

INDIA  
**BUDGET**  
2015

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This booklet summarises the important proposals included in the budget speech made by the Honourable Finance Minister on 28th February, 2015. Whilst every care has been taken in the preparation of this document it may contain inadvertent errors for which we shall not be held responsible. It must be stressed that the Finance Bill may contain proposals which have not been referred to in the budget speech and additionally, the detailed proposals are liable to amendment during the passage of the Finance Bill through Parliament. The information given in this document provides a bird's-eye view on the changes proposed and should not be relied for the purpose of economic or financial decision. Each such decision would call for specific reference of the relevant statutes and consultation of an expert.

# Foreword.....

Most eagerly awaited Budget of the recent times was presented by the Honourable Finance Minister, Shri Arun Jaitley, on February 28, 2015, as his first full – year Budget, seeking to put Asia's third largest economy on a path of 7-8 percent growth over the next two years. It was envisaged that Budget would lay down a road map for second generation reforms giving spurt to the goals which are essential for reviving Indian economy.

Budget was expected to begin the long awaited take-off, focus on the objectives of sharply improving efficiency of public expenditure and government flagship programs to benefit the common man. A clear political mandate for reforms and a benign external environment could have encouraged Finance Minister to make Budget policies in direction of enabling India to double digit growth trajectory.

Falling crude oil prices and its impact on the trade deficit, falling inflation and the recent trend of falling interest rates - along with a robust stock market which enables fundraising by disinvestment in public sector undertakings - helped ease the pressure on the government's fiscal balances. Equity markets touched new highs, riding on a surge in overseas inflow, as a result of gradual rejuvenation in the confidence of investors towards Indian equities.

Fall in the earnings of the country's top 100 companies by 6 per cent in last quarter, weakening private investment and consumer demand, fall in merchandise export, subdued GDP growth below 5 per cent for seven successive quarters, stagnant growth for two successive years to the index of industrial production and fall in domestic savings rate were amongst major serious concerns for the government at the time of formulating Budget policies.

The government's endeavour to adhere to medium term fiscal deficit target of 3% of the GDP could have left little space for incorporating populist measures. This will also augur well, however, to meet with the objectives of the government to have fiscal policy in direction of supporting and improving the effectiveness of monetary policy stabilising economic fluctuations and to ensure sustainable public finances that support confidence in the economy and promote intergenerational fairness.

Finance Minister Arun Jaitley announced a 5 per cent

reduction in corporate tax over next 4 years, 100 per cent exemption for contribution to Swachh Bharat, apart from CSR, abolished wealth tax and replaced it with an additional 2 per cent surcharge on super rich individuals. He deferred GAAR (General Anti-Avoidance Rules) that aims to minimise tax avoidance, by two years and confirmed that the GST will be implemented by April, 2016. While he cut customs duty for 22 items and special additional duty has been done away with, he rounded off the excise duty rate to 12.5 per cent from 12.36 per cent and hiked service tax rate to 14 per cent from 12.36 per cent.

The Finance Minister announced plans for a new law to tackle black money with tough measures. Under the proposed law to be tabled before the Parliament in near future, concealment of income and assets & evasion of tax in relation to foreign assets will be prosecutable with rigorous imprisonment of up to 10 years along with disincentivising of cash dealings in real estate and other transactions.

Real GDP growth is expected to be 7.4 per cent making India the fastest growing economy in the world. Budget lays down a roadmap to achieve fiscal deficit of 3 per cent in the next two years.

Budget sketches out a number of schemes for providing physical aids for senior citizens living below poverty line, 'Nayi Manzil' scheme for the youth minorities, 'Pradhan Mantri Suraksha Bima Yojana' for social security system for all Indians, insurance and pension schemes are some of the string of sops introduced for the welfare of people. With a view for creating more monetary benefit for people, Budget introduces gold monetisation scheme to allow depositors to earn interest.

This Budget points towards transformation of India, giving people greater assurance at each stage of life, more opportunities and a better home for all. Budget 2015 takes India into the future – a future that creates a new competitive strength, promoting innovation, strengthen assurance and enhance support for common man. Budget 2015 seems to be the beginning which will imprint the turn of the tide, though it is not all flowers (Phool) but some thorns (Katas) do remain!

Saturday, February 28, 2015  
Mumbai  
INDIA

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01



# POLICY ANNOUNCEMENTS AND FOREIGN INVESTMENTS

## General

- Establishment of a mechanism to be known as SETU (Self-Employment and Talent Utilization). SETU will examine all aspects of start-up businesses, and other self-employment activities, that could also address to concerns such as a more liberal system of raising global capital and ease of doing business in India. Appointment of an Expert Committee for the purpose of examining the possibility and preparing the draft legislation where the need for multiple prior permissions can be replaced with a pre-existing regulatory mechanism.
- Government to introduce appropriate regulation in March 2015 to establish International Finance Centre (IFC) at GIFT, Gujarat. It has been visualized that IFC should actually become as good an International Finance Centre as Singapore or Dubai.
- Setting up a Public Debt Management Agency (PDMA) which will have External Commercial Borrowings (ECB) and domestic debt under one roof. This will promote investments in India, including in the Indian infrastructure.

## Foreign Exchange Regulations

- Amendment to allow Foreign Investments in Alternative Investment Funds (AIFs).
- Proposal to do away with the distinction between different types of foreign investments. Foreign Portfolio Investments (FPI) and Foreign Direct Investments (FDI) to be merged with one composite route.
- Amendments to Foreign Exchange Management Act (FEMA) to provide that control on capital flows as equity will be exercised by the government. This is to ensure that Capital Account Control is a policy, and not a regulatory, matter.

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# DIRECT TAX

## Tax Rate

- **Personal Tax**

No changes have been proposed in the tax rate for individuals. However, in substitution of the wealth tax leviable under Wealth Tax Act, 1957, which is now proposed to be abolished, an additional surcharge of 2 per cent on the income tax is introduced to be levied on individuals and Hindu Undivided Family having total income exceeding Rupees one crore.

- **Corporate Tax**

It is proposed to reduce corporate tax rate from 30 per cent to 25 percent over the period of next four years starting from assessment year 2017-2018.

Further, surcharge on income tax for domestic company has been increased by 2 per cent i.e. 7 per cent incase where the total income of domestic company exceeds Rupees one crore but does not exceeds Rupees ten crore and 12 per cent incase where total income exceeds Rupees ten crore.

## A. Provisions affecting Foreign Investors

- Change in conditions relating to computation of period of stay in India for crew members: It is proposed that CBDT shall prescribe the manner in which the computation of period(s) for stay of individuals who are Indian citizens and a member of the crew of foreign bound ships leaving India.
- Residential Status of Company: It has been proposed to amend the provisions of section 6 to provide that a company shall be considered to be resident in India if its Place of Effective Management ('POEM') is in India at any time during the relevant financial year. Further, it is proposed to define POEM 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. These amendments are proposed to take effect from 1st April, 2016.
- Clarifications on provisions relating to indirect transfer:
  - The existing provisions of section 9 deals with cases of income which are deemed to accrue or arise in India in case of non-residents. Retrospectively inserted Explanation 5 in section 9(1)(I) clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.
  - It is proposed to insert two new Explanations to section 9 in order to bring more clarity. In the first explanation, it has been proposed that the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in



India, if on the specified date, the value of Indian assets exceeds the amount of ten crore rupees; and represents at least fifty per cent of the value of all the assets owned by the company or entity.

- For this purpose, value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset. Further, the specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer. However, if book value on date of transfer exceeds 15 per cent of book value on last balance sheet date then date of transfer shall be the specified date of valuation.
- Accounting period shall be each period of twelve months ending with the 31st day of March. However, if a period adopted ends on a day other than the 31st day of March for the purpose of (i) complying with the provisions of the tax laws of the territory, of which it is a resident, for tax purposes; or (ii) reporting to persons holding the share or interest, then such period shall be considered as accounting period
- The Indian entity shall be obligated to furnish information relating to the offshore transactions having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of non-compliance, a penalty is also proposed.
- The indirect transfer provisions shall not apply in a case where the transferor of share or interest in a foreign entity, along with his associated enterprises, neither holds the right of control or management nor holds voting power or share capital or interest exceeding five percent of the total voting power or total share capital in the foreign company or entity, directly or indirectly, holding the Indian assets.
- The capital gains shall be exempt in respect of transfer of share of a foreign company deriving its value, directly or indirectly, substantially from the shares of an Indian company, under the scheme of amalgamation or demerger.
- Clarifications on Interest received by the non-residents engaged in banking business: It is proposed to insert a new explanation in clause (v) to section 9(1) which provides that in the case of a non-residents engaged in the business of banking, any interest payable by the permanent establishment ('PE') in India of such non-resident to the head office outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in India. This shall be in addition to any income attributable to the PE in India. Further, such PE shall be deemed to be a person separate and independent of the non-resident person of which it is a PE and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery shall apply. The meaning of "permanent establishment" shall be as assigned to it in clause (iia) of section 92F.
- Section 9A - Certain Activities not to constitute business connection in India:
  - Under the existing provisions, the presence of a fund manager in India may create sufficient nexus of the off-shore fund with India and may constitute a business connection in India even though the fund manager may be an independent person. Further, presence of the fund manager may also lead to the

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off shore fund being held to be resident in India on the basis of its control and management being in India.

- It is proposed to introduce a new section 9A which shall provide that the fund management activity carried out through an eligible fund manager acting on behalf of an eligible investment fund shall not constitute business connection in India of the said fund. For a fund to qualify as an eligible investment fund and for a fund manager to qualify as an eligible fund manager certain conditions are required to be fulfilled. Further such fund is required to furnish within 90 days from the end of the financial year, a statement in the prescribed form, to the prescribed income-tax authority containing information relating to the fulfilment of these conditions and also provide such other relevant information or documents as may be prescribed. On failure to submit the same, a penalty of rupees five lacs shall be leviable on the fund.
- Further, it is proposed that such fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. The section further provides for the definitions of “associate”, “corpus”, “connected person”, “entity” and “specified regulations” for the purposes of this Section. These amendments are proposed to take effect from 1st April 2016.
- Furnishing of information of taxable as well non-taxable remittances [Sec 195]: It is proposed to amend the provisions of section 195 and to provide that the person responsible for paying any sum, whether chargeable to tax or not, to a non-resident shall be required to furnish the information of the prescribed sum in such form and manner as may be prescribed. This amendment is proposed to take effect from 1st June 2015.
- Tax on Royalty and Fees for Technical Service in the case of non-resident: It is proposed to reduce the rate of income tax applicable on payments made to non-resident in the nature of Royalty and Fees for Technical Services from 25 percent to 10 percent. This amendment is proposed to take effect from 1st April 2016.
- Scope of provision relating to tax on income from Global Depository Receipts (GDR) purchased in foreign currency or capital gains therefrom restricted in respect of GDR issued by companies listed on recognized Stock Exchange in India
- Rationalization of Minimum Alternate Tax for FIIs: It is proposed to that Foreign Institutional Investor (FII) which has invested in securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 and the amount credited to the profit and loss account includes income from transactions in such securities, then such income shall be reduced from the book profit for the purposes of calculation of minimum alternate tax. Consequently, it is also proposed that the book profit shall be increased by the amount or amounts of expenditure relating to the income as explained above. These amendments are proposed to take effect from 1st April, 2016.



- Deduction of tax on income by way of eligible interest on certain bonds and Government securities at the lower rate of 5 per cent extended up to 30th June, 2017.
- Tax relief or deduction of income tax paid in foreign country has been included in Power of CBDT to make rules

## **B. Provisions affecting Individuals**

- It is proposed that any interest/withdrawals from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873, shall not be included in the total income of the assessee. Further, investment in Sukanya Samriddhi Scheme to qualify for investment under sec 80C.
- No deduction to be made on payment made under Life insurance policy and on premature withdrawal from accumulated balance due to an employee whose income falls within the basic exemption limits on filing of Form 15G/15H
- Increase in limit of deduction from gross total income: It is proposed to raise the limit of deduction for contribution to eligible pension funds/scheme from rupees one lac to rupees one lac fifty thousand to promote social security.
- It is further proposed to insert a new sub-section (1B) to provide for an additional deduction up to Rupees fifty thousand in respect of any contribution made by an individual under the notified pension scheme. This additional deduction would be over and above limit provided in Sec 80CCE of rupees one lac fifty thousand.
- Amendment relating to deduction in respect of health insurance premium: It is proposed to increase the limit of deduction in respect of health insurance premium to rupees twenty five thousand from existing limit of rupees fifteen thousand. It is further proposed to raise the limit of deduction for senior citizens to rupees thirty thousand from existing limit of rupees twenty thousand.
- It is also proposed to provide an additional deduction up to rupees thirty thousand incurred on account of medical expenditure in respect of a very senior citizen (80 years or more) provided no payment has been made to keep in force insurance on the health of such person.
- It is proposed to raise the limit of deduction under section 80DD and 80U for persons with disability to seventy five thousand from existing limit of fifty thousand and for person with severe disability to Rupees one lac twenty five thousand from existing limit of Rupees one lac.
- It is proposed to increase the deduction in respect of amount actually incurred by a person on himself or dependent relative (or member of HUF), for the medical treatment of such disease or ailment as may be specified in the rules up to eighty thousand where the expenditure is in respect of a very senior citizen (80 years or more).

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- It is proposed that 100 percent deduction under sec 80G shall be available in respect of donations made to the Swachh Bharat Kosh, Clean Ganga Fund and National Fund for Control of Drug Abuse. However, any sum spent in pursuance of Corporate Social Responsibility under Sec 135(5) of the Companies Act, 2013, will not be eligible for deduction from the total income of the donor.

### C. Deductions/Exemptions for Businesses

- It is also proposed to insert a new clause 23EE to section 10 to provide for exemption in respect of any specified income of such Core Settlement Guarantee Fund, set up by a recognized clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf.
- Increase in Additional depreciation: It is proposed to allow higher additional depreciation at the rate of thirty five percent (instead of existing additional depreciation of twenty percent) on actual cost incurred for acquisition and installation of new machinery and plant (other than a ship and aircraft) by a manufacturing undertaking or enterprise which is set up in the notified backward area of the State of Andhra Pradesh or the State of Telangana during the period beginning on 1st day of April, 2015 and ending before the 1st day of April, 2020. The eligible machinery or plant for this purpose shall not include the machinery or plant which are currently not eligible for additional depreciation as per the existing proviso to section 32(1)(iia) of the Act.
- It is also proposed to make consequential amendments to section 32(1) for applying the existing restriction of the allowance to the extent of 50 per cent for assets used for the purpose of business for less than 180 days in the year of acquisition and installation. Balance 50 per cent of the allowance is also proposed to be allowed in the immediately succeeding financial year.
- Additional Investment Allowance to a Manufacturing Company: It is proposed to provide for an additional investment allowance of an amount equal to fifteen percent of the cost of new asset acquired and installed by an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 to 31st March, 2020 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana. This deduction shall be available over and above the existing deduction available under section 32AC of the Act.
- Expenditure on Scientific research: It is proposed to amend the section 35(2AB) to provide that deduction under the said section shall be allowed if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of accounts and also furnishes prescribed reports to the prescribed authority. It is also proposed that the report referred to therein may be sent by such authority to the Principal Chief Commissioner or Chief Commissioner having jurisdiction over the company claiming the weighted deduction under the said section.
- Deduction for employment of new workmen: It is proposed to amend the section 80JJAA to extend the benefit to all persons having manufacturing units rather than restricting it to corporate entities only.



Further, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen. The quantum of deduction allowed will be equal to thirty per cent of additional wages paid to the new regular workmen employed by the person/entity in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided. Additional wages means the wages paid to the new regular workmen in excess of fifty workmen employed during the previous year.

- Domestic Transfer Pricing Provisions: Threshold for applicability of Domestic Transfer Pricing provisions is proposed to be increased to twenty crore from existing threshold limit of Rupees five crore.
- The provisions of section 95 relating to General Anti-Avoidance Rule ("GAAR") have been proposed to be deferred by two years i.e. financial year 2017-2018 onwards. Further, investments made up to 31.03.2017 are proposed to be protected from the applicability of GAAR by amendment in the relevant rules in this regard.
- Rationalization of Minimum Alternate Tax in respect of income from share in AOP/BOI: It is proposed to provide that if an amount is credited to the profit and loss account of the company which is in the nature of share of income as a member of an association of persons or body of individuals on which no income-tax is payable in accordance with the provisions of section 86 then it shall be reduced from the book profit for the purposes of calculation of Minimum Alternate Tax. Consequently, it is also proposed to that the book profit shall be increased by the amount or amounts of expenditure relatable to the income as explained above.

#### D. Procedural / Definition / Penalty

- **Definitions**
  - **Section 2(13A):** It is proposed to amend the definition of term "business trust" to mean a trust registered as: (i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or (ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and the units of which are required to be listed on a recognized stock exchange in accordance with the aforesaid regulations.
  - **Section 2(15):** It is proposed to amend the section to provide that the definition of charitable purpose shall include "yoga" as a separate category on the lines of education and medical relief. It is further proposed to amend the said clause (15) to provide that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and the

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aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts, of the trust or institution undertaking such activity or activities, of that previous year.

- Sanction for issue of notice for re-opening of assessment under sec 148: It is proposed to that no notice under section 148 shall be issued by an assessing officer up to four years from the end of relevant assessment year without the approval of Joint Commissioner and beyond four years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.
- Rectification of mistake under section 154: It is proposed to insert a new clause (d) in sub-section (1) to section 154 to provide that an income-tax authority may amend an intimation issued under sub-section (1) of section 206CB i.e. in respect of statement of tax deduction/collection at source filed by the assessee.
- Notice of demand: It is proposed to amend the proviso to section 156 to include that where any sum is determined to be payable by the assessee or the deductor or the collector under sub-section (1) of section 206CB, such intimation shall be deemed to be a notice of demand.

- **PENALTIES**

- **Section 271:** Amount of tax sought to be evaded for the purposes of penalty for concealment of income: It is proposed to amend section 271 of the Act to provide that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC. However, if an amount of concealment of income on any issue is considered both under the general provisions and provisions of section 115JB or 115JC then such amount shall not be considered in computing tax sought to be evaded under provisions of section 115JB or 115JC. Further, in a case where the provisions of section 115JB or 115JC are not applicable, the computation of tax sought to be evaded under the provisions of section 115JB or 115JC shall be ignored.
- **Section 271D & 271E:** Penalty for dealing in cash in relation to transfer of immovable property: It is proposed to bring transactions in the nature of advance or otherwise in relation to immovable property in cash under the ambit of sec. 269SS and 269T and consequently to widen the scope of sec. 271D and 271E to cover such transactions. Accordingly, assessee shall be liable to pay, by way of penalty, a sum equal to the amount of such cash transactions.
- **Section 271FAB:** Penalty for failure to furnish statement or information or document by eligible offshore investment fund: It is proposed to introduce to provide a penalty of rupees five lacs for non-furnishing of the prescribed information or document or statement by eligible investment fund in relation to fulfilment of conditions specified under sec 9A.
- **Section 271GA:** Penalty for failure to furnish information or document: It is proposed to introduce penalty on Indian concern failing to furnish information in respect of Indian assets held by the foreign

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company or the entity including information relating to the off-shore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. The penalty shall be applicable of a sum equal to two percent of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; and a sum of five hundred thousand Rupees in any other case.

- **Section 271-I:** Penalty for failure to furnish information or furnishing inaccurate information under section 195: It is proposed to levy penalty a penalty of one lakh Rupees shall be levied for non-submission or inaccurate submission of the prescribed information in respect of remittance made to non-resident.
- **Section 272A:** Penalty for failure to furnish prescribed statement by Government deductor: It is proposed to provide for a penalty of Rupees hundred for each day of default during which the default continues subject to the limit of the amount deductible or collectible in respect of which the statement is to be furnished of tax deducted/collected by them without production of challan i.e. through book entry.

#### E. Real Estate investment Trust (REIT)

- It is proposed to exempt
  - Any income of a person accruing or arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head “Profits and gains of business or profession” shall not be included in total income of such person.
  - Income by way of renting or leasing or letting out any real estate asset owned directly by business trust.
  - Long term capital gain arising from transfer of units of a business trust which were acquired in consideration of exchange of shares of a special purpose vehicle and on which securities transaction tax has been paid by sponsor.
- It is proposed that any distributed income to unit holder referred to in section 115UA from the business trust, being that proportion of the income which is of the same nature as income by way of renting or leasing or letting out any real estate asset owned directly by the business trust, shall be included in total income of the unit holder.
- It is proposed that income from renting or leasing or letting out any real estate asset earned by REIT shall be deemed to be income of such unit holder and shall be charged to tax.
- It is proposed that concessional rate of tax on short term capital gains provided in section 111A shall now be applicable on transfer of units of a business trust which are acquired by the person in exchange of the shares of special purpose vehicle.
- It is proposed that no deduction of tax shall be made from payment of rent credited or paid in respect of any real estate asset owned by such REIT. W.e.f. 1st June 2015

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- It is proposed to amend the deduction of tax at source on specified income from units of a business trust to its unit holders being resident or nonresident W.e.f. 1st June 2015.

#### **F. Alternate Investment fund**

- It is proposed to provide that Alternate Investment Fund shall be treated as tax transparent entity and income of the SPV shall be taxable in the hands of the unit holder in like manner.
- Any income of a venture capital company or venture capital fund from investment in a venture capital undertaking shall not be included in total income of the fund.
- Any income of an investment fund other than the income chargeable under the head “Profits and gains of business or profession” shall not be included in the total income of such fund.

#### **G. Miscellaneous**

- Income received by any person on behalf of the Swachh Bharat Kosh or the Clean Ganga Fund, set up by the Central Government has been exempted retrospectively from assessment year 2015-16.
- Relaxation on deduction of tax from payments made to contractors who own ten or less goods carriages at any time during the previous year and furnishes a declaration to that effect along with their PAN, w.e.f. 1st June 2015,
- It is proposed to exempt from deduction of Tax at Source on interest income where banking company or the co-operative bank or the public company which has adopted core banking solutions
- Interest payments made on time deposits by co-operative banks to its members except Co-operative society are now liable to TDS.
- Tax deduction and collection account number are not required to mention by a person notified by the Central government.
- TDS returns to be processed after applying late filing fees.
- No interest u/s 220(2) will be levied on the person responsible for collecting tax on profits and gains from the business of trading in alcoholic liquor, forest produce; scrap etc. has paid simple interest at 1 percent as per section 206C.
- An order passed by the prescribed authority for any income received by any person on behalf of any university or other educational institution or hospital or other institution shall now be appealable before the Appellate Tribunal.
- Simple interest at the rate of 1 per cent for default in payment of advance tax till filing of application before Settlement Commission or on determination of enhances income by settlement commission from 1st April of relevant assessment year.
- Scope of section 269SS/269T has been widened to include any amount received or repaid as advance or otherwise in relation to transfer of an immovable property other than by specified modes.



# SERVICE TAX

## Effective date to be notified by the Government

- Service Tax rate to be increased from 12 per cent to 14 per cent
- Education Cess and Secondary & Higher Education Cess to be exempted.
- Swachh Bharat Cess to be levied @ 2 per cent on the value of taxable service.
- Following Changes have been proposed in the Negative List:
  - Service Tax shall be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.
  - Services by way of carrying out any process in relation to preparation of alcoholic liquor for human consumption has been excluded from the negative list. Accordingly, Service Tax shall be levied on contract manufacturing/job work for production of potable liquor used for human consumption. Simultaneous amendment has been made in the definition.
  - Earlier 'support services' provided by the Government or Local Authority to business entity was excluded from the negative list which has been replaced by 'any service' thereby expanding the scope of taxable service. Definition of support service has been accordingly omitted.
  - An explanation is being added in entry (i) of section 66D to specifically state that the activities undertaken by chit fund foremen in relation to chit, and lottery distributors and selling agents, in relation to lotteries are not covered by the Negative List.

## Effective from the date of enactment of Finance Bill

- Definition of Government to be inserted from the date of enactment of Finance Bill.
- Definition of consideration expanded under explanation to section 67 to include any 'reimbursable expenditure or cost' incurred in the course of providing the service subject to conditions.
- Section 73 is being amended in the following manner:
  - a new sub-section (1B) is being inserted to provide that recovery of the Service Tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73; and
  - sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.
- Penalty provisions under section 76 and 78 have been amended to provide a reduced rate of penalty.
- Section 80 which provided for waiver of penalty in certain circumstances, would be omitted.

## Notifications

*Notification No. 05/2015-ST: Amendment in Service Tax Rules (Effective 1st March 2015)*

- In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner.
- Rule 4 is being amended to provide that the CBEC shall, by way of an order, specify the conditions, safeguards and procedure for registration under service tax. Further it has also been prescribed that henceforth registration for single premises shall be granted within two days from filing of the application.

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- A provision for issuing digitally signed invoices is being added along with the option of maintaining of records in electronic form and their authentication by means of digital signatures. The conditions and procedure in this regard shall be specified by the CBEC.

*Notification No. 06/2015-ST: Amendments in mega exemption notification (Effective 1st April 2015)*

- Any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from Service Tax. The scope of this exemption is being widened to include all ambulance services.
- Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn.
- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, will be limited only to such cases where amount charged is up to Rupees one lakh for a performance.
- Exemptions are being withdrawn on the following services. Also Service Tax on these services shall be levied on reverse charge basis:
  - services provided by a mutual fund agent to a mutual fund or assets management company,
  - distributor to a mutual fund or AMC,
  - selling or marketing agent of lottery ticket to a distributor.
- Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.
- Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.
- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables is being exempted.
- Service by way of right to admission to - (to be effective from notified date)
  - exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
  - recognized sporting events.
  - concerts, pageants, award functions, musical performances or sporting events not covered above, where the consideration for such admission is up to Rupees five hundred per person.

*Notification No.07/2015-ST: Amendment in Reverse Charge Mechanism (Effective 1st April 2015)*

- Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.
- Service Tax in respect of mutual fund agent and mutual fund distributor services shall be paid by the assets management company or, as the case may be, by the mutual fund receiving such services. In respect of agents of lottery, Service Tax shall be paid by the distributor of lottery.

*Notification No. 08/2015-ST: Amendment in Abatement Notification (Effective 1st April 2015)*

- Uniform abatement has been prescribed for transport by rail, road and vessel and Service Tax shall be payable on 30 per cent of the value of such service subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.
- Abatement is being withdrawn from services provided in relation to chit. Consequently, Service Tax shall be paid by the chit fund foremen on the full consideration received by way of fee, commission or any such amount. However they would be entitled to take Cenvat Credit.

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# CUSTOMS

Cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, the amount of penalty payable shall be 15 per cent instead of the present 25 per cent.

Various provisions which have become redundant have been omitted such as time limit for passing of order by the settlement commission.

## Notifications

- No Change in rate of Basic Custom Duty.
- Education Cess and Secondary & Higher Education Cess exempted on CVD and SAD. Accordingly same would be levied on Basic Custom Duty.
- No Change in rate of Duty for Chapters 1-24, 31-71, 75,77-80,82,83,86,88,89,91-98.
- Illustrative Changes in BCD rates:

Sr. No.	Description	Chapter No.	New rate (%)	Old Rate (%)
1.	Metallurgical Coke	270400	5	2.5
2.	Sulphuric Acid	28070010	7.5	5
3.	Iron and Steel, Articles of Iron and Steel	72 & 73	15	10
4.	Import of Commercial Vehicles	8702, 8704	40	10
5.	Bituminous Coal	27011200	10	55

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# CENTRAL EXCISE

## With Immediate Effect

- Section 11A has been inter alia amended so as to amend the provision relating to relevant date to provide definition of relevant date in respect of cases where a return is not filed on the due date and cases where only interest is required to be recovered.
- Suitable amendments have been made under section 11AC to rationalize penalty in various cases.
- No cases can be accepted by the Settlement commission for fresh adjudication or decision which are referred back by any adjudicating authority.
- Residual Penalty increased from ₹ 2,000/- to ₹ 5,000/-.
- Clarification issued defining the scope of the term “place of removal” in case of export of goods by Manufacturers exporters as well as Merchants Exporters.

## Notifications

- The standard ad valorem rate of duty of excise is being increased from 12 per cent to 12.5 per cent.
- Education Cess and Secondary & Higher Education Cess to be exempted.
- Exemption withdrawn on Solar Water heater and system.
- Excise duty exempted on parts including sub parts, components and accessories for use in manufacture of tablet computer.
- No Change in rate of duty for Chapters 1-3, 5-19, 26, 28-32, 34-38, 40-63, 65-71, 75-83, 86,88-89, 91-96.
- Illustrative Changes in basic duty rates:

Sr. No.	Description	Chapter No.	New rate (%)	Old Rate (%)
1.	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	220210	18	12
2.	High Speed Diesel	27101930	14+Rs. 15	14+ Rs. 5
3.	Mobile Handsets		12.5	6
4.	Wafers for IC module, input for use in manufacture of LED driver and MPCB		6	12
5.	Chassis for Ambulance		12.5	24

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*Notification No 6 - 8/2015-CE(NT): Amendments in Cenvat Credit Rules, 2004 and Central Excise Rules, 2002*

- Direct dispatch of goods to registered dealer's/ registered importer's customers without first bringing them to the dealer's / importer's registered premises subject to the conditions specified therein,
- Direct dispatch of inputs and capital goods to job worker without first bringing them to the manufacturer's /output service provider's premises subject to the conditions specified therein,
- Definition of "export goods" (rule 5 of CCR refers) and "export" (rule 18 of CER refers) have been amended,
- Application of certain provisions of these rules, presently applicable to the registered dealers, to apply to the registered importers also.
- Provide for issue of digitally signed invoices and preservation of records in electronic form by a manufacturer.
- Increase the time limit for taking Cenvat Credit on inputs and input services from the present six months to one year,
- Increase the time limit for return of Capital Goods from a job worker from the present six months to two years,
- Make provision relating to reversal for Cenvat Credit under rule 6, presently applicable to exempt goods and services, applicable to non-excisable goods also,
- Provide for recovery of Cenvat Credit taken but NOT utilized. Further, the manner of determining utilization of Credit is also being provided in the rule itself.
- Registration process in Central excise is being simplified to ensure that registration is granted within two working days of the receipt of a duly completed application form.

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# TDS/TCS RATES

## TDS RATES FOR ASSESSMENT YEAR 2016-17 (FINANCIAL YEAR 2015-16)

(A) On payments to Residents (subject to notes below)

Sr. No.	Payments to Resident Payee	Threshold for Deduction	Section	Company	Partnership Firm	Individual, HUF, AOP, BOI
				Rate (%)		
1	Pre-mature withdrawals from Employee Provident Fund Scheme (Note 1)	Payment in excess of ₹ 30,000	192A	-	-	10
2	Interest on Securities (Note 2)	No Threshold Limit	193	10	10	10
3	Other Interest (Note 3)	Payment in excess of ₹ 5,000	194A	10	10	10
4	Winning From Lotteries	Payment in excess of ₹ 10,000	194B	30	30	30
5	Winning From Horse Race	Payment in excess of ₹ 5,000	194BB	30	30	30
6	Payment to contractors (Note 4)	Payment in excess of ₹ 30,000 per transaction or ₹ 75,000 p.a.	194C	2	2	1
7	Insurance Commission	Payment in excess of ₹ 20,000	194D	10	10	10
8	Sum received for Life Insurance Policy including bonus [except exempt u/s 10(10D)]	Payment in excess of ₹ 100,000 p.a.	194DA	2	2	2
9	Commission on Sale of Lottery Tickets	Payment in excess of ₹ 1,000	194G	10	10	10
10	Other Commission / Brokerage	Payment in excess of ₹ 5,000 p.a.	194H	10	10	10
11	Rent for Land or Building/ Furniture and Fixture	Payment in excess of ₹ 1,80,000 p.a.	194I	10	10	10
	Rent for Plant & machinery, Equipments			2	2	2
12	Consideration for transfer of Immovable Property (other than agricultural land)	Sale Consideration must exceeds ₹ 50,00,000	194IA	1	1	1
13	Professional Fees / Royalties / FTS (Note 5)	Payment in excess of ₹ 30,000 p.a.	194J	10	10	10
14	Consideration for compulsory acquisition of Immovable Property (other than agricultural land)	Payment in excess of ₹ 200,000 p.a.	194LA	10	10	10
15	Income by way of Interest from SPV distributed by Business Trusts i.e. REITs & Invits	No Threshold Limit	194LBA	10	10	10
16	Income by way of Rent from SPV distributed by REITs (Note 7)	No Threshold Limit	194I	10	10	10
17	Income other than business income distributed by an Investment Fund (Category I & II)	No Threshold Limit	194LBB	10	10	10

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## Notes

1. TDS to be deducted at maximum marginal rate in case PAN is not furnished by the deductee.
2. In case payment of interest on listed debentures to individuals TDS is required to be deducted on payments in excess of ₹ 5,000/-.
3. - For interest on Bank Deposits and Deposits with Post Office, the threshold limit is ₹ 10,000.  
- Also applicable on payment of Interest on time deposits by co-operative banks to its members and payment of interest on Recurring Deposit  
- Computation of interest income shall be made taking into account income credited or paid by the bank (including all branches) who has adopted core banking solutions.
4. No TDS on payment made to contractor who owns ten or less goods carriage at any time during the year and furnishes PAN.
5. Any payments to a director of a company other than those on which TDS is deductible u/s 192 are specifically covered u/s 194J.
6. With effect from 1st April, 2010, the rate of TDS will be 20 per cent in all cases other than Sec 192A, if PAN is not quoted by the deductee.
7. No deduction shall be made under section 194-I of the Act where the income by way of rent is credited or paid to a Real Estate Investment Trust.

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## TDS RATES FOR ASSESSMENT YEAR 2016-17 (FINANCIAL YEAR 2015-16)

### (B) On payments to Non-Residents

Sr. No.	Payments to Non-Resident Payee	Threshold for Deduction	Section	Rate (%)
1	Tax on Short Term Capital Gains	On sale of shares or units of mutual funds where STT is paid	111A	15
		On sale of shares or units of mutual funds where STT is not paid	45	
		(a) In case of companies		40
		(b) In case of persons other than companies		30
2	Tax on Long Term Capital Gains	Not being long term capital gains referred to section 10(33), 10(36) and 10(38) i.e. on listed shares, units of an equity oriented fund, or units of business trust i.e. REITs & Invits	112	20
3	Winning From Lotteries	Payment in excess of ₹ 10,000	194B	30
4	Winning From Horse Race	Payment in excess of ₹ 5,000	194BB	30
5	Tax on royalty on copyrights or on fees for technical services matters included in industrial policy or under approved agreements by an Indian concern or by Government of India	Agreements made / entered after 31st March, 1976	115A(1)(b)	10
6	Tax on Interest	On borrowings in foreign currency:- (a) by an Indian concern or by Government of India other than interest referred in (b) or (c) below	115A(1)(a)	20
		(b) On notified infrastructure debt fund	194LB	5
		(c) By Specified Companies or Business Trusts (REITs & Invits) under a loan agreement or any long term bond	194LC	5
7	Income by way of interest from SPV distributed by Business Trusts (REITs & Invits)	No Threshold Limit	194LBA	5
8	Income by way of Rent from SPV distributed by REITs	No Threshold Limit	195	Note - 7
9	Income other than business income distributed by an Investment Fund (Category I & II)	No Threshold Limit	194LBB	10
10	Income by way of interest to FII or QFI	On Rupee denominated Bonds of Indian Company and Government Securities	194LD	5
11	Payments to Non-Resident Sportsmen/Entertainer/Sports Association	Other than to a non-resident being an Indian citizen	194E	20
12	Other income	(a) In case of companies	-	40
		(b) In case of persons other than companies	-	30

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## Notes

1. In case of non-residents (other than company) the tax amount deducted at source shall be increased by surcharge at the rate of 12 per cent of such tax where the income or aggregate of all incomes paid or likely to be paid exceeds ₹ 1 crore.
2. In case of foreign companies, the TDS rate shall be increased by surcharge as below:
  - If the income or aggregate of all incomes paid or likely to be paid exceeds ₹ 1 crore but does not exceeds ₹ 10 crore, then surcharge would be applicable at the rate of 2 per cent.
  - If the income or aggregate of all incomes paid or likely to be paid exceeds ₹ 10 crore, then surcharge would be applicable at the rate of 5 per cent.
3. Cess @ 3 per cent shall be levied additionally.
4. Treaty rates will differ from Country to Country. Treaty rates will apply only if Tax Residency Certificate is produced.
5. NRIs opting to be taxed under chapter XII-A, tax shall be deductible at the rate of ten percent on long term capital gains referred to in section 115E and twenty percent on investment income.
6. With effect from 1st April, 2010, the rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee. However this condition is not applicable in respect of Interest covered u/s 194LC.
7. TDS is to be deducted at "Rate in Force". The term "Rate in force" means rate as per Income Tax Act, 1961 or relevant double taxation treaty whichever is beneficial.

### (C) TCS RATES FOR ASSESSMENT YEAR 2016-17 (FINANCIAL YEAR 2015-16)

Sr. No.	Nature of Goods/Contract/Licence /Lease	Threshold for Collection	Percentage
1	Alcoholic Liquor for Human Consumption	No Threshold Limit	1
2	Tendu Leaves	No Threshold Limit	5
3	Timber obtained under a Forest Lease	No Threshold Limit	2.5
4	Timber obtained by any mode other than under a Forest Lease	No Threshold Limit	2.5
5	Any other Forest produce	No Threshold Limit	2.5
6	Scrap	No Threshold Limit	1
7	Minerals, being Coal or Lignite or iron ore	No Threshold Limit	1
8	Cash Sale of Bullion	Payment in excess of ₹ 200,000/-	1
9	Cash Sale of Jewellery	Payment in excess of ₹ 500,000/-	1
10	Transfer of right or interest in any Parking Lot or Toll Plaza or Mining and Quarrying (other than of mineral oil) under any contract, licence and lease	No Threshold Limit	2

PS: We have carried out a detailed analysis of the budget proposals and its impact on select industries. We will email you a soft version of the same separately.

## INDIA BUDGET 2015



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