax regime

A new avatar of voluntary disclosure scheme has been introduced for encouraging conversion of black money into tax paid money with a combined tax rate of 45%.

Budget has also rationalises certain penal interests in service tax regulation, penalties in direct tax regime, while introducing new krishi kalyan cess of 0.5%.

For incentivizing domestic value addition towards Make in India campaign, suitable changes in customs and excise duty rates on certain inputs, raw materials, intermediaries and components and certain other goods have been made and procedures have also been simplified

The use of technology has been emphasised in a big way and accordingly the scope of e-assessments has been extended to all assessees in 7 mega cities in the coming years. The cases selected for scrutiny will be scrutinized in e-environment whereby unless the assessee himself wants to be heard, or for special reasons to be recorded, the assessing officer wants to hear the party, there will be no face to face contact of IT Department with assessee.

It is also proposed to amend section 206AA of the Income-tax Act so as to provide that TDS shall not be deducted at a higher rate in case of non-residents not having PAN, subject to prescribed condition.

It is also proposed to amend the provision of section 44AB of the Income tax Act to enhance the threshold limit for audit of accounts from INR 25 lakh to INR 50 lakh for persons having income from profession, further It is proposed to amend the provisions of section 44AD of the Income-tax Act so as to increase the threshold limit of presumptive taxation from INR 1 crore to INR Rs 2 crore.

The challenge in 2016-2017 is the risk of further global slowdown and turbulence while ensuring transformation of India in order to have a positive impact on economy further ensuring macro-economic stability and prudent fiscal management by boosting domestic demand, continuing with the pace of economic reforms and policy initiatives to change the lives of people for the better

There has been plethora of positive initiatives in this budget in terms of simplification, rationalisation and technology initiatives with a vision for future. We can expect that the new fiscal year 2016-2017 shall be a year growth for INDIA.

**To sum it up, its aptly put in by the finance minister in his speech “Champions are made from something they have deep inside of them - a desire, a dream, a vision”. We have a desire to provide socio-economic security to every Indian, especially the farmers, the poor and the vulnerable; we have a dream to see a more prosperous India; and a vision to ‘Transform India’.**

**Hope you enjoy reading our analysis of Budget 2016.**

**Happy reading!!**

**Team J P Chawla & Co. LLP**

Main Partners contact email:

[rajatchawla@jpc.co.in](mailto:rajatchawla@jpc.co.in)

[jpchawla@jpc.co.in](mailto:jpchawla@jpc.co.in)

[richajuneja@jpc.co.in](mailto:richajuneja@jpc.co.in)

# ECONOMIC OUTLOOK



# ECONOMIC OUTLOOK

## Overview of the economy

The Indian economy has emerged as a bright spot in the world economy, becoming one of the fastest growing large economies in the world. The 7.6 per cent growth in the GDP at constant market prices in 2015-16, according to the advanced estimates of the Central Statistics Office, compares favourably with growth in the previous three years; 7.2 per cent in 2014-15, 6.6 per cent in 2013-14 and 5.6 per cent in 2012-13. It is noteworthy that this growth is estimated to be achieved despite subdued global demand that dampened India's exports significantly, and two consecutive below-normal monsoons that impacted farm output and productivity.

The macroeconomic stability has improved substantially with the continuance of fiscal prudence, lower inflation, lower current account deficit, and robust foreign exchange reserves. The year 2015-16 witnessed the government doing a fine balancing act, i.e. meeting the requirements of higher untied devolution to states and Union Territories as per the recommendations of the Fourteenth Finance Commission, and, keeping fiscal prudence while also stepping up capital expenditure. The current year also experienced moderation in general price level, with significant decline in the price of Indian basket of crude oil and commodity prices, coupled with astute food supply management policy of the Government. Low levels of current account deficit coupled with moderate rise in capital inflows resulted in accretion in foreign exchange reserves by US\$ 10.6 billion in the first half of 2015-16. India's foreign exchange reserves were at US\$ 351.5 billion as on February 5, 2016. All this shows that the Indian economy has effectively weathered the global challenges, and the near term growth prospects appear bright.

This year witnessed the continuation of the reform momentum built in 2014-15, aiming at aiding growth and macroeconomic stability. The reforms that were initiated last year for debottlenecking the economy, removing structural constraints, promoting industry and enterprise via Make-in-India initiative and the attendant measures to improve the ease of doing business, improving programme delivery through direct benefit transfer and other measures, encouraging saving and financial linkages through deepening of banking services and liberalising foreign direct investment policy in various sectors have been taken forward this year. The new initiatives like Public Sector Banks' Revamp Plan, UDAY (Ujwal DISCOM Assurance Yojana) for ensuring financial turnaround of the ailing power distribution companies, Start-up India for tapping budding entrepreneurial potential, add to the ongoing reform measures. The implementation of these reforms has improved the business environment and enhanced investors' confidence, which has been acknowledged by multi-lateral institutions and got reflected in faster economic growth and greater investment inflows to the country.

## GDP growth

As per the Advanced Estimates released by the Central Statistics Office, the economy is estimated to grow at 7.6 per cent in 2015-16, higher than growth of 7.2 per cent achieved in 2014-15. The growth in agriculture, industry and services is estimated at 1.1 per cent, 7.3 per cent and 9.2 per cent in 2015-16 as opposed to (-) 0.2 per cent, 5.9 per cent and 10.3 per cent respectively in 2014-15. This shows a pick-up in industrial growth, driven by manufacturing which is estimated to grow at 9.5 per cent (in 2015-16), as compared to 5.5 per cent registered in 2014-15. The growth in agriculture remained low on



account of second consecutive year of subdued monsoon. GDP growth during April-December 2015 (first 3 quarters) was 7.5 per cent, compared to 7.4 per cent in the same time period in 2014-15.

From the demand angle, the growth in private final consumption expenditure at 7.6 per cent in 2015- 16 has been the major driver of growth. The growth of fixed investment improved from 4.9 per cent in 2014- 15 to 5.3 per cent in 2015-16. The exports and imports are both estimated to decline by 6.3 per cent in 2015- 16, the former mainly on account of subdued global demand and the latter largely reflecting the decline in international petroleum prices.

## Agriculture

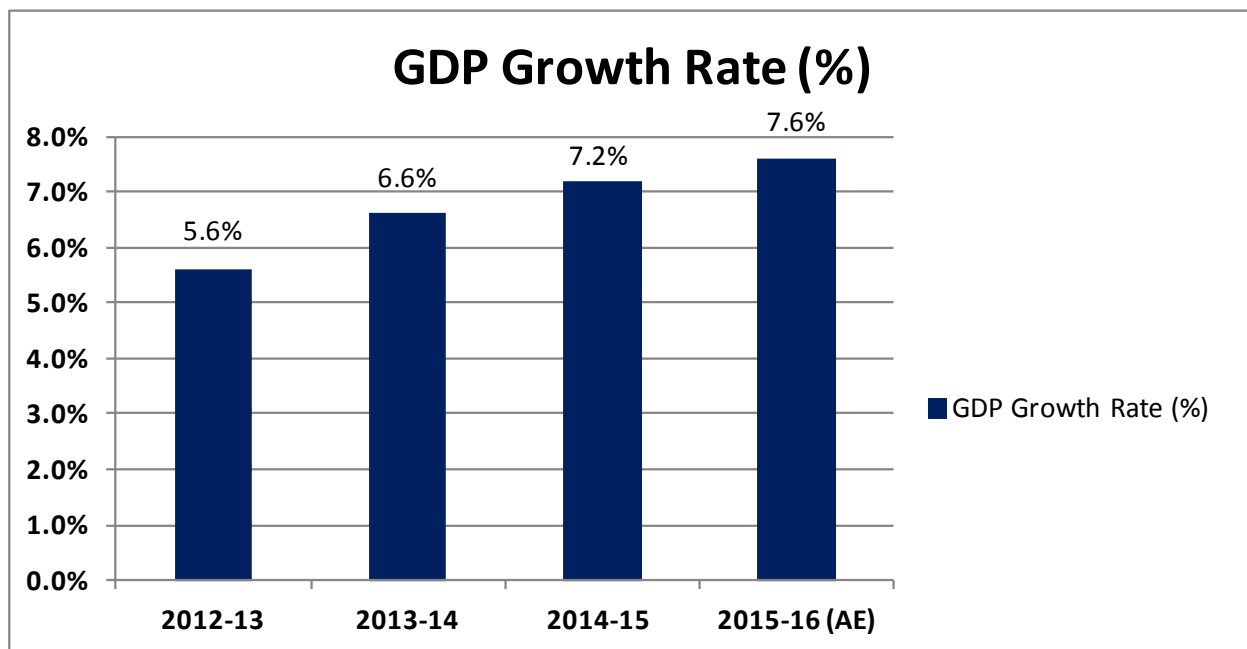
During the Southwest monsoon season of 2015, the country received 14 per cent lower rainfall than the long period average. As per the 4th Advance Estimates, the production of food grains during 2014-15 is placed at 252.7 million tonnes (rice at 104.8 million tonnes and wheat at 88.9 million tonnes), vis-à-vis 265.0 million tonnes in 2013-14 (final estimates). The production of pulses is estimated at 17.2 million tonnes, sugarcane at 359.3 million tonnes, oilseeds at 26.7 million tonnes and

cotton at 35.5 million bales of 170 kg each in 2014-15. As per the first advance estimates released by the Ministry of Agriculture on 16.09.2015, production of total kharif foodgrains during 2015-16 is estimated at 124.1 million tonnes, compared to 120.3 million tonnes in 2014-15.

The flow of agriculture credit increased to 8,45,328 crore (provisional) in 2014-15, compared to Rs.7,30,123 crore in 2013-14. The agriculture credit flow target was fixed at ₹8,50,000 crore for 2015-16, against which ₹5,03,898 crore (provisional) was achieved upto 30th September, 2015.

## Prices

The year 2015-16 continues to experience moderation in general price level. The significant decline in the price of the Indian basket of crude oil, through the direct and second round effects, partly contributed to the decline in general inflation for the second successive year. **The headline inflation, based on the CPI (combined) series, dipped to 4.9 per cent during 2015-16 (April-January), as against 5.9 per cent in the year 2014-15. Food inflation measured in terms of Consumer Food Price Index (CFPI) declined to 4.8 per cent during 2015-16 (April-January), as compared to 6.4 per cent in 2014-15.** The CPI-based



core inflation (non-food, non-fuel) also remained range-bound, inching up from 4.2 per cent in March 2015 to 4.7 per cent in January 2016. The decline in core inflation was largely on account of the decline in the inflation in housing (rent), transport, communication, education and other services.

The headline WPI inflation declined much faster than the CPI inflation, following the global trend of declining commodity prices. WPI inflation has been in the negative territory since November 2014 and it averaged (-) 2.8 per cent in 2015-16 (April-January), as compared to 2.0 per cent in 2014-15. The WPI inflation in fuel and power group declined significantly to (-) 12.3 per cent in 2015-16 (April-January) from (-) 0.9 per cent in 2014-15. The WPI-based core inflation declined from 2.4 per cent in 2014-15 to (-) 1.5 per cent in 2015-16 (April-January). The WPI combined food inflation continues to remain moderate at 2.2 per cent during 2015-16 (April-January), despite the below-normal monsoon this year and the sporadic spurt in the prices of pulses and a few other essential commodities in the second half of the year.

The astute food supply management policy of the Government through buffer stocking of food grains and minimal increase in the minimum support price of agricultural commodities helped to moderate the prices of essential commodities during 2015-16. The easing of inflationary pressures paved the way for the reduction in policy repo rates by 125 basis points during 2015 by the Reserve Bank of India (RBI).

## Industry and Services

The performance of key industrial sectors based on the Index of Industrial Production (IIP) reveals a pick-up in industrial production in first three quarters of 2015-16. **Growth in IIP in April-December 2015 was 3.1 per cent, higher as compared to 2.6 per cent in same time period last year. As per the sectoral classification of IIP,**

**electricity sector grew by 4.5 per cent, manufacturing by 3.1 per cent and mining by 2.3 per cent during April-December 2015-16.** The factors constraining further growth acceleration in manufacturing sector include; infrastructure bottlenecks and low external demand. Among the use-based categories, consumer durables witnessed marked improvement in growth during April-December 2015-16.

In 2015-16, as per the advance estimates, the services sector accounting for 53.3 per cent of India's gross value added at current basic prices, is estimated to grow at 9.2 per cent (at constant prices). Among the service sector activities, the sectors like: trade, hotels, transport, communication and services; and, financial, real estate and professional services are estimated to register robust growth rates in 2015-16.

## Monetary Developments

**The RBI effected a shift in its monetary policy stance on January 15, 2015 with a reduction in repo rate by 25 basis points (bps) to 7.75 per cent and followed it up with a cumulative reduction of 100 bps - 25 bps each on March 4, 2015 and June 2, 2015 and another 50 bps on September 29, 2015. RBI kept the policy repo rate unchanged at 6.75 per cent in the sixth bi-monthly monetary policy review on February 2, 2016.**

Liquidity conditions were generally tight during the first quarter (Q1) of 2015-16, mainly due to restrained government spending. In the second quarter (Q2) of financial year (FY) 2015-16, however, liquidity conditions eased significantly as public expenditure picked up and deposits exceeded credit substantially. In the third quarter (Q3) of FY 2015-16, liquidity conditions tightened mainly due to the festive season currency demand. RBI conducted variable rate repo and reverse repo (overnight and term) auctions to address the day-to-day liquidity requirements arising out of frictional factors, besides the regular



liquidity operations under the Liquidity Adjustment Facility coupled with the Open Market Operations. Accordingly, the weighted average call rate or the operating target of monetary policy remained closely aligned to the policy repo rate.

## Banking sector and financial inclusion

The performance of the scheduled commercial banks (SCBs) during 2015-16 remained subdued. The slowdown in the growth in the balance sheets of banks witnessed since 2011-12 continued during 2015-16 as well. The moderation in the growth of assets of the SCBs was mainly attributed to tepid growth in loans and advances (below 10 per cent). Growth in investments also slowed down marginally. The decline in credit growth reflected the slowdown in industrial credit off take, poor growth of earnings reported by the corporate sector and risk aversion on the part of banks owing to rising non-performing assets. Further, with the availability of alternative sources, the corporate sector companies also switched part of their financing needs to other sources such as external commercial borrowings, corporate bonds and commercial papers.

There was considerable increase in the number of basic savings bank deposit accounts (BSBDAs) during the current year under the Pradhan Mantri Jan Dhan Yojana. BSBDAs reached 441 million at end- September 2015, as against 398 million at end-March 2015. The total number of banking outlets increased from 553,713 at the end-March 2015 to 567,530 at end-September 2015. Three schemes were launched in 2015 in the insurance and pension sectors for creating a universal social security system for all Indians, especially the poor and underprivileged. The schemes include; the Pradhan Mantri Suraksha Bima Yojana, the Pradhan Mantri Jeevan Jyoti Bima Yojana and the Atal Pension Yojana.

## External Sector

Reflecting the slowdown in the value of global trade owing to the decline in global commodity prices and weak demand, the value of India's merchandise exports (customs basis) declined by 1.3 per cent to US\$ 310.3 billion in 2014-15. In 2015-16 (April- January), the growth of exports declined by 17.6 per cent (US\$ 217.7 billion vis-à-vis US\$ 264.3 billion in the corresponding period of the previous year). Imports declined by 0.5 per cent to US\$ 448.0 billion in 2014-15. Imports for 2015-16 (April-January) were valued at US\$ 324.5 billion, 15.5 per cent lower as compared to US\$ 383.9 billion in the corresponding period of the previous year. Imports of petroleum, oil and lubricants (POL) declined by 41.4 per cent in 2015-16 (April- January) to US\$ 73.1 billion, as compared to US\$ 124.8 billion in the corresponding period of previous year, mainly due to the decline in international crude oil prices. Non-POL imports for 2015-16 (April-January) declined by 3.0 per cent to US\$ 251.4 billion, as compared to US\$ 259.1 billion in the corresponding period of the previous year. Resultantly, trade deficit decreased to US\$ 106.8 billion during 2015-16 (April- January), as against US\$ 119.6 billion in the corresponding period of the previous year.

Based on the Balance of Payments (BoP) data available for the first six months of 2015-16, the trade deficit on BoP basis was US\$ 71.6 billion in April- September 2015 as compared to US\$ 74.7 billion in April-September 2014. With the net invisibles surplus of US\$ 57.2 billion in the first half of 2015-16 (as against US\$ 56.3 billion in the first half of 2014-15), current account deficit (CAD) was US\$ 14.4 billion in April-September 2015, as compared to US\$ 18.4 billion in April-September 2014.

On a BoP basis, there was a net accretion to India's foreign exchange reserves by US\$ 61.4 billion and US\$ 10.6 billion respectively in 2014-15 and 2015- 16 (April-September). Buoyant remittances (private transfers)

supplemented the lower crude oil prices in reducing the current account deficit, and lower but the significant capital flows -resulted in a sizeable capital account surplus. This resulted in increase in the stock of foreign exchange reserves, which stood at US\$ 350.3 billion at end September, 2015. The stock of foreign exchange reserves was US\$ 351.5 billion as on February 5, 2016. As some of the financial flows were debt creating, the total stock of external debt was US\$ 483.2 billion at end-September 2015 as against the level of US\$ 475.2 billion at end March 2015.

In 2015-16 (April-January), the average monthly exchange rate of rupee (RBI's reference rate) was in the range of ₹62 - 67 per US dollar (₹62.75 per US dollar in April 2015 and ₹67.25 per US dollar in January 2016). During 2015-16 (April-January), the average monthly exchange rate of rupee depreciated by 6.3 per cent. On month-on-month basis, the rupee depreciated by 7.1 per cent from 62.45 per US dollar in March 2015 to 67.25 per US dollar in January 2016.

At end-September 2015, India's external debt stock stood at US\$ 483.2 billion, recording an increase of US\$ 8.0 billion (1.7 per cent) over the level at end-March 2015. The maturity pattern of India's external debt indicates dominance of long- term borrowings. At end-September 2015, the long- term external debt accounted for 82.2 per cent of India's total external debt, while the remaining portion (17.8 per cent) was short-term external debt. The ratio of short-term external debt to foreign exchange reserves stood at 24.6 per cent vis-à-vis 25.0 per cent at end-March 2015.

## Central Government Finances

In 2014-15, the pro-active policy decisions of the Government with [firm commitment to fiscal consolidation provided on opportunity to achieve the fiscal deficit target of 4.1 per cent of GDP set for the year](#). In 2015-16, fiscal

deficit and revenue deficit were budgeted at ₹5, 55,649 crore (3.9 per cent of GDP) and 3, 94,472 crore (2.8 per cent of GDP) respectively. In B.E. 2015- 16, the 'effective revenue deficit', which represents the imbalance in revenue account after netting the grants used for creation of capital assets was estimated at 2,83,921 crore i.e. 2.0 per cent of GDP.

The BE 2015-16 envisaged a tax to GDP ratio of 10.3 per cent, non-debt receipts to GDP ratio of 8.7 per cent and total expenditure to GDP ratio of 12.6 per cent. The envisaged growth for gross tax revenue was 15.8 per cent over Revised Estimates (RE) 2014-15. The total expenditure in BE 2015-16 was estimated to increase by 5.7 per cent over RE 2014-15.

As per the data on Union Government Finances released by Controller General of Accounts for April- December 2015, the gross tax revenue increased by 21.1 per cent in comparison to the corresponding period of the previous year and was at 66.5 per cent of BE. The non-tax revenue registered an increase of 22.6 per cent during April-December 2015, over the corresponding period of the previous year. At the end of December 2015, there was a significant shortfall in non- debt capital receipts, mainly on account of the shortfall in disinvestment receipts, as only ₹12866 crore of the budgeted amount of ₹69,500 crore was realized.

Major subsidies decreased by 1.7 per cent during April-December 2015, as compared to April-

December 2014 due to a decline in petroleum subsidy by ₹22,545 crore, as compared to the corresponding period in 2014-15, due to fuel pricing reforms and steep decline in the global prices of petroleum products. Conversely, there was an increase in food subsidy by ₹10,278 crore and fertilizer subsidy by ₹8,609 crore.

Fiscal deficit at 87.9 per cent of BE in the year 2015-16 (April-December) was higher than the five- year average

of 82.3 per cent, but lower than the corresponding figure of 100.2 per cent in the previous year. The revenue deficit for April-December 2015 was estimated at 81.7 per cent of BE and is significantly lower than the five year moving average of 84.8 per cent. The Revised Estimates place fiscal and revenue deficits at 3.9 per cent of GDP and 2.5 per cent of GDP respectively in 2015-16.

## **Prospects**

In light of the encouraging performance of the economy in the first three quarters of 2015-16, marked by pick-up in economic growth, lower inflation, manageable current

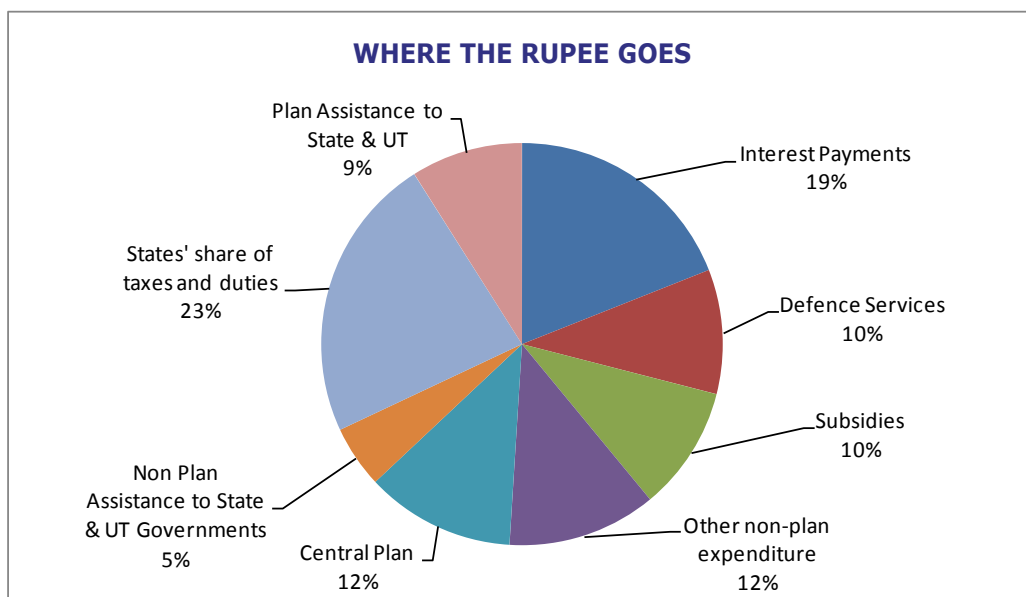
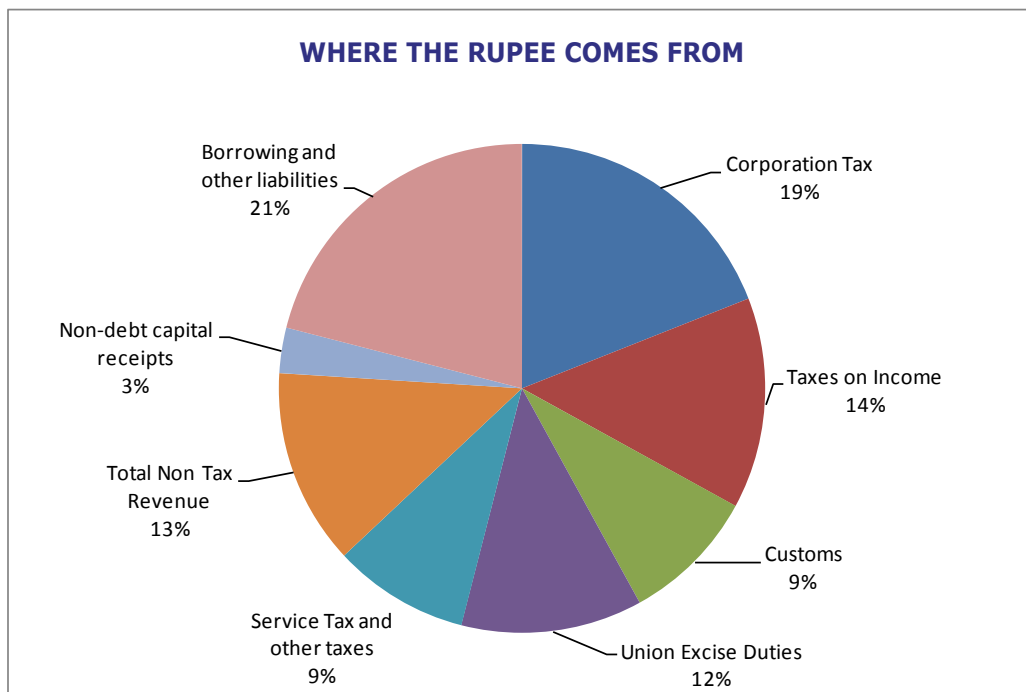
account deficit, high foreign exchange reserves, buoyant tax revenues, increasing foreign direct investment flows along with the government's push to reforms in crucial areas including banking, infrastructure, power, taxation, etc., the near term prospects for the economy look bright. A strengthening of growth in India has been projected by multi-lateral institutions. However, the risk that still remains is the subdued global growth; slowdown and rebalancing in China's economy; increased volatility in financial markets; and, gradual tightening in the monetary policy in the United States. Keeping these conditions in view, the rate of nominal growth of the economy is expected to be around 11 per cent in 2016-17.

## BUDGET AT A GLANCE

Budget 2016-17 reflects Government's firm commitment to substantially boost investment in Agriculture, Social Sector, Infrastructure and employment generation on the one hand and simultaneously sticking to the fiscal consolidation path. This is substantiated by a huge 15.3%

jump in Plan outlay and 9% increase in Non Plan outlay in 2016-17 over RE (2015-16) while simultaneously conforming to the fiscal deficit target of 3.5%.

The total plan outlay for 2016-17 is ₹5,50,010 crore and Non Plan outlay is ₹14,28,050.45 crore.



## Budget at a Glance

Amount in Crores (in INR)

		2013-2014	2014-2015	2014-2015	2015-2016
		Actuals @	Budget Estimates	Revised Estimates	Budget Estimates
<b>1</b>	<b>Revenue Receipts</b>	<b>1101472</b>	<b>1141575</b>	<b>1206084</b>	<b>1377022</b>
	2 Tax Revenue (net to centre)	903615	919842	947508	1054101
	3 Non-Tax Revenue	197857	221733	258576	322921
<b>4</b>	<b>Capital Receipts (5+6+7)</b>	<b>562201</b>	<b>635902</b>	<b>579307</b>	<b>601038</b>
	5 Recoveries of Loans	13738	10753	18905	10634
	6 Other Receipts	37737	69500	25312	56500
	7 Borrowings and other liabilities *	510725	555649	535090	533904
<b>8</b>	<b>Total Receipts (1+4)</b>	<b>1663673</b>	<b>1777477</b>	<b>1785391</b>	<b>1978060</b>
<b>9</b>	<b>Non-Plan Expenditure</b>	<b>1201029</b>	<b>1312200</b>	<b>1308194</b>	<b>1428050</b>
	10 On Revenue Account of which,	1109394	1206027	1212669	1327408
	11 Interest Payments	402444	456145	442620	492670
	12 On Capital Account	91635	106173	95525	100642
<b>13</b>	<b>Plan Expenditure</b>	<b>462644</b>	<b>465277</b>	<b>477197</b>	<b>550010</b>
	14 On Revenue Account	357597	330020	335004	403628
	15 On Capital Account	105047	135257	142193	146382
<b>16</b>	<b>Total Expenditure (9+13)</b>	<b>1663673</b>	<b>1777477</b>	<b>1785391</b>	<b>1978060</b>
	17 Revenue Expenditure (10+14)	1466992	1536047	1547673	1731037
	18 Of Which, Grants for creation of Capital Assets	130760	132472	132004	166840
	19 Capital Expenditure (12+15)	196681	241430	237718	247023
<b>20</b>	<b>Revenue Deficit (17-1)</b>	<b>365519</b>	<b>394472</b>	<b>341589</b>	<b>354015</b>
		<b>(2.9)</b>	<b>(2.8)</b>	<b>(2.5)</b>	<b>(2.3)</b>
<b>21</b>	<b>Effective Revenue Deficit (20-18)</b>	<b>234759</b>	<b>268000</b>	<b>209585</b>	<b>187175</b>
		<b>(1.9)</b>	<b>(2.0)</b>	<b>(1.5)</b>	<b>(1.2)</b>
<b>22</b>	<b>Fiscal Deficit {16-(1+5+6)}</b>	<b>510725</b>	<b>555649</b>	<b>535090</b>	<b>533904</b>
		<b>(4.1)</b>	<b>(3.9)</b>	<b>(3.9)</b>	<b>(3.5)</b>
<b>23</b>	<b>Primary Deficit (22-11)</b>	<b>108281</b>	<b>99504</b>	<b>92469</b>	<b>41234</b>
		<b>(0.9)</b>	<b>(0.7)</b>	<b>(0.7)</b>	<b>(0.3)</b>



# DIRECT TAX PROPOSALS





# TAX RATES

## I. Personal Tax Rates

Income (in INR)	Rates of tax (AY 2017-18)
Upto INR 250,000	Nil
2,50,001-5,00,000	10%
5,00,001-10,00,000	20%
10,00,001 and above	30%

Note:

The above rates are applicable to Individuals, Hindu Undivided Family and AOP / BOI (other than a cooperative society) whether incorporated or not, or every artificial judicial person.

The above proposed exemption limit shall be considered as INR 3,00,000 in case of senior citizens aged 60 years but less than 80 years and `5,00,000 in case of super senior citizens of the age 80 years or more.

Surcharge of 15% of income tax if net income exceeds 1 crore subject to Marginal Relief.

EC of 2% and SHE Cess of 1% is leviable on the amount of income tax and surcharge, if any.

Rebate under Section 87A continues for a resident individual (whose income does not exceed 5,00,000). The amount of rebate is 100% of income tax calculated before education cess or 5,000 whichever is less.

Sec 87A to increase the maximum amount of rebate available under this provision from existing Rs.2,000 to Rs.5,000.

## II. Corporate Tax Rates

Income (in INR)	Rates of tax (AY 2017-18)
Domestic Company ** having total income less than 1 Crore	30%
Domestic Company ** having total income more than 1 Crore but less than 10 Crore	30% plus surcharge of 7%
Domestic Company** having total income more than 10 Crore	30% plus surcharge of 12%
Foreign Company having total income less than 1 Crore	40%
Foreign Company having total income more than 1 Crore but less than 10 Crore	40% plus 2%
Foreign Company having total income more than 10 Crore	40% plus 5%

Note:

**EC of 2% and SHE Cess of 1% shall be levied over and above the above taxes.**

\*\* It is proposed to reduce the rate of corporate tax to 25% in following case:-

A domestic company set up and registered on or after 1st March 2016 and engaged in the manufacture and production of any article or thing. Provided the total income of such company is computed without claiming depreciation, deduction u/s 10AA or Chapter VI-A or any other profit or investment linked deduction. The option is to be exercised on or before the due date of filing return of income.

\*\* It is proposed to reduce the rate of corporate tax to 29% if the turnover or gross receipts of the company in PY 2014-15 is less than Rs. 5 crores.

### III. Firms & Limited Liability Partnerships

Flat Rate of 30%, Surcharge @ 12% of income tax if net income exceeds INR 1 Crore EC of 2% and SHE Cess of 1% shall be levied over and above the same including surcharge.

### Note:

Surcharge @ 12% of income tax if net income exceeds `1 Crore and EC of 2% and SHE Cess of 1% shall be levied over and above the above taxes.

### IV. Cooperative Societies

Particulars	Rate of tax
Having total income of less than 10,001	10%
Having total income of more than 10,000 1,000 plus 20% of total but less than 20,001	1000 plus 20% of total income in excess of 10,000
Having total income of more than 20,000	3000 plus 30% of total income in excess of 20,000

# CORPORATE TAX

## I. Newly setup domestic companies in manufacturing sector

In order to provide relief to newly setup domestic companies engaged solely in the business of manufacture or production of article or thing, it is proposed to amend the Act by way of insertion of new section 115BA, to provide that the income-tax payable in respect of the total income of a domestic company for AY 2017-18 onwards shall be computed @ 25% at the option of the company, if, -

- the company has been setup and registered on or after 1st March, 2016;
- the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;
- the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and
- the option is furnished in the prescribed manner before the due date of furnishing of income.

## II. Additional depreciation

It is proposed to extend the benefit of initial additional depreciation u/s 32(1)(iia) for assessee engaged in the business of transmission of power in addition to assessees engaged in the business of generation and distribution of power. Amendment proposed to take effect from April 1, 2017.

## III. Incentives for Promoting “Housing for All”

- Provides for 100% deduction of the profits of an assessee developing and building affordable housing projects if the housing project is approved by the competent authority before the March 31, 2019 subject to following conditions –
  - a) Project is completed within a period of 3 years from the date of approval,
  - b) Project is on a plot of land measuring not less than 1000 sq. metres where the project is within 25 km from the municipal limits of 4 metros and in any other area, it is measuring not less than 2000 sq. metres where the size of the residential unit in the said areas is not more than 30 sq. metres and 60 sq. metres, respectively,
  - c) Where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc

## IV. Tax incentive for employment generation

- Amends Sec 80JJAA to provide that deduction shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to Rs. 25,000 p.m.
- However no deduction to be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme is paid by the Government.
- Relaxes norms for minimum number of days of employment in a FY from 300 days to 240 days
- Removes the condition of 10% increase in number of employees every year so that any

increase in the number of employees will be eligible for deduction

- In the first year of a new business, 30% of all emoluments paid or payable to the employees employed during the previous year to be allowed as deduction

## V. Tax incentives for start-ups

- It is proposed to provide a deduction of one hundred per cent. of the profits and gains derived by an eligible start-up from a business involving innovation, development, deployment or commercialisation of new products, processes or services driven by technology or intellectual property. The benefit of deduction of hundred per cent. of the profit derived from such business can be availed by an eligible start-ups for three consecutive assessment years out of five years, at the option of the assessee.
- This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent assessment years
- For the purposes of this proposal,—“eligible start-up” means a company engaged in eligible business which fulfils the following conditions, namely:—
  - a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of 20 April, 2019;
  - b) the total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021; and

c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification 25 as notified in the Official Gazette by the Central Government.’

- Inserts a new Sec 54EE to provide exemption from capital gains tax if LTCG proceeds are invested by an assessee in units of such specified fund, as may be notified by the Government in this behalf, subject to the condition that the amount remains invested for 3 years failing which the exemption shall be withdrawn. Investment in the units allowed up to Rs. 50 lakhs
- In order to provide relief to an individual or HUF willing to setup a start-up company by selling a residential property to invest in the shares of such company, amends Sec 54GB to provide that LTCG arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than 50% shares and such company utilizes the amount invested in shares to purchase new asset before due date of filing of return by the investor.
- Existing provision of Sec 54GB requires that the company should invest the proceeds in the purchase of new asset being new plant and machinery but does not include, inter-alia, computers or computer software. However in order to avoid the incidence of the aforesaid condition on start-ups where computers or computer software form the core asset base owing to nature of business activity, amends Sec 54GB so as to provide that the expression “new asset” includes computers or computer software in case of “technology driven start-ups” so certified by the

Inter-Ministerial Board of Certification notified by the Government.

- These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

#### VI. Measures to phase out deductions:

The Finance Minister in his Budget Speech of 2015 has indicated that the rate of corporate tax will be reduced from 30% to 25% over the next four years along with corresponding phasing out of exemptions and deductions. The Government proposed to implement this decision in a phased manner. In this regard, broad guiding principles had been put in the public domain for receiving comments from the

stakeholders. These guiding principles are listed below for reference.

- Profit linked, investment linked and area based deductions will be phased out for both corporate and non-corporate tax payers.
- The provisions having a sunset date will not be modified to advance the sunset date. Similarly the sunset dates provided in the Act will not be extended.
- In case of tax incentives with no terminal date, a sunset date of 31.3.2017 will be provided either for commencement of the activity or for claim of benefit depending upon the structure of the relevant provisions of the Act
- There will be no weighted deduction with effect from 01. 04.2017.

#### Phased out deductions are as follows:

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

4	Section 80IA; 80IAB, and 80IB -Deduction in respect of profits derive from  a. development, operation and maintenance of an infrastructure facility (80-IA)  b. development of special economic zone (80-IAB)  c. production of mineral oil and natural gas [80-IB(9)]	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB.	No deduction shall be available if the specified activity commences on or after 1st day April, 2017. (i.e from previous year 2017-18 and subsequent years).
---	---	---	---

#### VII. Deduction on expenditure on scientific research being phased out(Section 35)

S.no.	Section	Incentive currently available under the act	Proposed phase out measures/ Amendment
1.	35(1)(ii)-Expenditure on scientific research	Weighted deduction from the business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
2.	35(1)(ia)-Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
3	35(1)(iii)-Expenditure on scientific research	Weighted deduction from the business income to the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
4	35(2AA)-Expenditure on scientific research	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20).
5	35(2AB)- Expenditure on scientific research	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in-house research and development facility.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).



## **VIII. Introduction of Presumptive taxation scheme for persons having income from profession (Section 44ADA)**

- It is proposed to introduce a new presumptive taxation scheme at the rate of 50 % for professionals if the gross receipts are less than Rs. 50 lakhs. If the profit is less than 50%, the assessee shall be required to maintain books of accounts and get them audited under section 44AB.
- Scheme to apply to such resident assessee who is an individual, HUF or partnership firm but not LLP firm.

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

- In order to reduce the compliance burden, increases the threshold limit of total gross receipts, specified u/s 44AB for getting accounts audited, from 25 lakhs to 50 lakhs in the case of persons carrying on profession.
- However, there is no amendment for increase of turnover limit of business.

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

- In order to reduce the compliance burden of the small tax payers, increase the threshold limit of 1 crore rupees specified in the definition of “eligible business” to 2 crore rupees.
- Expenditure in the nature of salary, remuneration, interest etc. paid to the partner as per clause(b) of Sec 40 not to be deductible as the Sec 40.
- Where an eligible assessee declares profit for any previous year in accordance with the

provisions of this section and he declares profit for any of the five consecutive AYs relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for 5 AYs subsequent to the assessment year in which the profit has not been declared in accordance with the provisions of sub-section (1).

- Eligible assessee to pay advance tax. However, in order to keep the compliance minimum assessee may pay advance tax by March 15th of the financial year.

## **XI. Deduction in respect of provision for bad and doubtful debt in the case of NBFC**

- Amends Sec 36 (1)(viiia) to provide deduction from total income (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of 5% of the total income in the case of NBFCs.

## **XII. Scope of tax incentive u/s 32AC**

- Amends Sec 32AC(1A) to provide that the acquisition of the plant & machinery of the specified value has to be made in the previous year. However, installation may be made by March 31, 2017 in order to avail the benefit of investment allowance of 15%. Where installation of the new asset is in a year other than the year of acquisition, the said deduction to be allowed in the year in which the new asset is installed.

## **XIII. Providing time-limit for disposing applications made u/s 220(2A)/273A/273AA (i.e. application for interest waiver/ immunity from penalty)**

- Proposes to amend Sec 220 to provide that an order accepting or rejecting application of an

assessee shall be passed by the concerned officers within a period of twelve months from the end of the month in which such application is received. Similar amendments are proposed under Sections 273A/273AA

- Also proposes to provide that no order rejecting the application of the assessee under sections 220 / 273A/ 273AA shall be passed without giving the assessee an opportunity of being heard. However, in respect of applications pending as on June 1, 2016, the order under said sections shall be passed on or before May 31, 2017.
- The above amendments will take effect from 1st June, 2016.

#### **XIV. Providing legal framework for automation of various processes and paperless assessment**

- Proposes to amend Sec 282A(1) so as to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.
- Further proposes to amend Sec 143(2) to provide that notice under the said sub-section may be served on the assessee by AO or prescribed income-tax authority, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return. It is also proposed to amend existing provision of section 2 by inserting new clause (23C) to define the term “hearing” to include communication of data and documents through electronic mode.
- These amendments will take effect from the 1st day of June, 2016.

#### **XV. Extension of scope of Sec 43B to include certain payments made to Railways**

With a view to ensure the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend Sec 43B so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.

#### **XVI. Taxation of Non-compete fees and exclusivity rights in case of Profession**

It is proposed to tax the non-compete fee received by professionals as business profits under section 28 in the hands of recipient.

Further, it is also proposed to amend the proviso to clarify that receipts for transfer of right to carry on any profession, which are chargeable to tax under the head “Capital gains”, would not be taxable as profits and gains of business or profession. It is also proposed to amend Sec 55 so as to provide that the ‘cost of acquisition’ and ‘cost of improvement’ for working out “Capital gains” on capital receipts arising out of transfer of right to carry on any profession shall also be taken as ‘nil’.

#### **XVII. Time limit for carry forward and set off of loss determined u/s 73A (i.e. loss in respect of specified businesses)**

Proposes to amend Sec 80 so as to provide that loss determined as per Sec 73A of the Act shall not be allowed to be carried forward and set off if such loss has not been determined in pursuance of a return filed in accordance with the provisions of Sec 139(3) (i.e loss returns).

#### **XVIII. Amortisation of spectrum fee for purchase of spectrum**

Proposes to insert a new Sec 35ABA to provide for tax treatment of spectrum fee to provide for:-

- i. any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force.
- ii. where the spectrum is transferred and proceeds of the transfer are less than the expenditure remaining unallowed, a deduction equal to expenditure remaining unallowed as reduced by the proceeds of transfer, shall be allowed in the previous year in which the spectrum has been transferred.
- iii. if the spectrum is transferred and proceeds of the transfer exceed the amount of expenditure remaining unallowed, the excess amount shall be chargeable to tax as profits and gains of business in the previous year in which the spectrum has been transferred.
- iv. unallowed expenses in a case where a part of the spectrum is transferred would be amortised.
- v. under the scheme of amalgamation, if the amalgamating company sells or transfer the spectrum to an amalgamated company, being an Indian company, then the provisions of this section will apply to amalgamated company as they would have applied to amalgamating company if later has not transferred the spectrum.

# PERSONAL TAX

## I. Tax on Dividend

It is proposed to tax any income by way of dividend in excess of Rs. 10 lakh in case of an individual/ HUF or a firm resident in India at the rate of 10% on a gross basis with effect from AY 2017-18. Dividend received by LLP would be liable to 10% tax.

## II. Rationalisation of tax treatment of Recognised Provident Funds, Pension Funds and National Pension Scheme

- Under the existing provisions of section 80CCD, any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme is chargeable to tax.
- Proposes to amend Sec 10 so as to provide that in respect of the contributions made on or after the 1st day of April, 2016 by an employee participating in a recognised provident fund and superannuation fund, up to 40 % of the accumulated balance attributable to such contributions on withdrawal shall be exempt from tax.
- In order to bring parity in the monetary limit for contribution by the employer and the employee, it is proposed to amend Sec 80C so as to provide the limit of employer's contribution to one lakh and fifty thousand rupees, without attracting tax.
- Further with a view to bring all the pension plans under one umbrella, it is also proposed to amend:-

- a. the said schedule so as to provide exemption to one-time portability from a recognised provident fund to National Pension System;
  - b. clause (13) of section 10 so as to provide that any payment from an approved superannuation fund by way of transfer to the account of the employee under NPS referred to in section 80CCD and notified by the Central Government shall be exempt from tax.
- The amount received by nominee , on death of the assessee shall not be deemed to be income of the nominee

## III. Deduction for Home Buyers

Deduction u/s Sec 80EE -To incentivize first-home buyers availing home loans, by providing additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000. Incentive to be extended to a house property of a value less than INR 50 lacs in respect of which a loan of an amount not exceeding 35 lakh rupees has been sanctioned during April 1, 2016 to March 31, 2017. Benefit extended till repayment of loan continues. The said deduction is over and above the limit of Rs 2 lakhs provided for a self-occupied property u/s 24.

## IV. Deduction on Rent Paid

In order to provide relief to the individual tax payers, amends Sec 80GG to increase the maximum limit of deduction from existing Rs. 2000 pm to Rs. 5000 pm

#### **V. Increase in time period for acquisition/ construction of self-occupied house property for claiming deduction of interest**

In view of the fact that housing projects often take longer time for completion, amends second proviso of clause (b) of Sec 24 to provide that deduction on account of interest paid on capital borrowed for acquisition/ construction of a self-occupied house property shall be available if the acquisition/ construction is completed within 5 years from the end of the financial year in which capital was borrowed.

#### **VI. Taxation of unrealized rent and arrears of rent**

Merges existing provisions of Sections 25A, 25AA and 25B (relating to taxation of unrealized rent) under a single new Sec 25A. Amount of rent received in arrears or the amount of unrealized rent realized subsequently by an assessee shall be charged to tax in the financial year in which such rent is received or realized, whether the assessee is the owner of the property or not in that financial year. 30% of the arrears of rent or the unrealized rent realized subsequently to be allowed as deduction.

#### **VII. Advance tax and interest for failure to pay advance tax**

- Advance tax slabs for assesseees other than companies to be same as slabs for corporate assesseees except for assesseees covered u/ s44AD who needs to pay whole amount of advance tax on or before March 31
- Consequential changes in Sec. 234C in line with above provisions proposed. Further, no 234C interest leviable in case of assessee having income under the head PGBP for the first time

#### **VIII. Monetary limit for taxability of contribution to Superannuation Fund increased[Section 17(2) (vii)]**

It is proposed to amend clause (2) of section 17 (vii) to provide that contribution made by an employer towards superannuation fund exceeding Rs.1,50,000 shall be taxable as a perquisite as against Rs.1,00,000 under the existing provisions.

## ANTI AVOIDANCE MEASURES

Commitment to implement General Anti Avoidance Rules (GAAR) from 1.4.2017 has been reiterated.



# INTERNATIONAL TAX

## I. Equalisation levy – stems out of OECD's BEPS Action Plan 1 on Digital Economy

- New Chapter titled "Equalisation Levy" introduced in Finance Bill, considering it is essential to address the challenges in terms of taxation of digital transactions in view of the potential of new digital economy and rapidly evolving business operations
- Equalisation levy of 6% of the amount of consideration for specified services received or receivable by a non-resident (not having a PE in India) from a resident in India (who carries out business or profession) or from a non-resident (having a PE in India) proposed to be introduced
- No such levy will be made if the aggregate amount of consideration for specified services received or receivable by a non-resident does not exceed Rs 1 lakh in any previous year
- In order to avoid double taxation, it is proposed to provide exemption u/s 10 of the Act for any income arising from providing specified services on which equalisation levy is chargeable.
- It is proposed to define certain terms and expressions to provide certainty and avoid interpretational issues. Procedure for collection and recovery of equalization levy to also be provided
- In order to provide for the administrative mechanism of the equalisation levy, it is proposed to provide for statutory authorities and also prescribe the duties and powers of the authorities to administer the equalisation levy.

## II. Exemption for income from storage and sale of crude oil

It is proposed to exempt income of foreign company from storage and sale of crude oil stored as part of strategic reserves if such storage and sale is pursuant to a notified agreement entered into by Central Govt. / approved by Central Govt. Amendment proposed to take effect retrospectively from AY 2016-17 onwards.

## III. Mining of Diamonds

It is proposed to provide that no income shall be deemed to accrue / arise in India to a foreign company engaged in the business of mining of diamonds through or from the activities which are confined to display of uncut and unassorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf. Amendment proposed to take effect retrospectively from AY 2016-17 onwards.

## IV. Taxation of Income from 'Patents'

- In order to encourage indigenous R&D activities and to make India a global R & D hub, puts in place a concessional taxation regime for income from patents. This is in line with OECD BEPS project - Action Plan 5 which propagates the nexus approach.
- Inserts new Sec 115BBF to provide that where the total income of the "eligible assessee" includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty shall be taxable at the rate of 10% ( plus applicable surcharge and cess) on gross basis

- No expenditure or allowance in respect of such royalty income shall be allowed under the Act
- Eligible assessee to mean a person resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970 and includes every such person, being the true and the first inventor of the invention, where more than one person is registered as patentee under Patents Act, 1970 in respect of that patent.

#### **V. Deferment of Place of Effective Management ('POEM')**

- a) In order to provide clarity in respect of implementation of POEM based rule of residence and also to address concerns of the stakeholders,
  - applicability of POEM based residence test is deferred by one year and the determination of residence based on POEM shall be applicable from April 1, 2017
- provide a transition mechanism for a company which is incorporated outside India and has not earlier been assessed to tax in India. Government empowered to notify rules for implementation of POEM.

#### **VI. Applicability of MAT provisions to foreign companies for the period prior to April 1, 2015**

- In view of the recommendations of the committee headed by Justice A.P. Shah and with a view to provide certainty in taxation of foreign companies, Sec 115JB shall not be applicable to a foreign company w.e.f April 1, 2001 if - (i) assessee is a resident of a country or a specified territory with which India has an agreement referred to in Sec 90(1) or the Government has adopted any

agreement u/s 90A(1) and the assessee does not have a PE in India in accordance with the provisions of such Agreement; or(ii) assessee is a resident of a country with which India does not have a DTAA and assessee is not required to seek registration under any law for the time being in force relating to companies.

- Amendment made effective retrospectively from the April 1, 2001

#### **VII. Tax Incentives to International Financial Services Centre ('IFSC')**

- With a view to incentivize the growth of IFSC into a world class financial services hub, amends Sec 10(38) to provide for exemption from tax on capital gains to the income arising from transaction undertaken in foreign currency on a recognized stock exchange located in an IFSC even when STT is not paid in respect of such transactions.
- Amends Sec 115JB to provide that in case of a company, being a unit located in IFSC and deriving its income solely in convertible foreign exchange, MAT shall be chargeable at the rate of 9%.
- Also amends Sec 115O so as to provide that no tax on distributed profits shall be chargeable in respect of total income of a company being a unit located in IFSC, deriving income solely inconvertible foreign exchange, for any AY on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after April 1, 2017 out of its current income, either in the hands of the company or the person receiving such dividend.
- Amends Sec 113A so that STT shall not apply to taxable securities transactions entered into by any person on a recognized stock exchange

located in IFSC where the consideration for such transaction is paid or payable in foreign currency w.e.f. June 1, 2016.

- Inserts Sec 132A so as to provide that the provisions of chapter VII shall also not apply to

taxable commodities transactions entered into by any person on a recognized association located in unit of IFSC where the consideration for such transaction is paid or payable in foreign currency, thereby exempting such transaction from CTT w.e.f. June 1, 2016.

# TRANSFER PRICING

## I. BEPS Action Plan - Country-By-Country Report and Master file

BEPS Action 13 provides a framework for a 3 tier approach to transfer pricing documentation in the form of a Master file, Local file and CbC report. In order to implement the international consensus, it is proposed to provide a specific reporting regime in respect of CbC reporting and also the master file. India's proposed OECD framework is largely in line with OECD's BEPS proposals.

## II. Master file scheme

- i. Entities being constituent of an international group shall, in addition to the information related to the international transactions, also maintain such information and document as is prescribed in the rules. The rules shall thereafter prescribe the information and document as mandated for master file under OECD BEPS Action 13 report;
- ii. The information and document shall also be furnished to the prescribed authority within such period as may be prescribed and the manner of furnishing may also be provided for in the rules;
- iii. Non-furnishing of the information and document to the prescribed authority would attract a penalty of Rs. 5 lakh. However, reasonable cause defence against levy of penalty shall be available to the entity.

## III. CbC reporting scheme

- i. Reporting provision shall apply in respect of an international group having consolidated revenue above a threshold to be prescribed.

- ii. the parent entity of an international group, if it is resident in India, shall be required to furnish the report in respect of the group to the prescribed authority on or before the due date of furnishing of return of income for the Assessment Year relevant to the Financial Year (previous year) for which the report is being furnished;
- iii. the parent entity shall be an entity which is required to prepare consolidated financial statement under the applicable laws or would have been required to prepare such a statement, had equity share of any entity of the group been listed on a recognized stock exchange in India;
- iv. every constituent entity in India, of an international group having parent entity that is not resident in India, shall provide information regarding the country or territory of residence of the parent of the international group to which it belongs. This information shall be furnished to the prescribed authority on or before the prescribed date;
- v. the report shall be furnished in prescribed manner and in the prescribed form and would contain aggregate information in respect of revenue, profit & loss before Income-tax, amount of Income-tax paid and accrued, details of capital, accumulated earnings, number of employees, tangible assets other than cash or cash equivalent in respect of each country or territory along with details of each constituent's residential status, nature and detail of main business activity and any other information as may be prescribed. This shall be based on the template provided in the OECD BEPS report on Action Plan 13;

- vi. an entity in India belonging to an international group shall be required to furnish CbC report to the prescribed authority if the parent entity of the group is resident ;-
- in a country with which India does not have an arrangement for exchange of the CbC report or
  - such country is not exchanging information with India even though there is an agreement; and
  - This fact has been intimated to the entity by the prescribed authority
- vii. If there are more than one entities of the same group in India, then the group can nominate (under intimation in writing to the prescribed authority) the entity that shall furnish the report on behalf of the group. This entity would then furnish the report;
- viii. If an international group, having parent entity which is not resident in India, had designated an alternate entity for filing its report with the tax jurisdiction in which the alternate entity is resident, then the entities of such group operating in India would not be obliged to furnish report if the report can be obtained under the agreement of exchange of such reports by Indian tax authorities;
- ix. The prescribed authority may call for such document and information from the entity furnishing the report for the purpose of verifying the accuracy as it may specify in notice. The entity shall be required to make submission within thirty days of receipt of notice or further period if extended by the prescribed authority, but extension shall not be beyond 30 days;
- x. For non-furnishing of the report by an entity which is obligated to furnish it, a graded penalty structure would apply:-
- if default is not more than a month, penalty of Rs. 5000/- per day applies
  - if default is beyond one month, penalty of Rs 15000/- per day for the period exceeding one month applies;
  - for any default that continues even after service of order levying penalty either under (a) or under (b), then the penalty for any continuing default beyond the date of service of order shall be @ Rs 50,000/- per day;
- xi. In case of timely non-submission of information before prescribed authority when called for, a penalty of Rs5000/- per day applies. Similar to the above, if default continues even after service of penalty order, then penalty of Rs.50,000/- per day applies for default beyond date of service of penalty order
- xii. If the entity has provided any inaccurate information in the report and,-
- the entity knows of the inaccuracy at the time of furnishing the report but does not inform the prescribed authority; or
  - the entity discovers the inaccuracy after the report is furnished and fails to inform the prescribed authority and furnish correct report within a period of fifteen days of such discovery; or
  - the entity furnishes inaccurate information or document in response to notice of the prescribed authority, then penalty of Rs.500,000/- applies;

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

CbC reporting requirement not applicable unless the consolidated revenues of the preceding year of the group does not exceed threshold to be prescribed. CbC reporting for an international group having Indian parent, for the previous year 2016-17, shall apply only if the consolidated revenue of the international group in previous year 2015-16 exceeds € 750 million (the international consensus threshold) or INR 5,395 crore (the equivalent would be determinable based on exchange rate as on the last day of previous year 2015-16).

#### **IV. Time limit for passing order by TPO and completion of assessment when a reference made to TPO**

Under Sec 92CA(3A) TPO is required to pass an order 60days prior to date on which limitation for completing assessment expires. It is proposed to amend Sec. 92CCA(3A) to provide that if assessment proceedings are stayed by a court order or where a reference for exchange of information has been made by the competent authority the time limit and time available to TPO is less than 60 days after excluding the time for which assessment was stayed or time taken for receipt of information, then such remaining period shall be extended to 60 days. Further, consequential amendment made in Se. 153.

# WITHHOLDING TAX

## I. Tax Collection at Source (TCS) on sale of vehicles; goods and services

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

- Sale of motor vehicle of the value exceeding Rs 10 lakhs; and
- Sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding Rs 2 lakhs
- It is also proposed to provide that TCS provisions in relation to sale of any goods (other than bullion and jewellery) or services shall not apply to certain class of buyers who fulfil such conditions as may be prescribed
- Amendment proposed to take effect from June 1, 2016

## II. Tax on distributed income to shareholder

- It is proposed to amend Sec 115QA to provide that the provision shall apply to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to Sec 77A of the Companies Act, 1956.
- It is also proposed to provide that for the purpose of computing distributed income, the amount received by the Company in respect of the shares

being bought back shall be determined in the prescribed manner. The rules would thereafter be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganizations and in different tranches.

- Provision proposed to answer doubts regarding the effect of buybacks undertaken by the company under different provisions of the Companies Act, 1956 or the Companies Act, 2013 and applicability of Sec 115QA to such transactions and provide clarity on determination of consideration received by the company at the time of issue of shares being bought back by the company.
- Amendment proposed to take effect from June 1, 2016

## III. Exemption from requirement of furnishing PAN u/s 206AA to certain non-resident

In order to reduce compliance burden, amends Sec 206AA to provide that the provisions of this section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed. This amendment will take effect from June 1, 2016.

## IV. Rationalizing TDS provisions relating to payments by Category-I and Category-II Alternate Investment Funds ('AIFs') to its investors

- In order to rationalise the TDS regime in respect of payments made by the investment funds to its investors, it is proposed to amend Sec 194LBB to provide that the person responsible for making the



payment to the investor shall deduct income-tax u/s 194LBB at the rate of 10% where the payee is a resident and at the rates in force where the payee is a non-resident. Further, it is proposed to amend Sec 197 to include Sec 194LBB in the list of sections for which a certificate for deduction of tax at lower rate or no deduction of tax can be obtained. Consequential changes are also proposed to be made to the definition of "rates in force" so as to include section 194LBB in it.

- Amendment proposed to take effect from June 1, 2016

#### V. Rationalization of tax deduction at Source (TDS) provisions:

In order to rationalise the rates and base for TDS provisions, the existing threshold limit for deduction of tax at source and the rates of deduction of tax at source are proposed to be revised as under:

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

Present section	Heads	Existing threshold limit (in INR)	Proposed threshold limit (in INR)
192A	Payment of accumulated balance due to an employee	30,000/-	50,000/-
194BB	Winnings from Horse Race	5000/-	10,000/-
194C	Payments to Contractors	Aggregate annual limit of 75,000 /-	Aggregate annual limit of 100000/-
194LA	Payment of Compensation on acquisition of certain Immovable Property	200000	250000
194D	Insurance commission	20,000	15000
194G	Commission on sale of lottery tickets	1000	15000
194H	Commission or brokerage	5000	15000

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

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

#### Certain non-operational provisions to be omitted

Present sections	Head	Proposal
194K	Income in respect of Units	To be omitted w.e.f 01.06.2016
194L	Payment of Compensation on acquisition of Capital Asset	To be omitted w.e.f 01.06.2016

#### VI. Enabling of Filing of Form 15G/15H for rental payments

- Proposes to amend Sec 197A for making the recipients of payments referred to in Sec 194-I also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source.
- This amendment will take effect from 1st June, 2016.

## OTHER POINTS

### I. Security Transaction Tax (STT)

STT on sale of an option in securities, where option is not exercised, is proposed to be increased from 0.017% to 0.05% of the option premium w.e.f. June 1, 2016

### II. The Bill seeks to amend section 56 of the Income-tax Act relating to income from other sources.

The aforesaid section, inter alia, provide for chargeability of income from other sources, in case any money, immovable property or other property with or without consideration is received by an assessee being an individual or an Hindu undivided family. It is proposed to amend the said section so as to provide exemption from tax in the hands of an individual or a Hindu undivided family, on receipt of shares as a consequence of demerger or amalgamation of a company. This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent years.

### III. Tax Treatment of Gold Monetization Scheme, 2015

- Amends Sec 2(14) to exclude Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Government, from the definition of capital asset and thereby to exempt it from capital gains tax. Also amends Sec 10 (15) to provide that the interest on Deposit Certificates issued under the Scheme, shall be exempt.
- These amendments made effective retrospectively from April 1, 2016 and shall accordingly apply in relation to AY 2016-17 and onwards.

### IV. Rupee Denominated Bond

It is further proposed to provide that in case of an assessee being a non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by him, shall be ignored for the purpose of computation of full value of consideration under the said section.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to assessment year 2017-2018 and subsequent years.

### V. Ease of doing Business/dispute resolution

Exemption from DDT on distribution made by an SPV to Business Trust

- In order to rationalize the taxation regime for business trusts (REITs and Invits) and their investors, it is proposed to provide a special dispensation and exemption from levy of DDT. The salient features of the proposed dispensation are: —
  - a) Exemption from levy of DDT in respect of distributions made by SPV to the business trust;
  - b) Such dividend received by the business trust and its investor shall not be taxable in the hands of trust or investors;
  - c) Exemption from levy of DDT would only be in the cases where the business trust either holds 100% of the share capital of the SPV or holds all of the share capital other than that

which is required to be held by any other entity as part of any direction of any Government or specific requirement of any law to this effect or which is held by Government or Government bodies; and

d) Exemption from the levy of DDT would only be in respect of dividends paid out of current income after the date when the business trust acquires the shareholding referred in (c) above in the SPV.

➤ Dividends paid out of accumulated and current profits upto this date shall be liable for levy of DDT as and when any dividend out of these profits is distributed by the company either to the business trust or any other shareholder

➤ Amendment effective from June 1, 2016.

Modification of conditions of special taxation regime for off shore funds u/s 9A

➤ Modifies condition to provide that the eligible investment fund for purposes of Sec 9A, shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Government in this behalf. Further the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.

## VI. The Income Declaration Scheme, 2016

Proposes one time disclosure scheme to be brought w.e.f. June 1, 2016 and to remain open up to the date to be notified by the Central Government in the official gazette.

➤ The scheme is proposed to be made applicable

in respect of undisclosed income of any financial year upto 2015-16.

➤ Tax is proposed to be charged @ 45% (including tax @ 30% plus surcharge @7.5% plus penalty @ 7.5%).

➤ It is proposed that following cases shall not be eligible for the scheme:

—where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or

—where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or

—where information is received under an agreement with foreign countries regarding such income,

—cases covered under the Black Money Act, 2015, or

—persons notified under Special Court Act, 1992, or

—cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988.

## VII. New Direct Tax Dispute Resolution Scheme, 2016

a) Proposes new Direct Tax Dispute Resolution Scheme, 2016, salient features of which are:

- The scheme to be applicable to “tax arrears” (including tax, interest or penalty) determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before CIT(A)/CWT(A) as on February 29, 2016

- The declarant under the scheme be required to pay tax at the applicable rate plus interest upto the date of assessment . However, in case of disputed tax exceeding rupees ten lakh, 25% of the minimum penalty leviable shall also be required to be paid.
  - Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.
- b) In addition to above, the scheme proposes that person may also make a declaration in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Income-tax Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which is pending as on February 29, 2016 (referred to as specified tax). For availing the benefit of the Scheme, such declarant shall be required to withdraw any appeals pending before any Court or Tribunal or any proceeding for arbitration, mediation etc. under BIPA. The declarant under the scheme shall get immunity from institution of any proceeding for prosecution for any offence under the Income-tax Act or the Wealth-tax Act.

**VIII. Exemption of Central Government subsidy towards corpus of fund established for specific purposes from ‘income’ definition**

Proposes to amend Sec 2(24) to provide that subsidy or grant by Central Government for the purpose of the corpus of a trust or institution established by the

Central Government or State government shall not form part of income.

**IX. Clarification regarding set off losses against deemed undisclosed income**

Currently, there is uncertainty on the issue of set-off of losses against income referred in Sec 115BBE (which prescribes taxability for unexplained cash credits/ investments). It is proposed to amend Sec 115BBE(2) to expressly provide that no set off of any loss shall be allowable in respect of income under Sections 68/ 69/ 69A/ 69B/ 69C/ 69D.

**X. Clarification regarding the definition of the term ‘unlisted securities’ for the purpose of Sec 112 (1) (c)**

With a view to clarify the position, it is proposed to amend Sec 112(1)(c) so as to provide that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10%.

**XI. Rationalization of Sec 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property**

- Proposes to amend Sec 50C so as to provide that where the date of agreement fixing the amount of consideration for transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.
- Further proposes to provide that this provision shall apply only in a case where the amount of consideration referred to therein has been paid through banking channel on or before the date of

the agreement for the transfer of such immovable property.

## **XII. Rationalization of conversion of a company into Limited Liability Partnership (LLP)**

- Proposes to amend Sec 47(xiiib) so as to provide that, for availing tax-neutral conversion, in addition to the existing conditions, the value of the total assets in the books of accounts of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed five crore rupees.

## **XIII. Consolidation of Plans within scheme of mutual funds**

Sub-clause (C) of the said clause seeks to insert a new clause (xix) in the said section so as to provide that any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund shall not be considered as transfer for capital gain tax purposes. It is also proposed to define the expressions “consolidating plan”, “consolidated

plan” and “mutual fund” for the purposes of the proposed clause (xix)

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017- 2018 and subsequent assessment years.

## **XIV. Filing of return and processing of return**

- Return filing provision to apply based on income figure without considering income exempt u/s 10(38)
- Time limit for filing belated return reduced which now can be filed till the end of relevant AY or completion of assessment whichever is earlier. Further, even a belated return can be revised u/s 139(5).
- Processing of return u/s 143(1) made mandatory in case where a notice u/s 143(2) is issued
- It is also provided to omit the provision of treating a return defective merely because self assessment tax and interest payable in accordance with provisions under sect 140A has not been paid on or before the date of furnishing the return

## XV. Time limit for completion of assessment

Time limit for completion of assessment changed as under:

S.No	Nature	Time limit
1.	Assessment u/s 143(3)/144	Changed to 21 months from 2 years from end of AY
2.	Assessment u/s 147	Changed to 9 months from 1 years from end of FY in which notice u/s 148 issued
3.	Fresh assessment pursuant to order u/s 263/264 setting aside or cancelling of assessment	To be completed within 9 months from the order u/s 263/264
4.	Fresh assessment pursuant to order u/s 254 setting aside or cancelling of assessment	9 months from the end of FY in which order is received by Principal Chief Commissioner or Chief Commissioner
5.	Order giving effect to ITAT order/HC order /SC order or order u/s 263/264 where effect can be given wholly or partly without making a fresh assessment	3 months from the end of month in which relevant order is received or passed, as the case may be by Chief Commissioner/Principal Commissioner /Principal Chief Commissioner
6.	Assessment, reassessment or re-computation is made in consequence of or to give effect to any finding or direction contained in an order u/s 250, 254, 260, 262, 263, or Sec 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference	Within 12 months from the end of month in which such order is received by Principal Commissioner or Commissioner
7.	Assessment on partner in consequent to assessment on firm u/s 147	Within 12 months from end of the month in which order is passed for the firm

## XVI. Interest on refund

Interest on refund u/s 244A

- If return filed after the due date – interest on refund to be payable from the date of filing return
- Interest on refund of self assessment tax- from date of filing return or payment of tax whichever is later.
- For the purpose of determining the order of adjustment of payments received against the taxes due, the prepaid taxes i.e. the TDS, TCS and advance tax shall be adjusted first.
- Further, additional interest of 3% would be payable where the refunds arise on account of appeal effect and there is delay in passing of order giving effect to appellate order beyond 3 months or beyond the period of extension granted

by Commissioner or Principal Commissioner. In such cases, interest would be payable for the period from date following the date of expiry of 3 months or extended period as the case may be to the date on which the refund is granted

## XVII. Appeal to Income-Tax Appellate Tribunal (ITAT)

- Provisions related to Appeal by AO against DRP order deleted. For existing appeals against DRP order by Revenue authorities, no appeal fee would be payable retrospectively from July 1, 2012
- Time limit for passing of rectification order by ITAT reduced to 6 months from 4 years from the end of the month in which the order is passed.
- Limit for disposal of cases by single member ITAT bench increased from Total income of Rs. 15 lakhs to total income of Rs. 50 lakhs.

### **XVIII. Rationalisation of time limit for assessment in search cases :**

The limitation for completion of assessment in case of other person referred to in section 153C shall be changed from existing two years to twenty-one months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed or be nine months (which as per the existing provision is one year) from the end of the financial year in which the books of account or documents or assets seized or requisitioned are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.

It is also proposed to simplify section 153B by substituting certain provisions which are no more relevant with the current provisions. This amendment will take effect from 1st June, 2016.

### **XIX. Sec 124 regarding jurisdiction of AO**

Sec 124(3) is proposed to be amended to specifically provide that cases where search is initiated under section 132 or books of accounts, other documents or any assets are requisitioned under section 132A, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he was served with a notice under sub-section (1) of section 153A or sub-section (2) of section 153C or after the completion of the assessment, whichever is earlier.

### **XX. Legislative framework to enable and expand the scope of electronic processing of information**

- Proposal to amend sec. 133 to enable making available information /documents obtained u/s 133 to AO for necessary action
- Amendment to Expl 2 to Sec. 147 to provide

for reopening of cases by AO based on such information received

- Amendment to Sec .143(1)(a) to expand scope of adjustment which can be made while processing return u/s 143(1)(a) based on data available to the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A. However, before making any such adjustments, an intimation shall be given to the assessee either in writing or through electronic mode requiring him to respond to such adjustments. The response received, if any, will be duly considered before making any adjustment. However, if no response is received within thirty days of issue of such intimation, the processing shall be carried out incorporating the adjustments.

### **XXI. Provisions related to Bank guarantee in lieu of provisional attachment**

In line with recommendation of Income –tax Simplification Committee Report , it is proposed to amend Sec. 281B to provide that AO shall revoke provisional attachment of assets when assessee furnish bank guarantee for an amount not less than fair market value of such provisionally attached property or for an amount sufficient to protect the interest of revenue.

### **XXII. Immunity from penalty and prosecution u/s 270AA**

- It is proposed to insert a new Sec. 270AA under which assessee can make application to AO for requesting immunity from penalty and prosecution u/s 276C Assessee needs to make payment of taxes along with interest within time provided in the notice of demand and shall not prefer appeal



against the assessment order.

- AO may grant immunity from initiation of penalty and proceedings u/s 276C in the case sother than 'misreporting of income'.

### **XXIII. Tax on accreted income of certain trusts and institutions.**

Sub-section (1) of the proposed new section 115TD provides that notwithstanding anything contained in any other provision of the Act, a trust or institution registered under section 12AA in any previous year shall be liable to tax on accreted income in the event of certain eventualities, as on the specified date, at the maximum marginal rate, in addition to the income-tax chargeable in respect of the total income.

Sub-section (2) of the proposed section provides that the accreted income for the purposes of sub-section (1) means the amount by which the aggregate fair market value of the total assets of the trust or the institution, as on the specified date, exceeds the total liability of such trust or institution computed in accordance with the method of valuation as may be prescribed.

It is further proposed to provide that while computing the accreted income in respect of a case referred to in clause (c) of sub-section (1), assets and liabilities, if any, related to such asset, which have been transferred to the trust, institution or other organisation as specified therein within a period of twelve months from the date of dissolution, shall be ignored.

Sub-section (3) of the proposed section provides for specific situations under which a trust or institution

can be said to have converted into any form which is not eligible for grant of registration.

The additional income-tax to be charged shall be in addition to the income-tax chargeable in respect of the total income of such trust or institution whether income-tax is payable by the trust or the institution on its total income or not. It also provides that the amount of tax shall be remitted within fourteen days of the date of occurrence of events specified in various situations.

The proposed section 115TE provides for the levy of interest, in case of failure to pay tax within the time provided, at the rate of one per cent. for every month and part thereof of such failure.

The proposed section 115TF provides that in case of failure of payment of tax, the principal officer or the trustee and the trust or the institution shall be deemed to be an assessee in default in respect of the amount of tax payable and all provisions of the Income-tax Act relating to recovery and collection of taxes shall apply to them.

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

### **XXIV. Provisions related to penalty**

- Provisions of Sec 271 shall not apply to or in relation to assessments for AY 2017-18 and subsequent AYs and penalty would be levied under new Sec 270A w.e.f. April 1, 2017
- Sec. 270A provides for levy of penalty in case of under-reporting of income by assessee in following cases:

<b>Cases of under-assessed income</b>	<b>Amount of under-assessed income</b>
Return furnished and assessment happened for the first time and Assessed income > income determined under Sec. 143(1)(a)	Assessed income – (minus) income determined u/s 143(1)(a)
No return is filed and assessment happened for the first time and Assessed income > maximum amount not chargeable to tax	• In case where assessee is a company/firm/local authority, entire assessed income would be treated as unreported income
• In case of Other assessee, unreported income would be difference between assessed income and maximum amount not chargeable to tax	
Reassessed income > income assessed/reassessed by earlier order	Difference between income assessed under current order and income assessed/reassessed in earlier order
Assessed or reassessed deemed income u/s 115JB or 115JC > total income determined u/s 143(1)(a)	Under-assessed income = (A-B)+(C-D)
Assessed or reassessed deemed income u/s 115JB or 115JC > maximum amount not chargeable to tax when no return is filed	<p>A. –total income assessed under normal provisions i.e. other than Sec 115JB/JC</p> <p>B. - the total income that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of under reported income;</p> <p>C. - the total income assessed as per the provisions contained in section 115JB or section 115JC;</p> <p>D. the total income that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of under reported income</p> <p>However, where the amount of under reported income on any issue is considered both under the provisions contained in section 115JB or section 115JC and under general provisions, such amount shall not be reduced from total income assessed while determining the amount under item D.</p>
Assessment or reassessment results in reduction of loss or conversion of loss into income	Difference between loss claimed and income or loss, as the case may be, assessed/reassessed

It is also proposed that the under-reported income shall not include the following cases :

- Explanation offered found to be bonafide by authorities and all material facts are disclosed
- Under-reported income determined based on estimate and the accounts are correct and complete, but the method employed is such that income cannot be properly determined
- Assessee on his own has estimated a lower amount of disallowance/addition on the issue and

included the same in computation of income and all material facts disclosed

- Assessee reports international transaction and maintains all documents and information in respect of international transactions and disclose all material facts related thereto
- Cases where penalty leviable u/s 271AAB for search cases

Where under reporting of income is the result of misreporting by the assessee, the person shall be

liable to penalty at 200% of tax payable on such misreported income. The cases of misreporting of income have been specified as under:

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

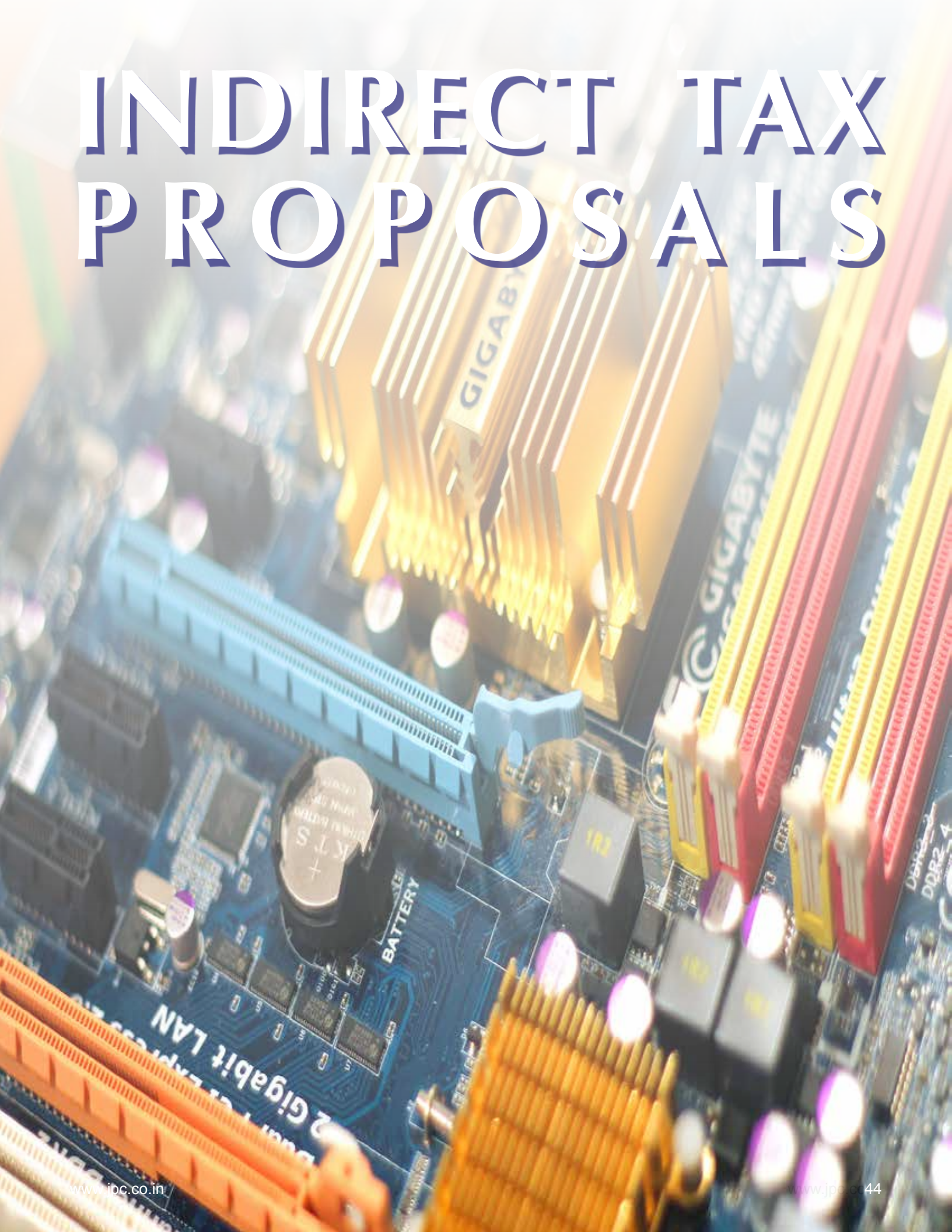
The cases of under-reporting of income other than the above would be subject to penalty at 50% of tax payable on unreported income

- Tax payable on under-reported income would be calculated as under:

Type of assessee	Tax payable on unreported income
Company, firm or local authority	Tax payable on unreported income as if unreported income is the total income
Other assesseees	30% of unreported income

- Penalty provisions u/s 271(1)(b) relating to non-compliance of notice u/s 143(2)/142(1) or special audit direction u/s 142(2A) would now to be covered u/s 272AA
- Sec. 271AAB(1)(c) amended to provide that penalty for search cases initiated u/s 132 on or after July 1, 2012 would be subjected to penalty at 60% of such income

# INDIRECT TAX PROPOSALS





# SERVICE TAX

## Krishi Kalyan Cess

—An enabling provision is being made to levy Krishi Kalyan Cess of 0.5% on all taxable services with effect from 1st June, 2016, to finance and promote initiatives to improve agriculture. Its credit shall be available towards setoff of said cess. The new effective rate of service tax would be 15% w.e.f 1st June 2016 (14% Service Tax Plus 0.5 % Swachh Bharat Cess Plus 0.5% Krishi Kalyan Cess)

### WITHDRAWAL OF EXEMPTIONS

- Exemption on services provided by,-
  - (i) a senior advocate to an advocate or partnership firm of advocates providing legal service; and
  - (ii) a person represented on an arbitral tribunal to an arbitral tribunal, is being withdrawn with effect from 1st April, 2016 and Service Tax is being levied under forward charge.
- Exemption on construction, erection, commissioning or installation of original works pertaining to monorail or metro, in respect of contracts entered into on or after 1st March 2016, is being withdrawn with effect from 1st March, 2016
- Exemption on the services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway is being withdrawn with effect from 1st April, 2016
- The Negative List entry that covers 'service of transportation of passengers, with or without

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

### NEW EXEMPTIONS

- Services by way of construction etc. in respect of-
  - i. housing projects under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY);
  - ii. low cost houses up to a carpet area of 60 square metres in a housing project under "Affordable housing in Partnership" component of PMAY,
  - iii. low cost houses up to a carpet area of 60 square metres in a housing project under any housing scheme of the State Government, are being exempted from Service Tax with effect from 1st March, 2016.
- The service of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from Service Tax with effect from 1st April, 2016.
- Services provided by Employees' Provident Fund Organisation (EPFO) to employees are being

exempted from Service Tax with effect from 1st April, 2016

- Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted from Service Tax with effect from 1st April, 2016.
- The regulatory services provided by Securities and Exchange Board of India (SEBI) are being exempted from Service Tax with effect from 1st April, 2016.
- The rate of Service Tax on single premium annuity (insurance) policies is being reduced from 3.5% to 1.4% of the premium, in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service, with effect from 1st April, 2016.
- The services of general insurance business provided under 'Niramaya' Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted from Service Tax with effect from 1st April, 2016.
- Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from Service Tax with effect from 1st April, 2016.
- Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to incubatees are being exempted from Service Tax with effect from 1st April, 2016.
- Services provided by way of skill/vocational training by training partners under Deen Dayal Upadhyay Grameen Kaushalya Yojana are being exempted from Service Tax with effect from 1st April, 2016.
- Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted from Service Tax with effect from 1st April, 2016.
- The threshold exemption to services provided by a performing artist in folk or classical art forms of music, dance or theatre is being enhanced from Rs 1 lakh to Rs 1.5 lakh charged per event with effect from 1st April, 2016.

## RELIEF MEASURES

- To provide level playing field to Indian Shipping lines vis-a-vis foreign shipping lines, it is being proposed to:
  - i. zero rate the services provided by Indian Shipping lines by way of transportation of goods by a vessel to outside India with effect from 1st March, 2016, and
  - ii. impose Service Tax on services provided by them by way of transportation of goods by a vessel from outside India up to the customs station in India with effect from 1st June, 2016 so as to complete the credit chain and enable Indian Shipping Lines to avail and utilize input tax credits.
- Notification No. 41/2012- ST, dated the 29th June, 2012 was amended by notification No.1/2016-ST dated 3rd February, 2016 so as to, inter alia, allow refund of Service Tax on services used beyond the factory or any other place or premises of

production or manufacture of the said goods for the export of the said goods. This amendment is being made effective from the date of application of the parent notification (i.e. 1st July 2012).

- The benefit of quarterly payment of Service Tax is being extended to 'One Person Company' (OPC) and HUF with effect from 1st April, 2016.
- The facility of payment of Service Tax on receipt basis is being extended to 'One Person Company' (OPC) with effect from 1st April, 2016.
- Exemptions on services of:
  - i. construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc.
  - ii. construction of ports, airports, [which were withdrawn with effect from 01.04.2015], are being restored in respect of services provided under contracts which had been entered into prior to 01.03.2015 on payment of applicable stamp duty, with retrospective effect from 01.04.2015.
- Services provided by way of construction, maintenance etc. of canal, dam or other irrigation works provided to bodies set up by Government but not necessarily by an Act of Parliament or a State Legislature, during the period from the 1st July, 2012 to 29th January, 2014, are being exempted from Service Tax with consequential refunds, subject to the principle of unjust enrichment.
- Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme),

Integrated Programme in Management and Fellowship Programme in Management (FPM) are being exempted from Service Tax with effect from 1st March, 2016.

- The services provided by mutual fund agent/distributor to a mutual fund or asset management company, are being made taxable under forward charge with effect from 1st April, 2016, so as to enable the small sub-agents down the distribution chain to avail small scale exemption having threshold turnover of Rs 10 lakh per year, subject to fulfillment of other conditions prescribed.

## **INTEREST RATE**

Interest rates on delayed payment of duty/tax across all indirect taxes are being rationalized and made uniform at 15%, except in case of Service Tax collected but not deposited to the exchequer, in which case the rate of interest will be 24% from the date on which the Service Tax payment became due. In case of assesseees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of Service Tax will be 12%.

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

## **RATIONALIZATION OF ABATEMENTS**

- Credit of input services is being allowed on transport of passengers by rail at the existing rate of abatement of 70%.
- Credit of input services is being allowed on transport of goods, other than in containers, by rail at the existing rate of abatement of 70%.
- Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60%.



- Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70%.
- The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats).
- The abatement rate in respect of services by a tour operator in relation to packaged tour (defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being rationalized at 70%.
- The abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of 60%, without CENVAT credit on inputs, input services and capital goods. (The existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged).
- The abatement rate on services of a foreman to a chit fund is being rationalised at the rate of 30%, without CENVAT credit on inputs, input services and capital goods. [The above changes will come into effect from 1st April, 2016.]

## **REDUCTION OF LITIGATION**

- Indirect tax Dispute Resolution Scheme, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is being introduced. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution. However,

this scheme will not apply in cases:

- i. where prosecution has already been launched
  - ii. involving narcotics & psychotropic substances
  - iii. involving detention under COFEPOSA
- Section 67A is being amended to obtain rule making powers in respect of the Point of Taxation Rules, 2011, so as to provide that the point in time when service has been provided or agreed to be provided shall be determined by rules made in this regard. Point of Taxation Rules, 2011 is being amended accordingly.
  - Section 93A of the Finance Act, 1994 is being amended so as to allow rebate by way of notification as well as rules.
  - Explanation 2 in section 65B (44) of the Finance Act, 1994 is being amended so as to clarify that any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, of the State Government as per the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998), is leviable to Service Tax.
  - Notification No. 27/2012 – C.E. (N.T.) dated 18.06.2012 is being amended with effect from 1st March, 2016 so as to provide that time limit for filing application for refund of CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004, in case of export of services, is 1 year from the date of :
    - i. receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or

ii. issue of invoice, where payment, for the service has been received in advance prior to the date of issue of the invoice.

- Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is being declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment of right to use the spectrum is a service leviable to Service Tax and not sale of intangible goods.
- A condition mandating inclusion of cost of fuel in the consideration for availing abatement on the services by way of renting of motor-cab is being prescribed with effect from 1st April, 2016.
- Service tax on the services of Information Technology Software on media bearing RSP is being exempted from Service Tax with effect from 1st March, 2016 provided Central Excise duty is paid on RSP in accordance with Section 4A of the Central Excise Act.
- Mutual exclusiveness of levy of excise duty and Service Tax on Information Technology Software in respect of software recorded on media “NOT FOR RETAIL SALE” is being ensured by exempting from excise duty only that portion of the transaction value on which Service Tax is paid.

### **CENVAT CREDIT RULES**

- The rules are being amended so as to allow banks and other financial institutions to reverse credit in respect of exempted services on actual basis in addition to the option of 50% reversal.
- The rules are being amended to improve credit flow, reduce the compliance burden and associated litigation, particularly those relating

to apportionment of credit between exempted and non-exempted final products / services. Changes are also being made in the provisions relating to input service distributor, including extension of this facility to transfer input services credit to outsourced manufacturers, under certain circumstances. The amendments in these rules will also enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units.

- The rules are being amended to provide for reversal of CENVAT Credit of inputs/input services which have been commonly used in providing taxable output service and an activity which is not a ‘service’ under the Finance Act, 1994.
- The CENVAT credit rules are being amended so as to allow CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource, over such period of time as the period for which the rights have been assigned. [The above amendment shall come into effect from 1st April, 2016.]

### **OTHER AMENDMENTS**

- Period for issuing demand notices

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

- Other changes in the Finance Act, 1994

The Negative List entry covering ‘educational services by way of (a) pre-school education and education up to higher and secondary school or

equivalent, (b) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force and (c) education as a part of an approved vocational education course [Section 66D (l)] and the definition of 'approved vocational education course' [section 65B (11)] are being omitted. However, the exemption shall continue by way of exemption notification No. 25/2012 – ST.

- In the last Budget, the Customs, Central Excise and Service Tax laws were amended to provide for closure of proceedings where the assessee pays duty/tax due, interest and specified penalty.

Further amendments are being made to Service Tax law so as to provide for closure of proceedings

against co-noticees, once the proceedings against the main noticee have been closed.

- The power to arrest in Service Tax is being restricted only to situations where the tax payer has collected the tax but not deposited it to the exchequer, and that too above a threshold of Rs 2 crore.

The monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax evasion.

- Monetary limit for filing complaints for punishable offences proposed to be enhanced to Rs 2 Cr, from current Rs 50 lakhs;

# CUSTOMS

Amendments carried out through the Finance Bill, 2016 come into effect on the date of its enactment unless otherwise specified.

## AMENDMENTS IN THE CUSTOMS ACT, 1962:

- Subsection (43) of Section 2 is being amended so as to add a new class of warehouses for enabling storage of specific goods under physical control of the department, as control over the other types of warehouses would be only record based.
- Subsection (45) of Section 2 which defines “warehousing station” is being omitted.
- Chapter heading of Chapter III is being amended to omit the word “warehousing station”.
- Section 9 is being omitted.
- Section 25 is being amended so as to omit the requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC.
- Sections 28, 47, 51 and 156 are being amended so as to:
  - increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement, etc.
  - provide for deferred payment of customs duties for importers and exporters to certain class of importers and exporters.
- Section 53 is being amended so as to enable the Board to frame regulations for allowing transit of certain goods and conveyance without payment of duty.
- Sections 57 and 58 are being substituted to provide for licensing by the Principal Commissioner or Commissioner, in place of Deputy/Assistant Commissioner, subject to such conditions as may be prescribed.
- New section 58A is being inserted to provide for a new class of warehouses which require continued physical control and will be licensed for storing goods, as may be specified.
- New section 58B is being inserted so as to regulate the process of cancellation of licences which is a necessary concomitant of licencing.
- The existing section 59 governing warehousing bonds submitted by importers availing duty deferred warehousing is being substituted so as to fix the bond amount at thrice the duty involved and to furnish security as prescribed.
- The existing section 59 governing warehousing bonds submitted by importers availing duty deferred warehousing is being substituted so as to fix the bond amount at thrice the duty involved and to furnish security as prescribed.
- The existing section 61 is being substituted to extend the period of warehousing to all goods used by Export Oriented Undertakings, Units under Electronic Hardware Technology Parks, Software Technology Parks, Ship Building Yards and other units manufacturing under bond; empower Principal Commissioners and Commissioners to extend the warehousing period upto one year at a time.

- Section 62 relating to physical control over warehoused goods is being omitted since the conditions for licensing different categories of warehouses and exercising control over the same are being provided under sections 57, 58 and 58A.
- Section 63 relating to payment of rent and warehouse charges is being omitted in view of the privatization of services, and free market determination of rates, including those by facilities in the public sector.
- The existing section 64 relating to owner's rights to deal with warehoused goods is being substituted so as to rationalize the facilities and rights extended under the section.
- Section 65 is being amended to delete the payment of fees to Customs for supervision of manufacturing facilities under Bond; and empower Principal Commissioner or Commissioner of Customs to licence such facilities.
- Section 68 is being amended to omit rent and other charges on account of omission of section 63.
- Section 69 is being amended to omit rent and other charges on account of omission of section 63.
- Section 71 is being amended so as to substitute the word "exportation" with the word "export" to align with definition contained in sub section (18) of section 2.
- Section 72 is being amended to delete clause (c) regarding improper removal of samples
- Section 73 is being amended to provide for cancellation bond in case of transfer of ownership of the goods, and is thus aligned with sub-section

(5) of section 59.

- New section 73A is being inserted so as to provide for custody of warehoused goods and responsibilities including the liabilities of warehouse keepers.

#### **AMENDMENT IN THE CUSTOMS TARIFF ACT, 1975**

- To omit Section 8C [Power of Central Government to impose transitional product specific safeguard duty on imports from People's Republic of China]

#### **AMENDMENT IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975**

Amendments not affecting rates of duty

- Editorial changes in the Harmonized System of Nomenclature (HSN) in certain chapters are being incorporated in the First Schedules, to be effective from 01.01.2017.
- To:
  - Amend supplementary notes (e) and (f) Chapter 27 so as to change the reference:
  - from IS:1460:2000 to IS:1460:2005 for high speed diesel (HSD) and
  - from IS:1460 to IS: 15770:2008 for light diesel oil (LDO)
- Substitute Tariff line 5801 39 10 with description "Warp pile fabrics, uncut" in place of tariff line 5801 37 11 [with description Warp pile fabrics 'epingle' uncut velvet] and 5801 37 19 [with description Warp pile fabrics 'epingle' uncut other];
- Prescribe separate tariff lines for laboratory created or laboratory grown or manmade or cultured or synthetic diamonds;
- Delete Tariff line 8525 50 50, relating to Wireless microphone

## Amendments affecting rates of duty

### Articles of rubber

- Rate of duty on Natural latex rubber made balloons falling under specified headings increased from 10% to 20%

### Metals

- Rate of duty on Primary aluminium increased from 5% to 7.5%.
- Rate of duty on Zinc alloys increased from 5% to 7.5%.

### Jewellery

- Rate of duty on Imitation jewellery increased from 10% to 15%.

### Renewable Energy

- Rate of duty on Industrial solar water heater increased from 7.5% to 10%.

### Capital goods and parts thereof

- Increase the tariff rate of BCD for 211 specified tariff lines in Chapters 84, 85 and 90 increased from 7.5% to 10%.
  - The effective rates for 96 specified tariff lines will increase from 7.5% to 10%
  - The effective rate for 115 tariff lines will be maintained from 7.5% to 7.5%.

The amendments involving increase in the duty rates will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

## OTHER PROPOSALS INVOLVING CHANGES IN BCD, CVD, SAD AND EXPORT DUTY RATES

### Export duty

#### Ores and concentrates

- Rate of duty on Iron ore fines with Fe content below 58% have decreased from 10% to nil.
- Rate of duty on Iron ore lumps with Fe content below 58% have decreased from 30% to nil.
- Rate of duty on Chromium ores and concentrates, all sorts have decreased from 30% to nil.
- Rate of duty on Bauxite (natural), not calcined or calcined have decreased from 20% to 15%.

### Basic Customs Duty

#### Food Processing

- Rate of duty on Cashew nuts in shell have increased from nil to 5%.
- Rate of duty on Cold chain including pre-cooling unit, packhouses, sorting and grading lines and ripening chambers have decreased from 10% to 5%.
- Rate of duty on Refrigerated containers have decreased from 10% to 5%.

#### Mineral fuels and Mineral oils

- Rate of duty on Coal; briquettes, ovoids and similar solid fuels manufactured from coal have decreased from 2.5% / 10% to 2.5%.
- Rate of duty on Lignite, whether or not agglomerated, excluding jet have decreased from 10% to 2.5%.
- Rate of duty on Peat (including peat litter), whether or not agglomerated have decreased from 10% to 2.5%.

- Rate of duty on Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon have decreased from 5% / 10% to 5%.
- Rate of duty on Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons have decreased from 10% to 5%.
- Rate of duty on Tar distilled from coal, from lignite or from peat and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars have decreased from 10% to 5%.
- Rate of duty on Oils and other products of the distillation of high temperature coal tar similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents have decreased from 2.5% / 5% / 10% to 2.5%.
- **Rate of duty on Pitch and pitch coke, obtained from coal tar or from other mineral tars have decreased from 5% / 10% to 5%.**

#### **Petroleum exploration and production**

- Goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 1st April 1999 will have NIL BCD and NIL CVD.

#### **Chemicals & Petrochemicals**

- All acyclic hydrocarbons and all cyclic hydrocarbons [other than para-xylene which attracts Nil BCD and styrene which attracts 2% BCD] have decreased from 5% / 2.5% to 2.5%.
- Denatured ethyl alcohol (Ethanol) subject to actual user condition have decreased from 5% to 2.5%.

- Orthoxylene for the manufacture of phthalic anhydride subject to actual user condition have decreased from SAD-4% to SAD-2%.
- Rate of duty on Electrolysers, membranes and their parts required by caustic soda / potash unit using membrane cell technology have proposed to be decreased from 2.5% to NIL.

#### **Paper, Paperboard and newsprint**

- Rate of duty on Wood in chips or particles for manufacture of paper, paperboard and news print have proposed to decreased from 5% to NIL.
- Rate of duty on Plans, drawings and designs have been proposed to increase from NIL to 10%.

#### **Textiles**

- Rate of duty on Specified fibres and yarns have been proposed to be decreased from 5% to 2.5%.
- Specified fabrics [for manufacture of textile garments for export] of value equivalent to 1% of FOB value of exports in the preceding financial year subject to the specified conditions. The entitlement for the month of March 2016 shall be one twelfth of one per cent. of the FOB value of exports in the financial year 2014-15. BCD will not be applicable.

#### **Electronics / Hardware**

- Rate of duty on Polypropylene granules / resins for the manufacture of capacitor grade plastic films have been proposed to be decreased from 7.5% to NIL.
- Rate of duty on E-Reader have been proposed to be increase from NIL to 7.5%.
- 5% BCD will be applicable on Parts of E-readers.
- Rate of duty on Magnetron of capacity of 1 KW to 1.5 KW for use in manufacture of domestic microwave



ovens subject to actual user condition have been proposed to be decreased from 10% to NIL.

- The BCD and SAD will be NIL on Machinery, electrical equipment and instrument and parts thereof (except populated PCBs) for semiconductor wafer fabrication / LCD fabrication units.
- The BCD and SAD will be NIL on Machinery, electrical equipment and instrument and parts thereof (except populated PCBs) imported for Assembly, Test, Marking and Packaging of semiconductor chips (ATMP).
- The rate of BCD and CVD have proposed to be increased from 12.5% and SAD BY 4% on charger / adapter, battery and wired headsets / speakers for manufacture of mobile phone.
- The BCD, CVD, SAD will be NIL on Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phones, subject to actual user condition.
- The BCD, CVD, SAD will be NIL on Parts and components, subparts for manufacture of Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets].
- BCD will be applicable on Magnetic - Heads (all types), Ceramic / Magnetic cartridges and stylus, Antennas, EHT cables, Level meters/level indicators/ tuning indicators/ peak level meters/ battery meter/VC meters / Tape counters, Tone arms, Electron guns.
- To exclude specified telecommunication equipment [Soft switches and Voice over Internet Protocol (VoIP) equipment namely VoIP phones, media gateways, gateway controllers and session border controllers,

Optical Transport equipment; combination of one / more of Packet Optical Transport Product/Switch (POTP/POTS), Optical Transport Network(OTN) products, and IP Radios, Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching-Transport Profile (MPLS-TP) products, Multiple Input / Multiple Output (MIMO) and Long Term Evolution (LTE) Products on which 10% BCD was imposed in 2014-15 Budget being non-ITA I bound] from the purview of the other exemption.10% BCD will be applicable.

- Rate of duty on preform of silica for manufacture of telecom grade optical fibre /cables have been proposed to increased from NIL to 10%.
- BCD will be NIL on Specified capital goods and inputs for use in manufacture of Micro fuses, Sub-miniature fuses, Resettable fuses, and Thermal fuses.
- 2.5% BCD will be applicable on Neodymium Magnet (before Magnetization) and Magnet Resin (Strontium Ferrite compound/before formed, before magnetization) for manufacture of BLDC motors, subject to actual user condition.
- 4% SAD will be applicable on Populated PCBs for manufacture of personal computers (laptop or desktop).
- 2% SAD will be applicable on Populated PCBs for manufacture of mobile phone/tablet computer

#### **Metals, glass and ceramics**

- Rate of duty on Silica sand have been proposed to be decreased by 5% to 2.5%.
- Rate of duty on Brass scrap have been proposed to be decreased by 5% to 2.5%.
- Rate of duty on Other aluminium products have been proposed to increase by 7.5% to 10%.

## **Jewellery**

- Rate of CVD on Gold dore bars have been proposed to be increased from 8% to 8.75%.
- Rate of CVD on Silver dore have been proposed to be increased from 7% to 7.75%.

## **Automobiles**

- The rate of duty on Golf cars have been proposed to be increased from 10% to 60%.
- BCD NIL, CVD 6% without time limit on specified parts of electric and hydric vehicles.
- The rate of duty on Aluminium Oxide for use in the manufacture of Wash Coat, which is used in the manufacture of catalytic converters, subject to actual user condition have proposed to decrease from 7.5% to 5%.
- Nil BCD and 6% CVD will be applicable on Engine for xEV (hybrid electric vehicle).

## **Capital Goods**

- Rate of CVD on Specified machinery required for construction of roads have been proposed to be increased from NIL to 12.5%.

## **Defence Production**

- BCD, CVD and SAD will be applicable on Direct imports of specified goods by Government of India or State Governments, with effect from 01.4.2016.
- BCD, CVD and SAD will be applicable on Imports of specified goods for defence purposes by contractors of the Government of India, PSUs or sub-contractors of PSUs, with effect from 01.4.2016.

## **Maintenance, repair and overhaul [MRO] of aircrafts**

- No BCD, CVD and SAD will be applicable on Tools and

tool kits when imported by MROs for maintenance, repair, and overhauling [MRO] of aircraft subject to a certification by the Directorate General of Civil Aviation.

- Simplify the procedure for availment of exemption from customs duties on parts, testing equipment, tools and tool-kits for maintenance, repair and overhaul of aircraft based on records and subject to actual user condition
- Remove the restriction of one year for utilization of duty free parts for maintenance, repair and overhaul of aircraft
- Further relax the existing conditions of stay [upto 60 days], so as to provide for stay up to 6 months of the foreign aircraft for maintenance, repair or overhauling, and provide for further extension of such period by DGCA as deemed fit

## **Ship Repair Units**

- NIL excise duty will be applicable on Capital goods and spare thereof, raw materials, parts, material handling equipment and consumable for repairs of ocean-going vessels by a ship repair unit subject to actual user condition.
- Simplify the procedure for availment of exemption from Basic Customs Duty, CVD and SAD by ship repair units based on records and subject to actual user condition.

## **Miscellaneous**

- The rate of duty on Braille paper have been proposed to be decreased from 10% to nil.
- No BCD, CVD and SAD will be applicable on Disposable sterilized dialyzer and micro barrier of artificial kidney.
- The rate of duty on Solar tempered glass / solar

tempered (anti-reflective coated) glass, subject to actual user condition have proposed to increase from NIL to 5%.

- The rate of duty on Medical Use Fission Molybdenum-99 imported by Board of Radiation and Isotope Technology (BRIT) for manufacture of radio pharmaceuticals have proposed to decrease from 7.5% to NIL.
- The rate of duty on Pulp of wood for manufacture of sanitary pads, napkins & tampons have been proposed to be decrease from 5% to 2.5%.
- The rate of duty on Super Absorbent Polymer when used for the manufacture of sanitary pads, napkins & tampons have been proposed to be decrease from 7.5% to 5%.
- No BCD, CVD and SAD will be applicable on Merge the exemptions from customs duties on specified goods imported for petroleum exploration under various types of licenses or mining leases, pre-NELP contracts, NELP contracts, Marginal Fields Policy and the Coal Bed Methane Policy into a single exemption with a unified list of specified goods and conditions.
- No BCD, CVD and SAD will be applicable on Specified goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 1st April 1999.
- Prescribe actual user condition for the imports of Phosphoric Acid and Anhydrous Ammonia at concessional BCD/CVD for manufacture of Fertilizers
- Prescribe actual user condition for imports of LCD/LED/OLED Panels imported at Nil BCD for manufacture of LCD/LED/OLED TVs.
- No BCD, CVD and SAD will be applicable on “Foreign Satellite data” on storage media when imported

by National Remote Sensing Centre (NRSC), Hyderabad.

## RETROSPECTIVE AMENDMENT

- Amend various notifications pertaining to Advance Licence and Duty Free Import Authorization Schemes retrospectively, to correct the reference to “section 8” in such notifications to “section 8B” so as to clearly provide that exemption from safeguard duty under section 8B of the Customs Tariff Act, 1975 was/is available under these notifications on imports under Advance Licence and Duty Free Import Authorization Schemes.

## RULES AND REGULATIONS UNDER THE CUSTOMS ACT, 1962

- The existing Baggage Rules, 1998 are being substituted with the Baggage Rules, 2016, so as to simplify and rationalize multiple slabs of duty free allowance for various categories of passengers. The new Rules are effective from 01.04.2016.
- The existing Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 are being substituted with the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 with a view to simplify the rules, including allowing duty exemptions to importer/manufacturer based on self-declaration instead of obtaining permissions from the Central Excise authorities. Need for additional registration is also being done away with. The new Rules will be effective from 01.04.2016.
- The Customs Baggage Declaration Regulations, 2013 is being amended so as to prescribe filing of Customs declaration only for those passengers who carry dutiable or prohibited goods.

**NOTE:**

- “Basic Customs Duty” means the customs duty levied under the Customs Act, 1962.
- “CVD” means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.
- “SAD” means the Special Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975
- “Export duty” means duty of Customs leviable on goods specified in the Second Schedule to the Customs Tariff Act, 1975.

# CENTRAL EXCISE

## AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944:

- Section 5A is being amended so as to omit the requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of CBEC.
- Section 11A is being amended so as to increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, wilful mis-statement, etc.
- Section 37B is being amended so as to empower the Board for implementation of any other provision of the said Act in addition to the power to issue orders, instructions and directions.
- The Third Schedule is being amended so as to:
  - a) Make some editorial changes, consequent to 2017 Harmonized System of Nomenclature.
  - b) include therein:
    - 1) All goods falling under heading 3401 and 3402;
    - 2) Aluminum foils of a thickness not exceeding 0.2 mm;
    - 3) Wrist wearable devices (commonly known as 'smart watches'); and
    - 4) Accessories of motor vehicle and certain other specified goods. Changes at (b) above will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

## AMENDMENTS IN THE FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT, 1985

### Amendments not affecting rates of duty

- Editorial changes in the Harmonized System of Nomenclature (HSN) in certain chapters are being incorporated in the First and Second Schedules, to be effective from 01.01.2017.
  - To:
    - a) Amend supplementary notes (e) and (f) Chapter 27 so as to change the reference:
      - i. from IS:1460:2000 to IS:1460:2005 for high speed diesel (HSD) and
      - ii. from IS:1460 to IS: 15770:2008 for light diesel oil (LDO)
    - b) Substitute Tariff line 5801 39 10 with description "Warp pile fabrics, uncut" in place of tariff line 5801 37 11 [with description Warp pile fabrics 'epingle' uncut velvet] and 5801 37 19 [with description Warp pile fabrics 'epingle' uncut other];
    - c) Prescribe separate tariff lines for laboratory created or laboratory grown or manmade or cultured or synthetic diamonds;
    - d) Delete Tariff line 8525 50 50, relating to Wireless microphone.

### Amendments involving change in the rate of duty

#### Aerated Beverages

- Rate of Duty on Waters, including mineral waters and aerated waters, containing added sugar or other

sweetening matter or flavoured has been changed from 18% to 21 %

### **Tobacco and Tobacco Products**

- Rate of Duty on Cigar and cheroots has been increased from 12.5% or Rs 3375 per thousand, whichever is higher to 12.5% or Rs 3755 per thousand, whichever is higher.
- Rate of Duty on Cigarillos has been increased from 12.5% or Rs 3375 per thousand, whichever is higher to 12.5% or Rs 3755 per thousand, whichever is higher.
- Rate of Duty on Cigarettes of tobacco substitutes has been increased from Rs 3375 per thousand to Rs 3755 per thousand.
- Rate of Duty on Cigarillos of tobacco substitutes has been increased from 12.5% or Rs 3375 per thousand, whichever is higher to 12.5% or Rs 3755 per thousand, whichever is higher.
- Rate of Duty on others of tobacco substitutes has been increased from 12.5% or Rs 3375 per thousand, whichever is higher to 12.5% or Rs 3755 per thousand, whichever is higher.
- Rate of Duty on Gutkha, chewing tobacco (including filter khaini) and jarda scented tobacco has been increased from 70% to 81 %
- Rate of Duty on Unmanufactured tobacco has been increased from 55% to 64 %
- Rate of Duty on Paper rolled biris [whether handmade or machine made] and other biris [other than handmade biris] has been increased from Rs.30 per thousand to Rs.80 per thousand. However, the effective rate of basic excise duty of Rs.21 per thousand shall remain unchanged.

The amendments involving increase in the duty rates will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

### **OTHER PROPOSALS INVOLVING CHANGES IN DUTY RATES:**

#### **Food processing**

- Rate of Duty on Refrigerated containers is proposed to be decreased from 12.5% to 6 %

#### **Fertilizers**

- Rate of Duty on Micronutrients which are covered under Sr. No. 1(f) of Schedule 1 Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under FCO, 1985 is proposed to be decreased from 12.5% to 6 %
- Rate of Duty on Physical mixture of fertilizers manufactured by Co-operative Societies, holding certificate of manufacture for mixture of fertilizers under the Fertiliser Control Order 1985, made out of chemical fertilizers on which duty of excise has been paid and no credit of duty paid on such chemical fertilizers has been taken under rule 3 of the CENVAT Credit Rules, 2004 and which are intended for supply to the members of such Co-operative Societies is proposed to be decreased from 1% [without CENVAT credit] or 6% [with CENVAT credit] to NIL.

#### **Textiles**

- Rate of Duty on readymade garments and made up articles of textiles is proposed to be increased from 30% of retail sale price to 60% of retail sale price.
- Rate of Duty on Branded readymade garments and made up articles of textiles of retail sale price

of Rs.1000 or more is proposed to be increased from NIL[without CENVAT credit] or 6%/12.5% [with CENVAT credit] to 2%[without CENVAT credit] or 12.5% [with CENVAT credit]

- Rate of Duty on PSF / PFY, manufactured from plastic scrap or plastic waste including waste PET bottles is proposed to be increased from 2%[without CENVAT credit] or 6%[with CENVAT credit] to 2%[without CENVAT credit] or 12.5% [with CENVAT credit].

### **Footwear**

- Rate of Duty on Rubber sheets & resin rubber sheets for soles and heels is proposed to be decreased from 12.5% to 6 %.
- Abatement increased from retail sale price (RSP) for the purposes of excise duty assessment for all categories of footwear is proposed to be increased from 25% to 30%.

### **Metals**

- Rate of Duty on on disposable containers made of aluminium foils is proposed to be increased from 2%[without CENVAT credit] or 6%[with CENVAT credit] to 2%[without CENVAT credit] or 12.5% [with CENVAT credit].

#### Precious metals & Jewellery

- Rate of Duty on Refined gold bars manufactured from gold dore bar, silver dore bar, gold ore or concentrate, silver ore or concentrate, copper ore or concentrate is proposed to be increased from 9% to 9.5 %. Prospectively, the excise duty exemption under the existing area based exemptions on refined gold is being withdrawn.
- Rate of Duty on Refined silver manufactured from silver ore or concentrate, silver dore bar, or gold dore bar is proposed to be increased from 8% to 8.5 %.

Prospectively, the excise duty exemption under the existing area based exemptions on refined silver is being withdrawn.

- Rate of Duty on Articles of Jewellery [excluding silver jewellery, other than studded with diamonds or other precious stones namely, ruby, emerald and sapphire] with a higher threshold exemption upto Rs. 6 crore in a year and eligibility limit of Rs.12 crore, along with simplified compliance procedure is proposed to be increased from NIL to 1% [without CENVAT credit] or 12.5% [with CENVAT credit].

### **Renewable Energy**

- Rate of Duty on Unsaturated Polyester Resin (polyester based infusion resin and hand layup resin), Hardeners/Hardener for adhesive resin, Vinyl Ester Adhesive (VEA) and Epoxy Resin used for manufacture of rotor blades and intermediates, parts and sub parts of rotor blades for wind operated electricity generators is proposed to be increased from NIL to 6%.
- Rate of Duty on Carbon pultrusion used for manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades for wind operated electricity generators is proposed to be decreased from 12.5%to 6%.
- Rate of Duty on Solar Lamp is proposed to be decreased from 12.5% to NIL.
- To prescribe “valid agreement between importer / producer of power with urban local body for processing of municipal solid waste for not less than ten years from the date of commissioning of project” as an alternative to the condition of “production of valid power purchase agreement between the importer/producer of power and the purchaser, for the sale and purchase of electricity generated using non-conventional materials” for availing concessional



customs/excise duty benefits in case of power generation project based on municipal and urban waste.

### **Civil Aviation**

- Rate of Duty on Aviation Turbine Fuel [ATF] other than for supply to Scheduled Commuter Airlines (SCA) from the Regional Connectivity Scheme airports is proposed to be increased from 8% to 14%.

Maintenance, repair and overhaul [MRO] of aircrafts

- Rate of Duty on Tools and tool kits when procured by MROs for maintenance, repair, and overhauling [MRO] of aircraft subject to a certification by the Directorate General of Civil Aviation has been proposed to reduce to NIL.
- To simplify the procedure for avilment of exemption from excise duty on parts, testing equipment, tools and tool-kits for maintenance, repair and overhaul of aircraft based on records
- To remove the restriction of one year for utilization of duty free parts for maintenance, repair and overhaul of aircraft.

### **Electronics & IT hardware**

- Rate of Duty on Charger / adapter, battery and wired headsets / speakers for supply Charger / adapter, battery and wired headsets / speakers for supply is proposed to be increased from NIL to 2% [without CENVAT credit] or 12.5% [with CENVAT credit].
- Rate of Duty on Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phone, subject to actual user condition is proposed to be decreased from NIL/12.5% to NIL.
- Rate of Duty on Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes

for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets] is proposed to be increased from 12.5% to 4% [without CENVAT credit] or 12.5% [with CENVAT credit].

- Rate of Duty on Parts and components, subparts for manufacture of Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets] is proposed to be decreased from 12.5% to NIL.

### **Machinery**

- Rate of Duty on Electric motor, shafts, sleeve, chamber, impeller, washer required for the manufacture of centrifugal pump is proposed to be decreased from 12.5% to 6%.

### **Automobiles**

- Rate of Duty on Specified parts of Electric Vehicles and Hybrid Vehicles which was '6% upto 31.03.2016' is now proposed to be '6% without time limit'
- Rate of Duty on Engine for xEV (hybrid electric vehicle) is proposed to be decreased from 12.5% to 6%.

### **Miscellaneous**

- Excise duty on sacks and bags of all plastics is being proposed to be rationalized at 15%.
- It has been proposed to unconditionally exempt improved cook stoves including smokeless chulhas for burning wood, agrowaste, cowdung, briquettes, and coal.
- Rate of Duty on Disposable sterilized dialyzer and micro barrier of artificial kidney is proposed to be decreased from 12.5% to NIL.

- Rate of Duty on Ready Mix Concrete manufactured at the site of construction for use in construction work at such site is proposed to be decreased from 2% [without input tax credit] or 6% [with input tax credit] to NIL.
- Rate of Duty on Parts of railway or tramway locomotives or rolling stock and railway or tramway track fixtures and fittings, railway safety or traffic control equipment, etc is proposed to be decreased from 12.5% to 6%
- Rate of Duty on Remnant kerosene is proposed to be decreased from 14% to NIL. At present, exemption is restricted to manufacturers of LAB and HA.
- Rate of Duty on Clean Energy Cess / Clean Environment Cess on coal, lignite or peat produced or extracted as per traditional and customary rights enjoyed by local tribals without any license or lease in the State of Nagaland is proposed to be decreased from Rs 200 per tonne to NIL.
- To extend Retail Sale Price [RSP] based assessment of excise duty to:
  - a) all goods falling under heading 3401 and 3402 [with abatement rate of 30%];
  - b) aluminium foils of a thickness not exceeding 0.2 mm [with abatement rate of 25%];
  - c) wrist wearable devices (commonly known as 'smart watches') [with abatement rate of 35%], and
  - d) Accessories of motor vehicle and certain other specified goods [with abatement rate of 30%].
- The Oil Industry (Development) Act, 1974 is being amended so as to reduce the rate of Oil Industries Development Cess, on domestically produced crude oil, from Rs. 4500 PMT to 20% ad valorem OIBD Cess. The amendment in the Act will be effective from the date of assent to the Finance Bill, 2016.
- The Seventh Schedule to the Finance Act, 2005 is being amended so as to increase the excise duty across all lengths of non-filter and filter cigarettes as under :
  - a) Excise duty on Non Filter Cigarettes of length not exceeding 65 mm is increased from Rs 70 per thousand to Rs 215 per thousand.
  - b) Excise duty on Non Filter Cigarettes of length exceeding 65 mm but not exceeding 70 mm is increased from Rs 110 per thousand to Rs 370 per thousand
  - c) Excise duty on Filter Cigarettes of length not exceeding 65 mm is increased from Rs 70 per thousand to Rs 215 per thousand.
  - d) Excise duty on Filter Cigarettes of length exceeding 65 mm but not exceeding 70 mm is increased from Rs 70 per thousand to Rs 260 per thousand
  - e) Excise duty on Filter Cigarettes of length exceeding 70 mm but not exceeding 75 mm is increased from Rs 110 per thousand to Rs 370 per thousand
  - f) Excise duty on other Cigarettes is increased from Rs 180 per thousand to Rs 560 per thousand.
- The Clean Energy Cess is being renamed as Clean Environment Cess. Also, the Tenth Schedule to the Finance Act, 2010 dealing with Clean Energy Cess is being amended so as to increase the Scheduled rate of Clean Energy Cess from Rs.300 per tonne to Rs.400 per tonne. The effective rate of Clean Energy Cess is being increased from Rs.200 per tonne to Rs.400 per tonne.

- Infrastructure Cess is being levied on motor vehicles, of heading 8703, as under:
  - a. Petrol/LPG/CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc – 1%
  - b. Diesel driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1500cc – 2.5%
  - c. Other higher engine capacity motor vehicles and SUVs and bigger sedans – 4%.

Three wheeled vehicles, Electrically operated vehicles, Hybrid vehicles, Hydrogen vehicles based on fuel cell technology, Motor vehicles which after clearance have been registered for use solely as taxi, Cars for physically handicapped persons and Motor vehicles cleared as ambulances or registered for use solely as ambulance will be exempt from this Cess. No credit of this Cess will be available, and credit of no other duty can be utilized for payment of this Infrastructure Cess.

The changes at 2), 3) and 4) above will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

#### **AMENDMENTS IN THE CENTRAL EXCISE RULES, 2002 AND THE CENVAT CREDIT RULES, 2004**

- The Central Excise Rules, 2002 are being amended so as to:
  - a) Reduce the number of returns to be filed by a central excise assessee above a certain threshold from 27 to 13, that is, one annual and 12 monthly returns. Monthly returns are already being e-filed. CBEC will provide for e-filing of annual return also. This annual return will have to be filed by service tax assessee also, above

a certain threshold, taking total number of returns to three in a year for them,

- b) Extend the facility for revision of return, hitherto available to a service tax assessee only, to manufacturers also.
- c) Provide that in cases where invoices are digitally signed, the manual attestation of copy of invoice, meant for transporter, is done away with.
- d) Provide that in case of finalization of provisional assessment, the interest will be chargeable from the original date of payment of duty.

- The CENVAT Credit Rules, 2004 are being amended, so as to improve credit flow, reduce the compliance burden and associated litigations, particularly those relating to apportionment of credit between exempted and non-exempted final products / services. Changes are also being made in the provisions relating to input service distributor, including extension of this facility to transfer input services credit to outsourced manufacturers, under certain circumstances. The amendments in these Rules will also enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute inputs with credits to the individual manufacturing units.

- Instructions are being issued to Chief Commissioners of Central Excise to file application to Courts to withdraw prosecution in cases involving duty of less than rupees five lakh and pending for more than fifteen years.
- The existing Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2001 are being substituted with the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture

of Excisable and Other Goods) Rules, 2016, so as to simplify the rules, including allowing duty exemptions to importer/manufacturer based on self-declaration

instead of obtaining permissions from the Central Excise Authorities.

Note: “Basic Excise Duty” means the excise duty set forth in the First Schedule to the Central Excise Tariff Act, 1985

# START-UP INDIA



# START-UP INDIA

## What is Startup?

The Government of India has recently announced 'Startup India' initiative for creating a conducive environment for startups in India. The various Ministries of the Government of India have initiated a number of activities for the purpose.

Ministry of Commerce and Industry (Department of Industrial Policy and Promotion) has vide Notification G.S.R. 180(E) dated 17th February, 2016 identified the entities that would be considered a 'startup'.

As per the Notification an entity shall be considered as a 'startup'-

- a) Up to five years from the date of its incorporation/ registration,
- b) If its turnover for any of the financial years has not exceeded Rupees 25 crore, and
- c) It is working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property;

It has been further provided that any such entity formed by splitting up or reconstruction of a business already in existence shall not be considered a 'startup';

In order to obtain tax benefits a startup, shall be required to obtain a certificate of an eligible business from the Inter-Ministerial Board of Certification consisting of:

- a) Joint Secretary, Department of Industrial Policy and Promotion,
- b) Representative of Department of Science and Technology, and

- c) Representative of Department of Biotechnology.

It has been clarified that:

1. An entity shall cease to be a startup on completion of five years from the date of its incorporation/ registration or if its turnover for any previous year exceeds Rupees 25 crore.
2. Entity means a private limited company (as defined in the Companies Act, 2013), or a registered partnership firm (registered under section 59 of the Partnership Act, 1932) or a limited liability partnership (under the Limited Liability Partnership Act, 2002).
3. Turnover is as defined under the Companies Act, 2013.
4. An entity is considered to be working towards innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property if it aims to develop and commercialize:
  - a. A new product or service or process, or
  - b. A significantly improved existing product or service or process, that will create or add value for customers or workflow. Provided that the mere act of developing:
    - a. products or services or processes which do not have potential for commercialization, or
    - b. undifferentiated products or services or processes, or
    - c. products or services or processes with no or limited incremental value for customers or workflow would not be covered under this definition.

5. The process of recognition as a 'startup' shall be through mobile app/portal of the Department of Industrial Policy and Promotion. Startups will be required to submit a simple application with any of following documents:

- a) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator established in a postgraduate college in India; or
- b) a letter of support by any incubator which is funded (in relation to the project) from Government of India or any State Government as part of any specified scheme to promote innovation; or
- c) a recommendation (with regard to innovative nature of business), in a format specified by Department of Industrial Policy and Promotion, from any Incubator recognized by Government of India; or
- d) a letter of funding of not less than 20 per cent in equity by any Incubation Fund/Angel Fund/Private Equity Fund/Accelerator/Angel Network duly registered with Securities and Exchange Board of India that endorses innovative nature of the business. Department of Industrial Policy and Promotion may include any such fund in a negative list for such reasons as it may deem fit; or
- e) a letter of funding by Government of India or any State Government as part of any specified scheme to promote innovation; or
- f) a patent filed and published in the Journal by the Indian Patent Office in areas affiliated with the nature of business being promoted.

Department of Industrial Policy and Promotion may, until such mobile app/portal is launched make alternative arrangement of recognizing a 'startup'. Once such application with relevant document is uploaded a real-time recognition number will be issued to the startup.

If on subsequent verification, such recognition is found to be obtained without uploading the document or uploading any other document or a forged document, the concerned applicant shall be liable to a fine which shall be fifty per cent of paid up capital of the startup but shall not be less than Rupees 25,000.

## Tax Proposals in Budget 2016 for Start-ups

- It is proposed to provide a deduction of one hundred per cent. of the profits and gains derived by an eligible start-up from a business involving innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property. The benefit of deduction of hundred per cent. of the profit derived from such business can be availed by an eligible start-ups for three consecutive assessment years out of five years, at the option of the assessee.

This amendment will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-2018 and subsequent assessment years

For the purposes of this proposal,—

- (i) "eligible start-up" means a company engaged in eligible business which fulfils the following conditions, namely:—
  - (a) it is incorporated on or after the 1st day of April, 2016 but before the 1st day of 20 April, 2019;



- (b) the total turnover of its business does not exceed twenty-five crore rupees in any of the previous years beginning on or after the 1st day of April, 2016 and ending on the 31st day of March, 2021; and
  - (c) it holds a certificate of eligible business from the Inter-Ministerial Board of Certification 25 as notified in the Official Gazette by the Central Government.’
- The Budget also seeks to amend section 54GB in the Income- tax relating to Capital gain on transfer of residential property not to be charged in certain cases.

The existing provisions of section 54GB provide that capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains is invested in subscription of shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 subject to other conditions specified therein.

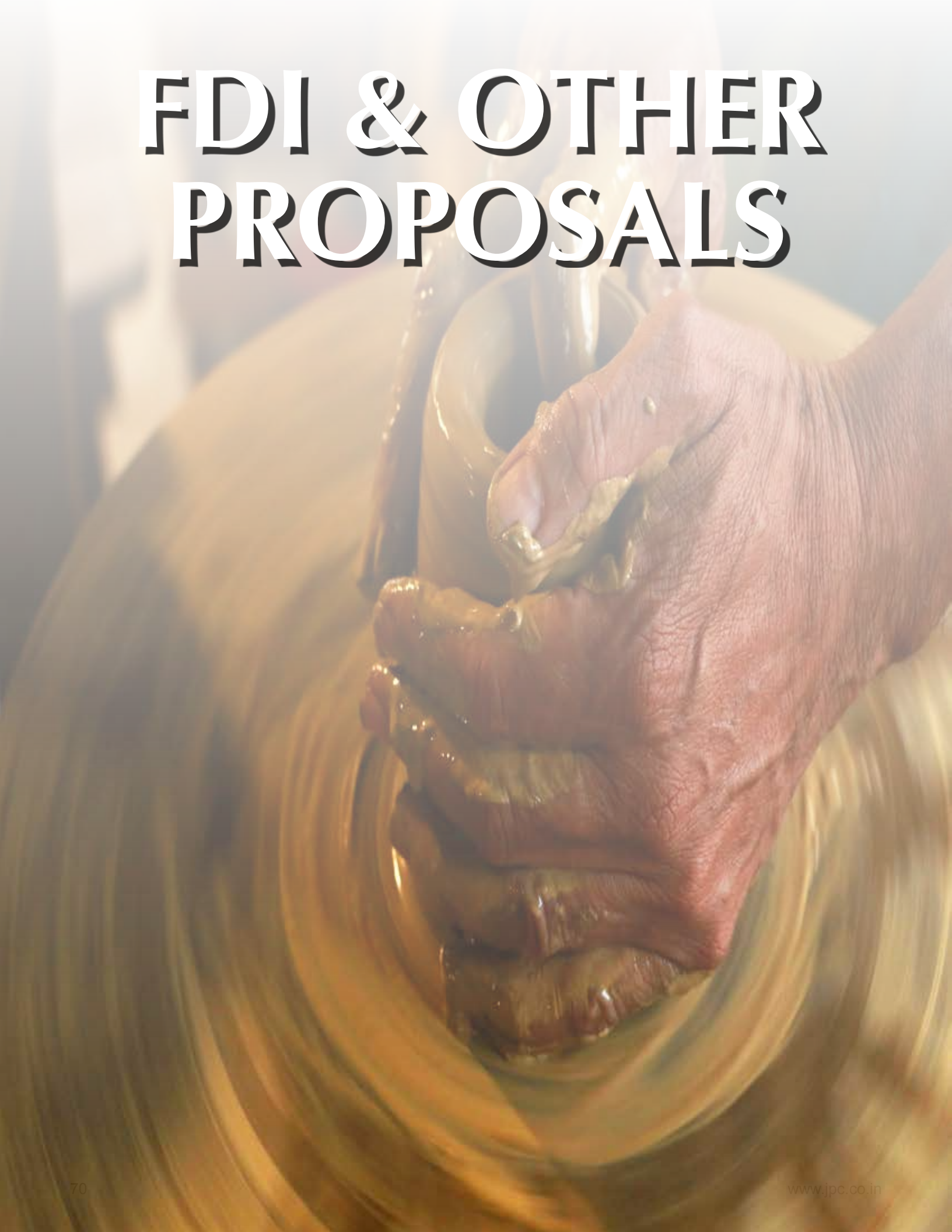
It is proposed to amend section 54GB so as to provide that capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains is invested in subscription of shares of a company which qualifies to be an eligible start-up subject to other specified conditions.

The existing provision of section 54GB requires that the company should invest the proceeds in the purchase of new asset being new plant and machinery but does not include inter alia, computers or computer software.

It is proposed to amend section 54GB so as to provide that the expression “new asset” includes computers or computer software in case of technology driven start-ups so certified by the Inter- Ministerial Board of Certification notified by the Central Government in the Official Gazette.

These amendments will take effect from 1st April, 2017 and will, accordingly, apply in relation to the assessment year 2017-18 and subsequent assessment years.

# FDI & OTHER PROPOSALS



# FDI & OTHER PROPOSALS

## Proposed Changes/Reforms in FDI and Related Policies

- Foreign investment will be allowed in the insurance and pension sectors in the automatic route up to 49% subject to the extant guidelines on Indian management and control to be verified by the Regulators.
- 100% FDI in Asset Reconstruction Companies (ARCs) will be permitted through automatic route. Foreign Portfolio Investors (FPIs) will be allowed up to 100% of each tranche in securities receipts issued by ARCs subject to sectoral caps.
- Investment limit for foreign entities in Indian stock exchanges will be enhanced from 5 to 15% on par with domestic institutions. This will enhance global competitiveness of Indian stock exchanges and accelerate adoption of best-in-class technology and global market practices.
- The existing 24% limit for investment by FPIs in Central Public Sector Enterprises, other than Banks, listed in stock exchanges, will be increased to 49% to obviate the need for prior approval of Government for increasing the FPI investment.
- The basket of eligible FDI instruments will be expanded to include hybrid instruments subject to certain conditions.
- FDI will be allowed beyond the 18 specified NBFC activities in the automatic route in other activities which are regulated by financial sector regulators.
- With a view to promote Make in India and following the practices in advanced countries, foreign investors will be accorded Residency Status subject to certain conditions. Currently, these investors are granted business visa only up to 5 years at a time.
- In order to ensure effective implementation of Bilateral Investment Treaties signed by India with other countries, it is proposed to introduce a Centre State Investment Agreement. This will ensure fulfilment of the obligations of the State Governments under these Treaties. States which opt to sign these Agreements will be seen as more attractive destinations by foreign investors.

All these decisions will facilitate ease of doing business for foreign investors and their domestic recipients.

## GST & Other Laws

The Government shall also endeavour to continue with the ongoing reform programme and ensure the passage of the Constitutional amendments to enable the implementation of the Goods and Service Tax, the passage of Insolvency and Bankruptcy law and other important reform measures which are pending before the Parliament.

## Companies Act

To remove the difficulties and impediments to ease of doing business, it is proposed to introduce a bill to amend the Companies Act, 2013 in the Parliament. The Bill would also improve the enabling environment for start-ups. The registration of companies will also be done in one day.

## GLOSSARY

AOP	Association of Persons	INR	Indian Rupee
AY	Assessment Year	IT Act	Income Tax Act, 1961
AO	Assessing Officer	OECD	The Organisation for Economic Co-operation and Development
BCD	Basic Custom Duty	NPS	New Pension Scheme
BSE	Bombay Stock Exchange	NSE	National Stock Exchange
BEPS	base erosion and profit shifting	NBFC	Non Banking Finance Company
BOI	Body of Individuals	PE	Permanent Establishment
CAD	Current Account Deficit	POEM	Place of Effective Management
CBDT	Central Board of Direct Taxes	R&D	Research & Development
CBEC	Central Board of Excise & Customs	RBI	Reserve Bank of India
CbC	Country-by- Country Reporting	SAD	Special Additional Duty
CPI	Consumer Price Index	SEBI	Security Exchange Board of India
CVD	Countervailing Duty	SEZ	Special Economic Zone
DDT	Dividend Distribution Tax	SHE	Secondary Higher Education Cess
EPF	Employee Provident Fund	TDS	Tax deducted at source
EC	Education Cess	TRU	Tax Research Unit
GDP	Gross Domestic Product	TPO	Transfer Pricing Officer
GST	Goods & Service Tax	WHT	Withholding Taxes
GAAR	General Anti Avoidance Rules	WPI	Whole sale Price Index
HUF	Hindu Undivided Family		

**Dear Valuable Client / Colleague,**

In case you require any further detailed analysis on above mentioned proposals, please do get back to us and we shall be happy to provide you the same.

**With Best Regards,**

**Team JPC**

### **About JPC.**

JPC is a professional services firm based in New Delhi, India. We were established in the year 1974 with the aim to create value for our clients by delivering quality, comprehensive, timely, practical and innovative services. We offer a comprehensive range of services, including taxation services, regulatory services, transaction advisory services, financial & management consultancy services, assurance & risk services, and outsourcing services. Over the past several decades, we have established significant competitive presence in the country. Our vast and diversified client base includes Multinational enterprises, domestic companies, high net worth individuals, government companies and institutions in all leading industry verticals. We are a team of distinguished Chartered Accountants, Management Accountants, Corporate Financial Advisors and Tax Consultants. Our team has the requisite skills and experience to provide complex business, financial, assurance, tax and regulatory services to our clients. Our strength lies in our timely performance-based, industry-tailored and technology-enabled services which are delivered by some of the most talented professionals in the country. For more information about JPC's service offerings, visit [www.jpc.co.in](http://www.jpc.co.in)

**In this document, "JPC" refers to J P Chawla & Co. LLP Chartered Accountants (a limited liability partnership firm regulated by the Institute of Chartered Accountants of India, FRN : 001875N/ N500025) , formerly known as J.P. Chawla & Company Chartered Accountants.**

**Disclaimer:** This budget analysis and its content are provided on the basis of secondary research and JPC does not make any representation or warranty of any kind with respect to its contents. JPC does not warrant or represent that this budget analysis or its content are timely, complete or accurate.



## J P Chawla & Co. LLP Chartered Accountants

### *New Delhi office:*

43 Darya Ganj,  
New Delhi - 110002  
INDIA

### *Noida office:*

C-129, Sector 2,  
Noida - 201 301 (U.P.)  
INDIA  
Phone: +91-120-4573207, 4573208, 4563873

General Email: [info@jpc.co.in](mailto:info@jpc.co.in)

## Main Partners Hand Phone & Email

Rajat Chawla	+91-9871494499   <a href="mailto:rajatchawla@jpc.co.in">rajatchawla@jpc.co.in</a>
J.P. Chawla	+91-9811028918   <a href="mailto:jpchawla@jpc.co.in">jpchawla@jpc.co.in</a>
Richa Chawla	+91-9990509709   <a href="mailto:richajuneja@jpc.co.in">richajuneja@jpc.co.in</a>

For further information, please email your details to [rajatchawla@jpc.co.in](mailto:rajatchawla@jpc.co.in) or call +91-9871494499.