

INDIA BUDGET 2016

NANUBHAI DESAI & Co.

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This booklet summarises the important proposals included in the budget speech made by the Honourable Finance Minister on 29th February, 2016. 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.....

The third Budget of the NDA (National Democratic Alliance) government lead by Narendra Modi was presented today by Finance Minister Arun Jaitley in the backdrop of slowing down global economy. With the recessionary trends visible worldwide and financial markets being battered in the past one year (which is also reflected at India in a 25 per cent stock market correction in the two month preceding this Budget), Mr Jaitley had to deal with lot of expectations of Industry leaders and *aam aadmi* (common people)

The Economic Survey tabled before the Budget outlined the prevailing economic scenario, particularly positive indicators like growth rate of 7.6 per cent, fiscal deficit at 3.9 per cent, highest ever level of foreign exchange reserve of around USD 350 billion, fall to the crude oil prices resulting into huge foreign exchange savings, etc. offers the government desired maneuverability to conclude bold policy direction. India stands out as a bright spot (promising of sustainable economic growth) when almost all the developed economies are in the midst of financial & economic difficulties. At the same time, the RBI's mandate to the banks to clean up their books, had cast a gloom in the industry circles.

The Finance Minister, under the circumstances, seems to have met the expectations of high public spending on creating infrastructure aimed to give a big push to the Indian economy. He has presented a budget which scores high on improving macro-fundamentals for reaping demographic dividends and is low on populism. He has outlined agriculture, rural sector, education, skill and job creation, infrastructure, financial sector reforms, ease of doing business, fiscal discipline & tax reforms as the nine pillars for transforming India and has tried to address each of these in a judicious manner and with liberal budgetary allocations. He has resisted the temptation to waver from the path of fiscal consolidation and has stuck to the goal of

3.5 per cent fiscal deficit; despite the tough global environment. "Make In India", "Start-up India", "Stand-up India", "Infrastructure", "Krishi kalyan", "Ease of doing business", "Skill India" & "Swachh Bharat" have clearly been the drivers of the tax & fiscal policy of this Budget.

He has also been bold to introduce an Income Disclosure Scheme for domestic tax payers & a Dispute Resolution Scheme to settle pending litigations at the first appellate level. He has also made a sincere attempt to simplify the relevant tax provisions dealing with the penalty, interest & other procedures under the Income Tax Act. As expected, many changes have been also proposed in the direction of implementation of the Action Plans suggested by OECD under BEPS project.

Under Indirect Tax regime, having regard to the inability of the government to muster the required support to pass the much needed GST bill, the Budget proposals outlines various measures to support the budget strategy. The budget proposals are aimed to boost the growth as well as incentivize domestic value addition to support Make In India. Whilst there is no increase to the prevailing rate of service tax, the introduction of new levy (Krishi Kalyan cess under service tax & Infrastructure cess under Excise Law) shall enable the government to mobilize additional revenue.

Despite electoral setbacks and an aggressive opposition, the Budget unambiguously signals the commitment of the government towards continued economic reforms and fiscal discipline. It contains announcements, with positive intentions juggling between social & economic reforms at the same time. All in all, a well steered budget in this turbulent time to boost the growth trajectory of the country....

Monday, February 29, 2016
Mumbai
INDIA

POLICY ANNOUNCEMENTS AND FOREIGN INVESTMENTS

Foreign Exchange Regulations

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



INCOME TAX

Tax Rate

- **Personal Tax**

No changes have been proposed in the tax rates for individuals except surcharge which is increase from 12 per cent to 15 per cent

- **Corporate Tax**

It is proposed to reduce corporate tax rate from 30 per cent to 29 per cent for such domestic company whose total turnover or gross receipts in the previous year 2014-15 does not exceed Rs 5 crore. In all other cases, the rate of corporate tax has been kept unchanged i.e at 30 per cent.

A. Provisions affecting Individuals

- **Tax on certain dividends received from domestic companies**

Where the total income of a resident individual, HUF or firm includes income by way of dividends exceeding Rs 10 lakhs which is received from a domestic company, then such dividends shall be taxable at the rate of 10 per cent. For the purposes of this section, dividend shall have the meaning as defined under section 2(22) but shall not include clause (e) thereof.

- **Simplification and rationalization of provisions relating to taxation of unrealized rent and arrears of rent**

Any amount of arrears of rent or unrealized rent received subsequently from a tenant shall be charged to income-tax in the financial year in which such rent is received or realised irrespective of whether the assessee is the owner of the property or not in that financial year. Further, sum equal to thirty per cent of the arrears of rent or unrealized rent which is received shall be allowed as a deduction.

- Time period for acquisition or completion of construction of self occupied house property for claiming deduction of Rs 2 lakhs under section 24(b) of interest on capital borrowed is proposed to be increased from three years to five years.

- **Deduction in respect of interest on housing loan**

Section 80EE has been substituted to allow first time home buyers a interest deduction of Rs 50,000/- for loans sanctioned during financial year 2016-17 for an amount not exceeding Rs 35,00,000/- and the value of the residential house property does not exceed Rs 50,00,000/-. 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.

- **Section 56 to exclude shares received as a consequence of certain business re-organisation, amalgamation or demerger**

It is proposed that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company or business re-organisation of co-operative bank shall not attract the provisions of section 56(2)(vii).

- Limit of deduction allowable in section 80GG with respect to rent paid is proposed to be increased from Rs 2000 per month to Rs 5,000 per month.

- **Withdrawal from Recognised provident Fund**

Withdrawal of any amount of accumulated balance, attributable to any contribution made on or after 1 April 2016 by an employee, to the extent of 40 per cent of such accumulated balance shall be exempt.

- **Withdrawal from National pension System trust**

Any payment from the National pension System trust to an employee on closure of account or his option out of the pension scheme referred to in Section 80CCD, to the extent it does not exceed 40 per cent of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax.

- **Amounts received by nominee on demise of taxpayer not taxable**

Any payment from National Pension System Trust to a nominee of the assessee on account of closure or his opting out of the pension scheme referred to in Section 80CCD on account of his demise shall be exempt from tax.

- Any payment in commutation of an annuity purchased out of contributions made on or after the 1 April 2016, which exceeds 40 per cent of the annuity shall be chargeable to tax. Any payment from approved superannuation fund by way of transfer to the account of the employee under a pension scheme referred to in Section 80CCD notified by the Central Government shall also be exempt from tax
- An amount of contribution in excess of Rs 1,50,000 to an approved superannuation fund by the employer in respect of the employee, is to be considered as a perquisite, taxable in the hands of the employee.

B. Provisions affecting Corporates

- **Section 28: Profits and gains of business or profession**

It is proposed to amend clause (va) w.e.f. 1 April 2016 (i.e. AY 2017-18) to bring the non-compete fee received or receivable, in cash or kind, under an agreement for not carrying out any activity in relation to any profession (so far only business), within the scope of section 28 of the Act.

- **Section 44ADA and 44AB**

It is proposed to insert a new section 44ADA, which is similar to existing section 44AD of the Act to provide benefit of presumptive tax to person carrying on profession whose gross receipts do not exceed Rs 50 lakhs. 50 per cent of the total gross receipts shall be deemed to be the profits.

Section 44AB of the Act is propose to be amended to mandate the audit of book of accounts in case of professional if he claims to have earned income less than the deemed income under section 44ADA and his exceeds the maximum amount which is not chargeable to tax.

- **Amendment to Section 44AB**—increase in threshold limit of tax audit for professionals from Rs 25 lakhs to Rs 50 lakhs.
- **Amendment to Section 44AD**

The threshold limit of Rs 1 crore specified in the definition of “eligible business” is increased to Rs 2 crore.

It is proposed to withdraw deduction of interest and salary paid to partner w.e.f. AY 2017-18.

It is also proposed that where an eligible assessee declares profit for any previous year in accordance



with the provisions of section 44AD and declares profit for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of section 44AD, he shall not be eligible to claim the benefit of the provisions of section 44AD for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of section 44AD.

Further, provisions of section 44AA are amended to include sub-section 2(iv) to provide for maintenance of books in the above cases.

It is also proposed that advance tax may be paid by 15 March of the financial year.

- **Section 47 and 48**

Existing provisions of clause (xiib) of section 47 provides that conversion of a private limited or unlisted public company into Limited Liability Partnership (LLP) shall not be regarded as transfer subject to certain conditions. It is proposed to amend the said section to provide additional condition that, the value of the total assets in the books of accounts of the company in any of the 3 previous years proceeding the previous year in which the conversion takes place, should not exceed Rs 5 crore.

It is proposed to amend section 47 of the Act, to exempt any redemption of Sovereign Gold Bond under the Scheme, by an individual.

It is also proposed to amend section 48 of the Act, to provide indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond to all cases of assessee.

The capital gains arising in case of appreciation of rupee against the foreign currency in which the investment is made at the time of redemption of a rupee denominated bonds shall be exempt from tax on capital gains.

- **Section 50C**

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.

- **New section 54EE - Tax incentives for start-ups**

With a view to increase investment for start-up, it is proposed to insert new section 54EE to provide exemption from capital gains if the capital gains are invested in the units of specified fund, as may be notified by the Central Government in this behalf, subject to certain conditions similar to section 54EC.

- **Section 54GB**

It is proposed to amend section 54GB to extend the benefit of exemption if the net consideration is invested in subscription of shares of a company which qualifies to be an eligible start-up subject to other specified conditions.

- **Section 55**

Existing section 55 of the Act provides that cost of improvement in relation to a capital asset, being goodwill of a business or a right to manufacture, produce or process any article or thing or right to carry on any business, shall be taken to be nil. It further provides that cost of goodwill or other rights shall be taken to be the amount of the purchase price in case the asset is purchased by the assessee.

It is proposed to amend section 55 to include right to carry on profession under its scope.

- **Section 115BA – Tax on income of certain domestic companies**

A domestic company can exercise an option, on or before the due date of filing return of income, to pay income-tax at the rate of 25 per cent on its total income subject to the following conditions:

- (a) the company has been set up and registered on or after 1 March 2016;
- (b) it is engaged in the business of manufacturing or production of any article or thing; and
- (c) total income is computed without availing any deduction under specified sections, without set off of loss carried forward from earlier assessment year, if such loss is due to specified deductions availed and depreciation is determined in the manner as prescribed.

No further deduction of any loss shall be allowed in subsequent years.

- **Section 115BBF – Tax on income from patent**

Where the total income of a resident assessee, being a patentee, includes income by way of royalty in respect of a patent developed and registered in India then such royalty shall be taxed at the rate of 10 per cent. No deduction of expenditure or allowance shall be allowed in computing such royalty income. The Explanation to the section defines certain expressions like developed, royalty, invention, patentee, royalty, etc. used in this section.

- **Section 115-O – Tax on distributed profits of domestic companies**

If any amount is distributed by a specified domestic company, being a company in which a business trust has become a holder of whole of the nominal value of equity share capital of the company, by way of dividend, to the business trust out of its current income on or after the date of acquisition of such holding by the business trust, no tax shall be payable by the specified domestic company on such dividend declared, distributed or paid. This amendment will take effect from 1 June 2016.

Further, no tax on distributed profits shall be chargeable in respect of the total income of a company being a unit located in International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1 April 2017 out of its current income, either in the hands of the company or the person receiving such dividend.

- **Section 115QA – Tax on distributed income to shareholders (upon buy-back of shares)**

It is proposed to clarify 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. Vide this proposed provision, doubts regarding the effect of buybacks undertaken by the company under different provisions of the Companies Act, 1956 or the Companies Act, 2013.



It is further proposed to provide that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined in the prescribed manner vide specific rules to be framed for this purpose to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganizations and in different tranches. These amendments will take effect from 1 June 2016.

- **Section 115TA – Tax on distributed income to investors by Securitisation Trust**

It is proposed to provide that the distribution tax shall cease to apply in case of distribution made by securitisation trusts with effect from 1 June 2016.

- **Section 115TCA – Tax on income from Securitisation Trusts received by investor**

It is proposed to insert section 115TCA in order to rationalize the tax regime for securitisation trust and its investors and to provide tax pass through treatment, thereby substituting the extant special regime for securitisation trusts by a new regime. Under the new regime, the income of securitisation trust shall continue to be exempt under Section 10(23DA) of the Act. However, exemption in respect of income of investor from securitisation trust would not be available (under Section 10(35A) of the Act) and any income accrued or received from securitisation trust would be taxable in the hands of investors 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.

Also, any income accruing or arising to, or received by, the securitisation trust, even if not paid or credited to the investor shall be deemed to have been credited to the account of the said investor on the last day of the previous year in the same proportion in which such the investor would have been entitled to receive the income had it been paid in the previous year.

- **New Chapter XII-EB – Tax on accreted income of certain trusts and institutions**

It is proposed to insert a new section 115TD whereby a trust or institution registered under section 12AA shall have to pay additional income-tax at the maximum marginal rate on the accreted income as on the specified date upon occurring of certain eventualities mentioned in the proposed section. The accreted income shall mean the excess of aggregate fair market value of the assets over the total liability of such trust or institution on a specified date. It is further proposed to exclude the assets and liabilities, if any, related to such assets which have been transferred to the trust or institution registered under section 12AA or specified organization within a period of 12 months from the date of dissolution. Sub-section (3) of the proposed section provides for specific situations under which a trust or institution can be said to have converted into any form which is not eligible for grant of registration. Such tax shall be payable within 14 days of the date of specified event.

Section 115TE shall be inserted to provide for interest payable at the rate of 1 per cent for every month or part thereof for non-payments of tax by trust or institution. Section 115TF shall be inserted which shall provide that trust or institution shall be deemed to be assessee in default if such trust or institution does not pay tax on accreted income.

- **Section 115UA – Tax on income of unit holder and business trust including REITs**

In light of the proposed amendment to Section 10(23FC) of the Act to also include the dividends declared by the specified domestic company to the business trust out of its current income, the scope of Section 115UA is proposed to not extend to the income distributed by a business trust to its unit holders which is in the nature of such dividends received by the business trusts.

- **Section 115JB – Special provision for payment of tax by certain companies**

It is proposed to insert a new clause (fd) in Explanation 1 to sub-section (1) of the aforesaid section so as to provide that the book profit shall be increased by an amount or amounts of expenditure relatable to income, by way of royalty in respect of patent chargeable to tax in accordance with the provisions of section 115BBF.

It is further proposed to insert a new clause (iig) in Explanation 1 so as to provide that the book profits shall be reduced by an amount of income, by way of royalty in respect of patent chargeable to tax in accordance with the provisions of section 115BBF, if any such amount is credited to the profit or loss account.

It is also proposed to insert an Explanation retrospectively from 1st April, 2000 (i.e. AY 2001-02), that the provisions of the section 115JB, shall not be applicable and shall be deemed never to have been applicable to an assessee, being a foreign company, if—

- (i) the assessee is a resident of a country or a specified territory with which India has an agreement referred to in subsection (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the assessee does not have a permanent establishment in India in accordance with the provisions of such agreement; or
- (ii) the assessee is a resident of a country with which India does not have an agreement referred to in clause (i) and the assessee is not required to seek registration under any law for the time being in force relating to companies.

It is also proposed to insert a new subsection (7) in the section 115JB so as to provide that in case of a company, being a unit of an International Financial Services Centre and deriving its income solely in convertible foreign exchange, the Minimum alternative Tax shall be chargeable at the rate of 9 per cent.

- **Chapter VIII – Equalisation Levy**

In order to address the income-tax challenges in digital domain, a new Chapter titled 'Equalisation levy' is proposed to be inserted. It is proposed to levy an 'equalisation levy' at the rate of 6 per cent of the amount of consideration for any specified service received or receivable by a person, being a non-resident from:

- (i) a person resident in India and carrying on business or profession; or
- (ii) a non-resident having a permanent establishment in India

'Specified Service' has been defined as online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf. Further, the aggregate amount of consideration for specified service received or receivable in a previous year by the non-resident from a person resident in India and carrying on business or profession, or from a non-resident having a permanent establishment in India, shall not exceed Rs 1 lakh.

C. Deductions/Exemptions for Businesses

- **Section 10(38)**

A transaction undertaken on a recognized stock exchange located in any International Financial Services Centre and where the consideration for such transaction is paid or payable in foreign currency shall be considered as exempt from tax even if no STT is paid.



- **Section 10(48A)**

Any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil there from to any person resident in India shall not be included in the total income on fulfillment of certain prescribed condition.

- **Section 32(1)(iia) – Extending the benefit of initial additional depreciation for power sector**

Under the existing provisions of section 32(1)(iia) of the Act, additional depreciation of 20 per cent is allowed in respect of the cost of new plant or machinery acquired and installed by certain assessee engaged in the business of generation and distribution of power now it is proposed to include assessee engaged in the business of transmission of power.

- **Section 32AC – Rationalisation of scope of Investment allowance**

The existing provision of section 32AC(1A) provides for investment allowance at the rate of 15 per cent on investment made in new assets (plant and machinery) exceeding Rs 25 crore in a previous year by a assessee 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 March 2017 (i.e. till AY 2017-18). The said section is proposed to be amended for allowing depreciation in the year of installation if the acquisition and installation is not done in the same financial year.

- **Section 35 – Phasing out of deduction on Expenditure incurred on scientific research**

Sr. No.	Section	Incentive currently available	Proposed phase out measure / Amendment
1.	35(1)(ii)	Weighted deduction is available to an assessee from the business income to the extent of 175 per cent of any sum paid: a) to an approved scientific research association which has the object of undertaking scientific research and b) to an approved university, college or other institution, if such sum is used for scientific research.	Weighted deduction shall be restricted to 150 per cent from 1 April 2017 to 31 March 2020 (i.e. from financial year 2017-18 to financial year 2019-20) and deduction shall be restricted to 100 per cent from financial year 2020-21 onwards).
2.	35(1)(iia)	Weighted deduction is available to an assessee 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 w.e.f. 1 April 2017 (i.e. from financial year 2017-18 and subsequent years).
3.	35(1)(iii)	Weighted deduction is available to an assessee 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 w.e.f. 1 April 2017 (i.e. from financial year 2017-18 and subsequent years).



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4.	35(2AA)	Weighted deduction is available to an assessee 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 w.e.f. 1 April 2017 to 31 March 2020 (i.e. from financial year 2017-18 to financial year 2019-20) and deduction shall be restricted to 100 per cent from financial year 2020-21 onwards).
5.	35(2AB)	Weighted deduction is available 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 biotechnology 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 w.e.f. 1 April 2017 to 31 March 2020 (i.e. from financial year 2017-18 to financial year 2019-20) and deduction shall be restricted to 100 per cent from financial year 2020-21 onwards).

- **Section 35ABA – Amortisation of spectrum fee for purchase of spectrum**

It is proposed to insert a new section 35ABA to provide that 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 starting from the year in which such payment has been made and ending in the year in which the useful life of spectrum comes to an end.

- **Section 35AC – Deduction in respect of expenditure incurred on eligible projects or schemes**

It is proposed that no deduction in section 35AC shall be available for expenditure incurred by way of payment of any sum to a public sector company or a local authority or to an approved association or institution, etc. on certain eligible social development project or a scheme.

- **Section 35AD – Deduction in respect of expenditure incurred on specified business**

It is proposed to restrict a deduction to 100 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) incurred by an assessee wholly and exclusively for the purposes of business as per section 35AD.

It is further proposed to amend section 35AD, so as to provide the deduction to an assessee engaged in developing, operating and maintaining or developing, operating and maintaining the infrastructure facility.

- **Section 35CCC – Deduction in respect of expenditure incurred on notified agricultural extension project**

It is proposed to restrict a deduction to 100 per cent from 1 April 2017 (i.e. from financial year 2017-18 onwards)

- **Section 35CCD – Deduction in respect of expenditure incurred on notified skill development project**

It is proposed to restrict a deduction to 100 per cent from 1 April 2020 (i.e. from financial year 2020-21 onwards)



- **Section 36(1)(viia) – Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial companies**

It is proposed to amend the provision of section 36(1)(viia) by inserting new sub-clause so as to provide that any provision for bad and doubtful debts made by a non-banking financial company shall be allowed a deduction of an amount not exceeding 5 per cent of the total income (computed before making any deduction under this clause and Chapter VI-A).

- **Amendment in Section 40 – Disallowance of expenses u/s 40(a)(ib) for non-deduction/ non-payment of Equalisation Levy**

A new sub-clause (ib) in clause (a) of section 40 will be inserted after sub clause (ia) to provide that any consideration paid or payable to a non-resident on which equalisation levy is deductible under Chapter VIII of the Finance Bill, 2016, and such levy has not been deducted, or, after deduction, has not been paid on or before the due date specified in section 139(1). It is further proposed that where, the equalisation levy has been deducted in any subsequent year, or, has been deducted during the previous year but paid after the due date specified in section 139(1), such sum shall be allowed as a deduction in computing the income of the previous year in which such levy has been paid. A new sub-section is similar to existing section 40(a)(i) which provides for disallowance of expenses for non deduction of TDS on payment made to non-residents. This amendment shall become effective from 1 June 2016.

- **Amendment to Section 43B** – any sum payable to the Indian Railways for use of railway assets shall be allowed as deduction only on actual payment basis.
- **Section 80-IAC** – 100 per cent deduction from profits and gains derived by an eligible start-up (incorporated between 1 April 2016 to 31 March 2019 having turnover of less than Rs 25 crores from the date of incorporation to 31 March 2021) from an eligible business (meaning a business which involves innovation, development, deployment or commercialization of new products, processes or services driven by technology or intellectual property) can be claimed for any 3 out of 5 consecutive years, at the option of the assessee, beginning from the year of its incorporation subject to certain conditions as to its formation, asset employment, audit, transfer of asset between eligible and non eligible business at market value and arms length price. Minimum Alternative Taxes shall apply to start-ups for the 3 years.
- **Section 115BBE – No set off of loss allowed while computing income under section 68 / 69 / 69A / 69B / 69C / 69D**

The existing section 115BBE provides for tax on income referred to in section 68 / 69 / 69A / 69B / 69C / 69D shall be at the rate of 30 per cent. Further in computing income under these sections, no deduction in respect of any expenditure or allowance was allowed. It is proposed to amend the section with effect from 1 April 2017 to provide that no deduction in respect of set of any loss shall be allowed while computing such income.

D. Procedural / Penalty

- **Section 92CA – Extension of time limit to Transfer Pricing Officer ('TPO') in certain cases**

It is proposed to insert new proviso to sub-section (3A) of section 92CA providing that the period shall be extended to 60 days where the time period left is less than 60 days after excluding the time for which assessment is stayed by Court or the time taken for receipt of information.

This amendment is proposed to take effect from 1 June 2016.

- **Section 92D – Maintenance and keeping of information and document by persons entering into an international transaction or specified domestic transaction**

It is proposed to amend section 92D by inserting new proviso that any person being a constituent entity of an international group referred to in clause (d) of sub-section (9) of section 286 shall also keep and maintain such information and document as may be prescribed. The Finance Bill 2016 also propose to insert sub-section (4) to section 92D to enable the Assessing Officer or Commissioner (Appeals), without prejudice to sub-section (3) of section 92D, to call for such information and document from person being constituent entity of an international group.

Penalty shall be levied under section 271AA for failure to keep and maintain information and documents as prescribed above.

- **Section 119 – Instructions to subordinate authorities**

Section 119 has been amended to empower the CBDT to issue directions in respect of section 270A of the Act which has been newly inserted vide Finance Bill, 2016 providing for levy of penalty for under-reporting and misreporting of income.

- **Section 124 – Jurisdiction of Assessing Officers**

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

- **Section 139 – Filing of return of Income**

Sixth proviso to section 139(1) - A person whose income during the previous year is exempt under clause (38) of section 10 and income of such person without giving effect to the said clause of section 10 exceeds the basic exemption limit to file a return of income for the previous year in the prescribed form and verified in the prescribed manner.

- **Sub-section 4 to section 139 –** A person who has not furnished a return of income within the due date under section 139(1), may furnish the return of income at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

- **Sub-section 5 to section 139 –** A person having furnished a return under section 139(1) or section 139(4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. Accordingly, even a belated return filed under section 139(4) would be allowed to be revised.

- **Clause (aa) in Explanation to section 139(9) –** It is proposed to omit clause (aa) in Explanation to section 139(9) to provide that a return which is otherwise valid 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.



- **Section 143(1) – Summary Assessment**

The scope of the adjustments under section 143(1) has been extended to include:–

- (i) disallowance of loss claimed, if return of income for the previous year for which set off of loss is claimed is furnished beyond the due date specified under section 139(1);
- (ii) disallowance of expenditure indicated in the audit report but not taken into account in computing the total income in the return of income;
- (iii) disallowance of deduction claimed under sections 10AA, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID or section 80-IE, if the return of income is furnished beyond the due date specified under section 139(1); or
- (iv) addition of income appearing in Form 26AS or Form 16A or Form 16 but not included in computing the total income in the return of income.

However, no such adjustment shall be made unless an intimation is given to the assessee to explain and rectify the same within 30 days of issuance of such intimation.

Further, it is proposed to make an amendment mandating processing of return of income under section 143(1) before making an assessment under section 143(3).

- **Section 147 – Reassessment**

Explanation 2 to section 147 provide for reopening of cases by the AO on the basis of the information so received under section 133C(2).

- **Section 153 – Time Limit for completion of Assessment**

Section 153 is substituted to provide for the following time limits for completion of assessments:

Sl. No.	Assessment / Reassessment	Time Limit
(a)	Assessment under section 143 or 144	21 months from the end of the assessment year
(b)	Reassessment or recomputation under section 147	9 months from the end of the financial year in which the notice under section 148 was served
(c)	Fresh assessment under section 254 or 263 or 264	9 months from the end of the financial year in which the order is received or passed by the Principal Commissioner or Commissioner
(d)	Assessment other than fresh assessment or reassessment under section 250 or 254 or 260 or 262 or 263 or 264	3 months from the end of the month in which order is received or passed by the Principal Commissioner or Commissioner
(e)	Assessment in pursuance of order passed under section 250 or 254 or 260 or 262 or 263 or 264 or any court in cases other than by way appeal or reference	12 months from the end of the month in which order is received or passed by the Principal Commissioner or Commissioner
(f)	Assessment of a partner in consequence of assessment of firm under section 147	12 months from the end of the end of the month in the order is passed under section 147 is passed in case of the firm

In cases where reference is made to Transfer Pricing Officer, the aforesaid time limit shall be extended by a further time period of 12 months.

- **Section 153B – Time Limit for completion of assessment of search cases**

Sl. No.	Assessment / Reassessment	Time Limit
(a)	Block of 6 assessment years as well as the previous year in which search referred to in section 153A(1)	21 months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed.
(b)	Assessment of other persons referred to in section 153C	21 months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed OR 9 months from the end of the financial year in which books of account or documents or assets are handed over to the AO having jurisdiction over such other person whichever is later

In cases where reference is made to Transfer Pricing Officer, the aforesaid time limit shall be extended by a further time period of 12 months.

- **Section 197 – Scope widened for certificate for deduction at lower/Nil rate**

It is proposed to include payment made under the provision of section 194LBB and 194LBC under the ambit of section 197 where recipient of payment under the provision of these sections may apply to assessing officer for lower or nil rate of TDS.

This amendment will take effect from 1 June 2016.

- **Section 197A – No deduction to be made in certain cases**

Under the current provision, no tax is required to be deducted if any resident individual furnishes to the person responsible for making certain payment, a declaration in writing in prescribed form. It is now proposed to include payment in the nature of rent as referred in section 194-I to include under the ambit of this section so as to allow the recipient to receive the payment without deduction of tax.

This amendment will take effect from 1 June 2016.

- **Section 206AA – Not applicable in respect of payment of interest on long-term bonds as referred to in section 194LC**

It is proposed to substitute sub-section (7) of the said section so as to provide that the provisions of the said section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of payment of interest on long-term bonds as referred to in section 194LC and any other payment subject to such conditions as may be prescribed.

This amendment will take effect from 1 June 2016.



- **Section 206C – Collection at source**

It is proposed to amend the said section to provide that the seller shall collect the tax at the rate of 1 per cent

- (i) the sale of motor vehicle of the value exceeding Rs 10 lakh rupees in cash or by the issue of a cheque or draft or by any other mode or
- (ii) for sale of any other goods (other than bullion and jewellery) or
- (iii) providing any service in cash exceeding Rs 2 lakhs.

It is further proposed to insert a proviso under sub-section (1D) of the said section so as to provide that no tax shall be collected at source on any amount on which tax has been deducted by the payer under Chapter XVII-B of the Act. It is also proposed to insert a new sub-section after sub-section (1D) so as to provide that nothing contained in sub-section (1D) in relation to sale of any goods (other than bullion or jewellery) or services shall apply to such classes of buyers who fulfils such conditions, as may be prescribed.

These amendments will take effect from 1 June 2016.

- **Section 211 – Installments of advance tax and due dates**

As per the existing provisions of sub-section (1) of the aforesaid section, the advance tax payment schedule for a company is 15 per cent, 45 per cent, 75 per cent and 100 per cent of tax payable on the current income by 15 June, 15 September, 15 December and 15 March, respectively. For assessee (other than companies), the advance tax payment schedule is 30 per cent, 60 per cent and 100 per cent of tax payable on current income by 15 September, 15 December and 15 March respectively.

It is proposed to amend the advance tax payment schedule for assessee (other than companies) and bring it in consonance with the existing advance tax payment schedule applicable for a company.

It is further proposed that an eligible assessee in respect of eligible business referred to in section 44AD opting for computation of profits or gains of business on presumptive basis, shall be required to pay advance tax of the whole amount in one installment on or before the 15 March of the financial year.

These amendments will take effect from 1 June 2016.

- **Section 220 – Assessee deemed to be in default**

Section 220(2A) provides that an order accepting or rejecting the application of an assessee shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such an application is received. It is further proposed to provide that no order shall be passed without giving the assessee an opportunity of being heard.

- **Section 234C – Interest for deferment of advance tax**

To accommodate the amendments made in section 211 with respect to the advance tax payment schedule, consequential changes have been proposed in section 234C so as to levy interest on deferment of advance tax, in the same manner as applicable to the company, to an assessee (other than company) also. Further, with regard to an eligible assessee referred to in section 44AD, it is proposed to provide that interest shall be levied, if the advance tax paid on or before the 15 March is less than the tax due on the returned income.

Further, it is also proposed that interest under section 234C shall not be chargeable in case of an assessee having income under the head “Profits and gains of business or profession” for the first time, subject to fulfillment of conditions specified therein.

- **Section 244A – Interest on Refunds**

In case where the return is filed after the due date, the period for grant of interest on refund shall begin from the date of filing of return of income and not from the first day of the assessment year. Further, an assessee shall be eligible to interest on refund of self-assessment tax also.

Where an order giving effect is delayed beyond the time prescribed under subsection (5) of section 153, the assessee shall be entitled to receive, in addition to the interest payable @ 6 per cent p.m., an additional interest at the rate of 3 per cent p.a., for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.

- **Section 254 – Rectification of Mistake**

The Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within 6 months from the end of the month in which the order was passed.

- **Section 281B – Provisional attachment to protect revenue in certain cases-** The Assessing Officer shall revoke attachment of property made under section 281B in a case where the assessee furnishes a bank guarantee from a scheduled bank, for an amount not less than the fair market value of such provisionally attached property or for an amount lower than the fair market value of the property which is sufficient to protect the interests of the revenue.

These amendments will take effect from 1 June 2016.

- **Section 282A – Authentication of notices and other documents**

It is proposed to amend the said sub-section (1) so as to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.

This amendment will take effect from 1 June 2016.

- **Section 286 – Furnishing of a report in respect of an international group**

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.

In accordance with BEPS, a new section 286 is proposed which provides for furnishing of a report in respect of an international group or MNEs.

Companies with consolidated revenue of more than EURO 750 Million are required to comply with CbC reporting

- **Section 288 – Appearance by authorised representative**

As per existing provision, authorised representative to represent an assessee before any income-tax authority or the Appellate Tribunal is barred if he has been convicted of an offence connected with any income-tax proceedings or if a penalty has been imposed on him under the Income-tax Act other than a penalty imposed under clause (ii) of sub-section (1) of section 271.



It is proposed to amend clause (b) of sub-section (4) of section 288 so as to provide that a person on whom a penalty has been imposed under clause (d) of sub-section (1) of section 272A shall also not be barred to represent an assessee before any income-tax authority or the Appellate Tribunal.

The proposed amendment is consequential to the insertion of a new clause (d) in sub-section (1) of section 272A relating to penalty for failure to comply with the notices and directions specified therein.

DEFINITIONS

- **Section 2(14)**

Sub-clause (a)(vi) of the aforesaid section is amended to include the word “or deposit certificates issued under the Gold Monetisation Scheme, 2015” thereby excluding the aforesaid deposit certificate from the definition of capital asset.

- **Section 2(24)**

Subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or State government shall not form part of income.

- **Section 10(15)**

Interest on “Deposit Certificates issued under the Gold Monetisation Scheme, 2015”, shall be exempt from income-tax.

- **Section 10(23)**

A new sub clause has been inserted in clause 23 of section 10 w.e.f 1 April 2017 which widens the meaning of ‘securitization’ to as specified in clause (z) of sub-section (1) of section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

- **Section 112**

Long Term Capital Gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent.

- **Section 6(3)**

In the lieu of Finance Bill, 2016, POEM is deferred by a year to A.Y. 2017-18.

- **Section 9(1)(i)**

It is proposed to insert new sub clause (e) to Explanation 1 section 9(1)(i), to provide that foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are undertaken to display of uncut and un assorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf.

- **Section 9A(3)**

Sub-section 3 of Section 9A, describes the definition of an investment fund prescribing the condition to be fulfilled to be eligible investment to be declared as not a resident of India. It has been inserted that w.e.f 1 April, 2017 that the fund will be an eligible investment fund if it is established or incorporated or registered in a country or a specified territory notified by the Central Government in this behalf.

- **Explanation to Chapter XII-EA – Meaning of certain terms used in Sections 115TA to 115TC**

Explanation (a) to Chapter XII-EA of the Act defines the term “investor” to mean a person who is holder of any securitised debt instrument or securities issued by the securitization trust.

It is proposed to extend the scope of definition of “investor” under this Chapter to include a person who is a holder of a “security receipt” issued by the securitization trust.

The aforementioned term “security receipt” is also proposed to be specifically defined under clause (e) of the Explanation, which provides that the term “security receipt” shall have the same meaning as assigned to it in clause (zg) of sub-section (1) of Section 2 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act)).

Further, the Finance Bill 2016 proposes to extend the scope of definition of “securitisation trust” to also include a trust set-up by a securitisation company or a reconstruction company formed, for the purposes of the SARFAESI Act, or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India..

These amendments will take effect from 1 June 2016.

PENALTIES

- **Section 270A – Penalty for under-reporting and misreporting of income**

Section 271 is discontinued and in its place a new section 270A is to be inserted to levy penalty for under-reporting and misreporting of income.

It is proposed that the rate of penalty shall be fifty per cent of the tax payable on under-reported income. However in a case where under reporting of income results from misreporting of income by the assessee, the person shall be liable for penalty at the rate of two hundred per cent of the tax payable on such misreported income.

- **Section 270AA – Immunity from imposition of penalty, etc.**

An assessee may make an application to the Assessing Officer for grant of immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C, provided he pays the tax and interest payable as per the order of assessment or reassessment within the period specified in such notice of demand and does not prefer an appeal against such assessment order.

- **Section 271AAB – Penalty where search has been initiated**

It is proposed to amend clause (c) of sub-section (1) of section 271AAB to provide for levy of penalty on such undisclosed income at a flat rate of 60 per cent of such income.

- **Section 272A – Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc.**

It is proposed to insert new clause i.e. clause (d) to sub-section (1) of section 272A for imposing a penalty on the assessee:

- (a) who fails to comply with a notice issued under section 142(1) or 143(2) or
- (b) who fails to comply with a direction issued under section 142(2A).



- **Section 273AA – Power of Principal Commissioner or Commissioner to grant immunity from penalty**

It is proposed to insert sub-section 3A, wherein it is stated that the Principal Commissioner or Commissioner should either accept or reject the application, made by any person for immunity of penalty where the penalty proceedings has been initiated under this Act, within a period of twelve months from the end of the month in which the application is received by Principal Commissioner or Commissioner.

- **Section 279 – No prosecution where penalty under new section 270A has been reduced or waived**

Under the current provision contained in section 279, prosecution proceeding shall not be proceeded against a person for offences under section 276C (willful attempt to evade tax, etc) or section 277 (false statement in verification, etc.) in respect of whom penalty under clause (iii) of sub-section (1) of section 271 has been reduced or waived under section 273A.

The finance bill has introduced new section 270A relating to penalty for under reporting and mis-reporting of income. It is proposed to bring cases related to this new section 270A under the ambit of above provision to provide that the prosecution proceeding shall not be proceeded against a person for offences under section 276C or section 277 in respect of whom penalty under section 270A has also been reduced or waived under section 273A.

Reporting requirements under section 285A for implementation of the Common Reporting Standard (CRS) and the US Foreign Account Tax Compliance Act (FATCA) as introduced in the Finance Act 2015 and further the new rules inserted w.e.f. 7 August 2015

On this basis, a guidance note on the implementation of reporting requirements under Rule 114F to 114H of Income tax rules, 1962 was issued on 31 December 2015 on implementation of FATCA and CRS reporting requirements.

The brief summary of Income tax rules for compliance of maintaining and reporting of information under FATCA and CRS is as follows:

Rules 114F	Definitions of the various terms referred to in the rules
	Financial account, Financial asset, Financial institution, Non-participating financial institution, Non-reporting financial institution, Financial institution with only low-value accounts, Reportable account, Controlling person, Passive non-financial entity, Reportable person, Specified U.S. person

Rules 114G	<p>Information to be maintained and reported</p> <p>The Reporting Financial Institution (RFI) is expected to maintain and report the following information with respect to each reportable account:</p> <ul style="list-style-type: none"> • The name, address, taxpayer identification number [TIN (assigned in the country of residence)] and date and place of birth [DOB, POB (in the case of an individual)]; • Where an entity has one or more controlling persons that are reportable persons: <ul style="list-style-type: none"> • the name and address of the entity, TIN assigned to the entity by the country of its residence; and • the name, address, DOB, POB of each such controlling person and TIN assigned to such controlling person by the country of his residence; • Account number (or functional equivalent in the absence of an account number); • Account balance or value (including, in the case of a cash value insurance contract or annuity contract, the cash value or surrender value) at the end of the relevant calendar year; • In the case of any custodial account: <ul style="list-style-type: none"> • the total gross amount of interest or dividends or other income generated with respect to the assets held in the account during the calendar year; and • the total gross proceeds from the sale or redemption of financial assets during the calendar year with respect to which the reporting financial institution acted as a custodian, broker, nominee, or otherwise as an agent for the account holder • In the case of any depository account, the total gross amount of interest paid or credited to the account during the relevant calendar year; • In the case of any account other than that referred above, the total gross amount paid or credited to the account holder with respect to the account during the relevant calendar year; and • In case of any account held by a non-participating financial institution (NPFI), for the calendar years 2015 and 2016, the name of NPFI and aggregate amount of such payments. • The above are reporting requirement for F.Y. 2015-16
Rules 114H	<p>Due diligence procedures for identifying reportable accounts</p> <p>These rules provide for specific guidelines for conducting due diligence of reportable accounts, viz. US reportable accounts and other reportable accounts.</p>

- **Due date for FATCA compliance:** The report in respect of US related accounts for the calendar year 2014 was required to be furnished by 10th September, 2015 and for the calendar year 2015 the report is required to be submitted by 31 May 2016.



SERVICE TAX

Amendments effective from 1 June 2016

- Services by way of transportation of goods by an aircraft or a vessel from a place outside India upto the customs station of clearance in India has been deleted from the negative list, however only aircraft has been inserted under the mega exemption notification. Hence transportation of goods by vessel is now taxable.
- An enabling provision is being made to levy Krishi Kalyan Cess at the rate of 0.5 per cent on all taxable services. Thereby the effective rate of service tax would be 15 per cent (including SBC).
- Indirect Tax Dispute Resolution Scheme has been proposed for declaration upto 31 December 2016 in respect of cases pending before the Commissioner (Appeals) as on 1 March 2016.

Effective from the date of enactment of Finance Bill

- Since the exemption to educational services is provided by way of notification, the entry appearing in the Negative List entry covering this services is being omitted.
- Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof is being declared as a service under section 66E of the Finance Act, 1994 so as to make it clear that assignment of right to use the spectrum is a service leviable to Service Tax and not sale of intangible goods.
- The time period of limitation has been increased from eighteen months to thirty months.
- New rate of interest is proposed to be levied in case of service tax collected but not deposited by such persons at 24 per cent.
- The minimum amount of cognizable offence has been increased to Rupees 2 crore from Rupees 50 lakhs.
- Exemptions on services of construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals, ports, airports, [which were withdrawn with effect from 1 April 2015], are being restored in respect of services provided under contracts which had been entered into prior to 1 March 2015 on payment of applicable stamp duty, with retrospective effect from 1 April 2015 with consequential refunds if application made within six months.

NOTIFICATION

Notification No. 08/2016-ST – Amendment in Abatement Notification (Effective 1 April 2016)

- Abatement for transportation of goods by person other than Indian Railways has been reduced to 60 per cent from 70 per cent earlier.
- Cenvat credit on input service can now be availed in respect of service provided in relation to transportation of passengers and goods in a vessel availing abatement.
- Abatement of used household goods by a Goods Transport Agency would now be at the rate of 60 per cent if Cenvat Credit on inputs, capital goods & input services has not been availed.

- The service of transportation of passengers by air-conditioned stage carriage is being taxed at the same level of abatement (60 per cent) as applicable to the transportation of passengers by a contract carriage, with same conditions of non-availment of Cenvat credit effective 1 June 2016.
- Abatement in case of tour operator has been amended to provide separate rate in case of transactions involving only arranging or booking of accommodation of any person and others subject to specified conditions.
- Uniform abatement for construction complex has been prescribed at 70 per cent.
- It has been clarified by way of inserting an explanation in the notification No. 26/2012-ST that the fair market value of all goods (including fuel) and services supplied by the recipient in relation to the service should be included in the consideration charged for providing renting of motor-cab services for availing the abatement.

Notification No. 09/2016-ST – Amendments in mega exemption notification (Effective 1 April 2016)

- Exemption in respect of the services provided by a senior advocate to an advocate or partnership firm of advocates, and a person represented on an arbitral tribunal to an arbitral tribunal is being withdrawn and thereby service tax would be chargeable on such services.
- Services of assessing bodies empanelled centrally by Directorate General of Training under Skill Development Initiative (SDI) Scheme is now exempted (effective from 1 March 2016).
- Services provided by way of skill/vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners are being exempted from service tax (effective from 1 March 2016).
- Restoration of certain exemptions withdrawn earlier in respect of projects, contracts etc. in case of services provided to the Government, a local authority or a governmental authority by way of construction, erection etc. of a residential complex predominantly meant for self-use or the use of their employees or other specified persons
- A civil structure or any other original works pertaining to the In-situ rehabilitation of existing slum dwellers using land as a resource through private participation and beneficiary led individual house construction/enhancement under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana is exempted effective 1 March 2016.
- The services by way of construction, erection, commissioning or installation of original works pertaining to monorail or metro, where contracts were entered into before 1 March 2016, on which appropriate stamp duty was paid, shall remain exempt.
- Services by way of construction, erection, etc., of original works pertaining to low cost houses up to a carpet area of 30/60 sq. mtr. (Metro/non metro city) per house in a housing project approved by the competent authority under the “Affordable housing in partnership” component of PMAY or any housing scheme of a State Government are being exempted from service tax.
- The consideration charged by the artist for the purpose of attracting service tax has been increased to Rupees 1.50 lakh from existing Rupees 1 lakh.
- Services by air conditioned stage carrier is now sought to be taxed.



- Services of general insurance business provided under, “Niramaya” Health Insurance scheme in collaboration with private/public insurance companies are being exempted from service tax.
- Services of life insurance business provided by way of annuity under the National Pension System (NPS) regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from service tax.
- Services provided by Employees Provident Fund Organisation (EPFO) to persons governed under the Employees Provident Funds and Miscellaneous Provisions Act, 1952 is now exempted.

Notification No. 11/2016-ST – Information Technology Software

- Service in relation to Information Technology Software previously leviable to service tax under section 66B read with section 66E of the Finance Act, 1994 has been exempted when such software is recorded on such media and such other conditions as are specified. Thus the levy of central excise duty/CVD and service tax will be mutually exclusive.

Notification No. 14/2016-ST – Rate of Interest (Effective from date of Assent of Finance Bill)

- The Rate of interest is proposed to be changed from existing 18 per cent to 15 per cent.

Notification No. 16/2016-ST – Notification for deletion of support service

- 1 April 2016 is being notified as the date from which the words by way of support services shall stand deleted from paragraph 1, sub-paragraph (i), clause (b) of Notification No. 07/2015-ST.

Notification No. 18/2016-ST – Amendment in Reverse Charge Mechanism (RCM) (Effective 1 April 2016)

- Services provided by a mutual fund agent or distributor to a mutual fund or asset management is no more covered under reverse charge mechanism.
- Scope of RCM has been narrowed in case of selling or marketing agent of lottery tickets by reducing it to those agents of the State Government under the provisions of the Lottery (Regulations) Act.
- Services provided by a senior advocate to an advocate or partnership firm of advocates providing legal service is being excluded and thereby service tax would be levied on such service under forward charge.

Notification No. 19/2016-ST – Amendment in Service Tax Rules (Effective 1 April 2016)

- The benefit of quarterly payment of service tax is being extended to ‘One Person Company’ (OPC) and HUF.
- The facility of payment of service tax on receipt basis is being extended to ‘One Person Company’ (OPC).
- The rate of service tax on single premium annuity (insurance) policies is being reduced from 3.5 per cent to 1.4 per cent of the premium, in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service.
- Annual return for the financial year to which the return relates are required to be filed in addition to the existing returns in such form and manner as may be specified before 30 November from the end of the year for certain class of assessee.

CENTRAL EXCISE

- The period of limitation has been increased from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement, etc.
- Consequent to 2017 Harmonized System of Nomenclature some editorial changes have been made under Third Schedule effective from 1 January 2017.

Sr. No.	Description	New rate (%)	Old Rate (%)
1.	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	21	18
2.	Tariff Value of ready made garments and made up articles of textiles	60 per cent of RSP	30 per cent of RSP
3.	Branded ready made garments and made up articles of textiles of RSP of Rs.1000 or more	2 per cent [without CENVAT credit] or 12.5 per cent [with CENVAT credit]	Nil [without CENVAT credit] or 6 per cent/12.5 per cent [with CENVAT credit]
4.	Specified articles of Jewellery	NIL (turnover increased to Rs 6 crore)	1 per cent [without CENVAT credit] or 12.5 per cent [with CENVAT credit]
5.	Electric motor, shafts, sleeve, chamber, impeller, washer required for the manufacture of centrifugal pump	6 per cent	12.5 per cent
6.	Engine for xEV (hybrid electric vehicle)	6 per cent	12.5 per cent
7.	Ready Mix Concrete manufactured at the site of construction for use in construction work at such site	2 per cent/6 per cent	NIL

- To extend Retail Sale Price [RSP] based assessment of excise duty to
 - all goods falling under heading 3401 and 3402 [with abatement rate of 30 per cent],
 - aluminium foils of a thickness not exceeding 0.2 mm [with abatement rate of 25 per cent],
 - wrist wearable devices (commonly known as 'smart watches') [with abatement rate of 35 per cent], and
 - accessories of motor vehicle and certain other specified goods [with abatement rate of 30 per cent].
- Infrastructure Cess is being levied on motor vehicles with certain specifications with immediate effect.



- Excise duty of 2 per cent (without CENVAT credit) or 12.5 per cent (with CENVAT credit) is being levied on readymade garments and made up articles of textiles falling under Chapters 61, 62 and 63 (heading Nos. 6301 to 6308) of the Central Excise Tariff except those falling under 6309 and 6310 of Retail Sale Price (RSP) of Rs.1000 and above when they bear or are sold under a brand name.

NOTIFICATION

Notification No. 05/2016-CE(NT) – Amendments in Central Excise Rules, 2002

- Optional centralized registration is being extended to manufacturers of articles of jewellery [excluding articles of silver jewellery, other than studded with diamonds, ruby, emerald or sapphire].
- Duty paid or payable under Provisional Assessment would be chargeable to interest as per the rates specified.
- Revised return can now be filled under central excise.

Notification No. 13/2016-CE(NT) – Amendments in Cenvat Credit Rules, 2004

- The definition of Capital goods is expanded to include any equipment or appliance used in an office.
- Services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India has been excluded from the definition of exempted service.
- All capital goods which have a value upto Rs 10,000 per piece would be treated as inputs.
- A new Cenvat credit Mechanism has been notified for manufacturer of final product or provider of output service
- A banking company and a financial institution including a non-banking financial company, engaged in providing services by way of extending deposits, loans or advances, in addition to options given in sub-rules (1), (2) and (3) of rule 6 shall have the option to pay for every month an amount equal to fifty per cent.
- A manufacturer of final products or provider of output services, shall submit to the Superintendent of Central Excise an annual return for each financial year, by the 30th November of the succeeding year.

CUSTOMS

- A new class of warehouses for enabling storage of specific goods under physical control of the department is added under the definition of Warehouse.
- The concept of warehousing station has been omitted under the Customs Act.
- The period of limitation has been increased from 1 year to 2 years in cases not involving fraud, suppression of facts, willful mis-statement, etc.
- Certain class of importers and exporters has been given an option for deferred payment of customs duties.
- Board has been empowered to frame regulations for allowing transit of certain goods and conveyance without payment of duty.
- A new set of regulations are being prescribed for the licensing and cancellation of warehouse.
- The existing section 59 governing warehousing bonds submitted by importers availing duty deferred warehousing is being substituted so as to fix the bond amount at thrice the duty involved and to furnish security as prescribed.
- Payment of rent and warehouse charges is being omitted in view of the privatization of services, and free market determination of rates, including those by facilities in the public sector.
- Payment of fees to Customs for supervision of manufacturing facilities under Bond has been deleted and has been empowered to Principal Commissioner or Commissioner of Customs to license such facilities.
- Sample of goods imported can be removed from warehouse without payment of duty.
- Separate tariff lines for laboratory created or laboratory grown or man made or cultured or synthetic diamonds has been inserted effective from 1 January 2017.
- Various notifications pertaining to Advance Licence and Duty Free Import Authorization Schemes retrospectively, to correct the reference to "section 8" in such notifications to "section 8B" so as to clearly provide that exemption from safeguard duty under section 8B of the Customs Tariff Act, 1975 was/is available under these notifications on imports under Advance Licence and Duty Free Import Authorization Schemes.
- The value of the limit for bona fide gifts imported by post or as air freight has been increased from Rs 10,000 to Rs 20,000

NOTIFICATION

Notification No. 30/2016-Cus(NT) – Amendment in Baggage Rules (Effective 1 April 2016)

- An Indian resident or a foreigner residing in India or a tourist of Indian origin, not being an infant on arrival in India shall be allowed clearance free of specified duty articles for personal effects upto the value of Rs 50,000 except for specified countries.



Notification No. 32/2016-Cus(NT) – Amendment in Import of Goods at Concessional Rate

- The existing Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 are being substituted with a view to simplify the rules, including allowing duty exemptions to importer/manufacturer based on self-declaration instead of obtaining permissions from the Central Excise authorities.

Notification No. 33/2016-Cus(NT) – Rate of Interest (Effective from Assent of Finance Bill)

- The Rate of interest is proposed to be changed from existing 18 per cent to 15 per cent.

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

Sr. No.	Description	Duty	New rate (%)	Old Rate (%)
1.	Coal; briquettes, ovoids and similar solid fuels manufactured from coal	BCD	2.5	2.5 / 10
2.	All acyclic hydrocarbons and all cyclic hydrocarbons [other than para-xylene which attracts Nil BCD and styrene which attracts 2 per cent BCD]	BCD	2.5	5 / 2.5
3.	Specified fibres and yarns	BCD	2.5	5
4.	Specified fabrics [for manufacture of textile garments for export] of value equivalent to 1 per cent of FOB value of exports in the preceding financial year subject to the specified conditions. The entitlement for the month of March 2016 shall be one twelfth of one per cent of the FOB value of exports in the financial year 2014-15.	BCD	NIL	Various rates
5.	E-Readers	BCD	7.5	NIL
6.	Specified telecommunication equipment [Soft switches and Voice over Internet Protocol (VoIP) equipment namely VoIP phones etc.]	BCD	10	NIL
7.	Gold dore bars.	CVD	8.75	8
8.	Engine for xEV (hybrid electric vehicle)	BCD CVD	NIL 6	Applicable Applicable
9.	Iron Ore Lumps (below 58 per cent Fe content)	Export Duty	NIL	30
10.	Imitation jewellery	BCD	15	10
11.	Specified tariff lines in Chapters 84, 85 and 90	BCD	10	7.5
12.	Zinc alloys	BCD	7.5	5

TDS/TCS RATES

TDS RATES FOR ASSESSMENT YEAR 2017-18 (FINANCIAL YEAR 2016-17)

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

Sr. No.	Payments to Resident Payee	Criteria for Deduction	Section	Company	Partner-ship Firm	Individual, HUF, AOP, BOI
				Rate (%)		
1	Pre-mature withdrawals from Employee Provident Fund Scheme (Note 1)	Payment in excess of Rs. 50,000	192A	-	-	10
2	Interest on Securities (Note 2)	No Threshold Limit	193	10	10	10
3	Other Interest (Note 3)	Payment in excess of Rs. 5,000	194A	10	10	10
4	Winning From Lotteries crossword puzzles, card games and other games of any sort	Payment in excess of Rs. 10,000	194B	30	30	30
5	Winning From Horse Race	Payment in excess of Rs. 10,000	194BB	30	30	30
6	Insurance Commission	Payment in excess of Rs. 15,000	194D	10	5	5
7	Payment to contractors (Note 4)	Payment in excess of Rs. 30,000 per transaction or Rs. 1,00,000 p.a.	194C	2	2	1
8	Sum received for Life Insurance Policy including bonus [except exempt u/s 10(10D)]	Payment in excess of Rs. 100,000 p.a.	194DA	1	1	1
9	Commission on Sale of Lottery Tickets	Payment in excess of Rs. 15,000	194G	5	5	5
10	Other Commission / Brokerage	Payment in excess of Rs. 15,000	194H	5	5	5
11	Rent for Land or Building/ Furniture and Fixture	Payment in excess of Rs. 1,80,000 p.a. (In case rent is directly paid to REITs no TDS is required)	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 Rs. 50,00,000	194IA	1	1	1
13	Professional Fees / Royalties / FTS (Note 5)	Payment in excess of Rs. 30,000 p.a.	194J	10	10	10



14	Consideration for compulsory acquisition of Immovable Property (other than agricultural land)	Payment in excess of Rs. 2,50,000 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 other than business income distributed by an Alternate Investment Fund (Category I & II)	No Threshold Limit	194LBB	10	10	10
17	Income in respect of Investment in Securitization Trust	No Threshold Limit	194LBC	30	25	25
18	Payments in respect of deposits under National Savings Scheme, etc Central Govt Schemes	Payment in excess of Rs. 2,500 p.a.	194EE	10	10	10

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 Rs. 5,000/-
- 3 For interest on Bank Deposits and Deposits with Post Office, the threshold limit is Rs 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 which are "salaries" 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.
- 8 Certificate for deduction at lower rate can be applied for sections 192, 193, 194, 194A, 194C, 194D, 194G, 194H, 194-I, 194J, 194K, 194LA, 194LBB, 194LBC and 195.
- 9 Certificate for nil rate of tax deduction can be applied for sections 194, 194EE, 192A, 193, 194A, 194DA, 194K, 194-I

(B) On payments to Non-Residents (subject to notes below)

Sr. No.	Payments to Non-Resident Payee	Criteria 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	40
		(a) In case of companies		30
		(b) In case of persons other than companies		
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 (Except for transactions covered u/s 112(1)(c)(iii))	112	20
		on income by way of long-term capital gains from unlisted securities u/s 112(1)(c)(iii)	112	10
3	Winning From Lotteries crossword puzzles, card games and other games of any sort	Payment in excess of Rs. 10,000	194B	30
4	Winning From Horse Race	Payment in excess of Rs. 10,000	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 Alternate Investment Fund (Category I & II)	No Threshold Limit	194LBB	Note - 7
10	Income in respect of Investment in Securitization Trust	No Threshold Limit	194LBC	Note - 7
11	Income by way of interest to FII or QFI	On Rupee denominated Bonds of Indian Company and Government Securities.	194LD	5
12	Payments to Non-Resident Sportsmen/Enter tainer/Spor ts Association	Other than to a non-resident being an Indian citizen	194E	20
13	Other income	(a) In case of non-resident companies	-	40
		(b) In case of non-residents other than non-resident companies	-	30
14	Equalization Levy	(Refer Note No.6 below)		

Notes

- 1 Cess @ 3 per cent shall be levied additionally.
- 2 Treaty rates will differ from Country to Country. Treaty rates will apply only if Tax Residency Certificate is produced.
- 3 NRI's opting to be taxed under chapter XII-A, tax shall be deductible at the rate of 10 per cent on long term capital gains referred to in section 115E and twenty per cent on investment income.
- 4 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. Also, it is proposed to amend this provision in case if alternative documents are available.
- 5 TDS is to be deducted at "Rate in Force". The term "Rate in force" means rate as per Income Tax Act, 1961 or Relevant DTAA rate which is beneficial.
- 6 It may be noted that a new levy viz. Equalization Levy has been introduced for online advertisement / digital advertising space services provided by a non-resident to a resident or a permanent establishment of non-resident in India. The rate for such levy shall be six per cent of the consideration. The date of applicability is yet to be notified.
- 7 Certificate for deduction at lower rate can be applied for sections 194LBB, 194LBC and 195.
- 8 Surcharge on tax deducted applicable as below:

Assessee	Residential Status	Deduction Threshold	Rate of Surcharge
Individual, HUF, AOP, BOI or Artificial Jurisdictional Person	Non-Resident	Exceeding Rs 1 crore	15%
Co-operative Society	Non-Resident	Exceeding Rs 1 crore	12%
Foreign Company	Any	Exceeding Rs 1 crore upto 10 crores	2%
Foreign Company	Any	Exceeding 10 crores	5%

TCS RATES FOR ASSESSMENT YEAR 2017-18 (FINANCIAL YEAR 2016-17)

Sr. No.	Nature of Goods/Contract/License /Lease	Criteria 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	Motor Vehicle	Payment in excess of Rs. 10,00,000/-	1
9	Cash Sale of Bullion	Payment in excess of Rs. 2,00,000/-	1
10	Cash Sale of Jewellery	Payment in excess of Rs. 5,00,000/-	1
11	Cash Sale of any other goods (other than bullion and jewellery) or Providing any service for Cash	Payment in excess of Rs. 2,00,000/-	1
12	Transfer of right or interest in any Parking Lot or Toll Plaza or Mining and Quarrying (other than of mineral oil) under any contract, license and lease	No Threshold Limit	2

Notes:

- 1 Surcharge on tax collected applicable as below:

Assessee	Residential Status	Collection Threshold	Rate of Surcharge
Individual, HUF, AOP, BOI or Artificial Jurisdictional Person	Non-Resident	Exceeding Rs 1 crore	15%
Co-operative Society	Non-Resident	Exceeding Rs 1 crore	12%
Foreign Company	Any	Exceeding Rs 1 crore upto 10 crores	2%
Foreign Company	Any	Exceeding 10 crores	5%



INDIA BUDGET 2016 – INCOME DECLARATION SCHEME 2016 & DISPUTE RESOLUTION SCHEME 2016

Income Declaration Scheme 2016

The Income Declaration Scheme, 2016 has been proposed to be introduced by Finance Minister Arun Jaitley vide India Budget 2016. This scheme has been introduced to provide an opportunity to assesseees who have failed to declare the undisclosed income (relating to any financial year up to 2015-16) or income represented in form of any asset and pay tax, surcharge and penalty totaling to 45% of the amount of such undisclosed income. This is a limited period compliance window scheme which is proposed to be brought into effect from June 01, 2016 with an option to pay amount due within two months of declaration. No scrutiny proceedings are to be initiated on such assesseees and they would be provided immunity from the Benami transactions law and prosecution under other Acts. It is proposed to provide that declarations made under the scheme shall be exempt from wealth-tax in respect of assets specified in declaration. It is also proposed that nothing contained in the Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme. Where the income is declared in the form of an investment in any asset, the fair value of such asset as on 1st June, 2016 (in the manner as may be prescribed) shall be deemed to be the amount of undisclosed income. No deduction in respect of any expenditure or allowance shall be allowed against such income declared under the Scheme

This scheme would not apply to the following cases:

- For any assessment year prior to A.Y 2017-18, where notice has been issued under section 142(1) or 143(2) or 148 or 153A or 153C for such assessment year, or
- Where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or
- Where information is received under an agreement with foreign countries regarding such income or
- Cases covered under the Black Money Act, 2015, or
- Persons notified under section 3 of the Special Court (Trial of offences relating to transaction in securities) Act, 1992, or
- Cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988 or

Any person in respect of whom an order of detention has been made under the Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974 (subject to certain exceptions)

In case of misrepresentation or suppression of facts by the declarant, the declaration so filed shall become void and such undisclosed income shall be liable to be offered for taxes in the year in which the declaration is made. It is further proposed that if any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty by an order not after the expiry of a period of two years from the date on which the provisions of this Scheme come into force and such order be laid before each House of Parliament.

Direct Tax Dispute Resolution Scheme, 2016

In order to reduce the huge backlog of cases and to enable the Government to collect the taxes expeditiously, it is proposed to bring the Direct Tax Dispute Resolution Scheme, 2016. A welcoming scheme which provides an option to settle specified tax disputes. It relates to tax arrears (matters before Appellate Commissioner) and specified tax (tax arising due to retrospective amendment and dispute pending as on 29 February 2016).

On filing of the declaration with the designated authorities, a certificate would be issued within 60 days. As stipulated, tax shall be paid within 30 days. Once the assessee files the declaration, all the appeals filed before the Appellate Commissioner would be deemed withdrawn. The declarant under the scheme shall be required to pay tax at the applicable rate plus interest upto the date of assessment. However, in case of disputed tax exceeding rupees ten lakh, twenty-five percent of the minimum penalties leviable shall also be required to be paid. The amount paid as taxes would not be refundable under any circumstances.

The Scheme is not available to taxpayers where prosecution has been initiated, search or survey cases, undisclosed foreign income and asset cases, exchange of information cases, etc.. In addition to the above, the scheme proposes that person may also make a declaration in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Income-tax Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which is pending as on 29 February 2016 (referred to as specified tax).

For availing the benefit of the Scheme, such declarant shall be required to withdraw any writ petition or any appeal filed against such specified tax before the Commissioner (Appeals) or the Tribunal or High Court or Supreme Court, before making the declaration and shall also be required to furnish a proof of such withdrawal. Further, if any proceeding for arbitration conciliation or mediation has been initiated by the declarant or he has given any notice under any law or agreement entered into by India, whether for protection of investment or otherwise, he shall be required to withdraw such notice or claim for availing benefit under this Scheme.

It is proposed that person making declaration in respect of specified tax shall be required to furnish an undertaking in the prescribed form and verified in the prescribed manner, waiving the right, whether direct or indirect, to seek or pursue any remedy or claim in relation to the specified tax which otherwise be available to them under any law, in equity, by statute or under an agreement, whether for protection of investment or otherwise, entered into by India with a country or territory outside India. It is proposed that no appellate authority or Arbitrator or Conciliator or Mediator shall proceed to decide an issue relating to the specified tax in the declaration in respect of which an order is made by the designated authority or in respect of the payment of the sum determined to be payable. It is proposed that where the declarant violates any of the conditions referred to in the scheme or any material particular furnished in the declaration is found to be false at any stage, it shall be presumed as



if the declaration was never made under this Scheme and all the consequences under the Income-tax Act or Wealth-tax Act under which the proceedings against declarant were or are pending, shall be deemed to have been revived.

It is proposed that the Central Government may be given the power to issue such orders, instructions and directions for the proper administration of this Scheme to persons employed in the execution of this Scheme shall observe and follow such orders, instructions and directions of the Central Government.

In case any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may by order not inconsistent with the provisions of this Scheme remove the difficulty. However, no such order shall be made after the expiry of a period of two years from the date on which the provisions of this Scheme come into force. Every such order, as soon as may be after it is made, is laid before each House of Parliament.

The Rules for this Scheme to be notified by the government and these provisions are effective from 1 June 2016.

Indirect Tax Dispute Resolution Scheme, 2016

Indirect tax Dispute Resolution Scheme, 2016, is proposed to be introduced for cases pending before Commissioner (Appeals).

The assessee shall be liable to pay tax / duty due along with applicable interest and penalty equivalent to 25% of penalty imposed in the impugned order which is under challenge before the Commissioner (Appeals). In such cases, the proceedings against the assessee will be closed and he will also get immunity from prosecution.

The authority (not below rank of Assistant Commissioner) shall pass an order of discharge of dues and the appeal pending before the Commissioner (Appeals) shall stand disposed off and assessee shall get immunity from all proceedings (including prosecution) as prescribed under the Customs Act or the CE Act or the Act.

Declaration under this Scheme shall become conclusive upon issuance of an order and no matter relating to the impugned order shall be reopened. An order passed under the Scheme shall not be deemed to be an order on merits and will have no binding effect.

However, this scheme will not apply in cases:

- a) where prosecution has already been launched
- b) involving narcotics & psychotropic substances
- c) involving detention under COFEPOSA.

NANUBHAI DESAI & Co.

Sir Vithaldas Chambers
16, Mumbai Samachar Marg
Fort, Mumbai 400001 India
Tel: +91 22 2204 2981
Fax: + 91 22 2288 03 36
Email: admin@nanubhaidesai.com
Website: www.nanubhaidesai.com

