

# BUDGET ANALYSIS 2017

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Positive change is happening in India which will lead to TEC India i.e. Transform, Energise and Clean India. In short the target has been set and is going to be achieved in the year to come!!

IMF has projected a GDP growth of 7.2% and 7.7% in 2017 and 2018 respectively. The World Bank, however, is more optimistic and has projected a GDP growth of 7% in 2016-17, 7.6% in 2017-18 and 7.8% in 2018-19.

India stands out as a bright spot in the world economic landscape. CPI inflation declined from 6% in July 2016 to 3.4% in December, 2016 and is expected to remain within RBI's mandated range of 2% to 6%. India's Current Account Deficit declined from about 1% of GDP last year to 0.3% of GDP in the first half of 2016-17. Foreign Direct Investment (FDI) increased from ` 1,07,000 crores in the first half of last year to ` 1,45,000 crores in the first half of 2016-17. This marks an increase by 36%, despite 5% reduction in global FDI inflows. Foreign exchange reserves have reached 361 billion US Dollars as on 20th January, 2017, which represents a comfortable cover for about 12 months of imports.

The Budget for 2017-18 contains three major reforms. First, the presentation of the Budget has been advanced to 1<sup>st</sup> February, Second, the merger of the Railways Budget with the General Budget which has discontinued the colonial practice prevalent since 1924. Third, the plan and non-plan classification of expenditure has been discontinued.

On Economic side the Budget has addressed the Farmers, Rural Population, Youth, Poor and the Underprivileged, Infrastructure, Financial Sector, Digital Economy, Public Service, Prudent Fiscal Management and Tax Administration.

In taxes the focus is on compliance and widening the tax base for which various anti avoidance measures have been proposed.

The key changes proposed in tax laws in relation to International tax relate to amendment in Indirect Transfer rules enabling exemption to Foreign Portfolio Investor (FPI) Category I & II. The Budget also proposes concessional withholding rate of 5% charged on interest earned by foreign entities in external commercial borrowings or in bonds and Government securities and is proposed to be extended to 30.6.2020. This benefit is also extended to Rupee Denominated (Masala) Bonds. Further taking a take from BEPS action 4 India has also introduced thin capitalization rules which prescribes limit on interest deduction.

In Transfer pricing the scope of domestic transfer pricing has been restricted to only if one of the entities involved in related party transaction enjoys specified profit-linked deduction, further secondary adjustment has been introduced in legislation for imputing interest , subject to certain conditions

The direct Income tax side saw plethora of changes in relation to affordable housing, taxation on builders, change in capital gain holding period, joint development agreements, exemption for capital gain on land subject to certain conditions, startup taxation relief , MAT credit, personal income-tax changes, reduction in tax rates for MSME, changes in presumptive income , cash transactions prohibited ,transparency introduced in electoral funding, certain audit thresholds are increased , changes in TDS on insurance commission, changes in advance tax for professionals, changes in time period for revision of return, changes in time period for assessments.

Further to above there has been substantial progress towards ushering in GST, by far, the biggest tax reform since independence. The issues relating to GST, including broad contours of the GST rate structure, threshold exemption and parameters for composition scheme, details for compensation to States due to implementation of GST, examination of draft model GST law, draft IGST law and the Compensation Law and administrative mechanism for GST has been finalized by the GST Council.

Implementation of GST is likely to bring more taxes both to Central and State Governments because of widening of tax net considering the impending GST no major changes have been proposed in the current regime of Excise & Service Tax.

In June 2016, the Prime Minister of India had expressed his desire to bring reforms in tax administration in the form of an approach of RAPID which stands for Revenue, Accountability, Probity, Information and Digitisation, in continuance to such a vision it is proposed to bring in maximum use of Information Technology to remove human contact with assesses as well as to plug tax avoidance, efforts related to e-assessment would be maximised in the coming year. It is also proposed to enforce greater accountability of officers of Tax Department for specific act of commission and omission.

There have been many proposals of positive changes in this budget in terms of ease of doing business, Tax rationalization and digitization; achieving a balanced vision for everyone. We can expect that the new fiscal year 2017-2018 would be buoyant for dynamic INDIA.

**Hope you enjoy reading our analysis of Budget 2017.**

**Happy reading!!**

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

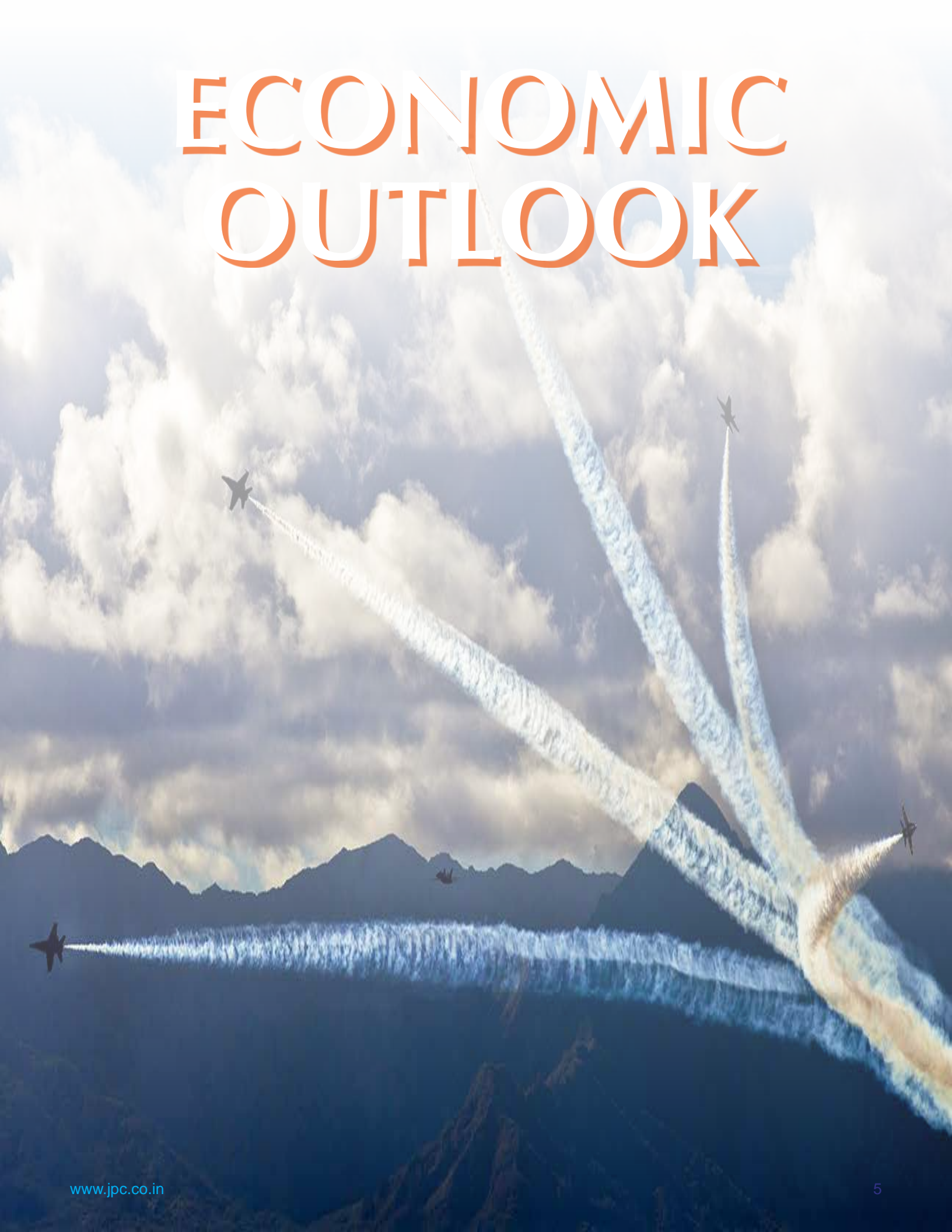
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# ECONOMIC OUTLOOK



## Overview

Indian economy macro-economic indicators have improved in the first half of the current year, on account of global headwinds. Economic growth remained healthy, current account balance improved despite continuing slowness in global demand, fiscal trends remained attuned to the consolidation plans and inflation remained broadly within the corridor. Economic growth was supported by the expansion in Government expenditure due to payouts on account of the Seventh Pay Commission, good monsoon rains and better crop production.

Many new initiatives were undertaken in this year as part of the economic reforms of the Government which include: the passage of Goods and Service Tax bill, the merger of railway budget with the general budget to allow for holistic planning and budgeting of transport infrastructure, advancing of the budget cycle by close-to-a-month, passage of the Insolvency and Bankruptcy Code 2016, formalization of the Monetary Policy Committee and instituting inflation targeting, changes in FDI policy regime with putting a large number of sectors on automatic route for FDI.

Other sectoral initiatives include measures to revive the construction sector, measures for employment generation and promotion of exports in textile and apparel industry. Government took an initiative in November 2016 to withdraw the legal tender character of all existing Rs 500 and Rs 1000 currency notes in circulation to clean up the system and to tackle the menace of black money. This measure could have short-term costs, but has the potential to improve medium-to-long term growth prospects. Apart from the above, the measures that were taken by the Government in the previous years to boost manufacturing, employment generation, ease of doing

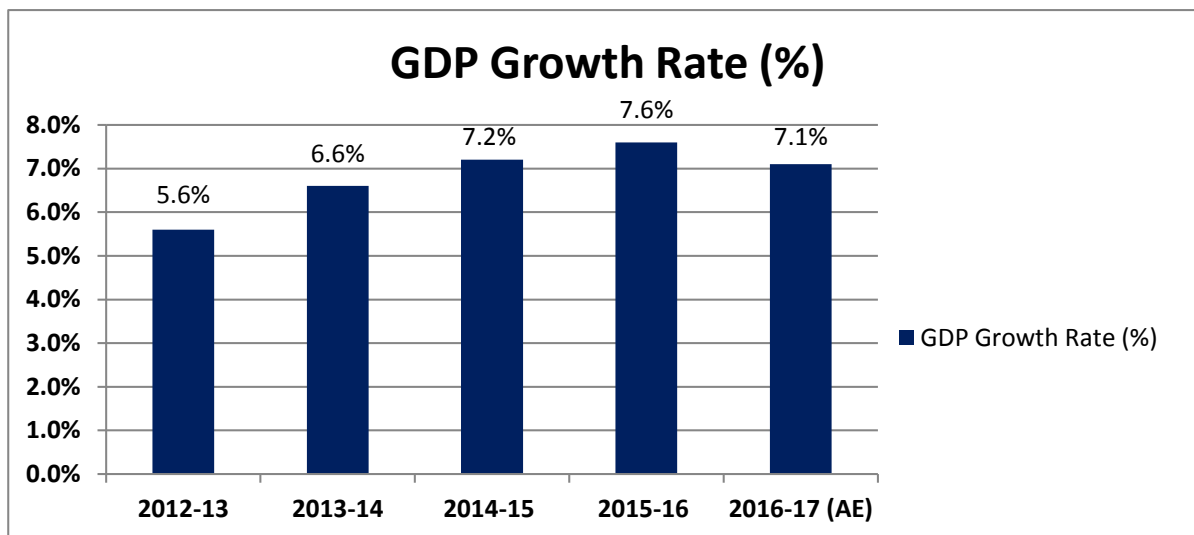
business and transparency, including Make in-India, Skill India, direct benefit transfer and measures for financial inclusion, were also taken forward in the current year.

An important macro-economic challenge faced by the Indian economy relates to the declining trend in the investment and saving rates. Along with an upward push to growth, durable improvement in the balance sheet of firms and banks is important to reverse this trend. Nonetheless, medium-term macro outlook remains bright against the background of green shoots in the global economy, positive farm expectations that can improve rural incomes, stable prices and continuing improvement in indicators of external vulnerability. The increasing formalization of the economy, nudged by policy, can improve medium-term potential growth

## GDP growth

Real GDP growth in the first half of the year was 7.2 percent somewhat lower than the 7.6 percent rate recorded in the second half of 2015-16. The main problem was fixed investment, which declined sharply as stressed balance sheets in the corporate sector continued to take a toll on firms' spending plans. On the positive side, the economy was buoyed by government consumption, as the 7th Pay Commission salary recommendations were implemented and by the long-awaited start of an export recovery as demand in advanced countries began to accelerate.

GDP growth is expected to rebound in 2017-18 and in the medium term over the next three years. The growth in consumption on account of recent salary and pension hikes and higher agricultural production, on the back of a return to normal monsoons is expected to have a more positive impact in 2017-18.



## Agriculture

As per the first advance estimates of the CSO, growth rate for the agriculture and allied sectors is estimated to be 4.1 per cent for 2016-17. Production of Kharif food-grains during 2016-17 is estimated at 135.0 million tonnes compared to 124.1 million tonnes in 2015-16. During the South West Monsoon Season (June-September) of 2016 the country as a whole received rainfall which was 97 per cent of its long period average (LPA). The actual rainfall received during this period was 862.0 mm as against the LPA at 887.5 mm.

The price policy of Government for major agricultural commodities seeks to ensure remunerative prices to the farmers to encourage higher investment and production, and to safeguard the interest of consumers by making available supplies at reasonable prices. Credit is an important input to improve agricultural output and productivity. To improve agricultural credit flow, the credit target for 2016-17 has been fixed at Rs. 9 lakh crore against Rs. 8.5 lakh crore for 2015-16.

## Industry and Services

The performance of the industrial sectors based on the Index of Industrial Production (IIP) comprising mining, manufacturing and electricity reveals a modest growth of

0.4 per cent during April-November 2016-17 as compared to 3.8 per cent during the same period of 2015-16. As per the sectoral classification, the production of manufacturing sector declined by 0.3 per cent during April-November 2016-17. The electricity and mining sectors registered growth rates of 5.0 per cent and 0.3 per cent respectively during April-November 2016-17. Among the use-based categories, basic goods, intermediate goods and consumer durable goods have attained positive growth while capital goods and consumer non-durable goods sectors witnessed contraction during April-November 2016-17.

The eight core infrastructure supportive industries, viz. coal, crude oil, natural gas, refinery products, fertilizers, steel, cement and electricity that have a total weight of nearly 38 per cent in the IIP registered a cumulative growth of 4.9 per cent during April-November, 2016-17 as compared to 2.5 per cent during April-November, 2015-16.

As per the first advance estimates of the CSO, growth rate of the services sector is projected to grow at 8.8 per cent in 2016-17, almost the same as in 2015-16. The share of India's commercial services to global services exports increased to 3.3 per cent in 2015 from 3.1 per cent in 2014. Growth of net services, which has been a major source of financing India's trade deficit in recent

years, was (-) 9.0 per cent in 2015-16 and (-) 10.0 per cent in H1 of 2016-17 due to relatively higher growth in imports of services.

## External Sector

The current account deficit has declined to reach about 0.3 percent of GDP in the first half of FY2017. Foreign exchange reserves are at comfortable levels, having risen from around US\$350 billion at end-January 2016 to US\$ 360 billion at end-December 2016 and are well above standard norms for reserve adequacy.

The trade deficit declined by 23.5 per cent in April-December 2016 over corresponding period of previous year. During the first half of the fiscal year, the main factor was the contraction in imports, which was far steeper than the fall in exports. But during October -December, both exports and imports started a long-awaited recovery, growing at an average rate of more than 5 per cent. The improvement in exports appears to be linked to improvements in the world economy, led by better growth in the US and Germany. On the import side, the advantage on account of benign international oil prices has receded and is likely to exercise upward pressure on the import bill in the short to medium term.

## Performance of banking sector

The performance of the banking sector, public sector banks (PSBs) in particular, continued to remain subdued in the current financial year. The gross nonperforming assets (GNPA) ratio of scheduled commercial banks (SCBs) increased to 9.1 per cent from 7.8 per cent between March and September 2016. The Tier-I leverage ratio of the SCBs increased marginally between March and September 2016. Profit after tax (PAT) contracted on year-on-year basis in the first half of 2016-17 due to

higher growth in risk provisions, loan write-off and decline in net interest income.

## Fiscal Deficit

In 2016-17, the fiscal deficit target of 3.5 per cent of GDP is expected to be achieved. This is despite a substantial increase in expenditure allocations during the course of the year (for the second consecutive year), and enhanced pace of fiscal consolidation in 2016-17. Importantly, the Government has managed to stick to the fiscal deficit target even while the non debt capital receipts are estimated to be lower than the budgeted estimates of 2016-17. The Government has been successful in restricting the fiscal deficit within the budgeted estimates during 2016-17 despite shortfall in non-debt capital receipts, because of the substantial increase in the gross tax revenues witnessed over the budgeted estimates. The revenues have been particularly buoyant in Excise tax and Service tax on the Indirect tax side; however, Customs collections are estimated to fall short of the budgeted estimates.

## Prospects

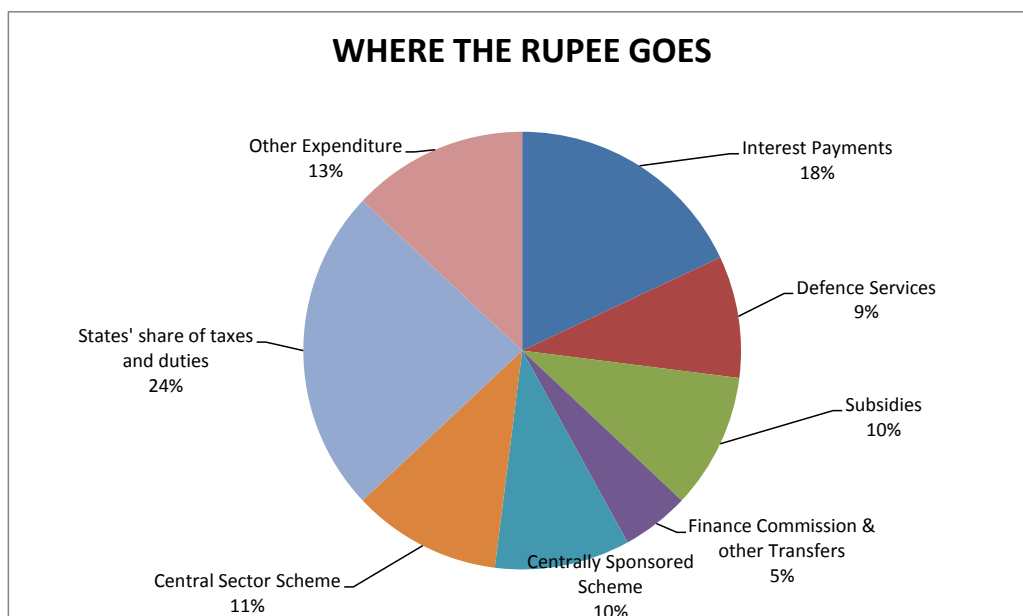
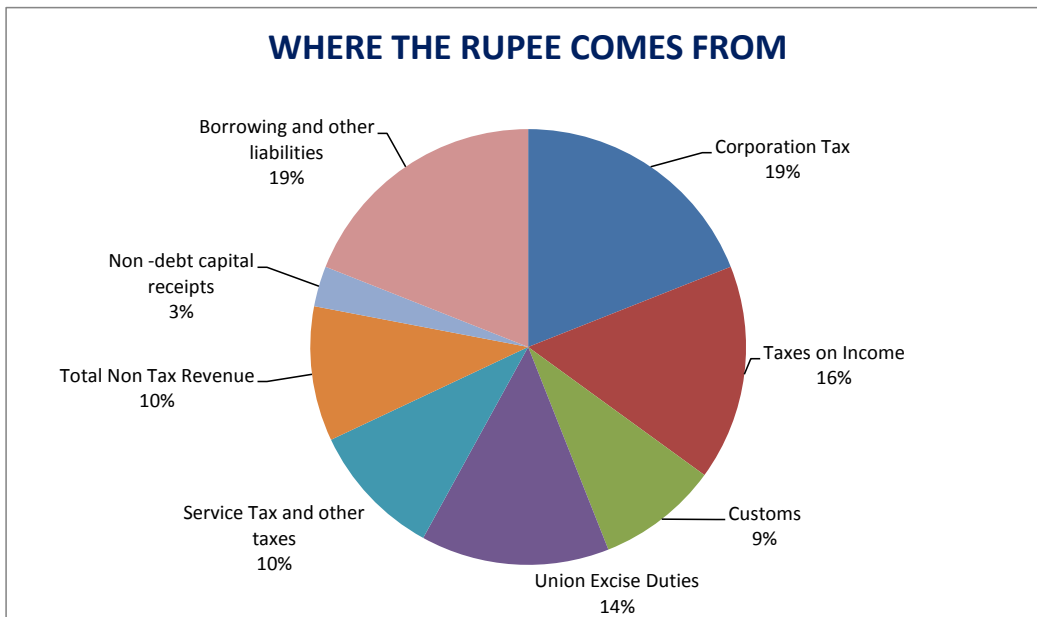
The prospects for Indian economy for the year 2017-18 could be anticipated on account of emerging global and domestic developments. Indications are that global economic growth is gradually picking up. On the other hand, the increasing global prices of oil and other key commodities may exercise an upward pressure on the value of imports. Uncertainty on account of significant external political developments, global interest rate behaviour and capital flows pose potential downsides. Domestic demand is expected to get a boost from accommodative monetary policy and the unleashing of domestic trade and consumption as the economy gets remonetised to the required levels.



Budget 2017-18 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 on the other hand. The revenue deficit is estimated at 1.9 per cent of GDP in 2017-18 against 2.1 per cent of GDP in RE 2016-17. The Government has been successful in restricting the fiscal deficit within the budgeted estimates during 2016-17 despite shortfall

in non-debt capital receipts, because of the substantial increase in the gross tax revenues witnessed over the budgeted estimates.

The major components of Government expenditure apart from the broad Revenue and Capital classification has been organized into two broad sections indicating Centre's expenditure (incurred directly by the Centre including through its agencies) and the Transfers to States/UTs.



## Budget at a Glance

Amount in Crores (in INR)

S. No.	Particulars	2015-2016	2016-2017	2016-2017	2017-2018
		Actuals	Budget Estimates	Revised Estimates	Budget Estimates
<b>1</b>	<b>Revenue Receipts</b>	<b>1,195,025</b>	<b>1,377,022</b>	<b>1,423,562</b>	<b>1,515,771</b>
2	Tax Revenue (net to centre)	943,765	1,054,101	1,088,792	1,227,014
3	Non-Tax Revenue	251,260	322,921	334,770	288,757
<b>4</b>	<b>Capital Receipts (5+6+7)</b>	<b>595,758</b>	<b>601,038</b>	<b>590,845</b>	<b>630,964</b>
5	Recoveries of Loans	20,835	10,634	11,071	11,932
6	Other Receipts	42,132	56,500	45,500	72,500
7	Borrowings and other liabilities *	532,791	533,904	534,274	546,532
<b>8</b>	<b>Total Receipts (1+4)</b>	<b>1,790,783</b>	<b>1,978,060</b>	<b>2,014,407</b>	<b>2,146,735</b>
<b>9</b>	<b>Scheme Expenditure</b>	<b>725,114</b>	<b>801,966</b>	<b>869,847</b>	<b>945,078</b>
10	On Revenue Account of which,	545,619	601,900	631,511	674,057
11	On Capital Account	179,495	200,066	238,336	271,021
<b>12</b>	<b>Expenditure on other than Schemes (13+15)</b>	<b>1,065,669</b>	<b>1,176,094</b>	<b>1,144,560</b>	<b>1,201,657</b>
13	On Revenue Account	992,142	1,129,137	1,103,049	1,162,877
14	Of which, Interest Payments	441,659	492,670	483,069	523,078
15	On Capital Account	73,527	46,957	41,511	38,780
<b>16</b>	<b>Total Expenditure (9+12)</b>	<b>1,790,783</b>	<b>1,978,060</b>	<b>2,014,407</b>	<b>2,146,735</b>
17	Revenue Expenditure (10+13)	1,537,761	1,731,037	1,734,560	1,836,934
18	Of Which, Grants for creation of Capital Assets	131,754	166,840	171,472	195,350
19	Capital Expenditure (11+15)	253,022	247,023	279,847	309,801
<b>20</b>	<b>Revenue Deficit (17-1)</b>	<b>342,736</b>	<b>354,015</b>	<b>310,998</b>	<b>321,163</b>
		(2.50)	(2.30)	(2.10)	(1.90)
<b>21</b>	<b>Effective Revenue Deficit (20-18)</b>	<b>210,982</b>	<b>187,175</b>	<b>139,526</b>	<b>125,813</b>
		(1.60)	(1.20)	(0.90)	(0.70)
<b>22</b>	<b>Fiscal Deficit {16-(1+5+6)}</b>	<b>532,791</b>	<b>533,904</b>	<b>534,274</b>	<b>546,532</b>
		(3.90)	(3.50)	(3.50)	(3.20)
<b>23</b>	<b>Primary Deficit (22-14)</b>	<b>91,132</b>	<b>41,234</b>	<b>51,205</b>	<b>23,454</b>
		(0.70)	(0.30)	(0.30)	(0.10)

# DIRECT TAX PROPOSALS

- I. Tax rates for individuals (other than those mentioned in point no. II and III below), Hindu Undivided Family(HUF), or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person

Income (in INR)	Rates of tax (AY 2018-19)
Upto INR 250,000	Nil
2,50,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

- II. Tax rates in the case of every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year,—

Income (in INR)	Rates of tax (AY 2018-19)
Upto INR 3,00,000	Nil
3,00,001-5,00,000	5%
5,00,001-10,00,000	20%
10,00,001 and above	30%

- III. Tax rates in the case of every individual, being a resident in India, who is of the age of eighty years or more at anytime during the previous year,

Income (in INR)	Rates of tax (AY 2018-19)
Upto INR 5,00,000	Nil
5,00,001-10,00,000	20%
10,00,001 and above	30%

**Note:**

Surcharge of 10% of income tax if total income between INR 50,00,000/- INR 1,00,00,000/- subject to Marginal Relief. Surcharge of 15% of income tax if total income exceeds INR 1,00,00,000/- subject to Marginal Relief.

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

Proposal to reduce rebate u/s 87A of lower of actual tax liability or INR 2500(earlier INR 5000) for a resident individual total income does not exceed INR 3,50,000 (Applicable from AY 2018-19)

## Tax Rates

### Companies

Income (in INR)	Rates of tax (AY 2018-19)
Domestic Company whose total turnover or gross receipts for financial year 2015-16 does not exceed INR 50 Crores/-	25%
Domestic Company other than above having total income more than INR 1 Crore but less than INR 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.

### Firms & LLP's

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.

### Cooperative Societies

Particulars	Rate of tax (AY 2018-19)
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

**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.*

## Other Corporate Tax Changes

### Taxation of income by way of Dividend u/s 115BBDA (Applicable from AY 2018-19)

Currently u/s 115BBDA, income by way of dividend in excess of INR 10 lakh is chargeable to tax at the rate of 10% on gross basis in case of a resident individual, Hindu undivided family or firm.

With a view to ensure horizontal equity among all categories of tax payers deriving income from dividend, it is proposed to amend section 115BBDA so as to provide that the provisions of said section shall be applicable to all resident assesseees except domestic company and certain funds, trusts, institutions, etc.

### Incentives for Investment in Immovable property (Applicable from AY 2018-19)

It is proposed to amend section 2 (42A) of the Act so as to reduce the period of holding from the existing 36 months to 24 months in case of immovable property, being land or building or both, to qualify as long term capital asset.

### Special provisions for computation of capital gains in case of joint development agreement (Applicable from AY 2018-19)

Under the existing provisions of section 45, capital gain is chargeable to tax in the year in which transfer takes place except in certain cases. In such a scenario, execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.

*With a view to minimise the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer, it is proposed to insert a new sub-section (5A) in section 45 so as to provide that in case of an*

*assessee being individual or Hindu undivided family, who enters into a specified agreement for development of a project, the capital gains shall be chargeable to income-tax as income of the previous year in which the certificate of completion for the whole or part of the project is issued by the competent authority.*

It is further proposed to provide that the stamp duty value of his share, being land or building or both, in the project on the date of issuing of said certificate of completion as increased by any monetary consideration received, if any, shall be deemed to be the full value of the consideration received or accruing as a result of the transfer of the capital asset.

Consequential amendment is proposed in section 49 so as to provide that the cost of acquisition of the share in the project being land or building or both, in the hands of the land owner shall be the amount which is deemed as full value of consideration under the said proposed provision.

Proposal to insert a new section 194-IC in the Act so as to provide that in case any monetary consideration is payable under the specified agreement, tax at the rate of ten per cent shall be deductible from such payment. This amendment will take effect from 1st April, 2017.

### Shifting of base year from 1981 to 2001 for computation of capital gains (Applicable from AY 2018-19)

Proposal to amend Section 55 of the Act, so as to provide that the cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1st April, 2001 and the cost of improvement shall include only those capital expenses which are incurred after 01.04.2001.

Consequential amendment is also proposed in section 48 so as to align the provisions relating to cost inflation index to the proposed base year.

### **Expanding the scope of long term bonds under 54EC (Applicable from AY 2018-19)**

Under existing provisions of Section 54EC, currently investment in bond issued by the National Highways Authority of India or by the Rural Electrification Corporation Limited is eligible for exemption. In order to widen the scope of the section for sectors which may raise fund by issue of bonds eligible for exemption under section 54EC, it is proposed to amend section 54EC so as to provide that investment in any bond redeemable after three years which has been notified by the Central Government in this behalf shall also be eligible for exemption.

### **No notional income for house property held as stock-in-trade(Applicable from AY 2018-19)**

Section 23 of the Act is proposed to be amended so as to provide that where the house property consisting of any building and land appurtenant thereto is held as stock-in-trade and the property or any part of the property is not let during the whole or any part of the previous year, the annual value of such property or part of the property, for the period upto one year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil. After such 1 year Annual Value of such house property will be taxable.

### **Carry forward and set off of loss in case of Start ups (Applicable from AY 2018-19)**

To facilitate ease of doing business and to promote start up India, it is proposed to amend section 79 of the Act to provide that where a change in shareholding has taken place in a previous year in the case of a company being an eligible start-up, the loss incurred in any year prior to the previous year shall be carried forward and set off against the income of the previous year, if, all the shareholders of such company which held shares carrying voting power on the last day of the year or years in which the loss

was incurred, being the loss incurred during the period of seven years beginning from the year in which such company is incorporated, continue to hold those shares on the last day of such previous year.

### **Extending the period for claiming deduction by start-ups(Applicable from AY 2018-19)**

Proposal to provide that deduction under section 80-IAC can be claimed by an eligible start-up for any 3 consecutive assessment years out of 7 years (earlier 5 years) beginning from the year in which such eligible start-up is incorporated

### **Rationalisation of Provisions relating to tax credit for Minimum Alternate Tax and Alternate Minimum Tax (Applicable from AY 2018-19)**

Proposed to amend section 115JAA to provide that the tax credit determined under this section can be carried forward up to 15<sup>th</sup> assessment years immediately succeeding the assessment years in which such tax credit becomes allowable (earlier 10<sup>th</sup> assessment years) Further, similar amendment is proposed in section 115JD so as to allow carry forward of Alternate Minimum Tax (AMT) paid under section 115JC upto 15<sup>th</sup> assessment years in case of non corporate assessee.

It is also proposed to amend section 115JAA and 115JD so as to provide that the amount of tax credit in respect of MAT/ AMT shall not be allowed to be carried forward to subsequent year to the extent such credit relates to the difference between the amount of foreign tax credit (FTC) allowed against MAT/ AMT and FTC allowable against the tax computed under regular provisions of Act other than the provisions relating to MAT/AMT.

### **Extension of scope of section 43B to Co-operative Banks (Applicable from AY 2018-19)**

Section 43B proposed to be amended to provide that interest payable to the co-operative banks other than

a “primary agricultural credit society” or a “primary co-operative agricultural and rural development bank” shall be allowed only if it is actually paid on or before the due date of furnishing of return of income u/s 139(1).

#### **Increase in deduction limit in respect of provision for bad and doubtful debts (Applicable from AY 2018-19)**

Allowance of deduction for provision for bad and doubtful debts u/s 36(viia) increased to 8.5% of total income from existing rate of 7.5%.

#### **Disallowance of depreciation under section 32 and capital expenditure under section 35AD on cash payment (Applicable from AY 2018-19)**

Proposed to amend the provisions of section 43 of the Act to provide that where an assessee incurs any expenditure for acquisition of any asset in respect which a payment or aggregate of payments made to a person in a day, otherwise than by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account, exceeds INR 10,000 such expenditure shall be ignored for the purposes of determination of actual cost of such asset.

Similar consequential amendment has been proposed to be made in Section 35AD for non allowance of cost of the asset purchased in cash exceeding Rs 10,000/-

#### **Measures for promoting digital payments in case of small unorganized businesses (Applicable from AY 2017-18)**

In order to promote digital transactions and to encourage small unorganized business to accept digital payments, it is proposed to amend section 44AD of the Act to reduce the existing rate of deemed total income of 8 % to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or before

the due date specified in sub-section (1) of section 139 in respect of that previous year. However, the existing rate of deemed profit of 8% referred to in section 44AD of the Act, shall continue to apply in respect of total turnover or gross receipts received in any other mode.

#### **Modification in conditions of special taxation regime for off shore funds under section 9A (Applicable from AY 2016-17)**

Proposal to amend section 9A of the act to provide that in the previous year in which the fund is being wound up, the condition that the monthly average of the corpus of the fund shall not be less than one hundred crore rupees, shall not apply.

#### **Tax neutral conversion of preference shares to equity shares (Applicable from AY 2018-19)**

Proposal to amend section 47 to provide that the conversion of preference share of a company into its equity share shall not be regarded as transfer.

#### **Cost of acquisition in Tax neutral demerger of a foreign company (Applicable from AY 2018-19)**

Section 49 proposed to be amended to provide that cost of acquisition of the shares of Indian company referred to in Sec. 47(vic) in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.

#### **Income from transfer of Carbon Credits (Applicable from AY 2018-19)**

It is proposed to insert a new section 115BBG to provide that where the total income of the assessee includes any income from transfer of carbon credit, such income shall be taxable at the concessional rate of ten per cent (plus applicable surcharge and cess) on the gross amount of such income. No expenditure or allowance in respect of such income shall be allowed under the Act.



### **Exemption of long term capital gains tax u/s 10(38) (Applicable from AY 2018-19)**

Proposal to amend section 10(38) to provide that exemption under this section for income arising on transfer of equity share acquired or on after 1st day of October, 2004 shall be available only if the acquisition of share is chargeable to Securities Transactions Tax.

However, to protect the exemption for genuine cases where the Securities Transactions Tax could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company acquisition by non-resident in accordance with FDI policy of the Government etc., it is also proposed to notify transfers for which the condition of chargeability to Securities Transactions Tax on acquisition shall not be applicable.

### **Fair Market Value to be full value of consideration in certain cases (Applicable from AY 2018-19)**

In order to rationalise the provisions relating to deeming of full value of consideration for computation of income under the head "capital gains", it is proposed to insert a new section 50CA to provide that where consideration for transfer of share of a company (other than quoted share) is less than the Fair Market Value (FMV) of such share determined in accordance with the prescribed manner, the FMV shall be deemed to be the full value of consideration for the purposes of computing income under the head "Capital gains".

### **Widening scope of Income from other sources u/s 56**

Under the existing provisions of section 56(2)(vii), any sum of money or any property which is received without consideration or for inadequate consideration (in excess of the specified limit of Rs. 50,000) by an individual or Hindu undivided family is chargeable to income-tax in the hands of the resident under the head "Income from other sources" subject to certain exceptions.

Further, receipt of certain shares by a firm or a company in which the public are not substantially interested is also chargeable to income-tax in case such receipt is in excess of Rs. 50,000 and is received without consideration or for inadequate consideration.

The existing definition of property for the purpose of this section includes immovable property, jewellery, shares, paintings, etc. These anti-abuse provisions are currently applicable only in case of individual or HUF and firm or company in certain cases. Therefore, receipt of sum of money or property without consideration or for inadequate consideration does not attract these anti-abuse provisions in cases of other assesseees.

In order to prevent the practice of receiving the sum of money or the property without consideration or for inadequate consideration, it is proposed to insert a new clause (x) in sub-section (2) of section 56 so as to provide that receipt of the sum of money or the property by any person without consideration or for inadequate consideration in excess of Rs. 50,000 shall be chargeable to tax in the hands of the recipient under the head "Income from other sources". It is also proposed to widen the scope of existing exceptions by including the receipt by certain trusts or institutions and receipt by way of certain transfers not regarded as transfer under section 47.

Consequential amendment is also proposed in section 49 for determination of cost of acquisition.

These amendments will take effect from 1st April, 2017 and the said receipt of sum of money or property on or after 1st April, 2017 shall be chargeable to tax in accordance with the provisions of proposed clause (x) of sub-section (2) of section 56.

### **Disallowance for non-deduction of tax from payment to resident (Applicable from AY 2018-19)**

Section 58 amended so as to provide that provisions of section 40(a)(ia) also apply in case of "Income under head

Other Sources”, Therefore, disallowance shall be made in respect of an expenditure incurred against “income from other sources” unless tax has been deducted thereon at applicable rates. Section 40(a)(iia) has already been inserted in section 58 of the Act.

**Clarification regarding the applicability of section 112 (Retrospectively from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.)**

Proposal to amend section 112(1)(c) to clarify that the share of company in which public are not substantially interested shall also be chargeable to tax at the rate of 10% with effect from 1st April, 2017. As the concessional rate was provided with effect from 1st April, 2013, there was uncertainty about the applicability of the amendment to the intervening period.

With a view to clarify that the amendment made by Finance Act, 2016 shall also apply to the period from 1st April, 2013 to 31st March, 2017, it is proposed to amend section 50 of the Finance Act, 2016 so as to provide that the effective date of amendment made to section 112(1)(c)(iii) vide Finance Act, 2016 shall be 01-04-2013 instead of 01-04-2017.

**Rationalisation of provisions of Section 10AA (Applicable from AY 2018-19)**

It is proposed to clarify that the amount of deduction referred to in section 10AA shall be allowed from the total income of the assessee computed in accordance with the provisions of the Act before giving effect to the provisions of the section 10AA and the deduction under section 10AA in no case shall exceed the said total income.

**Consolidation of plans within a scheme of mutual fund (Applicable from AY 2017-18)**

It is proposed to amend section 2(42A) and section 49 to provide that cost of acquisition of the units in the

consolidated plan of mutual fund scheme referred to in section 47(xix) shall be the cost of units in consolidating plan of mutual fund scheme and period of holding of the units of consolidated plan of mutual fund scheme shall include the period for which the units in consolidating plan of mutual fund scheme were held by the assessee.

**Definition of ‘person responsible for paying’ in case of payments covered under sub-section (6) of section 195 (Applicable from AY 2017-18)**

In order to bring clarity to the meaning of ‘person responsible for paying’ in case of payment by a resident to a non-resident in accordance with section 195(6) of the Act, it is proposed to amend the said section of the Act to provide that in the case of furnishing of information relating to payment to a non-resident, not being a company, or to a foreign company, of any sum, whether or not chargeable under the provisions of this Act, ‘person responsible for paying’ shall be the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

**Actual cost of asset in case of withdrawal of deduction in terms of Sub-section (7B) of section 35AD (Applicable from AY 2018-19)**

It is proposed to amend the provisions of the section 43 of the Act, to provide that where any capital asset in respect of which deduction allowed under section 35AD is deemed to be the income of the assessee in accordance with the provisions of sub-section (7B) of the said section, the actual cost to the assessee shall be the actual cost to the assessee, as reduced by an amount equal to the amount of depreciation calculated at the rate in force that would have been allowable had the asset been used for the purposes of business since the date of its acquisition.

**Rationalization of deduction under section 80CCG (Applicable from AY 2018-19)**

It is proposed to phase out this deduction by providing that

no deduction under section 80CCG shall be allowed from assessment year 2018-19. However, an assessee who has claimed deduction under this section for assessment year 2017-18 and earlier assessment years shall be allowed deduction under this section till the assessment year 2019-20, if he is otherwise eligible to claim the deduction as per the provisions of this section.

#### **Restriction on set-off of loss from House property (Applicable from AY 2018-19)**

A new sub section (3A) has been inserted in Section 71, wherein the set off of losses of house property during the year against any other head of income has been restricted to Rs. 2 lakhs only; However, the same can be c/f and set off from House Property Income in subsequent years upto 8 AY immediately succeeding the AY in which loss was first computed.

#### **Tax-exemption to partial withdrawal from National Pension System (NPS) (Applicable from AY 2018-19)**

It is proposed to amend the section 10 so as to provide exemption to partial withdrawal not exceeding 25% of the contribution made by an employee in accordance with the terms and conditions specified under Pension Fund

Regulatory and Development Authority Act, 2013 and regulations made there under.

#### **Rationalisation of deduction under section 80CCD for self-employed individual (Applicable from AY 2018-19)**

In case of self-employed individual, deduction u/s 80CCD w.r.t. NPS has been increased to 20% of Gross Total Income as against 10% of Gross Total Income in earlier years.

#### **Exemption of income of Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund**

It is proposed to amend clause (23C) of section 10 so as to provide the benefit of exemption to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund also.

This amendment will take effect retrospectively from the 1st April, 1998, the date on which sub-clause (iihf) of clause (a) of sub-section (2) of section 80G relating to deduction in any sum paid to the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund came into force, and will, accordingly, apply in relation to assessment year 1998-99 and subsequent years.

## Restricting cash donations debts (Applicable from AY 2018-19)

Proposal to amend section 80G so as to provide that no deduction shall be allowed under the section 80G in respect of donation of any sum exceeding INR 2000 unless such sum is paid by any mode other than cash.

## Measures to discourage cash transactions (Applicable from AY 2018-19)

In order to dis-incentivise cash transactions, it is proposed to amend the provision of section 40A of the Act to provide the following:

- To reduce the existing threshold of cash payment to a person from INR 20,000 to INR 10,000 in a single day; i.e. any payment in cash above INR 10,000 to a person in a day, shall not be allowed as deduction in computation of Income from "Profits and gains of business or profession";
- Deeming a payment as profits and gains of business of profession if the expenditure is incurred in a particular year but the cash payment is made in any subsequent year of a sum exceeding INR 10,000 to a person in a single day; and
- Further expand the specified mode of payment under respective sub-section of section 40A from an account payee cheque drawn on a bank or account payee bank draft to by an account payee cheque drawn on a bank or account payee bank draft or use of electronic clearing system through a bank account.

## Restriction on cash transactions (Effective from April 1, 2017)

In India, the quantum of domestic black money is huge which adversely affects the revenue of the Government creating a resource crunch for its various welfare programmes. Black money is generally transacted in cash and large amount of unaccounted wealth is stored and used in form of cash.

In order to achieve the mission of the Government to move towards a less cash economy to reduce generation and circulation of black money, it is proposed to insert section 269ST in the Act to provide that no person shall receive an amount of INR 3,00,000/- or more,—

- in aggregate from a person in a day;
- in respect of a single transaction; or
- in respect of transactions relating to one event or occasion from a person,

otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

It is further proposed to provide that the said restriction shall not apply to Government, any banking company, post office savings bank or co-operative bank.

Further, it is proposed that such other persons or class of persons or receipts may be notified by the Central Government, for reasons to be recorded in writing, on whom the proposed restriction on cash transactions shall not apply.

Transactions of the nature referred to in section 269SS are proposed to be excluded from the scope of the said section.

It is also proposed to insert new section 271DA in the Act to provide for levy of penalty on a person who receives a sum in contravention of the provisions of the proposed section 269ST. The penalty is proposed to be a sum equal to the amount of such receipt. The said penalty shall however not be levied if the person proves that there were good and sufficient reasons for such contravention. It is also proposed that any such penalty shall be levied by the Joint Commissioner.

It is also proposed to consequentially amend the provisions of section 206C to omit the provision relating to tax collection at source at the rate of 1% of sale consideration on cash sale of jewellery exceeding INR 5,00,000/-.

**Increasing the threshold limit for maintenance of books of accounts in case of Individuals and Hindu undivided family**

Proposal to amend the provisions of section 44AA to increase monetary limits of income and total sales or turnover or gross receipts, etc specified in said clauses for maintenance of books of accounts from INR 1,20,000/- to INR 2,50,000 and from INR 10,00,000/- to

INR 25,00,000/-, respectively in the case of Individuals and Hindu undivided family carrying on business or profession.

**Exclusion of certain specified person from requirement of audit of accounts under section 44AB (Applicable from AY 2017-18)**

Section 44AB proposed to be amended to increase turnover limit for applicability of tax audit for persons opting for presumptive taxations scheme u/s 44AD from Rs. 1 crore to Rs. 2 crore to align the same with the turnover limit for applicability of presumptive taxation u/s 44AD.

### Clarity relating to Indirect transfer provisions (Applicable from AY 2012-13)

Section 9 is proposed to be amended to clarify that the Explanation 5 shall not apply to any asset or capital asset mentioned therein being investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor, as referred to in clause (a) of the Explanation to section 115AD, and registered as Category-I or Category II Foreign Portfolio Investor under the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, as these entities are regulated and broad based. The proposed amendment is clarificatory in nature

### Exemption of income of Foreign Company from sale of leftover stock of crude oil from strategic reserves at the expiry of agreement or arrangement (Applicable from AY 2018-19)

Proposal to insert new clause (48B) in section 10 to provide that any income accruing or arising to a foreign company on account of sale of leftover stock of crude oil, if any, from a facility in India after the expiry of an agreement or an arrangement referred to in clause (48A) of section 10 of the Act shall also be exempt subject to such conditions as may be notified by the Central Government in this behalf.

### Enabling claim of credit for foreign tax paid in cases of dispute (Applicable from AY 2018-19)

In view of rule 128 of the Income-tax Rules, 1962, which provides a mechanism for claim of foreign tax credit, it is proposed to insert sub-section (14A) in section 155 to provide that where credit for foreign taxes paid is not given for the relevant assessment year on the grounds that the payment of such foreign tax was in dispute, the

Assessing Officer shall rectify the assessment order or an intimation under sub-section (1) of section 143, if the assessee, within 6 months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute, submits evidence before the Assessing Officer that the foreign tax liability has been discharged and furnishes an undertaking that credit of such amount of foreign tax paid has not been directly or indirectly claimed or shall not be claimed for any other assessment year.

### Limitation of Interest deduction in certain cases (Applicable from AY 2018-19)

Proposal to insert a new section 94B, in line with the recommendations of OECD BEPS Action Plan 4, to provide that interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less.

The provision shall be applicable to an Indian company, or a permanent establishment of a foreign company being the borrower who pays interest in respect of any form of debt issued to a non resident or to a permanent establishment of a non-resident and who is an 'associated enterprise' of the borrower.

Further, the debt shall be deemed to be treated as issued by an associated enterprise where it provides an implicit or explicit guarantee to the lender or deposits a corresponding and matching amount of funds with the lender.

The provisions shall allow for carry forward of disallowed interest expense to 8 assessment years immediately succeeding the assessment year for which the disallowance was first made and deduction against the

income computed under the head “Profits and gains of business or profession to the extent of maximum allowable interest expenditure.

In order to target only large interest payments, it is proposed to provide for a threshold of interest expenditure of INR 1,00,00,000 exceeding which the provision would be applicable.

It is further proposed to exclude Banks and Insurance business from the ambit of the said provisions keeping in view of special nature of these businesses.

### **Clarification with regard to interpretation of ‘terms’ used in an agreement entered into under section 90 and 90A (Applicable from AY 2018-19)**

It is proposed to amend the sections 90 and 90A of the Act, to provide that where any ‘term’ used in an agreement entered into under sub-section (1) of Section 90 and 90A of the Act, is defined under the said agreement, the said term shall be assigned the meaning as provided in the said agreement and where the term is not defined in the agreement, but is defined in the Act, it shall be assigned the meaning as definition in the Act or any explanation issued by the Central Government.

## Scope of section 92BA of the Income-tax Act relating to Specified Domestic Transactions (Applicable from AY 2017-18)

Proposal to provide that expenditure in respect of which payment has been made by the assessee to a person referred to in under section 40A(2)(b) are to be excluded from the scope of section 92BA of the Act. Accordingly, it is also proposed to make a consequential amendment in section 40(A)(2)(b) of the Act.

## Secondary adjustments in certain cases

It is proposed insert new section 92CE to be inserted to provide for secondary adjustments, to align with OECD TP Guidelines & international best practices.

“Secondary adjustment” is an adjustment in books of accounts of Assessee and its AE to reflect that the actual allocation of profits between assessee and its AE are consistent with transfer price determined as a result of primary adjustment, thereby removing the in balance between cash account and actual profit of the assessee.

Assessee shall be required to carry out secondary adjustment in cases where a primary adjustment exceeding INR 1 Crore to transfer price:

- has been made suo- motu by the assessee in his return of income; or
- has been made by AO and accepted by assessee; or
- is determined by advance pricing agreement (APA) entered into by assessee u/s 92CC; or;
- is made as per the safe harbour rules framed u/s 92CB; or
- is arising as a result of resolution of an assessment by way of mutual agreement procedure (MAP) under agreement entered into u/s 90 / 90A

Where primary adjustment results in an increase in total income or reduction in loss of assessee, the excess money available with its AE, if not repatriated to India within prescribed time, shall be deemed to be an advance made by assessee to such AE and the interest on such advance shall be computed as income of assessee, in the prescribed manner.

Not to apply where Primary adjustment is made in respect of period prior to AY 2017-18.



## **TDS on rent to be deducted by Individual or HUF not liable for tax audit (Applicable from June 1, 2017)**

Under the existing provisions u/s 194I an Individual and HUF, being a payer (other than those liable for tax audit) are out of the scope of section 194-I of the Act.

In order to widen the scope, new Section 194IB is proposed to be inserted as per which, if any, Individual or HUF (not liable for tax audit) pays rent in excess of INR 50,000 for a month or part of the month, then TDS @ 5% shall be deducted. TDS on payment of rent by Individual or HUF liable for tax audit are already covered u/s 194I.

No TAN is required by the deductor deducting TDS under this provision.

## **Extension of eligible period of concessional tax rate on interest in case of External Commercial Borrowing and Extension of benefit to Rupee Denominated Bonds**

Proposal to amend section 194LC to provide that the concessional rate of five per cent TDS on interest payment under this section will now be available in respect of borrowings made before the 1st July, 2020 (earlier 1<sup>st</sup> July 2017). **(Applicable from AY 2018-19)**

Further, consequent upon demand from various stakeholders for granting benefit of lower rate of TDS on rupee denominated bonds, a Press Release dated 29th October, 2015 was issued clarifying that TDS at the rate of 5 per cent would be applicable to these bonds in the same way as it is applicable for off-shore dollar denominated bonds.

In order to give effect to the above, it is further proposed to extend the benefit of section 194LC to rupee denominated bond issued outside India before the 1st July, 2020. **(Applicable from AY 2016-17)**

## **Extension of eligible period of concessional tax rate under section 194LD (Applicable from AY 2018-19)**

Proposal to amend the section 194LD to provide that the concessional rate of 5% TDS on interest will now be available on interest payable before the 1<sup>st</sup> July 2020.

## **Enabling of Filing of Form 15G/15H for commission payments specified under section 194D (Applicable from June 1, 2017)**

In order to reduce compliance burden in the case of Individuals and HUFs, it is proposed to amend section 197A so as to make them eligible for filing self-declaration in Form.No.15G/15H for non-deduction of tax at source in respect insurance commission referred to in section 194D.

## **Exemption from tax collection at source under sub-section (1F) of section 206C in case of certain specified buyers. (Applicable from AY 2017-18)**

Proposed to amend section 206C, to exempt the following class of buyers such as the Central Government, a State Government, an embassy, a High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority as defined in explanation to clause (20) of Section 10; a public sector company which is engaged in the business of carrying passengers, from the applicability of the provision of subsection (1F) of section 206C of the Act.

### **Simplification of the provisions of tax deduction at source in case Fees for professional or technical services under section 194J (Applicable from June 1, 2017)**

Rate of TDS has been reduced to 2% from existing rate of 10% u/s 194J in respect of payments received or credited to payee, being a person engaged only in business of operation of call centre.

### **Empowering Board to issue directions in respect of penalty for failure to deduct or collect tax at source (Applicable from AY 2017-18)**

In order to reduce the genuine hardship which may be faced by a person responsible for deduction and collection of tax at source due to levy of penalty under section 271C or 271CA, it is proposed to insert reference of sections 271C and 271CA in the said clause, so as to empower the Board to issue directions or instructions in respect of the said sections also

### **Strengthening of PAN quoting mechanism in the TCS regime (Applicable from AY 2017-18)**

In order to strengthen the PAN mechanism, it is proposed to insert new section 206CC to provide the following:

- any person paying any sum or amount, on which tax is collectable at source under Chapter XVII BB

(hereafter referred to as collectee) shall furnish his Permanent Account Number to the person responsible for collecting such tax (hereafter referred to as collector), failing which tax shall be collected at the twice the rate mentioned in the relevant section under Chapter XVII BB or at the rate of 5 per cent. whichever is higher.

- that the declaration filed under sub section (1A) of section 206C shall not be valid unless the person filing the declaration furnishes his Permanent Account Number in such declaration.
- that in case any declaration becomes invalid under sub-section (2), the collector shall collect the tax at source in accordance with the provisions of sub-section (1).
- no certificate under sub section (9) of section 206C shall be granted unless it contains the Permanent Account Number of the applicant.
- the collector knows about the correct PAN of the collectee it is also proposed to provide for mandatory quoting of PAN of the collectee by both the collector and the collectee in all correspondence, bills and vouchers exchanged between them.
- that the collectee shall furnish his Permanent Account Number to the collector who shall indicate the same in all its correspondence, bills, vouchers and other documents which are sent to collectee.
- where the Permanent Account Number provided by the collectee is invalid or it does not belong to the collectee, then it shall be deemed that Permanent Account Number has not been furnished to the collector.
- to exempt the non-resident who does not have permanent establishment in India from the provisions of this proposed section 206CC of the Act.

### **Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing (Applicable from AY 2018-19)**

In order to promote the development of affordable housing sector, it is proposed to amend section 80-IBA so as to provide the following relaxations:—

- The size of residential unit shall be measured by taking into account the “carpet area” as defined in Real Estate (Regulation and Development) Act, 2016 and not the “built-up area”.
- The restriction of 30 square meters on the size of residential units shall not apply to the place located within a distance of 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.
- The condition of period of completion of project for claiming deduction under this section shall be increased from existing three years to five years.

### **Tax incentive for the development of capital of Andhra Pradesh (Retrospectively applicable from AY 2015-16)**

It is proposed to insert a new clause (37A) in section 10 to provide that in respect of said persons, capital gains arising from following transfer shall not be chargeable to tax under the Act:

- Transfer of capital asset being land or building or both, under land pooling scheme.
- Sale of Land Pooling Ownerships Certificates (LPOCs) by the said persons received in lieu of land transferred under the scheme.
- Sale of reconstituted plot or land by said persons within two years from the end of the financial year in which the possession of such plot or land was handed over to the said persons.

It is also proposed to make amendment in section 49 so as to provide that where reconstituted plot or land, received under land pooling scheme is transferred after the expiry of two years from the end of the financial year in which the possession of such plot or land was handed over to the

said assessee, the cost of acquisition of such plot or land shall be deemed to be its stamp duty value on the last day of the second financial year after the end of financial year in which the possession of such asset was handed over to the assessee. **(Applicable from AY 2018-19)**

### **Transparency in Electoral Funding (Applicable from AY 2018-19)**

Proposal to amend section 13A of to provide for additional conditions for availing the benefit of the said section which are as under:

- No donations of Rs.2000/- or more in cash
- Political party furnishes a return of income on or before due date for the previous year in accordance with the section 139.

Further, in order to address the concern of anonymity of the donors, it is proposed to amend the said section to provide that the political parties shall not be required to furnish the name and address of the donors who contribute by way of electoral bond.

An amendment is being proposed to the Reserve Bank of India Act to enable the issuance of electoral bonds. A donor could purchase bonds from authorised banks against cheque and digital payments only.

### **Processing of return within the prescribed time and enable withholding of refund in certain cases (Applicable from AY 2017-18)**

It is proposed to insert a new section 241A to provide at, for the returns furnished for assessment year commencing on or after 1st April, 2017, where refund of any amount becomes due to the assessee under section 143(1) and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for the reasons recorded in writing and with the previous

approval of the Principal Commissioner or Commissioner, withhold the refund upto the date on which the assessment is made.

### **Rationalisation of provisions relating to advance tax (Applicable from AY 2017-18)**

It is proposed to provide that that if shortfall in payment of advance tax is on account of under-estimation or failure in estimation of income of the nature referred to in section 115BBDA, the interest under section 234C shall not be levied subject to fulfilment of conditions specified therein.

### **Interest on refund due to deductor (Applicable from AY 2017-18)**

It is proposed to insert a new sub-section (1B) to provide that where refund of any amount becomes due to the deductor, such person shall be entitled to receive, in addition to the refund, simple interest on such refund, calculated at the rate of 0.5% for every month or part of a month .

It is also proposed to provide that the interest shall not be allowed for the period for which the delay in the proceedings resulting in the refund is attributable to the deductor.

### **Extension of capital gain exemption to Rupee Denominated Bonds (Applicable from AY 2018-19)**

In order to further provide relief in respect of 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 to secondary holders as well, it is proposed to amend section 48 providing that the said appreciation of rupee shall be ignored for the purposes of computation of full value of consideration.

Further, with a view to facilitate transfer of Rupee Denominated Bonds from non-resident to non-resident, it is proposed to amend section 47 so as to provide that

any transfer of capital asset, being rupee denominated bond of Indian company issued outside India, by a non-resident to another non- resident shall not be regarded as transfer.

### **Amendments to the structure of Authority for Advance Rulings (Applicable from AY 2017-18)**

With a view to promote ease of doing business, it has been decided by the Government to merge the Authority for Advance Ruling (AAR) for income-tax, central excise, customs duty and service tax. Accordingly, necessary amendments , have been made to Chapter XIX-B to allow merger of these AARs.

### **Amendment of Section 253 for Charitable Institution (Applicable from AY 2017-18)**

It is proposed to expand the scope of the said section to provide that the orders passed by the prescribed authority under sub-clauses (iv) and (v) of sub-section (23C) of section 10 shall also be appealable before the Appellate Tribunal.

### **Rationalisation of time limits for completion of assessment, reassessment and re-computation and reducing the time for filing revised return**

In the effort to minimise human interface, following amendments have been brought in Section 153:

- Time limit for making assessment u/s 143 or 144 have been reduced to 18 months for assessment related to AY 2018-19 and 12 months for assessment related to AY 2019-20 and onwards; (Applicable from AY 2017-18)
- Time limit for making reassessment u/s 147 shall be reduced to 12 months from the end of financial year in which notice u/s 148 is served, for notices served u/s 148 on or after 01st April 2019; (Applicable from AY 2017-18)
- Time limit for making fresh assessment in pursuance of order passed or received in financial year 2019-20 and onwards u/s 254 or 263 or 264 shall be 12 months from end of financial year in which order is received. (Applicable from AY 2017-18)

It is also proposed to amend sub-section (5) of the said section to provide that where an order under section 250 or 254 or 260 or 262 or 263 or 264 requires verification of any issue by way of submission of any document by the assessee or any other person or where an opportunity of being heard is to be provided to the assessee, the time limit relating to fresh assessment provided in sub-section (3) shall apply to the order giving effect to such order.

It is also proposed to amend sub-section (9) of the said section to provide that where a notice under sub-section (1) of section 142 or sub-section (2) of section 143 or under section 148 has been issued prior to the 1st day of June, 2016 and the assessment or reassessment has not been completed by such date due to exclusion of time referred to in Explanation 1, such assessment or reassessment shall be completed in accordance with the provisions of section 153 as it stood immediately before its substitution by the Finance Act, 2016.

These amendments will take effect retrospectively from 1st June, 2016.

It is also proposed to amend third proviso to Explanation 1 of the said section to omit the reference of section 153B therein.

It is also proposed to consequentially amend the meaning of conclusion of proceeding in the Explanation to clause (b) of section 245A so as to provide that conclusion of proceedings shall be construed in accordance with the time specified for making assessment or reassessment under sub-section (1) of section 153.

These amendments will take effect from 1st April, 2017.

In order to expedite assessments of the Department as proposed above, it is critical that the returns for an assessment year also freeze by the end of the assessment year. It is hence proposed to amend the provisions of sub-section (5) of section 139 to provide that the time for furnishing of revised return shall be available upto the end

of the relevant assessment year or before the completion of assessment, whichever is earlier. (Applicable from AY 2018-19)

### **Rationalisation of provisions of the Income Declaration Scheme, 2016 and consequential amendment to section 153A and 153C (Applicable from AY 2017-18)**

Section 153A and 153C amended to provide that in case of tangible evidence is found during the search, the Assessing Officer can assess income beyond period of 6 years upto 10 years preceding the year in which search took place subject to the following conditions needs to be fulfilled:

- The Assessing Officer has in his possession books of accounts or other documents or evidence which reveal that the income which has escaped assessment amounts to or is likely to amount to INR 50,00,000 or more in one year or in aggregate in the relevant four assessment years falling beyond the sixth year.
- Such income escaping assessment is represented in the form of asset.
- The income escaping assessment or part thereof relates to such year or years.

### **Rationalisation of the provisions in respect of time limits for completion of search assessment (Applicable from AY 2017-18)**

The existing provisions of section 153B provide for the time limit for completion of assessment under section 153A. Since the time limit for completion of assessment under section 153 is proposed to be rationalised, the time limit for completion of assessment under section 153A/153B/153C and 245HA is also proposed to be consequentially rationalised.

### **Restriction on exemption in case of corpus donation by exempt entities to other exempt entities (Applicable from AY 2018-19)**

New Explanation to section 11 of the Act to provide that any amount credited or paid, out of income referred to in clause (a) or clause (b) of sub-section (1) of section 11,

being contributions with specific direction that they shall form part of the corpus of the trust or institution, shall not be treated as application of income.

It is also proposed to insert a proviso in clause (23C) of section 10 so as to provide similar restriction as above on the entities exempt under sub-clauses (iv), (v), (vi) or (via) of said clause in respect of any amount credited or paid out of their income.

#### **Mandatory furnishing of return by certain exempt entities (Applicable from AY 2018-19)**

In order to verify that certain entities which enjoy exemption under section 10 actually carry out the activities for which the exemption has been provided under the Act, it is proposed to provide that any person as referred to in clause (23AAA), Investor Protection Fund referred to in clause (23EC) or clause (23ED), Core Settlement Guarantee Fund referred to in clause (23EE) and any Board or Authority referred to in clause (29A) of section 10 shall also be mandatorily required to furnish a return of income.

#### **Fee for delayed filing of return (Applicable from AY 2018-19)**

In order to ensure that return is filed within due date, it is proposed to insert a new section 234F in the Act to provide that fee for delay in furnishing of return shall be levied for assessment year 2018-19 and onwards in a case where the return is not filed within the due dates specified for filing of return under sub-section (1) of section 139. The proposed fee structure is as follows:—

- a fee of INR 5000 shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;
- a fee of INR 10,000 shall be payable in any other case.

However, in a case where the total income does not exceed INR 5,00,000 it is proposed that the fee amount shall not exceed INR 1000.

In view of above, it is proposed to make consequential amendment in section 140A to include that in case of delay in furnishing of return of income, along with the tax and interest payable, fee for delay in furnishing of return of income shall also be payable.

It is also proposed to make consequential amendment in sub-section (1) of section 143, to provide that in computation of amount payable or refund due, as the case may be, on account of processing of return under the said sub-section, the fee payable under section 234F shall also be taken into account.

Consequentially, it is also proposed that the provisions of section 271F in respect of penalty for failure to furnish return of income shall not apply in respect of assessment year 2018-19 and onwards.

#### **Penalty on professionals for furnishing incorrect information in statutory report or certificate (Applicable from AY 2017-18)**

New section 271J inserted so as to provide that if an accountant or a merchant banker or a registered valuer, furnishes incorrect information in a report or certificate under any provisions of the Act or the rules made thereunder, the Assessing Officer or the Commissioner (Appeals) may direct him to pay a sum of INR 10,000 for each such report or certificate by way of penalty.

It is also proposed to provide through amendment of section 273B that if the person proves that there was reasonable cause for the failure referred to in the said section, then penalty shall not be imposable in respect of the proposed section 271J.

#### **Rationalisation of provisions of section 115JB in line with Indian Accounting Standard (Ind-AS)**

Proposal to amend section 115JB so as to provide the framework for computation of book profit for Ind AS compliant companies in the year of adoption and thereafter.

As the Ind-AS is required to be adopted by certain companies for financial year 2016-17 mandatorily, 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.

**Clarity of procedure in respect of change or modifications of object and filing of return of income in case of entities exempt under sections 11 and 12 (Applicable from AY 2018-19)**

Proposed to amend section 12A so as to provide that where a trust or an institution has been granted registration under section 12AA or has obtained registration at any time under section 12A [as it stood before its amendment by the Finance (No. 2) Act, 1996] and, subsequently, it has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, it shall be required to obtain fresh registration by making an application within a period of 30 days from the date of such adoption or modifications of the objects in the prescribed form and manner.

Proposed to further amend section 12A so as to provide for further condition that the person in receipt of the income chargeable to income-tax shall furnish the return of income within the time allowed under section 139 of the Act.

**Legislative framework to enable centralised issuance of notice and processing of information under section 133C (Applicable from AY 2017-18)**

It is proposed to amend section 133C to empower the Central Board of Direct Taxes to make a scheme for centralised issuance of notice calling for information and documents for the purpose of verification of information in its possession, processing of such documents and making the outcome thereof available to the Assessing Officer for necessary action, if any

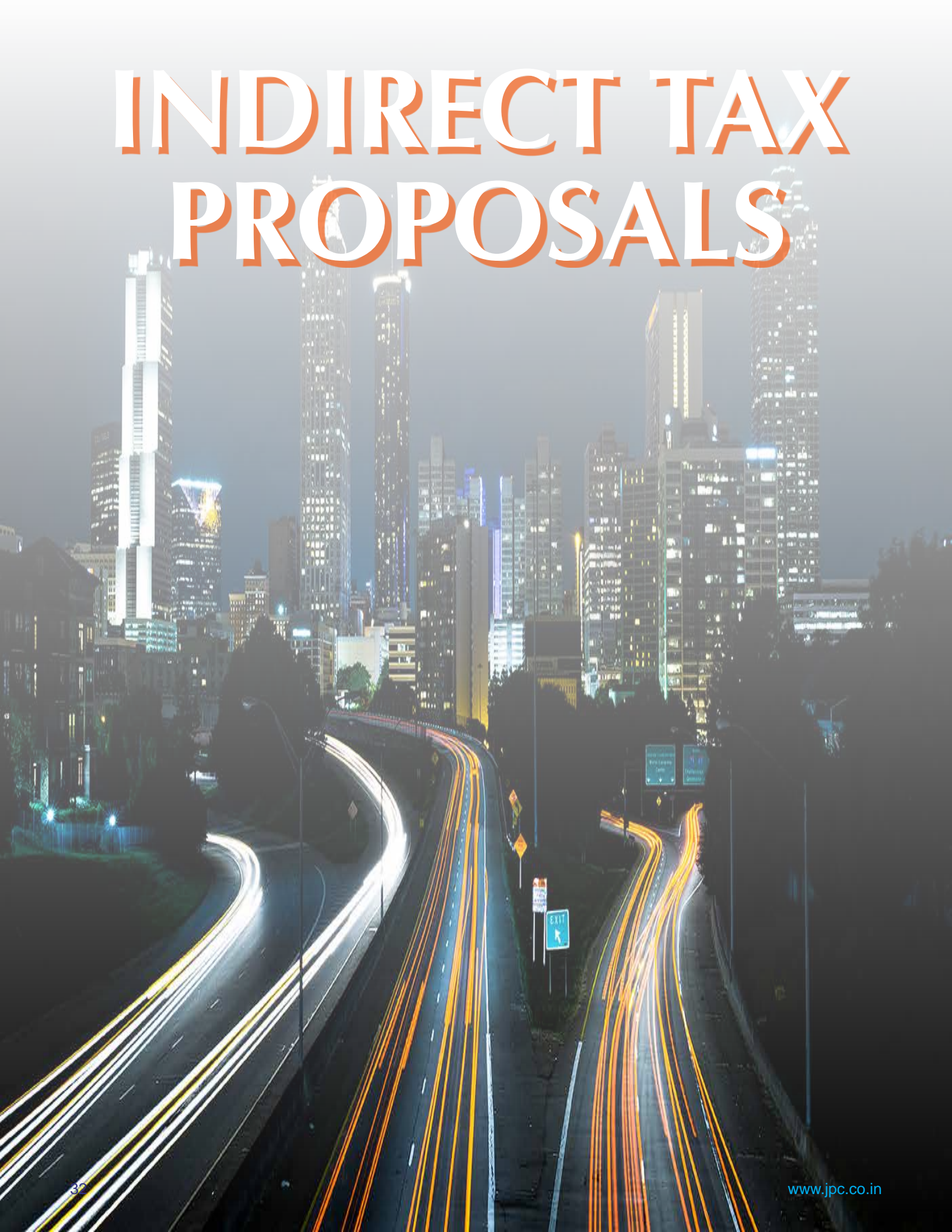
**Extension of the power to survey (Applicable from AY 2017-18)**

It is proposed to widen the scope of section 133A by amending sub-section (1) to include any place, at which an activity for charitable purpose is carried on.

**Reason to believe to conduct a search, etc. not to be disclosed**

It is proposed to insert an Explanation to sub-section (1) and to sub-section (1A) of section 132 and to sub-section (1) of section 132A to declare that the 'reason to believe' or 'reason to suspect', as the case may be, shall not be disclosed to any person or any authority or the Appellate Tribunal.

# INDIRECT TAX PROPOSALS





The analysis of the changes being made in the area of Indirect Tax is discussed below.

## A. Legislative changes

1. Negative List (Section 66D): "Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for home consumption" are proposed to be omitted from the negative list. However the exemption is being continued by incorporating the same in the general exemption notification no. 25/2012- Service Tax.

Consequently, the definition of 'process amounting to manufacture' [clause (40) section 65B] is also proposed to be omitted from of the Finance Act, 1994 and is being incorporated in the general exemption notification. As a result of this the activity will be categorised as "Exempted" instead of "non-taxable".

**This change shall be applicable w. e. f. the date of receipt of assent of the President.**

2. **New Legislative provision [(Section 104(1))]:** It is proposed that no service tax, leviable on one time upfront amount (premium, salami, cost, price, development charge or by whatever name called) in respect of taxable service provided or agreed to be provided by a State Government industrial development corporation or undertaking to industrial units by way of grant of long term lease (thirty years or more) of industrial plots, shall be levied or collected during the period commencing from the 1st day of June, 2007 and ending with the 21st day of September, 2016 (both days inclusive).

For the period after 21<sup>st</sup> September, 2016 the Notification No. 41/2016-ST dated 22.09.2016, exempts the above said service.

All such service tax which has been collected, but which would not have been so collected shall be refunded and the application for the claim of refund of service tax shall be made within a period of six months from the date on which the **Finance Bill, 2017 receives the assent of the President.**

**This change shall be applicable retrospectively for the period 01-06-2007 to 21-09-2016.**

3. **New Legislative provision [(Section 105(1))]:** it is proposed that, no service tax shall be levied or collected in respect of taxable services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government, during the period commencing from the 10th day of September, 2004 and ending with the 1st day of February, 2016 (both days inclusive).

All such service tax which has been collected, but which would not have been so collected shall be refunded and the application for the claim of refund of service tax shall be made within a period of six months **from the date on which the Finance Bill, 2017 receives the assent of the President.**

**This change shall be applicable retrospectively for the period 01-07-2012 to 01-02-2016.**

4. **Rule 2A of Service Tax (Determination of Value) Rules, 2006:** The said rule is being amended with effect from 01.07.2010 so as to make it clear that

value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be, shall not include value of property in such land or undivided share of land.

**This change shall be applicable retrospectively from the period 01-07-2012**

## **B. New Exemptions (Mega Exemptions-Notification No. 25/2012-ST)**

- 1. New entry at S. No. 26D of notification No. 25/2012-ST refers:** In continuance with point 3 in section A, services provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force under the Group Insurance Schemes of the Central Government is being exempted from service tax from 2nd February, 2017.

This change shall be applicable from 02-02-2017

- 2. S.No. 9B of notification No. 25/2012-ST refers:** It is proposed that the exemptions vide S.No. 9B be amended so as to omit the word “residential” appearing in the notification. The exemption remains the same in all other respects.

S.No.9B of notification No. 25/2012- ST exempts services provided by Indian Institutes of Management (IIMs) by way of two year full time residential Post Graduate Programmes (PGP) in Management for the Post Graduate Diploma in Management (PGDM), to which admissions are made on the basis of the Common Admission Test (CAT), conducted by IIM.

**This change shall be applicable from 02-02-2017**

- 3. New entry at S. No. 23A of notification No. 25/2012-ST refers:** Under the Regional Connectivity Scheme

(RCS), exemption from service tax is being provided in respect of the amount of viability gap funding (VGF) payable to the selected airline operator for the services of transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport, for a period of one year from the date of commencement of operations of the Regional Connectivity Scheme (RCS) as notified by Ministry of Civil Aviation.

**This change shall be applicable from 02-02-2017**

## **C. Rationalisation measure**

- 1. Explanation-I (e) of sub-rule 3 and 3A of Rule 6 of CENVAT Credit Rules, 2004:** The said explanation is being amended so as to exclude banks and financial institutions including NBFCs engaged in providing services by way of extending deposits, loans or advances from its ambit. It has been provided in the said explanation that value for the purpose of reversal of common input tax credit taken on inputs and input services used in providing taxable and exempted services, shall not include the value of service by way of extending deposits, loans or advances against consideration in the form of interest or discount.

**This change shall be applicable from 02-02-2017**

- 2. Amendment of Rule 10 of CENVAT Credit Rules, 2004:** A new sub-rule 4 is being inserted in Rule 10 of CENVAT Credit Rules, so as to provide that transfer of CENVAT Credit by the jurisdictional Deputy/ Assistant Commissioner of Central Excise, shall be allowed within 3 months from the date of receipt of application from the manufacturer or service provider in this regard, subject to the fulfilment of the conditions prescribed under Rule 10(3).

**This change shall be applicable from 02-02-2017**

## D. Advance Ruling Changes:

- 1. Amendment in Clause (d) of section 96A:** Clause (d) is being amended so as to substitute the definition of “Authority” to mean the Authority for Advance Ruling as constituted under section 28E of the Customs Act, 1962. Section 28 (E) of the Customs Act, 1962, is also being amended so as to substitute the definition of “Authority” to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.
- 2. Amendment in Section 96B:** Section 245P of the Income-tax Act, 1961 provides that no proceeding before, or pronouncement of advance ruling by the Authority for Advance Ruling would be invalidated on the ground merely due to any vacancy or defect in the constitution of the Authority. In view of the same, Section 96B relating to vacancies not to invalidate proceedings is being omitted.
- 3. Amendment in section 96C(3):** The said sub-section is being amended so as to increase the application fee for seeking advance ruling from rupees two thousand five hundred to rupees ten thousand on the lines of the Income Tax Act.
- 4. Amendment in section 96D(6):** The said sub-section is being amended so as to extend the existing time limit of ninety days to six months by which time

the Authority shall pronounce its ruling, on the lines of the Income Tax Act.

- 5. Section 96HA (new insertion):** A new section 96HA is being inserted so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

**This change shall be applicable from date of president’s accent**

## E. Repeal of Research and Development Cess Act, 1986:

Research and Development Cess Act, 1986 (32 of 1986) is proposed to be repealed. Due to the proposed repeal, a consequent change is proposed under Service Tax, wherein the exemption of Service Tax (equivalent to R&D Cess paid on import of technology) would not be available on a taxable service involving import of technology on which R&D Cess is not payable.

**This change shall be applicable from date of president’s accent**

The amendments carried out through the Finance Bill, 2017 come into effect on the date of its enactment, unless otherwise specified.

## A. The Customs Act, 1962

### 1. Amendment in Section 2:

- a) A new clause (3A) shall be inserted after the clause (3), which has been reproduced below:

**“Beneficial owner”** means any person on whose behalf the goods are being imported or exported or who exercises effective control over the goods being imported or exported;

- b) In clause (13), the words “customs airport”, shall be substituted with the words “customs airport, international courier terminal, foreign post office”;

- c) In clause (16), the words “in the case of goods imported or to be exported by post, the entry referred to in section 82 or” shall be omitted;

- d) In clause (20) & clause (26), the words “any owner” shall be substituted with the words “any owner, beneficial owner”;

- e) A new clause (20A) shall be inserted after clause (20), which has been reproduced below:

**“Foreign post office”** means any post office appointed under clause (e) of sub-section (1) of section 7 to be a foreign post office;

- f) A new clause (28A) shall be inserted after clause (28), which has been reproduced below:

**“International courier terminal”** means any place appointed under clause (f) of sub-section (1) of section 7 to be an international courier terminal;

- g) A new clause (30B) shall be inserted after clause (30A), which has been reproduced below:

**“Passenger name record information”** means the records prepared by an operator of any aircraft or vessel or vehicle or his authorised agent for each journey booked by or on behalf of any passenger;

2. **Amendment in Section 7:** In sub-section (1) i.e. appointment of customs port and airports, etc, after clause (d), the clause (e) and (f) shall be inserted so as to include **foreign post offices & international courier terminals** for the clearance of imported goods or export goods or any class of such goods.

3. **Amendment in Section 17:** The sub-section (3) shall be re-framed and shall be read as below:

“For verification of self-assessment under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.”

4. **Amendment in Section 77:** In Sub-section (2) a new clause (f) shall be inserted after the clause (g) so as to keep outside the ambit of unjust enrichment, the refund of duty paid in excess by the importer before an order permitting clearance of goods for home consumption is made, where-

- (i) Such excess payment is evident from the bill of entry in the case of self assessed bill of entry; or  
(ii) The duty actually payable is reflected in the reassessed bill of entry in the case of reassessment.

**5. Amendment in Section 28E:** Clause (e) of section 28E is being amended so as to substitute the definition of “Authority” to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.

**6. Amendment in Section 28F:** Section 28F is being amended so as to provide that the Authority for Advance Rulings constituted under section 245-O of the Income-tax Act shall be the Authority for giving advance rulings for the purposes of the Customs Act.

It further seeks to provide that the Member of the Indian Revenue Service (Customs and Central Excise), who is qualified to be a Member of the Board, shall be the revenue Member of the Authority for the purposes of Customs Act.

It also seeks to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

**7. Amendment in Section 28 G:** Section 28G i.e. “Vacancies, etc., not to invalidate proceedings” shall be omitted.

**8.** In Section 28H (3), the words “two thousand five hundred rupees” shall be substituted with the words “ten thousand rupees”.

**9.** In Section 28-I (6), the words “ninety days” shall be substituted with the words “three months”.

**10.** A new section (30A) shall be inserted after section (30), which make it obligatory on the person-in-charge of a conveyance that enters India from any place outside India or any other person as

may be specified by the Central Government, to deliver to the proper officer:

- a) The passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival in the case of a vehicle; and
- b) Passenger name record information of arriving passengers in such form, containing such particulars, in such manner and within such time as may be prescribed.

The section also intends to provide for imposition of a penalty not exceeding fifty thousand rupees as may be prescribed, in the case of delay in delivering the information.

**11.** A new section 41A shall be inserted after section 41, so as to make it obligatory on the person-in-charge of a conveyance that departs from India to a place outside India or any other person as may be specified by the Central Government, to deliver to the proper officer:

- a) The passenger and crew departure manifest; and
- b) Passenger name record information of departing passengers before the departure of the conveyance in such form, containing such particulars, in such manner and within such time as may be prescribed.

The section also intends to provide for a penalty not exceeding fifty thousand rupees as may be prescribed in the case of delay in delivering the information.

**12.** Section 46(3) is being substituted so as to make it mandatory to the importer to present the bill of entry before the end of the next day following the day (excluding holidays) on which the vessel or aircraft or vehicle carrying the goods arrives at a customs

station at which such goods are to be cleared for home consumption or warehousing and to provide for imposition of such charges for late presentation of the bill of entry as may be prescribed.

**13. Amendment in section 47(2):** In sub-section (2) for the portion beginning with the words “Where the importer fails to pay” and ending with the words “in the Official Gazette”, the following shall be substituted, namely:

“The importer shall pay the import duty-

- (a) On the date of presentation of the bill of entry in the case of self-assessment; or
- (b) Within one day (excluding holidays) from the date on which the bill of entry is returned to him by the proper officer for payment of duty in the case of assessment, re-assessment or provisional assessment; or
- (c) In the case of deferred payment under the proviso to sub-section (1), from such due date as may be specified by rules made in this behalf, and if he fails to pay the duty within the time so specified, he shall pay interest on the duty not paid or short-paid till the date of its payment, at such rate, not less than ten per cent but not exceeding thirty-six percent p.a., as may be fixed by the Central Government, by notification in the Official Gazette.”

**14. Amendment in section 49:** The amendment in this section is being made to extend the facility of storage of imported goods (Dutiable only) entered for warehousing before their removal.

**15.** Section 69 relating to clearance of warehoused goods for exportation is being amended to align it with the proposed omission of section 82.

**16.** Section 82 relating to label or declaration accompanying goods to be treated as entry is being omitted.

**17.** Section 84 is being amended to empower the Board to make regulations to provide for the form and manner in which an entry may be made in respect of goods imported or to be exported by post.

**18. Amendment in Section 127B:** A new sub-section (5) shall be inserted after sub-section (4) so as to enable any person, other than applicant, referred to in sub-section (1) to make an application to the Settlement Commission in respect of a show cause notice issued to him in a case relating to the applicant which has been settled or is pending before the Settlement Commission and such notice is pending before an adjudicating authority, in such manner and subject to such conditions, as may be specified by rules.

**19. Amendment in section 127C:** In sub-section (3), the words “Commissioner of Customs having jurisdiction and the Commissioner”, shall be substituted with the words “Commissioner of Customs or Principal Additional Director General of Revenue Intelligence or Additional Director General of Revenue Intelligence, as the case may be, having jurisdiction and such Commissioner or Additional Director General.”

Further a new sub-section (5A) shall be inserted therein, to enable the Settlement Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.

**20.** Amendment in Section 157: In sub-section (2), a new clause (ab) shall be inserted after the clause (aa) so as to empower Board to make regulations for specifying the form, particulars, manner and time of providing the passenger and crew manifest for arrival and departure and passenger name record information and penalty in the case of delay in delivering the information under section 30A and 41A.

## B. The Customs Tariff Act, 1975

1. **Amendment in Section 9:** Clause (c) of sub-section (3) of section 9 is being substituted so as to withdraw the exemption to three categories of non-actionable subsidies specified therein from the scope of anti-subsidy investigations.

## C. The First Schedule To The Customs Tariff Act, 1975

1. Amendments no affecting the rate of duty

Serial No.	Chapter	Amendments***
1.	13	Tariff items 1302 32 10 and 1302 32 20 and the entries relating thereto shall be omitted.
2.	11	Tariff item 1106 10 00 and the entries relating thereto shall be substituted with the new tariff items 1106 10 10 and 1106 10 90, in relation to Guar meal and its products to harmonize the Customs Tariff with HS Nomenclature.
3.	15	After tariff item 1511 90 20 and the entries relating thereto, the tariff item 1511 90 30 and entries (refined bleached deodorised palm stearin) shall be inserted.
4.	38	Tariff items 3823 11 11 to 3823 11 90 and entries relating thereto shall be substituted with tariff item 3823 11 00 (stearic acid).
5.	39	Tariff items 3904 10 10 to 3904 22 90 shall be substituted with tariff items 3904 10 10 to 3904 22 00 in relation to the PVC Resin.
6.	98	Chapter Note (4) shall be amended so as to remove the non-applicability of headings 9803 and 9804 to goods imported through courier service. Also, to amend heading 9804 so as to extend the classification of personal imports by courier, sea, or land under this heading.

\*\*\*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.

2. Amendments affecting rates of BCD:

Serial No.	Commodity***	Old rate of duty	New rate of duty
1.	Cashew nut, roasted, salted or roasted and salted	30%	45%
2.	RO membrane element for household type filters	7.5%	10%

\*\*\*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.

## D. The Second Schedule To The Customs Tariff Act, 1975:

Serial No.	Amendment***	Old rate of duty	New rate of duty
	Ores and concentrates		
1.	Other aluminium ores and concentrates	NIL	30%

\*\*\*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.

## E. Other proposals involving changes in BCD, CVD, SAD AND EXPORT DUTY RATES:

Serial No.	Commodity	BCD/Excise/CV duty/SAD/Export Duty	
		From	To
A.	Ores and Concentrates		
1.	Other aluminium ores, including laterite	Export Duty – Nil	Export Duty – 15%
B.	Mineral fuels and Mineral oils		
2.	Liquefied Natural Gas	BCD – 5%	BCD – 2.5%
C.	Chemicals & Petrochemicals		
3.	o-Xylene	BCD – 2.5%	BCD – Nil
4.	Medium Quality Terephthalic Acid (MTA) & Qualified Terephthalic Acid (QTA)	BCD – 7.5%	BCD – 5%
5.	2-Ethyl Anthraquinone [29146990] for use in manufacture of hydrogen peroxide, subject to actual user condition	BCD – 7.5%	BCD – 2.5%
6.	Clay 2 Powder (Alumax) for use in ceramic substrate for catalytic convertors, subject to actual user condition	BCD – 7.5%	BCD – 5%
7.	Vinyl Polyethylene Glycol (VPEG) for use in manufacture of Poly Carboxylate Ether, subject to actual user condition	BCD – 10%	BCD – 7.5%
D.	Textiles		
8.	Nylon mono filament yarn for use in monofilament long line system for Tuna fishing, subject to certain specified conditions	BCD – 7.5%	BCD – 5%
E.	Finished Leather, Footwear and Other Leather Products		
9.	Vegetable tanning extracts, namely Wattle extract and Myrobalan fruit Extract	BCD – 7.5%	BCD – 2.5%
10.	Limit of duty free import of eligible items for manufacture of leather footwear or synthetic footwear or other leather products for use in the manufacture of said goods for export	3% of FOB value of said goods exported during the preceding FY	5% of FOB value of said goods exported during the preceding FY
F.	Metals		
11.	Co-polymer coated MS tapes / stainless steel tapes for manufacture of telecommunication grade optical fibres or optical fibre cables, subject to actual user condition	BCD – Nil	BCD – 10%



12.	Nickel	BCD – 2.5%	BCD – Nil
13.	MgO coated cold rolled steel coils [7225 19 90] for use in manufacture of CRGO steel, subject to actual user condition	BCD – 10%	BCD – 5%
14.	Hot Rolled Coils [7208], when imported for use in manufacture of welded tubes and pipes falling under heading 7305 or 7306, subject to actual user Condition	BCD – 12.5%	BCD – 10%
G.	Capital Goods		
15.	Ball screws, linear motion guides and CNC systems for use in manufacture of all CNC machine tools, subject to actual user condition	Ball screws and liner motion guides BCD – 7.5% CNC systems BCD – 10%	BCD – 2.5%
H.	Electronics / Hardware		
16.	Populated Printed Circuit Boards (PCBs) for the manufacture of mobile phones, subject to actual user condition	SAD – Nil	SAD – 2%
I.	Renewable Energy		
17.	Solar tempered glass for use in the manufacture of solar cells/panels/modules subject to actual user condition	BCD – 5%	BCD – Nil
18.	Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	CVD – 12.5%	CVD – 6%
19.	Resin and catalyst for manufacture of cast components for Wind Operated Energy Generators [WOEG], subject to actual user condition	BCD – 7.5% CVD – 2.5% SAD – 4%	BCD – 5% CVD – Nil SAD – Nil
20.	All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes, subject to certain specified conditions	BCD – 10%/7.5% CVD – 12.5%	BCD – 5% CVD – 6%
21.	All items of machinery required for balance of systems operating on biogas/bio-methane/by-product hydrogen, subject to certain specified conditions	BCD – 10% / 7.5% CVD – 12.5%	BCD – 5% CVD – 6%

J.	Miscellaneous		
22.	Membrane Sheet and Tricot / Spacer for use in manufacture of RO membrane element for household type filters, subject to actual user condition	CVD – 12.5%	CVD – 6%
23.	All parts for manufacture of LED lights or fixtures, including LED lamps, subject to actual user condition	Applicable BCD, CVD	BCD – 5% CVD – 6%
24.	All inputs for use in the manufacture of LED Driver and MCPCB for LED lights or fixtures, including LED lamps, subject to actual user condition	Applicable BCD	5%
25.	De-minimis customs duties exemption limit for goods imported through parcels, packets and letters	Duty payable not exceeding Rs.100 per consignment	CIF value not exceeding Rs.1000 per Consignment
26.	Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner	Applicable BCD, CVD SAD	BCD – Nil CVD – Nil SAD – Nil
27.	Parts and components for manufacture of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner, subject to actual user condition	Applicable BCD, CVD, SAD	BCD – Nil CVD – Nil SAD – Nil
28.	Silver medallion, silver coins having silver content not below 99.9%, semi-manufactured form of silver and articles of silver	CVD - Nil	CVD – 12.5%
29.	Goods imported for petroleum and coal bed methane operations by availing of the benefit of notification No.12/2012-Customs, dated 17.03.2012 [S. No.357A] no longer required for the said purpose are being allowed to be disposed of on payment of applicable customs duties or excise duty, on the depreciated value calculated as per straight line method (subject to depreciated value not being less than 30% of the original value) of such goods.		

## A. The Central Excise Act, 1944

- 1. Amendment in section 23A:** Clause (e) of section 23A is being amended so as to substitute the definition of "Authority" to mean the Authority for Advance Ruling as constituted under section 245-O of the Income-tax Act, 1961.
- Section 23B relating to vacancies not to invalidate proceedings shall be omitted.
- In sub-section (3) of section 23C, the words "two thousand and five hundred rupees" shall be substituted with the words "ten thousand rupees".
- Sub-section (6) of section 23D is being amended so as to provide time of limit of six months (ninety days earlier) by which Authority shall pronounce its ruling on the lines of the Income-tax Act.
- A new section 23-I shall be inserted after section 23H, so as to provide for transferring the pending applications before the Authority for Advance Rulings (Central Excise, Customs and Service Tax) to the Authority constituted under section 245-O of the Income-tax Act from the stage at which such

proceedings stood as on the date on which the Finance Bill, 2017 receives the assent of the President.

- 6. Amendment in section 32E:** A new sub-section (5) shall be inserted after the sub-section (4) to enable any person, other than assessee, referred to in sub-section (1) to make an application to the Settlement Commission.
- 7. Amendment in section 32F:** In sub-section (3), the words "Commissioner of Central Excise having jurisdiction and the Commissioner", shall be substituted with the words "Commissioner of Central Excise or Principal Additional Director General of Central Excise Intelligence or Additional Director General of Central Excise Intelligence, as the case may be, having jurisdiction and such Commissioner or Additional Director General."

Further a new sub-section (5A) shall be inserted therein, to enable the Settlement Commission to amend the order passed by it under sub-section (5), to rectify any error apparent on the face of record.

## B. First Schedule to The Central Excise Act, 1944

Amendments involving change in the rate of Basic Excise duty:

Serial No.	Amendment***	Rate of Duty	
		From	To
A.	Tobacco and Tobacco Products		
1.	Cigar and cheroots	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher
2.	Cigarillos	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher

3.	Cigarettes of tobacco substitutes	Rs.3755 per Thousand	Rs.4006 per thousand
4.	Cigarillos of tobacco substitutes	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher
5.	Others of tobacco substitutes	12.5% or Rs.3755 per thousand, whichever is higher	12.5% or Rs.4006 per thousand, whichever is higher

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

## C. Other proposals involving changes in Excise Duty Rates

Amendments involving change in the rate of Additional Excise duty under Finance Act, 2005:

Serial No.	Amendment***	Rate of Duty	
		From	To
	Commodity		
A.	Pan Masala		
1.	Pan Masala	6%	9%
B.	Tobacco and Tobacco Products		
2.	Unmanufactured tobacco	4.2%	8.3%
C.	Amendments involving change in the rate of Basic Excise Duty		
3.	Paper rolled biris – handmade	Rs. 21 per thousand	Rs. 28 per thousand
4.	Paper rolled biris - machine made	Rs. 21 per thousand	Rs. 78 per thousand
D.	Renewable Energy		
5.	Solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	NIL	6%
6.	Parts/raw materials for manufacture of solar tempered glass for use in solar photovoltaic cells/modules, solar power generating equipment or systems, flat plate solar collector, solar photovoltaic module and panel for water pumping and other applications, subject to actual user condition	12.5%	6%

7.	Resin and catalyst for manufacture of cast components for Wind Operated Energy Generators [WOEG], subject to actual user condition	12.5%	Nil
8.	All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes	12.5%	6%
9.	All items of machinery required for balance of systems operating on biogas/ bio-methane/ by-product hydrogen	12.5%	6%
<b>E.</b>	<b>Miscellaneous</b>		
10.	Membrane Sheet and Tricot / Spacer for use in manufacture of RO membrane element for household type filters, subject to actual user condition	12.5%	6%
11.	All parts for manufacture of LED lights or fixtures, including LED lamps, subject to actual user condition	Applicable duty	6%
12.	Miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner	Applicable duty	Nil
13.	Parts and components for manufacture of miniaturized POS card reader for m-POS (not including mobile phones, or tablet computers), micro ATM as per standards version 1.5.1, Finger Print Reader / Scanner or Iris Scanner, subject to actual user Condition	Applicable duty	Nil
14.	<p><b>a)</b> Waste and scrap of precious metals or metals clad with precious metals arising in course of manufacture of goods falling in Chapter 71</p> <p><b>b)</b> Strips, wires, sheets, plates and foils of silver</p> <p><b>c)</b> Articles of silver jewellery, other than those studded with diamond, ruby, emerald or sapphire</p> <p><b>d)</b> Silver coin of purity 99.9% and above, bearing a brand name when manufactured from silver on which appropriate duty of customs or excise has been paid</p>	Nil	Nil, subject to the condition that no credit of duty paid on inputs or input services or capital goods has been availed by manufacturer of such goods

## **D. Amendments in The Central Excise Rules, 2002 And The Cenvat Credit Rules, 2004**

1. Sub Sub-rule (2) is being inserted in rule 21 of Central Excise Rules, 2002 so as to provide for a time limit of three months (further extendable by 6 months) for granting remission of duty under the said rule 21 read with section 5 of the Central Excise Act, 1944.
2. Sub-rule (4) is being inserted in rule 10 of CENVAT Credit Rules, 2004 so as to provide for a time limit of three months [further extendable by 6 months] for approval of requests regarding transfer of CENVAT credit on shifting, sale, merger, etc. of the factory.

## E. Retrospective amendment

To retrospectively (i.e. with effect from 01.01.2017) specify a tariff rate of excise duty of 12.5% [as against present tariff rate of 27%] on motor vehicles for transport of more than 13 persons falling under tariff items 8702 90 21 to 8702 90 29 of the First Schedule to the Central Excise Tariff Act, 1985.

## F. Amendments in the Seventh schedule to the finance Act, 2005

Amendments involving change in the rate of Additional Excise duty:

Serial No.	Amendment***	Rate of Duty	
		From	To
A.	Tobacco and Tobacco Products		
1.	Non-filter Cigarettes of length not exceeding 65mm	Rs.215 per thousand	Rs.311 per Thousand
2.	Non-filter Cigarettes of length exceeding 65mm but not exceeding 70mm	Rs.370 per thousand	Rs.541 per Thousand
3.	Filter Cigarettes of length not exceeding 65mm	Rs.215 per thousand	Rs.311 per Thousand
4.	Filter Cigarettes of length exceeding 65mm but not exceeding 70mm	Rs.260 per thousand	Rs.386 per Thousand
5.	Filter Cigarettes of length exceeding 70mm but not exceeding 75mm	Rs.370 per thousand	Rs.541 per Thousand
6.	Other Cigarettes	Rs.560 per thousand	Rs.811 per Thousand
7.	Chewing tobacco (including filter khaini)	10%	12%
8.	Jarda scented tobacco	10%	12%
9.	Pan Masala containing Tobacco (Gutkha)	10%	12%

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

A low-angle, upward-looking photograph of several modern skyscrapers against a bright, cloudy sky. An airplane is visible in the center of the frame, flying upwards. The buildings are rendered in a slightly desaturated, high-contrast style, emphasizing their geometric forms and window patterns. The overall mood is one of growth and global connectivity.

# FOREIGN DIRECT INVESTMENT

### FDI related changes

The Government has already undertaken substantive reforms in FDI policy in the last two years. More than 90% of the total FDI inflows are now through the automatic route. The Foreign Investment Promotion Board (FIPB) has successfully implemented e-filing and online processing of FDI applications. Government has now decided that India has reached a stage where FIPB

can be phased out. It is now decided to abolish the FIPB in 2017-18. A roadmap for the same will be announced in the next few months. In the meantime, further liberalization of FDI policy is under consideration and necessary announcements will be made in due course. This will also facilitate ease of doing business



AOP	Association of Persons	INR	Indian Rupee
AY	Assessment Year	MSME	Medium small scale enterprises
AO	Assessing Officer	NBFC	Non-Banking Finance Company
BCD	Basic Custom Duty	OECD	The Organisation for Economic Co-operation and Development
BEPS	base erosion and profit shifting	PE	Permanent Establishment
BOI	Body of Individuals	POS	Point of Sale
CAD	Current Account Deficit	R&D	Research & Development
CBDT	Central Board of Direct Taxes	RBI	Reserve Bank of India
CBEC	Central Board of Excise & Customs	SAD	Special Additional Duty
CPI	Consumer Price Index	SEBI	Security Exchange Board of India
CVD	Countervailing Duty	SEZ	Special Economic Zone
CSO	Central Statistics Organisation	SHE	Secondary Higher Education Cess
DDT	Dividend Distribution Tax	TDS	Tax deducted at source
EC	Education Cess	TRU	Tax Research Unit
FIPB	Foreign Investment Promotion Board	TPO	Transfer Pricing Officer
FDI	Foreign Direct Investment	UTs	Union Territories
GDP	Gross Domestic Product	WHT	Withholding Taxes
GST	Goods & Service Tax	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.**

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