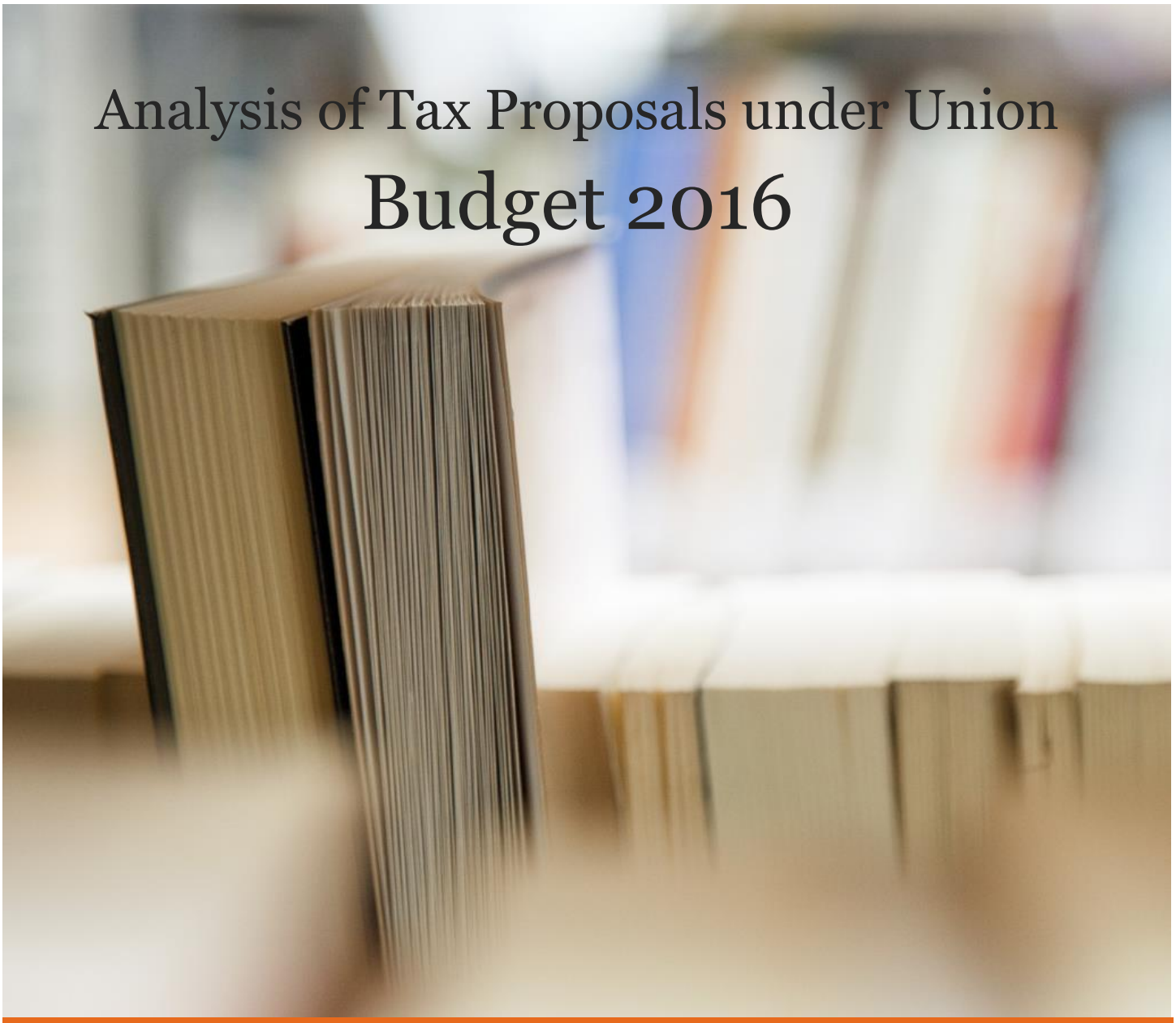

Analysis of Tax Proposals under Union Budget 2016

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MAKE IN INDIA - TRANSFORM INDIA

The current Budget is built on this transformative agenda with nine distinct pillars:

- Agriculture and Farmers' Welfare: with focus on doubling farmers' income in five years
- Rural Sector: with emphasis on rural employment and Infrastructure
- Social Sector including Healthcare: to cover all under welfare and health services
- Education, Skills and Job Creation: to make India a knowledge based and productive society
- Infrastructure and Investment: to enhance efficiency and quality of life
- Financial Sector Reforms: to bring transparency and stability;
- Governance and Ease of Doing Business: to enable the people to realise their full potential;
- Fiscal Discipline: prudent management of Government finances and delivery of benefits to the needy; and
- Tax Reforms: to reduce compliance burden with faith in the citizenry

DISCLAIMER

THE BELOW AMENDMENTS HAVE BEEN FURNISHED TO OUR CUSTOMERS FOR GENERAL UNDERSTANDING. IN VIEW OF THE INTRICACIES INVOLVED IN THE AMENDMENTS, THEY ARE REQUESTED TO TAKE SPECIFIC PROFESSIONAL ADVICE BEFORE ACTING ON ANY MATTER. WHILE DUE CARE HAS BEEN TAKEN IN PREPARING THIS DOCUMENT, INADVERTENT INACCURACIES CANNOT BE RULED OUT. THIS DOCUMENT IS NOT EXHAUSTIVE. THE CONTENTS OF THIS DOCUMENT IS NOT TO BE CONSIDERED AS LEGAL OR PROFESSIONAL ADVICE.

We hope you will find the summarization of the budget useful. For any further clarifications please feel free to contact us at sandesh@ramadhyani.com.

DIRECT TAX

Individuals and Hindu Undivided Families (HUFs)

1.1 Rate of tax

No change in tax rates. The proposed slabs of income and rates of taxes applicable to individuals and HUFs other than senior citizens will continue as at present (detailed below)

Proposed Income (INR)	Rate (%)
0 - 250,000*	NIL
250,001 - 500,000	10
500,001 – 1,000,000	20
1,000,001 and above	30

* Rs. 300,000/- in case of resident tax payers, who are senior citizens above the age of 60 but below the age of 80 years.

* Rs.500,000/- in the case of resident tax payers who are senior citizens of the age of 80 years and above.

Surcharge on income tax on individuals, HUFs, AOPs, BOIs, artificial juridical persons having income exceeding INR 1 crore is proposed to be enhanced to 15% instead of current rate of 12%. In case of firms no change in surcharge i.e 12% (applicable where income exceeds Rs. 1 crore).

Secondary and higher education cess @ 3% has been retained.

1.2 Retirement Benefits

The exemption on withdrawal of accumulated balances from a recognized PF is reduced from 100% to 40% to the extent it relates to contributions made by the employee (other than excluded employee) after 1 April 2016. Excluded employee is an employee whose monthly salary doesn't exceed an amount of Rs.15,000/-. Tax is calculated at 60% on the interest component relatable to employee's contribution. Recently, the Finance Minister has indicated that this proposal will be withdrawn.

The lower of employer's contribution to PF in excess of 12% of the salary of the employee or Rs. 150,000 per annum will be subject to tax. Recently, the Finance Minister has indicated that this proposal will be withdrawn.

Exemption limit for employer's contribution to superannuation has been enhanced from Rs. 100,000 to Rs. 150,000 per annum. Any contribution in excess of Rs 150,000 will be taxable in the hands of the employee.

40% of the amount withdrawn from New Pension Scheme (NPS) on closure of his account or on his opting out of the pension scheme referred to in section 80CCD will be exempt. Currently the entire withdrawal is being taxed. However, the amount received by a nominee from NPS on death of the tax payer would be exempt from tax.

Individuals and Hindu Undivided Families (HUFs)

1.3 Tax Treatment of Gold Monetization Scheme, 2015

Interest received under Gold Monetization Scheme, 2015 are proposed to be exempt under section 10(15). These bonds are proposed to be excluded from the definition of capital asset in order to exempt from bonds from capital gain tax. **(With retrospective effect from Assessment Year 2016-17)**

1.4 Provision for Tax benefits to Sovereign Gold Bond Scheme, 2015 and Rupee Denominated Bonds

It is proposed to exempt redemption of sovereign gold bonds issued by the RBI in the hands of individuals, for the purpose of levy of capital gains. Further, benefit of indexation has been proposed to be provided to the sovereign gold bonds.

It is proposed to provide that in case of non-resident, any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by him, shall be ignored for the purpose of computation of full value of consideration under section 48.

1.5 Amendment to section 24(b) – Interest payable on capital borrowed

Time period for acquisition or construction of self-occupied house property for claiming deduction of interest under section 24(b) is proposed to be increased from 3 years to 5 years.

1.6 Amendment to section 80GG

It is proposed to increase maximum limit of deduction claimed under section 80GG towards rent paid by an individual in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence from Rs. 2,000 p.m. (i.e. Rs. 24,000/-) to Rs. 5,000/- pm (i.e. Rs. 60,000/-) in the case where house rent allowance is not granted by the employer.

1.7 Tax rebate under section 87A increased

It is proposed to increase the relief under section 87A from existing maximum of Rs.2,000 to Rs.5,000, in case total income of resident individual is below Rs. 5,00,000/-

1.8 Deduction under section 80EE - Deduction in respect interest paid on loan for acquisition of residential house property

It is proposed to incentivize first-time individual home buyers availing home loans, by providing additional deduction in respect of interest on loan taken for acquisition of a residential house property from any financial institution up to Rs. 50,000. This incentive is proposed to be extended to a house property of a value less than 50 lakhs rupees in respect of which a loan of an amount not exceeding 35 lakh rupees has been sanctioned by a financial institution (as defined) during the period from the 1st day of April, 2016 to the 31stday of March, 2017. It is also proposed to extend the benefit of deduction till the repayment of loan continues.

The deduction under the proposed section is over and above the limit of Rs. 2, 00,000 provided for a self-occupied property under section 24 of the Act.

Partnership Firms –

Rates of Tax

No change in rates for the assessment year 2017-18. The basic rate has been retained at 30% and surcharge @ 12 % in case total income exceeds Rs. 1 crores. Secondary and higher education cess @ 3% of income tax and surcharge has been retained.

Tax rates of alternate minimum tax (AMT) remains unchanged at 18.5% (plus applicable surcharge and education cess). Effective rate 21.34% (if income > Rs 1 crore).

3.1 Tax Rates

No change in rates of tax for the assessment year 2017-18, subject to exceptions detailed below. The basic rates have been retained at 30 % in case of domestic companies and 40% in case of foreign companies.

Rate of tax for domestic companies has been reduced from 30% to 29% in case total turnover or gross receipts of such company in the previous year 2014-15 did not exceed five crore rupees.

Surcharge on income tax @ 7% will be payable by domestic companies having income exceeding Rs.1 crore but up to Rs.10 crores and surcharge on income tax @ 12%, if income exceed Rs.10 crores, has been retained.

There is no change in the rates of surcharge payable by foreign companies. The existing rates of 2% on income tax (if the income exceeds Rs. 1 crore and is up to Rs.10 crores) and 5% (if the income exceeds Rs.10 crores) will continue.

Effective tax rate works out as under

	Effective tax rate		
Type of company	Income below Rs 1 crores	Income above Rs 1 crores but below Rs 10 crores	Income above Rs 10 crores
Domestic company	30.9	33.063	34.608
Foreign companies	41.2	42.024	43.26

Minimum alternate tax (MAT) rate remains unchanged at 18.5% (plus applicable surcharge and education cess). Effective rate is 20.39% (if income > Rs 1 crores but < Rs 10 crores) or 21.34% (if income > Rs 10 crores).

The rate of dividend distribution tax (DDT) remains unchanged at 15% plus applicable surcharge of 12% and education cess @ 3% in terms of section 115O.

3.2 Relief for newly setup domestic companies

In order to provide relief to newly setup domestic companies engaged in the business of manufacture or production of article or thing, it is proposed to amend the Act by way of insertion of new section 115BA, to provide that income-tax payable in respect of the total income of a domestic company for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2017 shall be **computed @ 25%** at the option of the company, if, -

(i) The company has been setup and registered on or after 1st day of March, 2016;

(ii) The company is engaged in the business of manufacture or production of any article or thing;

(iii) The company while computing its total income has not claimed any benefit inter-alia under section 10AA, benefit of accelerated depreciation benefit of additional depreciation under section 32(1)(iia), investment allowance under section 32AC, deduction under section 32AD, deduction under section 33AB, expenditure on scientific research under sub section (2AA) or (2AB) of section 35, deduction under section 35AC (expenditure on eligible projects or schemes), deduction under section 35AD (deduction in respect of expenditure on specified business), deduction under section 35CCD (expenditure on skill development project) and any deduction in respect of certain income under part-C of chapter-VI-A other than the provisions of section 80JJAA; and

(iv) The option is furnished in the prescribed manner before the due date of furnishing of income.

3.3 Place of effective management (POEM) deferred by one year

Section 6(3) deals with conditions to be satisfied by a company to be treated as resident in India in any previous year. Prior to amendment of section 6(3) by the Finance Act 2015, a company was said to be resident in India in any previous year if it was an Indian company or during that year the control and management of its affairs was situated wholly in India.

The Finance Act, 2015 amended the above provision by introducing the concept of- "Place of Effective Management" (POEM). POEM was defined to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are in substance made.

It is proposed to defer the applicability of POEM based residence test by one year and the determination of residence based on POEM shall be applicable from financial year April 01, 2017.

4.1 Extending the benefit of Initial additional depreciation for power sector under section 32(1) (iia)

Presently initial additional depreciation of 20% is allowed on cost of new plant or machinery acquired and installed by an assessee engaged in the business of generation and distribution of power, over and above the general depreciation allowance.

Now, in order to rationalize the incentives for power sector, the above benefit is proposed to be extended to an assessee engaged in the business of transmission of power.

(W.e.f. assessment year 2017-18)

Applicable to all assessee's

4.2 Amendment to section 32AC (1A)

The existing provisions of sub-section (1A) in section 32AC of the Act provides for investment allowance at the rate of 15% on investment made in new (plant and machinery) exceeding Rs.25 crore in a previous year by a company engaged in manufacturing or production of any article or thing subject to the condition that the acquisition and installation has to be done in the same previous year. This tax incentive is available up to 31.03.2017.

The dual condition of acquisition and installation causes genuine hardship in cases in which assets having been acquired but could not be installed in same previous year.

It is proposed to amend sub-section (1A) of section 32AC so as to provide that the acquisition of plant & machinery of the specified value has to be made in the previous year. However, installation may be made before 31.03.2017 in order to avail the benefit of investment allowance of 15%. **It is further proposed to provide that where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed.**

This has been **retrospectively amended** and will be applicable for assessment year 2016-17 and assessment year 2017-18.

4.3 Proposed phase out of deductions and exemptions

The Finance Minister in his budget speech, 2015 had indicated that the rate of corporate tax will be reduced from 30% to 25% over the next four years along with corresponding phasing out of exemptions and deductions. The Government proposes to implement this decision in a phased manner and the following incentives under the Act are proposed to be phased out in the manner as tabulated below in Table 1 and Table 2:

Applicable to all assessee's

Table 1: Proposed Phase out plan of incentives (Profit linked Deductions/weighted deduction) available under the Act

SI No	Section	Incentive currently available in the Act	Proposed Phase out measures/Amendment
1	10AA- Special provisions in respect of newly established units in SEZ.	Profit linked deductions for units in SEZ for profits derived from export of articles or things or services	No deduction shall be available to units commencing manufacture or production of article or thing or start providing services on or after 1st day April 2020. (From previous year 2020-21 onwards).
2	35AC- Expenditure on eligible projects or schemes.	Deduction for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development projects or a scheme.	No deduction shall be available with effect from 1.4.2017 (i.e from previous year 2017-18 and subsequent years).
3	35CCD- Expenditure on skill development project.	Weighted deduction of 150 per cent on any expenditure incurred (not being expenditure in the nature of cost of any land or building) on any notified skill development project by a company.	Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
4	Sections a. 80-IA- development, operation and maintenance of infrastructure facility b. 80-IAB- development of SEZ c. 80-IB (9)- Production of natural gas and Mineral oil.	100 per cent profit linked deductions for specified period on eligible business carried on by industrial undertakings or enterprises referred in section 80IA; 80IAB, and 80IB	No deduction shall be available if the specified activity commences on or after 1st day April, 2017. (I.e from previous year 2017-18 and subsequent years).

Applicable to all assessee's

Table 2: Proposed Phase out plan of incentives (Deduction/weighted deduction)

SI No.	Section	Incentive currently available in the Act	Proposed Phase out measures/Amendment
1	32 read with rule 5 of Income-tax Rules, 1962- Accelerated Depreciation.	Accelerated depreciation is provided to certain industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to 100% in respect of certain block of assets.	To amend the new Appendix IA read with rule 5 of Income-tax Rules, 1962 to provide that highest rate of depreciation under the Income-tax Act shall be restricted to 40% w.e.f 01.4.2017. (I.e from previous year 2017-18 and subsequent years). The new rate is proposed to be made applicable to all the assets (whether old or new) falling in the relevant block of assets.
2	35(1)(ii)- Expenditure on scientific research	Weighted deduction from the business income to the extent of 175 per cent of any sum paid to an approved scientific research association which has the object of undertaking scientific research. Similar deduction is also available if a sum is paid to an approved university, college or other institution and if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20) and deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
3	35(1)(iia)- Expenditure on Scientific research.	Weighted deduction from the business income to the extent of 125 per cent of any sum paid as contribution to an approved scientific research company.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).
4	35(1) (iii) - Expenditure on scientific research.	Weighted deduction from the business income to the extent of 125 per cent of contribution to an approved research association or university or college or other institution to be used for research in social science or statistical research.	Deduction shall be restricted to 100 per cent with effect from 01.04.2017 (i.e. from previous year 2017-18 and subsequent years).

Applicable to all assessee's

SI No.	Section	Incentive currently available in the Act	Proposed Phase out measures/Amendment
5	35(2AA) - Expenditure on scientific research.	Weighted deduction from the business income to the extent of 200 per cent of any sum paid to a National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of approved scientific research programme.	Weighted deduction shall be restricted to 150 per cent with effect from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
6	35(2AB) - Expenditure on scientific research.	Weighted deduction of 200 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred by a company, engaged in the business of bio-technology or in the business of manufacture or production of any article or thing except some items appearing in the negative list specified in Schedule-XI, on scientific research on approved in house research and development facility.	Weighted deduction shall be restricted to 150 per cent from 01.04.2017 to 31.03.2020 (i.e. from previous year 2017-18 to previous year 2019-20). Deduction shall be restricted to 100 per cent from 01.04.2020 (i.e. from previous year 2020-21 onwards).
7	35AD- Deduction in respect of specified business.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, an affordable housing project, production of fertilizer and hospital weighted deduction of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) is allowed.	In case of a cold chain facility, warehousing facility for storage of agricultural produce, hospital, an affordable housing project, production of fertilizer, deduction shall be restricted to 100 per cent of capital expenditure w.e.f. 01.4.2017 (i.e. from previous year 2017-18 onwards).
8	35CCC- Expenditure on notified agricultural extension project.	Weighted deduction of 150 per cent of expenditure incurred on notified agricultural extension project.	Deduction shall be restricted to 100 per cent from 1.4.2017 (i.e from previous year 2017-18 onwards).

Applicable to all assessee's

These amendments mentioned in table above will take effect from 1st April, 2018 and will, accordingly, apply in relation to the assessment year 2018-19 and subsequent years.

4.4 Insertion of new section 35ABA: Amortization of spectrum fee for purchase of spectrum

Any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal installments over the period for which the right to use spectrum remains in force. Passover provisions to permit benefit of remaining deduction have been provided in the cases of transfer of license by way of demerger and amalgamation.

4.5 Extending the benefit of allowance of provision for doubtful debts to NBFC's

It is proposed that NBFCs shall be allowed a deduction of 5% of gross total income (Computed before making any deduction under this clause) on account of provision for bad and doubtful debts under section 36 (1)(viia) of the Act.

NBFC shall have the meaning as provided under section 45- I (f) of the RBI Act, 1934.

4.6 Extension of scope of section 43B

It is proposed to amend section 43B by inserting sub clause (g) so as to expand its scope to include payments made to Indian Railways for use of railway assets within its ambit.

4.7 Increase in threshold limit for audit for persons having income from profession

Limit under section 44AB for tax audit is proposed to be increased to Rs. 50 lakhs from Rs. 25 lakhs.

4.8 Introduction of presumptive taxation scheme for persons having income from profession – 44ADA

Presumptive taxation regime proposed for persons engaged in professions referred to in section 44AA(1) i.e. legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette and whose gross receipts does not exceeds Rs. 50 lakhs. Income is to be presumed at 50% of total gross receipts.

The scheme will apply to such resident assessee who is an individual, Hindu undivided family or partnership firm but not limited liability partnerships.

Applicable to all assessee's

Proposed that where assessee claims income less than above and the income exceeds the maximum amount which is not chargeable to income-tax, books of account and, Other documents as per Section 44AA (1) are required to be maintained and duly audited under section 44AB.

4.9 There is proposed increase in threshold limit for presumptive taxation scheme under section 44AD for persons having income from business, subject to certain conditions.

4.10 Additional condition under section 47(xiiib) for conversion of a company into LLP

It is proposed to amend the said section so as to provide that, for availing tax-neutral conversion, in addition to the existing conditions, the total value of the **assets as appearing in the books of account** of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed 5 crore rupees.

4.11 Amendment in section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property

A similar provision exists under section 43CA has been inserted to provide relief where the seller has entered into an agreement to sell the property much before the actual date of transfer of the immovable property and the sale consideration is fixed in such agreement.

It is proposed to amend the provisions of section 50C so as to provide that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.

It is further proposed to provide that this provision shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

(W.e.f assessment year 2017-18).

Applicable to all assessee's

4.12 Amendment to section 54GB

The existing provisions of section 54GB provide exemption from tax on long term capital gains in respect of the gains arising on account of transfer of a residential property, if such capital gains are invested in subscription of shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 subject to other conditions specified therein.

With an objective to provide relief to individuals and Hindu undivided families willing to setup a start-up company by selling a residential property to invest in the shares of such company, it is proposed to amend section 54GB so as to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than 50% shares of the company and such company utilises the amount invested in shares to purchase new asset before due date of filing of return by the investor.

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

With a view to avoid the incidence of the aforesaid condition on start-ups where computers or computer software form the core asset base owing to nature of business activity, it is proposed to amend section 54GB so as to provide that the expression "new asset" includes computers or computer software in case of technology driven start-ups so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the official Gazette.

(W.e.f assessment year 2017-18)

4.13 Taxation of non-compete fees in case of profession

It is proposed to amend clause (va) of section 28 of the Act to bring non-compete fee received/receivable in relation to not carrying out any profession, within the scope of section 28 of the Act i.e. the charging section of profits and gains of business or profession. Further, it is also proposed to amend the proviso to clarify that receipts for transfer of right to carry on any profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession. It is also proposed to amend section 55 so as to provide that the 'cost of acquisition' and 'cost of improvement' for working out "capital gains" on capital receipts arising out of transfer of right to carry on any profession(goodwill) shall also be taken as 'nil'.

(W.e.f assessment year 2017-18)

Applicable to all assessee's

4.14 Insertion of new section 80-IAC – Special provision in respect of specified business of start-ups

With a view to providing an impetus to start-ups and facilitate their growth in the initial phase of their business, it is proposed to provide a deduction of one hundred percent of the profits and gains derived by an eligible start-up from eligible business for three consecutive assessment years-out of five years beginning from the year in which the eligible start up is incorporated.

Eligible start-up: Means a company engaged in eligible business which satisfies following conditions:

i. It is incorporated on or after April 01, 2016 but before April 01, 2019.

ii. The total turnover of its business does not exceed 25 crore rupees in any of the previous year between 01-04-2016 to 01-04-2021.

iii. It holds a certificate of eligible business from Inter-Ministerial Board of Certification.

Eligible Business: means business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property.

4.15 Insertion of new section 80-IBA – Deduction in respect of profits and gains from housing projects

With a view to incentivize affordable housing sector as a part of larger objective of 'Housing for All', it is proposed to amend the Income-tax Act so as to provide for 100% deduction of the profits of an assessee developing and building affordable housing projects, if the housing project is approved by the competent authority after June 1, 2016 but before the 31st March, 2019 subject to certain conditions which inter alia, include:-

i. The project is completed within a period of three years from the date of approval,

ii. The project is on a plot of land measuring not less than 1000 sq. meters where the project is within 25 km from the municipal limits of four metros namely Delhi, Mumbai, Chennai & Kolkata and in any other area, it is measuring not less than 2000 sq. meters where the size of the residential unit in the said areas is not more than 30 sq. meters and 60 sq. meters, respectively

iii. where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc

(W.e.f assessment year 2017-18)

Applicable to all assessee's

4.16 Amendment in section 80JJAA- for tax incentive for employment generation

Existing provisions

The existing provisions of Section 80JJAA provide for a deduction of thirty percent of additional wages paid to new regular workmen in a factory of an Indian company for three years. The provisions apply to the business of manufacture of goods in a factory where 'workmen' are employed for not less than three hundred days in a previous year. Further, benefits are allowed only if there is an increase of at least ten percent in total number of workmen employed on the last day of the preceding year.

Proposed amendments

With a view to extend this employment generation incentive to all businesses to whom section 44AB applies, it is proposed to provide that the deduction under the said provisions shall be available in respect of **cost incurred on any employee whose total emoluments are less than or equal to Rs. 25,000 p.m.** No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government.

It is further proposed to relax the norms for minimum **number of days of employment in a financial year from 300 days to 240 days** and also the condition of 10% increase in number of employees every year is proposed to be done away with so that any increase in the number of employees will be eligible for deduction under the provision.

It is also proposed to provide that in the first year of a new business, 30% of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.

(W.e.f assessment year 2017-18)

4.17 New Chapter VIII inserted "Equalization levy"

It is proposed to impose an "equalization levy" @ 6% of consideration received or receivable for specified services provided on or after the commencement of this chapter, by a non-resident from a resident and carrying on business or profession or from a nonresident having a permanent establishment in India, if the aggregate consideration exceeds Rs. 1 Lakhs in any previous year Equalization levy shall not be charged if:

i. Non -Resident service provider has a PE in India and income from such specified services are effectively connected to such PE.

ii. Where the consideration is not for the purpose of carrying out business or profession.

Applicable to all assessee's

' Specified service' means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of on line advertisement and includes any other service as may be notified by the Central Government in this behalf.

Equalization levy so deducted by the payer has to be paid to the Government by 7 days of the month following the month in which the equalization levy is collected and in case of delay an interest @ of 1% for every month or part of a month shall be charged.

Further, expenses incurred by the assessee towards specified services chargeable under this chapter shall not be allowed as deduction in case of failure of the assessee to deduct and deposit the equalization levy to the credit of Central government.

A statement shall be furnished in the prescribed form and prescribed manner. A computation mechanism is provided and no intimation shall be made after the expiry of 1 year from the end of the relevant financial year. An order passed by the AO shall be rectified within 1 year from the end of the financial year in which the order sought to be amended was passed.

Penalty for failure to deduct or pay:

Where an assessee fails to deduct the whole or any part of equalization levy, a sum equal to the amount of equalization levy not deducted. In other cases, penalty of Rs. 1,000/- for every day during which the failure continues. However, the penalty shall not exceed the amount of equalization levy that was to be paid.

Penalty for failure to furnish statement under section 164:

Penalty of Rs. 100 for every day during which the failure continues shall be imposed. No penalty will be imposable under section 168 or 169, if the assessee proves that there was reasonable cause for the failure.

4.18 Rationalization of tax rates on dividend income

It is proposed to insert a new section 115BBDA to provide that in the case of an individual, HUF or a firm who is a resident in India receives any income by way of dividend declared, distributed or paid by a domestic company, in excess of 10 lakhs shall be taxable @ 10%, notwithstanding any other provisions of the Act.

Further, no deduction of any expenditure or allowance or set off of loss shall be allowed in computing the income by way of dividend referred in section 2(22) except dividend referred in Section 2(22)(e). Consequently, provisions of Section 10(34) amended.

(W.e.f assessment year 2017-18)

Applicable to all assessee's

4.19 Taxation of income from 'patents'

In order to encourage indigenous research & development activities and to make India a global R & D hub, the Government has decided to put in place a concessional taxation regime for income from patents.

Accordingly, it is proposed to insert new section 115BBF to provide that where the total income of an eligible assessee (person resident in India and who is a patentee- as defined) includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty shall be taxable at the rate of 10% (plus applicable surcharge and cess) on the gross amount of royalty (without any deduction of any expenditure or allowance).

(W.e.f assessment year 2017-18)

4.21 Applicability of Minimum Alternate Tax (MAT) on foreign companies for the period prior to 01.04.2015

It is proposed to amend the Income-tax Act so as to provide that with effect from 01.04.2001, the provisions of section 115JB shall not be applicable to a foreign company if ,

- Foreign company is a resident of a country with which India has entered into a DTAA and the foreign company does not have a PE in India
- Foreign company is a resident of a country with which India has not entered into a DTAA and the foreign company is not required to seek registration under any law for the time being in force relating to foreign companies.

4.22 Tax incentives to International Financial Service Centre (IFSC)

With a view to incentivize growth of IFSC (as defined), it is proposed to amend section 10 so as to provide for exemption from tax on capital gains in respect of income arising from transaction undertaken in foreign currency on a recognized stock exchange located in an IFSC even when STT is not paid in respect of such transactions.

It is further proposed to amend section 115JB so as to provide that in case of a company, being a unit located in IFSC and deriving its income solely in convertible foreign exchange, the MAT shall be chargeable at the rate of 9% instead of 18.5%.It is proposed to amend section 115-O to provide Exemption on dividends distributed by units located in IFSC (deriving their income wholly in convertible foreign exchange) in the hands of company paying the dividend as well as shareholders.

(W.e.f assessment year 2017-18)

It is further proposed to amend the income tax Act to provide for exemption from STT and Commodities Transaction Tax (CTT) on transactions undertaken in foreign currency on recognized stock exchange/recognized association in IFSC **(w.e.f June 1, 2016)**

Applicable to all assessee's

4.23 Clarification on tax on distributed income to shareholder

In order to provide clarity and remove any ambiguity on the applicability of buyback provisions as per Companies Act, 1956 or Companies Act, 2013 and the manner of determination of the amount under various situations like shares being issued in tranches or at different prices etc.,

It is proposed to amend section 115QA to provide that the provisions of this section shall apply to any buy back of unlisted shares undertaken by the company in accordance with the provisions of the law relating to the companies and not necessarily restricted to section 77A of the Companies Act, 1956 and to provide that for the purpose of computing distributed income, amount received by the Company in respect of the shares being bought back shall be determined in the prescribed manner. The rules would thereafter be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganizations and in different tranches.

(W.e.f 01 June 2016)

4.24 New taxation regime for securitization trust and its investors

In order to rationalize the tax regime for securitization trust and its investors, and to provide tax pass through treatment, it is proposed to amend the provisions of the Act to substitute the existing special regime for securitization trusts by a new regime having the following elements:

i. The new regime shall apply to securitization trust being an SPV defined under SEBI (Public Offer and Listing of Securitized Debt Instrument) Regulations, 2008 or SPV as defined in the guidelines on securitization of standard assets issued by RBI or being setup by a securitization company or a reconstruction company in accordance with the SARFAESI Act;
ii. The income of securitization trust shall continue to be exempt. However, exemption in respect of income of investor from securitization trust would not be available and any income from securitization trust would be taxable in the hands of investors;
iii. The income accrued or received from the securitization trust shall be taxable in the hands of investor in the same manner and to the same extent as it would have happened had investor made investment directly in the underlying assets and not through the trust;
iv. Tax deduction at source shall be effected by the securitization trust at the rate of 25% in case of payment to resident investors which are individual or HUF and @ 30% in case of others. In case of payments to non-resident investors, the deduction shall be at rates in force;

Applicable to all assessee's

v. The trust shall provide breakup regarding nature and proportion of its income to the investors and also to the prescribed income-tax authority. Further, it is proposed to provide that the current regime of distribution tax shall cease to apply in case of distribution made by securitization trusts with effect from 01.06.2016.

(W.e.f. June 01, 2016)

4.25 Special provision relating to tax on accreted income of certain trusts and institutions – Chapter XII-EB

In order to ensure that the intended purpose of exemption availed by trust or institution is achieved, a specific provision in the Act is inserted for imposing a levy in the nature of an exit tax which is attracted when trust or institution registered under section 12AA is converted into a non-charitable organization or gets merged with a non-charitable organization or does not transfer the assets to another charitable organization.

Accordingly, it is proposed to amend the provisions of the Act and introduce a new Chapter to provide for levy of additional income-tax in case of conversion of a trust or institution registered under section 12AA into, or merger with, any non-charitable form or on transfer of assets of a charitable organization on its dissolution to a non-charitable institution, namely -

- The accretion in income (accreted income) of the trust or institution shall be taxable on conversion of trust or institution into an entity not eligible for registration under section 12 AA or on merger into an entity not having similar objects and registered under section 12AA or on non-distribution of assets on dissolution to any charitable institution registered under section 12AA or approved under section 10(23C) within a period twelve months from dissolution.

- Accreted income shall be amount of by which the aggregate fair market value of the total assets as reduced by the total liability of the trust or institution as on the specified date. The method of valuation is proposed to be prescribed in rules. The asset and the liability of the charitable organization which have been transferred to another charitable organization within specified time will be excluded while calculating accreted income.

- The taxation of accreted income shall be at the maximum marginal rate.

- This levy shall be in addition to any income chargeable to tax in the hands of the entity.

Applicable to all assessee's

- This tax shall be final tax for which no credit can be taken by the trust or institution or any other person, and like any other additional tax, it shall be leviable even if the trust or institution does not have any other income chargeable to tax in the relevant previous year.

(W.e.f June 1, 2016)

4.26 Amendment in section 139 – Filing of return of income

In order to rationalize the time allowed for filing of returns, completion of proceedings, and realization of revenue without undue compliance burden on the taxpayer, and to promote the culture of compliance, it is proposed to amend the following provisions of the Act:

- It is proposed to amend section 139(1) to include that if a person during the previous year earns income which is exempt under section 10(38) and income of such person without giving effect to the section 10(38) exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date.
- It is also proposed that belated returns under section 139(4) shall be furnished at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. This is effectively cutting short the time to file belated returns.
- It is proposed to amend section 139(5) to empower a person filing a belated return of income in terms of section 139(4) to file a revised return.
- Return would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.

4.27 Amendment in section 143

Processing of return under section 143(1) is mandatory before making an assessment under section 143(3). Further the scope of section 143(1) is expanded to include the following adjustments:

- Disallowance of loss claimed if return furnished beyond due date under section 139(1)
- Disallowance of expenditure indicated in audit report but not taken into account in computing the total income.
- Disallowance of claims under section 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID and 80-IE, if return furnished beyond due date specified under section 139(1)
- Addition of income appearing in form 26AS or form 16A or form 16 which has not been included in the total income.

Table showing change in time limit for assessment/ reassessment

4.28 Rationalization of time limit for assessment, reassessment and re-computation

In order to simplify the provisions of existing section 153 by retaining only those provisions that are relevant to the current provisions of the Act, section 153 is proposed to be substituted with the following changes (see table in next page) in time limit.

Note:

1. The below amendments will take effect for orders to be passed on or after from 1st June 2016.

2. If proposed time limit cannot be met by the AO for reason beyond control, AO may apply, in writing, to principal commissioner or commissioner to allow additional time of 6 month.

3. For cases pending as on 1.6.2016, time limit for taking requisite action is proposed to be 31.3.2017 or twelve months from the end of the month, in which such order is received, whichever is later.

Assessments/ proceedings	Existing time limit	Proposed time Limits
Section 143(3)/144	2 years from the end of the assessment year	21 months from the end of the assessment year
Section 147	1 year from the end of the financial year in which notice under section 148 is served.	9 months from the end of the financial year in which notice under section 148 is served.
Assessments in pursuance of order under section 254/263/264	1 year from the end of financial year in which order under section 254 is received or order under section 263/264 is passed by the prescribed authority.	9 months from the end of financial year in which order under section 254 is received or order under section 263/264 is passed by the prescribed authority.
Effect to 'appellate order' or '263/264 order' or 'order of settlement commission' wholly or partly without fresh assessment or reassessment (refer note 2 &3)	No time limit	3 months from the end of the month in which order is received or passed by the relevant authority.

Effect to 'appellate order' or '263/264 order' or 'order of any court' requiring assessment, reassessment or Re-computation (refer note 2 & 3 above)	No time limit	12 months from the end of the month in which order is received or passed by the relevant authority.
Search conducted under section 132 or requisition made under section 132A	2 years from the end of the financial year in which the last of the authorization executed	21 months from the end of the financial year in which the last of the authorization executed.

5.1 Increase in threshold limit of TDS on various payments

The existing threshold limit for deduction of tax at source and the rates of deduction of tax at source are proposed to be revised as mentioned below:-

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

Section	Heads	Existing Threshold Limits (Rs.)	Proposed Threshold Limits (Rs.)
192 A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to contractors	Aggregate annual limit of 75,000	Aggregate annual limit of 1,00,000
194LA	Payment of compensation on acquisition of certain immovable property	2,00,000	2,50,000
194D	Insurance commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

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

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

The above amendments will take effect from 1st June, 2016.

5.2 Exemption from requirement of furnishing PAN under section 206AA to certain non-resident

It is proposed to amend the section 206AA to provide that the provisions of furnishing PAN shall not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.

(W.e.f June 1, 2016)

5.3 Tax Collection at Source (TCS) on sale of vehicles; goods or services

In order to reduce the quantum of cash transaction in sale of any goods and services and for curbing the flow of unaccounted money in the trading system and to bring high value transactions within the tax net, it is proposed to amend the provision of section 206C to provide that the seller shall collect the tax at the rate of **1% from the purchaser on sale of motor vehicle of the value exceeding 10 lakh rupees and sale in cash of any goods**, or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding 2 lakh rupees.

(W.e.f June 1, 2016)

6.1 Rationalization of advance tax payment schedule under section 211 and charging of interest under section 234C

As per the existing provisions, advance tax payment schedule for a company is 15%, 45%, 75% and 100% of tax payable on the current income to be paid by 15th June, 15th September, 15th December and 15th March respectively. For other assessee's, advance tax payment schedule currently is 30%, 60% and 100% of tax payable on current income to be paid by 15th September, 15th December and 15th March respectively.

It is proposed to provide one advance tax payment schedule as applicable to companies for all assesses other than an eligible assesse in respect of eligible business referred to in section 44AD who shall be required to pay entire advance tax in one installment on or before the 15th March of the financial year.

Consequential amendments are also proposed to be made to section 234C which provides for chargeability of interest for deferment of advance tax to bring it in sync with the amendments proposed in section 211.

(W.e.f June 1, 2016)

6.2 Providing time limit for disposing application made by assessee under section 273A, 273AA or 220(2A)

Under the existing provisions there is no time limit is fixed to dispose the application made by the assessee under section 273A, 273AA or 220(2A). In order to provide for specific time-line, amendment to the existing provision have been proposed:

- It is proposed to amend section 220 to provide that an order accepting or rejecting application of an assessee shall be passed by the concerned authority within a period of 12 months from the end of the month in which such application is received.
- It is further proposed to amend section 273A and section 273AA to provide that an order accepting or rejecting the application of an assessee shall be passed by the Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such application is received.
- However, in respect of applications pending as on 1st day of June, 2016, the order under said sections shall be passed on or before 31st May, 2017.

(W.e.f June 1, 2016)

6.3 Rationalization of payment of interest on refund

- Assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.

Interest, penalties and miscellaneous provisions

- Where a refund arises out of appeal effect being delayed beyond the time prescribed section 153(5), an assessee shall be entitled to receive, in addition to the interest payable under section 244A (1) i.e. 6% p.a, an additional interest on such refund amount calculated at the rate of 3% p.a, for the period beginning from the date following the date of expiry of the time allowed under section 153(5) to the date on which the refund is granted.

(W.e.f June 1, 2016)

6.4 Rationalization of the provisions relating to Appellate Tribunal

- It is proposed that no appeal can be filed by Assessing Officer against the order of Dispute Resolution Panel.

- The time limit for rectification in the order passed by the ITAT is reduced from 4 years to 6 months from the end of the month in which the order was passed.

(W.e.f June 1, 2016)

6.5 Penalty for under reporting and misreporting of income – section 270A

Under the existing provisions, penalty on account of concealment of particulars of income or furnishing inaccurate particulars of income is leviable under section 271(1)(c) of the Income-tax Act. In order to rationalize and bring objectivity, certainty and clarity in the penalty provisions, it is proposed that section 271 shall not apply and penalty be levied under the newly inserted section 270A.

- With effect from assessment year 2017-18.
- The new section 270A provides for levy of penalty in cases of under reporting and misreporting of income.
- Cases of misreporting or under-reporting has been specified in the said section.
- The procedure to determine the amount of under-reported or misreporting has been defined in section 270A.
- Penalty will be levied at the rate of 50% of the tax payable in case of under-reported income and 200% of the tax payable on misreported income.
- The tax payable in case of a company, firm, or local authority will be calculated as if the under-reported income is the total income. In any other case the tax payable shall be 30% of the under-reported income.
- No addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has formed the basis of imposition of penalty in the case of the person for the same or any other assessment year.

Interest, penalties and miscellaneous provisions

BEPS Action Plan- Country-By-Country Report and Master File

6.6 Immunity from imposition of penalty and prosecution under section 270A

An assessee may make an application to the Assessing Officer to grant immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C, if he fulfils the conditions specified under section 270AA.

An application under section 270AA shall be made within one month from the end of the month in which the order has been received and shall be made in such form and verified in such manner as may be prescribed.

The AO shall after expiry of the period of filing of appeal, grant immunity from imposition of penalty and initiation of prosecution proceedings, if penalty proceedings are not initiated on account of misreporting of income.

(W.e.f assessment year 2017-18)

6.7 Amendment in section 271AAB

It is proposed that flat rate of 60% of undisclosed income will be applicable.

(W.e.f assessment year 2017-18)

7. BEPS action plan – country-by-country report and master file

Sections 92 to 92F of the Act contain provisions relating to transfer pricing. Under provision of section 92D, there is requirement for maintenance of prescribed information and document relating to the international transaction and specified domestic transaction.

The OECD report on action 13 of BEPS action plan provides for revised standards for transfer pricing documentation and a template for country-by-country (CbC) reporting of income, earnings, taxes paid and certain measure of economic activity.

It is recommended in the BEPS report that the countries should adopt a standardized approach to transfer pricing documentation. A three-tiered structure consisting of three documents country-by-country report, master file and local file has been mandated.

- **Master file** containing standardized information relevant for all multinational enterprises (MNE) group members;
- **Local file** referring specifically to material transactions of the local taxpayer;
- **Country-by-Country report** containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

BEPS Action Plan- Country-By-Country Report and Master File

The elements relating to CbC reporting requirement and matters related to it proposed to be included through amendment of the Act are:

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

- the parent entity of an international group, if it is resident in India shall be required to furnish the report in respect of the group to the prescribed authority on or before the due date of furnishing of return of income for the assessment year relevant to the financial year (previous year) for which the report is being furnished;

- the parent entity shall be an entity which is required to prepare consolidated financial statement under the applicable laws or would have been required to prepare such a statement, had equity share of any entity of the group been listed on a recognized stock exchange in India;

- every constituent entity in India, of an international group having parent entity that is not resident in India, shall provide information regarding the country or territory of residence of the parent of the international group to which it belongs. This information shall be furnished to the prescribed authority on or before the prescribed date;

- the report shall be furnished in prescribed manner and in the prescribed form and would contain aggregate information in respect of revenue, profit & loss before Income-tax, amount of income-tax paid and accrued, details of capital, accumulated earnings, number of employees, tangible assets other than cash or cash equivalent in respect of each country or territory along with details of each constituent's residential status, nature and detail of main business activity and any other information as may be prescribed. This shall be based on the template provided in the OECD BEPS report on Action Plan 13;

- For non-furnishing of the report by an entity which is obligated to furnish it, a graded penalty structure would apply:-
  - if default is not more than a month, penalty of Rs. 5000/- per day applies;
  - if default is beyond one month, penalty of Rs 15000/- per day for the period exceeding one month applies;
  - for any default that continues even after service of order levying penalty either under (a) or under (b), then the penalty for any continuing default beyond the date of service of order shall be @ Rs 50,000/- per day;

(W.e.f assessment year 2017-18)

The Income Declaration Scheme, 2016

An opportunity is proposed to be provided to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totaling in all to forty-five per cent of such undisclosed income declared.

- The scheme is proposed to be brought into effect from 1st June 2016 and will remain open up to the date to be notified by the Central Government in the official gazette.

- The scheme is proposed to be made applicable in respect of undisclosed income of any financial year upto 2015-16.

- Tax proposed to be charged is 30%, surcharge of 7.5%, and a penalty of 7.5% of undisclosed income totaling to 45%.

- The rules also contains specified list of cases which are not eligible to claim the benefit of the scheme.

- No wealth tax will be levied on specified transactions declared under this scheme. Also, it is proposed that no scrutiny and enquiry shall be undertaken in respect of income or assets disclosed under this scheme.

- Immunity from prosecution and Benami Transactions (Prohibition) Act, 1988 subject to fulfillment of certain specified conditions.

Direct Tax Dispute Resolution Scheme, 2016

Litigation has been a major area of concern in direct taxes. In order to reduce the huge backlog of cases and to enable the Government to realize its dues expeditiously, it is proposed to bring the Direct Tax Dispute Resolution Scheme, 2016 in relation to tax arrears and specified tax.

- The scheme be applicable to "tax arrears" which is defined as the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016.

- The pending appeal could be against an assessment order or a penalty order.

- The declarant under the scheme be required to pay disputed tax at the applicable rate plus interest upto the date of assessment. However, in case of disputed tax exceeded Rs. 10 lakh, 25% of the minimum penalty leviable shall also be required to be paid.

- In case of pending appeal against a penalty order, 25% of minimum penalty leviable shall be payable along with the tax and interest payable on account of assessment or reassessment.

- Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.

- The declarant under this scheme will get immunity from prosecution or penalty proceedings.

The above benefits is not available for specified cases which are mentioned in the said rule. Further, no matter covered by order of designated authority shall be reopened in any other proceeding under the Income-tax Act, 1961 or Wealth-tax Act, 1957.

CENTRAL EXCISE AND SERVICE TAX

Central Excise Act, 1944

Central Excise:

Amendment to Section 5A: Power to grant exemption from duty of excise

The requirement of publishing and offering for sale any exemption notification issued, by the Directorate of Publicity and Public Relations of CBEC has been omitted.

Effective from the date of enactment of Finance bill 2016.

Amendment to section 11A: Recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded

In the following circumstances the period of limitation of 1 year has been increased to 2 years:

1. In case of duty of excise not been levied or paid or has been short-levied or short-paid or erroneously refunded, for any reason, other than the reason of fraud or collusion or any wilful mis-statement or suppression of facts or contravention of any of the provisions of this Act or of the rules made thereunder with intent to evade payment of duty serve a notice within 2 years (earlier 1 year) requiring the assessee to show cause.

2. Where the assessee either on his own ascertainment or on the basis of the ascertainment by the Central Excise Officer pays the duty along with interest and intimates the officer of such payment, then the Officer shall not service any notice on the assessee. However if the Officer is of the opinion that the amount paid by assessee is short then he may issue a notice to the assessee. The 2 years (earlier 1 year) period shall be computed from the date of receipt of intimation.

3. Where the service of notice is stayed by an order of the court or tribunal, the period of such stay shall be excluded in computing the period of 2 years (earlier 1 year).

4. In cases involving fraud, collusion etc., the Central Excise Officer shall determine the amount of duty within 2 years (earlier 1 year) from the date of the notice, where it is possible to do so.

Effective from April 1, 2016.

Amendment to Section 37B: Instructions to Central Excise Officers

Section 37B is being amended so as to empower the CBEC Board ***for implementation of any other provision of the said Act*** in addition to the powers to issue orders, instructions and directions for the purposes of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods.

Effective from April 1, 2016

Central Excise Act, 1944

Third Schedule to the Central Excise Act, 1944:

The following goods are additionally covered under Third Schedule which are generally valued under MRP based valuation under section 4A of the Act:

1. Soap, other than for toilet use, whether or not containing medicament or disinfectant; (Soaps for toilet use was already covered in the Third Schedule even prior to this amendment)

2. Soap, in or in relation to the manufacture of which no process has been carried on with the aid of power or of steam;

3. Laundry soaps produced by a factory owned by the Khadi and Village Industries Commission or any organization approved by the said Commission for the purpose of manufacture of such soaps

4. Synthetic detergents - Sulphonated castor oil, fish oil or sperm oil

5. Aluminum foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm (Effective from March 1, 2016)

6. Wrist wearable devices (commonly known as smart watches)

7. Accessories of vehicles (including chassis fitted with engines) under Chapter 87 excluding vehicles falling under headings 8712, 8713, 8715 and 8716. Parts, components and assemblies were already covered

8. Accessories of goods falling under tariff item 8426 41 00, headings 8427, 8429 and subheading 8430 10. Parts, components and assemblies were already covered

Effective from the date of enactment of Finance Bill 2016

Changes in rates

For list of changes in rates to items goods specified in the First Schedule and Second Schedule of Central Excise Tariff Act, 1985 please refer to Schedule VII, VIII and IX of the Finance Bill, 2016

Excise Notifications

Exemption from registration to Jeweler's under Central Excise:

Every person who is engaged in the manufacture or production of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 is eligible to take centralized registration instead of individual registration for each factory or premises if:

1. The manufacturer of such goods has a centralized billing or accounting system in respect of such specified goods manufactured or produced by different factories or premises;

2. Opts for registering only the factory or premises or office, from where such centralized billing or accounting is done and where the accounts/records showing receipts of raw materials and finished excisable goods manufactured or received back from job workers are kept.

3. For availing the above exemption, the manufacturer taking centralized registration shall give details of all premises (other than those of job worker's), from where the specified goods are removed for domestic clearance;

4. The manufacturer may also take separate registrations for all the factories or premises from where the accounts/records showing receipts of raw materials and finished goods manufactured or received back from job workers are kept.

5. Such persons are exempt from physical verification of premises by the Central Excise Officer at the time of such centralized registration.

Dutiability of above goods:
Excise duty of 1% (without Cenvat credit) or 12.5% (with Cenvat credit) is being levied on articles of jewellery [excluding silver jewellery, other than studded with diamonds/other precious stones] with a higher threshold exemption upto Rs.6 crores in a year and eligibility limit of Rs.12 crores. Thus, a jewellery manufacturer will be eligible for exemption from excise duty on first clearances upto Rs.6 crores during a financial year, if his aggregate domestic clearances during preceding financial year were less than Rs.12 crores. In other words, jewellery manufacturer having aggregate value of clearances in a financial year exceeding Rs.12 crores will not be eligible for this threshold exemption in the subsequent financial year. Necessary amendments have been made in notification No.8/2003-Central Excise, dated 01.03.2003 in this regard.

Effective from March 1, 2016

Infrastructure Cess

Infrastructure Cess is being levied on motor vehicles, of heading 8703 as under:

i. Petrol/LPG/CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc – 1%
ii. Diesel driven motor vehicle of length not exceeding 4m and engine capacity not exceeding 1500 cc – 2.5%
iii. Other higher engine capacity motor vehicles and SUVs and bigger sedans - 4%

Three wheeled vehicles electronically operated vehicles, Hybrid vehicles, Hydrogen vehicles based on fuel cell technology, Motor vehicles which after clearance have been registered for use solely as taxi, Cars for physically handicapped persons and motor vehicles cleared as ambulances or registered solely as ambulance will be exempt from this cess.

No credit of this cess will be available, and credit of no other duty can be utilized for payment of this cess.
Effective from March 1, 2016

Excise Notifications

Amendments to Central Excise Rules, 2002:

1. ***Interest on provisional assessments:*** Hitherto, interest was payable on difference between the amounts paid on the basis of provisional assessment and the final assessment order at the rates notified. However, with effect from March 1, 2016, interest would be payable even for delay in payment of duty on amounts paid under provisional assessment if the same has not been paid on due date as per Rule 8(1) of the Rules i.e., 6th of the succeeding month in which the goods are cleared/removed. So, interest would be payable from the due date till the date of payment even though the duty was paid before the final assessment of duty liability by the authority. (Effective from March 1, 2016)

2. ***Quarterly payment benefit extended to jewellery manufacturers:*** Every person who is engaged in the manufacture or production of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 shall

   be eligible pay duties quarterly if the aggregate value of clearances of all excisable goods for home consumption in the preceding financial year did not exceed Rs.12 crores. (Effective from April 1, 2016)

3. ***Self-attestation of duplicate invoice removed:*** the requirement of the duplicate hard copy of the invoice provided to the transporter to be self-attested by the manufacturer has been dispensed off. With effect from March 1, 2016, the digitally signed duplicate copy can be printed and handed over to the transporter without being self-attested by the manufacturer. (Effective from April 1, 2016)

4. ***Annual returns in ER4:*** Changes have been made in respect of filing ER4 – Annual financial information statement. It is renamed as Annual Return. The format of new annual returns is to be introduced. We have to wait and see whether the details contained in erstwhile ER4 are the same or any changes are made to the same once the same is published. This applies even to 100% EOUs. (Effective from April 1, 2016)

5. ***No requirement to file ER7 returns:*** The requirement to file annual installed capacity statement by 30th April has been dispensed with. (Effective from April 1, 2016)

6. ***Introduction of revision of returns under Central Excise:*** ER1(manufacturer), ER2 (EOU) and ER3 (SSI) returns filed by the assessee's are eligible to submit a revised return by the end of the calendar month in which the original returns are filed. Annual returns in ER4 are also permitted to be revised within 1 month from the date of submission of original return. Accordingly, the relevant date for the purpose of recovery of duties under section 11AC of the Act shall be from the date of filing such revised returns. This provision shall come into force from such date as the Central Government may, by notification, specify.

Excise Notifications

Changes in abatement in case of MRP based products:

The revised abatements for the following goods are listed below:

Chapter heading	Description	Abatement as a % of MRP
3401	Soap; organic surface-active products and preparations for use as soap, in the form of bars , cakes , moulded pieces or shapes , whether or not containing soap; organic surface-active products and preparations for washing the skin, in the form of liquid or cream and put up for retail sale, whether or not containing soap; paper, wadding, felt and nonwovens, impregnated, coated or covered with soap or detergent	30%
3402	Organic surface-active agents (other than soap), surface-active preparations, washing preparations (including auxiliary washing preparations) and cleaning preparations, whether or not containing soap, other than those of heading 3401	30%
7607	Aluminum foil (whether or not printed or backed with paper, paperboard, plastics or similar backing materials) of a thickness (excluding any backing) not exceeding 0.2 mm	25%
8517 62	Wrist wearable devices (commonly known as smart watches)	35%
Any heading	Parts, components, accessories and assemblies of vehicles (including chassis fitted with engines) falling under Chapter 87 excluding vehicles falling under headings 8712, 8713, 8715 and 8716	30%
Any heading	Parts, components, accessories and assemblies of goods falling under tariff item 8426 41 00, headings 8427, 8429 and sub-heading 8430 10	30%

Effective from March 1, 2016.

Amendments to Cenvat Credits Rules

Capital goods and input definition amended:

1. Wagon wheels covered under sub-heading 860692 have specifically been added to the definition of capital goods so as to allow cenvat credit on the same.

2. Previously there was confusion whether cenvat credit of equipments/appliances used in an office if the same was located inside the

Amendments to Cenvat Credits Rules

factory. To put this to rest, capital goods definition is now amended to allow cenvat credit on equipment(s)/appliances used in an office situated inside the factory (provided that the asset satisfies the definition of the term Capital goods defined in the rules).

3. Cenvat credit on capital goods and inputs used for pumping of water for captive use in factory is eligible.

4. Input definition has been amended to include capital goods whose value is upto Rs. 10,000/- per piece. This is done to allow the assessee's to claim full cenvat credit of capital goods valuing less than Rs.10,000/- instead of deferring 50% to the next year as applicable to capital goods.

Effective from April 1, 2016

Exempted services amended to exclude transportation of goods by a vessel:

Earlier, only exports were excluded from the definition of exempt services. Exempt services attain importance as Cenvat credits proportionate to exempt services become ineligible and are required to be reversed or paid by the assessee.
For this purpose transportation of goods by a vessel from customs station of clearance in India to a place outside India is considered not to be an exempt service, thereby such service providers would be eligible to claim cenvat credits on both inputs and input services in provision of such output services.

Effective from March 1, 2016

Cenvat credit on capital goods:

The benefit of 100% cenvat credit on capital goods currently available to SSI units is now extended to an assessee engaged in the manufacture or production of articles of jewellery, other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985 provided the aggregate value of clearances of all excisable goods for home consumption in the preceding financial years is not exceeding Rs.12 crores.

Effective from March 1, 2016

Cenvat credit on tools:

Manufacturer of final products is allowed to take cenvat credit on tools falling under chapter 82 of Central Excise Tariff in addition to credit on jigs, fixtures, moulds and dies, when intended to be used in the premises of the job worker or another manufacturer who manufactures the goods as per the specification of the manufacturer of final product (even if the tools etc., are sent directly to the place of such job worker or another manufacturer without bringing it to the factory of the manufacturer of final product).

Effective from April 1, 2016

Amendments to Cenvat Credits Rules

Extension of period of validity of permission for sending inputs for job work:

Currently, the permission given by the Assistant Commissioner or Deputy Commissioner to a manufacturer of final products for sending inputs or partially processed inputs outside the factory to a job worker and clearance from there directly on payment of duty is valid for a financial year. The period of 1 year has been extended to 3 years thereby reducing the need for obtaining the license on a yearly basis.

Effective from April 1, 2016

Cenvat credit on assignments contracts:

Service tax is proposed to be charged on the assignment of rights by the Government or any other person of radio-frequency spectrum, mines etc. In such cases, service tax paid by such receiver of service is not allowed as credit in one year, instead is to be deferred and to be taken pro-rata based on the period of the right/license.

It is further provided that if such person to whom the right is assigned further assigns it to another person for consideration, the balance un-availed credit can be availed in the same financial year subject to maximum of service tax payable on such consideration. It is also provided that if any periodical payments like user charges paid to the Government or any other person, credit can be availed in the same financial year without deferring to the future.

Effective from April 1, 2016

Reversal of Cenvat credit availed on inputs/input services used for exempt activity:

Cenvat credit provisions for reversal of credit in respect of inputs and input services used in manufacture of exempted goods or provision of exempted services are simplified and rationalized:

1. Credit on inputs and input services used exclusively for manufacture of exempted goods or for provision of exempted services shall not be available. Non-excisable goods and activity which is not service as defined under section 65B (44) of Finance Act, 1994 will be considered as exempted goods and exempted service respectively.

2. Full credit on inputs and input services used exclusively in final products or output services shall be available.

3. Common credit attributable towards exempted goods and exempted services shall be computed and reversed as specified

4. Banking and final institutions including a NBFC will be allowed to either opt for payment of 7% of value of exempted services or pro-rata reversal or reversal of 50% of the cenvat credit availed.

5. Cenvat credit of capital goods used for manufacture of exempted goods/services for a period of two years shall not be available.

6. If duty is paid on exempted goods covered under notification 1/2011 CE, the same shall be reduced from the amount payable under Rule 6(3A).

7. In case of transportation of goods or passengers by rail, the amount required to be paid under Rule 6 shall be an amount equal to 2% of the value of the exempted services.

8. Interest for non reversal under this Rule is calculated at the rate of 15% p.a.

Effective from April 1, 2016

Distribution of credits by ISD rationalized:

Rule 7 of the CCR, dealing with distribution of cenvat credit on input services revamped to allow distribution of the credit to an **outsourced manufacturing unit**. Further, it is now clearly prescribed that Rule 6 reversals will not be applicable at Input Service Distributor stage. For the purpose of this rule, the outsourced manufacturing unit is defined as under:

"A job-worker who is liable to pay duty on the value determined under rule 10A of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 on the goods manufactured for the input service distributor or a manufacturer who manufactures goods, for the input service distributor under a contract, bearing the brand name of such input service distributor and is liable to pay duty on the value determined under section 4A of the Excise Act."

Effective from April 1, 2016

New Rule 7B inserted to provide dealer registration status to a warehouse:

This rule is inserted to enable manufacturers with multiple manufacturing units to maintain a common warehouse for inputs and distribute input credits to the individual manufacturing units. The manufacturing facility having one or more factories shall be allowed to take credit on inputs received under the cover of an invoice issued by such warehouse of the said manufacturer, which receives inputs under cover of an invoice towards the purchase of such inputs. It is clarified that procedures applicable to first and second stage dealer would be applicable to such warehouse.

Effective from April 1, 2016

Amendments to Cenvat Credits Rules

Document on the basis of which cenvat can be availed extended:

Currently, only an invoice issued by a manufacturer is a valid document for the purpose of availment of cenvat credit on inputs and capital goods. However, the same benefit has been extended to invoices issued by a service provider too. Accordingly, an invoice issued by a service provider for clearance of inputs or capital goods shall be a valid document to avail cenvat credit.

Effective from April 1, 2016

FIFO method of utilization of Cenvat credit omitted:

Rule 14 prescribed that FIFO method should be used in determining the utilization of cenvat credit. The said provision has been omitted through this Finance Bill. Going forward, whether a particular credit has been utilized or not shall be ascertained by examining whether sufficient balance of cenvat credit is available in the account during the period under consideration.

Effective from April 1, 2016

Miscellaneous

Time limit for filing refund claim to service exporters clarified:

Hitherto, there was no specific provision either in Notification 27/2012 CE NT nor in Rule 5 (refund of Cenvat credit), clearly specifying what is the time limit applicable in case of claiming refund of cenvat credits in case of service exporters. It had referred to section 11B of Central Excise Act, which defined 1 year from the date of export of goods. There were pile up of litigations in this area. To overcome this, notification 27/2012 CE NT dealing with export procedures has been amended.

Now the period of 1 year has to be computed from the following date:

a. receipt of payment in convertible foreign exchange, where provision of service had been completed prior to receipt of such payment; or

b. Issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice.

Effective from March 1, 2016

Reduction in rate of interest:

The prevailing rate of interest of 18% for delayed payment of excise duty has been reduced to 15% as a major relief to the manufacturers.

Effective from April 1, 2016

Miscellaneous

Amendments to Jumbo exemption notification under Central Excise – Refer Notification 12/2016 CE

Effective from March 1, 2016

Single registration for multiple units:

Currently, if two or more premises of the same factory are separated by public road etc., the Commissioner may allow single registration subject to conditions specified in Notification No.34/2001 CE NT.

Now, the amendment has been made to liberalize the registration process allowing single registration for multiple units subject to the following conditions:

1. Premises of the same factory are located within a close area in the jurisdiction of a Range Superintendent
2. The manufacturing process undertaken therein are interlinked and the units are not operating under any of the area based exemption notifications
3. Proper accountal of the movement of goods from one premise to other and such other conditions and limitations as he may impose, allow single registration.

Effective from March 1, 2016

Rules for concessional rate of duty simplified:

Central Excise (Removal of goods at concessional rate of duty for manufacture of excisable goods) Rules, 2001 has been proposed to be replaced with Central Excise (Removal of goods at concessional rate of duty for manufacture of excisable and other goods) Rule, 2016 with simplified provisions.

Effective from April 1, 2016

Rebate notification amended to insert time limit:

A time limit of 1 year has been inserted for making the rebate claim. The amendment has been made after courts had held that time limit of 1 year does not apply to rebate claim.

Effective from March 1, 2016

Miscellaneous

Exemptions contained in the following notifications shall not be applicable to:

1. A new industrial new industrial unit engaged in production of refined gold or silver from gold dore, silver dore or any other raw material, which commences commercial production on or after 1st of March, 2016;

2. An existing industrial unit as on 1st of March, 2016, which undertakes substantial expansion of existing capacity or installs fresh plant, machinery or capital goods for production of gold or silver from gold dore, silver dore or any other raw material, by using such expanded capacity or such fresh plant, machinery or capital goods, and commences commercial production from such expanded capacity or such fresh plant, machinery or capital goods, on or after 1st March, 2016.

List of notifications:

1. **56/2002 CE** - Jammu, Kashmir and Udhampur — Exemption to units located in Industrial Growth Centre, Industrial Infrastructure Development Centre or Export Promotion Industrial Park or Industrial Estate or Industrial Area or Commercial Estate or Scheme Area

2. **57/2002 CE** - Jammu and Kashmir — Exemption to specified goods cleared from a unit located in J &K

3. **20/2007 CE** - North-East — Exemption to all goods, except as specified, cleared from Assam, Tripura, Meghalaya, Mizoram, Manipur, Nagaland, Arunachal Pradesh or Sikkim from duty paid other than by utilisation of Cenvat credit

4. **01/2010 CE** - Jammu and Kashmir — Exemption to all goods other than specified cleared from specified units in J&K

Effective from March 1, 2016

Exemptions to an existing industrial unit

Exemptions contained in the following notifications shall not be applicable to an existing industrial unit as on 1st of March, 2016, which undertakes substantial expansion of existing capacity or installs fresh plant, machinery or capital goods for production of gold or silver from gold dore, silver dore or any other raw material, by using such expanded capacity or such fresh plant, machinery or capital goods, and commences commercial production from such expanded capacity or such fresh plant, machinery or capital goods, on or after 1st March, 2016

1. **32/1999 CE** - Exemption from additional duty of excise to goods cleared from a unit located in the Growth Centre of Integrated Infrastructure Development Centre or Export Promotion Industrial Park or Industrial Estates or Industrial Area or Commercial Estates

2. **33/1999 CE** - Specified goods of factories in North East — Exemption

3. **56/2003 CE** - Sikkim — Exemption to specified goods cleared from units located therein from excise duty other than duty paid on account of Cenvat credit

4. **71/2003 CE** - Sikkim — Exemption to other than specified goods cleared from unit in Industrial Growth Centre or Industrial Infrastructure Development Centre or Export Promotion Industrial Park or Industrial Estate or Industrial Area or Commercial Estate or Scheme Area, from excise duty other than duty paid on account of Cenvat credit

5. **49/2003 CE** - Uttaranchal and Himachal Pradesh — Exemption to specified goods cleared from units located therein

6. **50/2003 CE** - Uttaranchal and Himachal Pradesh — Exemption to other than specified goods cleared from units located in the Industrial Growth Centre or Industrial Infrastructure Development Centre or Export Promotion Industrial Park or Industrial Estate or Industrial Area or Commercial Estate or Scheme Area

Effective from March 1, 2016

Excise duty on readymade garments

Excise duty of 2% (without Cenvat) or 12.5% (with Cenvat) is being levied on readymade garments and made up articles of textiles falling under Chapter 61, 62 and 63 except 6309 and 6310 of retail sale price of Rs.1000 and above when they bear or are sold under a brand name. The optional levy would apply to such readymade garments and made up articles of textiles regardless of the composition of the garment/textile.

However, in respect of readymade garments and made up articles of textile other than those mentioned above, the optional levy of Nil (without Cenvat) or 6% (with Cenvat) in case of garments/articles of cotton not containing any other textile material and Nil (without Cenvat) or 12.5% (with Cenvat) in case of garments/articles of other composition would be continued.

Effective from March 1, 2016

Statutory Provisions

Service Tax

Education services:

Services by way of:

1. pre-school education and education up to higher secondary school or equivalent;
2. education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force;
3. education as a part of an approved vocational education course;

Hitherto was in the negative list, hence not taxable under service tax. The current Finance Bill proposes to remove the above services from the negative list. However, the services provided by educational institutions to its students, faculty and staff was already covered under SI No. 9 of mega exemption notification 25/2012 ST.

Consequently the definition of the term Approved vocational education course appearing in the statute has been omitted and inserted in the mega exemption notification.

Effective from the date of enactment of the Bill

Change in explanation to definition of service in connection with lottery

Transactions in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind on behalf of State Government is proposed to be excluded from "transaction in money or actionable claim". Thereby such activity would get covered under the definition of the term "service" and accordingly taxable.

Effective from the date of enactment of the Bill

Omission of stage carriage service from negative list:

Service of transportation of passengers by a stage carriage accompanied with or without belongings is removed from the negative list. However, non-air conditioned stage carriage is now covered under the exemption. Consequently air conditioned stage carriage would become a taxable service.

Abatement with regards to air conditioned stage carriage service is discussed further in the document.

Effective from June 1, 2016

Omission of transportation of goods by an aircraft or vessel from negative list:

Service of transportation of goods by an aircraft or vessel from a place outside India upto the customs clearance in India is removed from the negative list.

Statutory Provisions

However, services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India is now covered under the exemption.

Consequently, domestic shipping lines registered in India will pay service tax in India whereas the services availed from foreign shipping line by a business entity located in India will get taxed under reverse charge.

Effective from June 1, 2016

Scope of declared services widened:

Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is proposed to be declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment by Government of the right to use the spectrum as well as subsequent transfers of assignment of such right to use is a service leviable to service tax and not sale of intangible goods (As clarified in TRU letter – ST). We will have to wait and see whether the state VAT departments accept this proposition of not taxing the right to use such intangible goods under respective state VAT laws.

Effective from the date of enactment of the Bill

Point of Taxation:

Section 67A is proposed to be amended to obtain specific rule making powers in respect of Point of Taxation Rules, 2011. Point of Taxation Rules, 2011 is being amended accordingly. The amendment in the rules would come into force with effect from the date of enactment of the Finance Bill, 2016.

Effective from the date of enactment of the Bill

Period of limitation for issuance of show cause notice:

The limitation period for recovery of service tax not levied or paid or short- levied or short paid or erroneously refunded, for cases not involving fraud, collusion, suppression etc. is proposed to be enhanced by one year, that is, from eighteen months to thirty months by making suitable changes to section 73 of the Finance Act, 1994.

Effective from the date of enactment of the Bill

Change in rate of interest on delayed payment of service tax:

The prevailing rate of interest for delayed payment of service tax was as under;

Statutory Provisions

SI No.	Period of delay	Rate of interest
1	Up to six months	18 per cent
2	More than six months and up to one year	18 % for the first six months of delay and 24 % for the delay beyond six months
3	More than one year	18 % for the first six months of delay; 24 % for the period beyond six months up to one year and 30 per cent. for any delay beyond one year

The proposed rate of interest for delayed payment of service tax is as under:

Sl No.	Situation	Rate of simple interest
1	Amount collected as service tax but failing to pay the amount so collected to Government on or before the date on which such payment becomes due.	24%
2	Other than in situations covered under serial number 1 above.	15%

Provided that in the case of a service provider, whose value of taxable services provided in a financial year does not exceed Rs.60 Lakhs, then the interest rate shall be reduced by 3%.

In case the amount of service tax is collected in excess and not remitted to the department, then the rate of interest has been increased from 15% to 18%.

Effective from the date of enactment of the Bill

Penalty proceedings on directors

It is proposed to provide that penalty proceedings under section 78A shall be deemed to be closed in cases where the main demand and penalty proceedings have been closed under sections 76 or 78, by making suitable changes to section 78A by addition of an explanation.

Effective from the date of enactment of the Bill

Revision in the monetary limit for filing complaints for punishable offences:

The base amount involved in any of the offences as mentioned below:-

a. Knowingly evades payment of tax,
b. Avails and utilises credit of taxes without actual receipt of services,
c. Maintains false books of accounts,
d. Collects any amount as service tax but fails to remit has been increased from Rs.50,00,000/- to Rs.2,00,00,000/-

Effective from the date of enactment of the Bill

Statutory Provisions

Power to arrest:

The power to arrest in service tax law is proposed to be restricted only to situations where the tax payer has collected the tax but not deposited it with the exchequer, and amount of such tax collected but not paid is above the threshold of Rs 2 crores. Sections 90 and 91 of the Finance Act, 1994 are being amended accordingly.

Effective from the date of enactment of the Bill

Rate of rebate:

The rate of rebate granted where any goods or services are exported, the central government may grant rebate of service tax paid on taxable services which are used as input services, shall be the rate specified in the notification in the official gazette or rules made thereunder.

Effective from the date of enactment of the Bill

Service Tax exemption to canal, dam or other irrigation works with retrospective effect:

No service tax shall be levied or collected in respect of taxable services provided to an authority or a board set up by an act of parliament or state legislature or established by government to carry out functions entrusted to a municipality by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works for the period from July 1, 2012 to January 30, 2014. In case any service tax has already been collected refund for the same shall be made provided that the application for the claim shall be made within 6 months from the date on which Finance Bill receives the assent of the President.

Restoration of certain exemptions withdrawn last year for projects, contracts in respect of which were entered into before withdrawal of the exemption:

No service tax shall be levied or collected during the period from April 1, 2015 to February 29, 2016 in respect of taxable services provided to the Government, a local authority or a Governmental authority, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of –

a. Civil structure or any other original works used for other than commerce, industry or any other business or profession;

b. Structure meant predominantly for use as-
   (i) An educational establishment
   (ii) A clinical establishment or,
   (iii) An art or cultural establishment;

c. A residential complex meant for self-use or for the use of their employees or other persons as specified in explanation 1 to clause(44) of section 65B of the said act,

Statutory Provisions

Provided that the contact is entered into before March 1, 2015 and appropriate stamp duty has been paid before that date.

In case any service tax has already been collected refund for the same shall be made provided that the application for the claim shall be made within 6 months from the date on which finance bill receives the assent of the President.

The said services were earlier exempt but withdrawn w.e.f April 1, 2015 is now proposed to be restored.

Special provision for exemption of certain cases relating to construction of Airport or Port

No service tax shall be levied or collected during the period from April 1, 2015 to February 29, 2016 in respect of taxable services provided by way of construction, erection, commissioning, installation, etc of original works pertaining to airport or port, under a contract entered before March 1st, 2015 with payment of appropriate stamp duty. Provided that Ministry of Civil aviation or Ministry of shipping certifies that the contract had been entered before March 1, 2015.

In case any service tax has already been collected refund for the same shall be made provided that the application for the claim shall be made within 6 months from the date on which finance bill receives the assent of the President.

Retrospective effect to notification No. 01/2016- ST

Notification No. 41/2012- ST, dated the 29th June, 2012 was amended vide notification No.1/2016-ST dated 3rd February, 2016 so as to, inter alia, allow refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods, for export of the said goods. The said amendment is being given retrospective effect from the date of application of the parent notification, i.e., from 01.07.2012. Time period of one month is proposed to be allowed to the exporters whose claims of refund were earlier rejected in absence of amendment carried out vide notification No.1/2016-ST dated 3rd February, 2016.

Krishi Kalyan Cess

Krishi Kalyan Cess

An additional cess of 0.5% has been imposed as service tax on the value of all the taxable services for the purposes of financing and promoting initiatives to improve agriculture. Such cess shall be on the taxable value of service and is in addition to the existing service tax of 14% and swach bharat cess of 0.5%. So the effective rate of service tax including the cesses would be 15%.

The provisions of Chapter V of the Finance Act, 1994 and the rules made thereunder, including those relating to refunds and exemptions from tax, interest and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Krishi Kalyan Cess on taxable services, as they apply in relation to the levy and

collection of tax on such taxable services under the said Chapter or the rules made thereunder, as the case may be.

Unlike Swachh Bharat Cess, Krishi Kalyan Cess is Cenvatable. However, such credits can be utilised for payment of only Krishi Kalyan Cess. The consequential amendment in the Cenvat credit Rules are yet to be made.

Effective from June 1, 2016

Change in the rates of Abatement Notification 8/2016

Sl. No. as per 26/2012	Description	Rate of Abatement	Conditions
1	Transport of goods by rail (other than Transport of goods in containers by rail by any person other than Indian Railways)	70%	Cenvat credit on inputs and capital goods, used for providing the taxable service, has not been taken
2	Transport of goods in containers by rail by any person other than Indian Railways	60%	Cenvat credit on inputs and capital goods, used for providing the taxable service, has not been taken
3	Transport of passengers, with or without accompanied belongings by rail	70%	Cenvat credit on inputs and capital goods, used for providing the taxable service, has not been taken
4	Services of goods transport agency in relation to transportation of goods other than used household goods.	70%	Cenvat credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken
5	Services of goods transport agency in relation to transportation of used household goods.	60%	Cenvat credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken
6	Services provided by a foreman of chit fund in relation to chit	70%	Cenvat credit on inputs, capital goods and input services, used for providing the taxable service has not been taken
7	Transport of passengers, with or without accompanied belongings, by- (a) A contract carriage other	60%	Cenvat credit on inputs, capital goods and input services, used for providing the taxable service has not been taken

	than motor cab (b) Radio taxi (c) a stage carriage ***Effective from June 1, 2016***		
8	Transport of goods in a vessel	70%	Cenvat credit on inputs and capital goods, used for providing the taxable service, has not been taken
9	Services by a tour operator in relation to,- (i) a tour, only for the purpose of arranging or booking accommodation for any person	90%	i) Cenvat credit on inputs, capital goods and input services other than input services of a tour operator, used for providing the taxable service, has not been taken under the provisions of the Cenvat Credit Rules, 2004. (ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, includes only the service charges for arranging or booking accommodation for any person but does not include the cost of such accommodation.
	(ii) tours other than (i) above	70%	(i) Cenvat credit on inputs, capital goods and input services other than input services of a tour operator, used for providing the taxable service, has not been taken under the provisions of the Cenvat Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour and the amount charged in the bill is the gross amount charged for such a tour.
10	Construction of a complex, building, civil structure or a part thereof, intended for a sale to a buyer, wholly or partly except where entire consideration is received after issuance of completion certificate by the competent authority	70%	(i) Cenvat credit on inputs used for providing the taxable service has not been taken under the provisions of the Cenvat Credit Rules, 2004. (ii) The value of land is included in the amount charged from the service receiver.

In case of renting of motor cab, amount charged shall be = Amount charged for the service + fair market value of all goods (including fuel) + services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract.

Effective from April 1, 2016, unless otherwise specified

Amendment to mega exemption notification:

1. **Legal service:** Exemption to legal services are not available to services provided by senior advocates except if such services are provided to a person other than a person ordinarily carrying out any activity relating to industry, commerce or any other business or profession.
   Senior advocate has the meaning assigned to it in section 16 of the Advocates Act, 1961.
   Exemption available to all the persons representing in Arbitral Tribunal providing services to Arbitral Tribunal has been withdrawn.

2. **New exemption to education service:**
   a. Services provided by Indian Institute of Management by way of 2 year full time residential course, fellow programme in management and 5 year integrated programme in management. **(effective from March 1, 2016)**
   b. Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative (SDI) Scheme
   c. Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by National Council For Vocational Training.

3. **Exemption to services provided to Government**: by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of –
   a. Civil structure or any other original works used for other than commerce, industry or any other business or profession;
   b. Structure meant predominantly for use as-
      i. An educational establishment
      ii. A clinical establishment or,
      iii. An art or cultural establishment;
   c. A residential complex meant for self-use or for the use of their employees or other persons as specified in explanation 1 to clause(44) of section 65B of the said act,

   Provided that the contact is entered into before March 1, 2015 and appropriate stamp duty has been paid before that date.

   This exemption is available only upto March 31, 2020

4. **Exemption to construction services:**
   a. Housing projects under Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana.
   b. Low cost houses up to a carpet area of 60 square metres in a housing project under “Affordable housing in Partnership” component of Pradhan Mantri Awas Yojana.

c. Low cost houses up to a carpet area of 60 square metres in a housing project under any housing scheme of the State Government.
d. Withdrawal of exemption to services relation to monorail or metro except in case of contracts entered prior to March 1, 2016.
e. Original works pertaining to an airport or port provided under a contract which had been entered into prior to 1st March, 2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date. This exemption is available only upto March 31, 2020.

5. **Services by an artist:** Exemption limit is increased to Rs.1.5 lakhs from Rs.1 lakh.

6. Exemption to stage carriage other than air conditioned

7. Exemption to ropeway, cable car or aerial tramway is now removed

8. Exemption to general insurance business provided under Niramaya-Health Insurance Scheme

9. Exemption to services of life insurance business provided by way of annuity under the National Pension System

10. Exemption to services provided by Employees "Provident Fund Organisation (EPFO) to persons governed under Employees" Provident Funds and Miscellaneous Provisions Act, 1952

11. Exemption to services provided by IRDA to insurers under IRDA Act

12. Exemption to services provided by SEBI by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market

13. Exemption to services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer's Welfare by way of cold chain knowledge dissemination

14. Exemption to services by way of transportation of goods by an aircraft from a place outside India upto the customs station of clearance in India w.e.f June 1, 2016

Effective from April 1, 2016 unless otherwise specified

Point of Taxation (Amendment) Rules, 2016:

Explanation has been inserted to rule 5 to clarify that this rule needs to be applied in case of new levy on services and that the exclusion to pay service tax on new levy or tax shall be only on fulfilment of conditions as provided in Rule 5.

Effective from March 1, 2016

Service tax Notifications

Exemption of service in relation to Information Technology Software:

With effect from 21.12.2010, media falling under Chapter 85 with recorded information technology software has been notified under section 4A of the Central Excise Act. Accordingly, Central Excise duty/CVD is to be paid on the value of such media with recorded information technology software and the assessable value of such media is required to be determined on the basis of the retail sale price (RSP) affixed on the package of such media under the Legal Metrology Act, 2009 (1 of 2010) or the rules made there under. In respect of transactions involving supply of such media bearing RSP, not amounting to sale/deemed sale, service tax is being exempted. Thus, only Central Excise duty is levied on such transactions.

In certain situations like delivering customised software on media, such media with recorded information technology software is not required to bear the RSP when supplied domestically or imported. Difficulties are being experienced in the assessment of such media to Central Excise duty/CVD besides giving rise to the issue of double taxation – levy of Central Excise duty/CVD as well as service tax. In order to resolve the issue, media with recorded information technology software which is not required to bear RSP, is being exempted from so much of the Central Excise duty/CVD as is equivalent to the duty payable on the portion of the value of such information technology software recorded on the said media, which is leviable to service tax. In such cases, manufacturer/importer would therefore be required to pay Central Excise duty/CVD only on that portion of value representing the value of the medium on which it is recorded along with freight and insurance. The exemption is subject to the fulfilment of certain conditions. Thus, the levy of Central Excise duty/CVD and service tax will be mutually exclusive.

Effective from March 1, 2016

Support service by Government:

The word support service has been removed in the reverse charge notification, thereby all services provided by Government to a business entity is under reverse charge mechanism.

Effective from April 1, 2016

Services provided by aggregator – person liable to pay tax:

In relation, to service provided or agreed to be provided by a person involving an aggregator in any manner, the aggregator of the service.

Provided that if the aggregator does not have a physical presence in the taxable territory, any person representing the aggregator for any purpose in the taxable territory shall be liable for paying service tax;

Provided further that if the aggregator does not have a physical presence or does not have a representative for any purpose in the taxable territory, the aggregator shall

Service tax Notifications

appoint a person in the taxable territory for the purpose of paying service tax and such person shall be liable for paying service tax

Effective from April 1, 2016

Reverse charge Mechanism:

1. Services provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or an asset management company is omitted under RCM. Hence service tax shall be paid by a mutual fund agent or distributor. The TRU circular states that if the total taxable services provided by a mutual fund agent are below Rs.10 Lakhs, such agent shall be exempted provided he is not providing services under the name of any asset management company.
2. In case services are provided or agreed to be provided by a selling or marketing agent of lottery tickets in relation to a lottery in any manner to a lottery distributor or selling agent of the State Government under the provisions of the Lottery (Regulations) Act, 1998 (17 of 1998), 100% liability for payment of service tax shall be on the service recipient.

3. Legal Services provided or agreed to be provided by a firm of advocates or an individual advocate other than senior advocate, to a business entity having turnover more than Rs. 10 lakhs. Full service tax has to be paid by such business entity.

Effective from April 1, 2016

Amendment to Service Tax Rules:

1. The benefit of payment of service tax quarterly has been extended to One Person Company who aggregate value of taxable service is less than Rs.50 lakhs in the previous year. Consequently even the benefit of payment of service tax on receipt basis is extended to such person.
2. Annual returns filing as amended in the Central Excise Law has been made accordingly in the Service Tax Rules.
3. In case of amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing service, the rate of service tax would be 1.4% of the single premium charged from the policy holder.

Effective from April 1, 2016

Dispute Resolution Scheme

Indirect tax Dispute Resolution Scheme, 2016, wherein a scheme in respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty, interest and penalty equivalent to 25% of that imposed, can file a declaration, is being introduced. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution. However, this scheme will not apply in certain specified type of cases.

The scheme is applicable to declarations made upto December 31, 2016.

Effective from June 1, 2016

THANK YOU