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a look at UNION BUDGET 2013

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QUOTES FROM THE BUDGET SPEECH

Growth is a necessary condition and we must unhesitatingly embrace growth as the highest goal. It is growth that will lead to inclusive development, without growth there will be neither development nor inclusiveness

*****

What clearly eye discerns as right, with steadfast will

And mind unslumbering, that should man fulfil

*****

All the strength and succour you want is within yourself. Therefore, make your own future

*****

Disclaimer

Budget 2013 proposals presented by the Finance Minister before the parliament are analysed in this document. It should not be relied upon as a substitute for detailed advice or a basis for formulating business decisions.

The proposals are subject to amendment as the Finance Bill is yet to be passed by the Parliament.

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REACTIONS TO THE UNION BUDGET, 2013.

Udayan Mukherjee, Managing Editor, CNBC-TV18:

The Union Budget is a non-event for the market and not worthy of the expectations that P Chidambaram might have stoked in his commentary in the past.

He says that there are some irritants for the market in the form of a tax for the super rich and the interest subsidy for the agriculture sector being retained.

Naina Lal Kidwai, President of FICCI:

The Budget must focus on putting inclusive growth back on track.

C. Rangarajan, Indian economist and former governor of RBI

Union Budget is brilliantly crafted.

Amber Dubey, Aviation Sector - Partner and Head-Aviation at KPMG in India:

A disappointing budget for aviation. Aviation sector would continue to struggle till fundamental policy changes on the taxation front are brought in.

Haseeb Drabu, Economist :

This is a fiscal stimulus budget. With 30 per cent jump in planned growth, this budget is driven by expenditure. Through this, the FM hopes to get higher growth. This raises the ground for a rate cut in the upcoming policy. Social and rural spending may not even lead to inflationary pressure. On a scale of one to ten, this is a four.

Union Budget 2013: BJP terms Chidambaram's eighth budget as 'accountant's work':

Leader of Opposition in Lok Sabha Sushma Swaraj said, "We were expecting agriculture and infrastructure based budget, but we are disappointed. They have not given anything... The finance minister could not see the face of the farmer and common man. This was an unimaginative, dull and boring budget. The expectations were that it will bring some hope to the country it has not happened. Common man was not even mentioned in the budget."

"He (Chidambaram) could not even polish his budget properly. The economic survey had raised expectations that agriculture and manufacture sector will increase and inflation will decrease, but it has not happened. Nothing has been said about the employment for youth," Swaraj said.

SP, BSP give thumbs down to Chidambaram's Budget:

The Uttar Pradesh-based parties supporting the UPA government from outside -- Samajwadi Party (SP) and Bahujan Samaj Party (BSP) -- criticised Union Finance Minister P. Chidambaram's General Budget 2013-14, which was expected to include some surprise factor given that it coincided with the poll year.

SP chief Mulayam Singh Yadav said the government ignored farmers and workers.

"It is not about fail or pass. We wondered that may be at the time of elections they might think about the farmers, but no. Farmers and labourers were ignored in the budget," he said, adding that the country would not prosper till farmers' wishes were fulfilled.

Adi Godrej, President, Confederation of Indian Industry (CII) and Chairman, Godrej Group:

The key takeaway is that the Budget revives investor sentiment and boosts confidence in the economy. Domestic and foreign investments have been emphasised, while inclusive growth and development have been accorded top priority. We feel that this Budget will lead into the next positive cycle for growth and investments.

Harsh Mariwala, CMD, Marico Ltd:

The proposed 46 % hike in rural development is commendable and will garner an increase in the gross domestic product growth (GDP) rate in the long term. I believe if resources are spent wisely, we can achieve a GDP of 6.5 per cent by next year. Significant proposals for improvement in the areas of biotechnology, coconut farming and transportation will also create higher demand, although it may take time to do so.

Sunil Kant Munjal, Joint Managing Director, Hero MotoCorp Limited:

"It's a workman like Budget, something that the country needs today. He's done a reasonable job and growth should come."

Rajkumar Dhoot, president, Assocham:

"You require political courage to mobilise additional tax resources equivalent to ₹18,000 crore in an election year. P. Chidambaram has done it despite pressure of the coalition politics."

Malvinder Mohan Singh, Chairman, Fortis Healthcare Ltd:

"It is a good, balanced, pragmatic Budget and this is what India needs today. It will certainly help the economy grow at faster rate."

Keki M Mistry, VC and CEO, HDFC:

"It's a growth oriented, balanced and pragmatic Budget."

Nagaraj Kulkarni, South Asia Senior Rates Strategist, Standard Chartered Bank:

"The market borrowing numbers are higher than out estimates, and it is negative for the market. There will be upward pressure on yields. However, interest rate cuts by the Reserve Bank of India need not be related to market borrowing. They will focus on the quality of the fiscal consolidation."

Shakti Satapathy, Fixed Income Strategist, AK Capital:

"Total expenditure for FY14 is higher than revised estimate for the current fiscal year. Fiscal prudence would now be dependent on the quality checks on the non-plan expenditure side, especially the subsidy front."

Rupa Rege Nitsure, Chief Economist, Bank of Baroda:

"He has made allotments for infrastructure, construction of warehouses; so as long as the spending is on account of capital expenditure, one need not view it negatively."

Madhav Dhar, Managing Partner, GTI Capital:

"The budget has been underwhelming. I feel disappointed and my sentiments are echoed by the markets. The Sensex is down and gold is up and that's exactly what my sentiment is."

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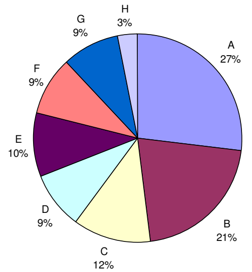
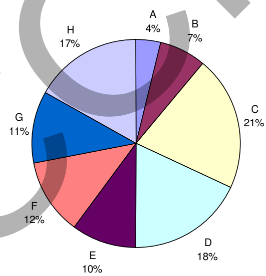
(Budget: 2013-14)

Rupee Comes From



A.	Borrowings and other liabilities	27 p
B	Corporation tax	21 p
C.	Income tax	12 p
D.	Customs	9 p
E.	Union Excise Duties	10 p
F.	Service tax & other taxes	9 p
G.	Non-tax revenue	9 p
H.	Non-debt capital receipts	3 p
Total		100 p

Rupee Goes To



A.	Non-plan assistance to State & UT Govts.	4 p
B.	Plan Assistance to State & UT	7 p
C.	Central Plan	21 p
D.	Interest Payment	18 p
E.	Defence	10 p
F.	Subsidies	12 p
G.	Other Non-Plan Expenditure	11 p
H.	States' share of taxes & duties	17 p
Total		100 p

HIGHLIGHTS OF BUDGET

THE ECONOMY AND THE CHALLENGES

- Getting back to potential growth rate of 8 percent is the challenge facing the country.
- Slowdown in Indian economy has to be seen in the context of slowing global economic growth from 3.9 per cent in 2011 to 3.2 per cent in 2012.
- However, no reason for gloom or pessimism. Of the large countries of the world only China and Indonesia growing faster than India in 2012-13. In 2013-14, only China projected to grow faster than India.
- Between 2004 and 2008, and again in 2009-10 and 2010-11 the growth rate was over 8 per cent and crossed 9 per cent in four of those six years.
- 11th Plan period had average growth rate of 8 percent, highest during any Plan period, entirely under the UPA Government.
- High growth rate can again be achieved through cooperation.
- 'Higher growth leading to inclusive and sustainable development' to be the *mool mantra.*
- Government believes in inclusive development with emphasis on improving human development indicators specially of women, the scheduled castes, the scheduled tribes, the minorities and some backward classes. This Budget to be a testimony to that commitment.

Fiscal Deficit, Current Account Deficit and Inflation

- The purpose of Budget to create economic space and find resources to achieve the objective of inclusive development.
- Dr Vijay Kelkar Committee made its recommendations to Government in September 2012. A new fiscal consolidation path with fiscal deficit at 5.3 per cent of GDP this year and 4.8 per cent of GDP in 2013-14 announced by the Government.
- Foreign investment in an imperative in view of the high current account deficit (CAD). FII, FDI and ECB three main source of CAD Financing. Foreign investment that is consistant with our economic objectives to be encouraged.
- Development must be economically and ecologically sustainable and democratically legitimate.
- Battle against inflation must be fought on all fronts. Efforts in the past few months have brought down headline WPI inflation to about 7 per cent and core inflation to about 4.2 percent.

- Food inflation is worrying but all possible steps to be taken to augment the supply side to meet the growing demand for food items.
- Government expenditure has both good and bad consequences and trick is to find the correct level of Government expenditure.
- Faced with huge fiscal deficit, Government expenditure rationalised in 2012-13. Some economic space retrieved. Space to be used to further Government's socioeconomic objectives.

THE PLAN AND BUDGETARY ALLOCATIONS

- Revised Estimates (RE) of the expenditure in 2012-13 at 96 per cent of the Budget Estimates (BE) due to slowdown and austerity measures.
- During 2013-14, BE of total expenditure of ₹ 16,65,297 crore and of Plan Expenditure at ₹5,55,322 crore.
- Plan Expenditure in 2013-14 to grow at 29.4 per cent over Revised Estimates for the current year.
- All flagship programmes fully and adequately funded and sufficient funds provided to each Ministry or Department consistent with their capacity to spend funds.
- Budget for 2013-14 to have one overarching goal of creating opportunities for our youth to acquire education and skills that will get them decent jobs or self-employment.

SC, ST, Women and Children

- Allocations for Scheduled Caste Sub Plan and Tribal Sub Plan increased substantially over the allocations of the current year. Funds allocated to these Sub Plans cannot be diverted.
- ₹ 97,134 crore allocated for programmes relating to women and ₹ 77,236 crore allocated for programmes relating to children.
- Ministry of Women and Child Development to design schemes that will address the concerns of women belonging to the most vulnerable groups, including single women and widows. An additional sum of ₹ 200 crore proposed to be provided to the Ministry to begin work.

Minorities

- An increase of 12 per cent over the BE and 60 per cent over the RE of 2012-13 to Ministry of Minority Affairs.
- Allocation of ₹ 160 crore to the corpus of Maulana Azad Education Foundation to raise its corpus to ₹ 1,500 crore during 12th Plan period.

Disabled Persons

- A sum of ₹ 110 crore to the Department of Disablity Affairs for ADIP scheme in 2013-14 against RE 2012-13 of ₹ 75 crore.

Health and Education

- Health for all and education to all remains priority.
- ₹ 37,330 crore allocated to the Ministry of Health & Family Welfare.
- New National Health Mission will get an allocation of ₹ 21,239 crore.
- ₹ 4,727 crore for medical education, training and research.
- ₹ 150 crore provided for National Programme for the Health Care of Elderly.
- Ayurveda, Unani, Siddha and Homoeopathy are being mainstreamed. Allocation of ₹ 1,069 crore to Department of AYUSH.
- ₹ 1,650 crore allocated for six AIIMS-like institutions.
- Allocation of ₹ 65,867 crore to the Ministry of Human Resource Development, an increase of 17 perent over the RE of the current year.
- ₹ 27,258 crore provided for Sarva Shiksha Abhiyaan (SSA).
- An increase of 25.6 per cent over RE of the current year for investments in Rashtriya Madhyamik Shiksha Abhiyan (RMSA).
- ₹ 5,284 crore allocated to Ministries/Departments in 2013-14 for scholarships to students belonging to SC, ST, OBC, Minorities and girl children.
- Mid Day Meal Scheme (MDM) to be provided ₹ 13,215 crore.
- Government committed to the creation of Nalanda University as a centre of educational excellence.

ICDS

- ₹ 17,700 crore allocated for ICDS in 2013-14 representing an increase of 11.7 per cent over 2012-13.
- Allocation of ₹ 300 crore in 2013-14 for a multi-sectoral programme aimed at overcoming maternal and child malnutrition. Programme to be implemented in 100 districts during 2013-14 to be scaled to cover 200 districts the year after.

Drinking Water

- ₹ 15,260 crore allocated to Ministry of Drinking Water and Sanitation.
- ₹ 1,400 crore provided for setting-up of water purification plants in 2000 arsenic - and 12000 fluoride-affected rural habitations.

Rural Development

- Allocation of ₹ 80,194 crore in 2013-14 for Ministry of Rural Development marking an increase of 46% over RE 2012-13.
- Proposal to carve out PMGSY-II and allocate a portion of the funds to the new programme that will benefit States such as Andhra Pradesh, Haryana, Karnataka, Maharashtra, Punjab and Rajasthan.

JNNURM

- ₹ 14,873 crore for JNNURM in BE 13-14 as against RE of ₹ 7,383 crore. Out of this, a significant portion will be used to support the purchase of upto 10,000 buses, especially by the hill States.

AGRICULTURE

- Average annual growth rate of agriculture and allied sector was 3.6% during XI Plan against 2.5% and 2.4% in IX and X plans respectively.
- In 2012-13, total food-grain production will be over 250 million tonnes. Minimum support price for every agricultural produce has increased significantly under the UPA Government.
- ₹ 27,049 crore allocated to Ministry of Agriculture, an increase of 22 per cent over the RE of current year.
- Agricultural research provided ₹ 3,415 crore.

Agricultural Credit

- For 2013-14, target of agricultural credit kept at ₹ 7 lakh crore.
- Interest subvention scheme for short-term crop loans to be continued scheme extended for crop loans borrowed from private sector scheduled commercial banks.

Green Revolution

- Bringing green revolution to eastern India a remarkable success. ₹ 1,000 crore allocated in 2013-14.
- ₹ 500 crore allocated to start a programme of crop diversification that would promote technological innovation and encourage farmers to choose crop alternatives.
- Rashtriya Krishi Vikas Yojana and National Food Security Mission provided ₹ 9,954 crore and ₹ 2,250 crore respectively.
- Allocation for integrated watershed programme increased from ₹ 3,050 crore in 2012-13 (BE) to ₹ 5,387 crore.
- Allocation made for pilots programme on Nutri-Farms for introducing new crop varieties that are rich in micro-nutrients.
- National Institute of Biotic Stress Management for addressing plant protection issues will be established at Raipur, Chhattisgarh.
- The Indian Institute of Agricultural Bio-technology will be established at Ranchi, Jharkhand.
- Pilot scheme to replant and rejuvenate coconut gardens implemented in some districts of Kerala and the Andaman & Nicobar extended to entire State of Kerala.

Farmer Producer Organizations

- Matching equity grants to registered Farmer Producer Organization (FPO) upto a maximum of ₹ 10 lakhs per FPO to enable them to leverage working capital from financial institutons.
- Credit Guarantee Fund to be created in the Small Farmers'Agri Business Corporation with an initial corpus of ₹ 100 crore.

National Livestock Mission

- National Livestock Mission to be set up.
- A provision of ₹ 307 crore made for the Mission.

Food Security

- Additional provision of ₹10,000 crore for National Food Security Act.

INVESTMENT, INFRASTRUCTURE AND INDUSTRY

- Communication with investors to be improved to remove any apprehension or distrust, including fears about undue regulatory burden.
- Need of new and innovative instruments to mobilise funds for investment in infrastructure sector. Measures such as:
  * Infrastructure Debt Funds (IDF) to be encourged,
  * IIFCL to offer credit enhancement.
  * Infrastructure tax-free bond of ₹ 50,000 crore in 2013-14,
  * Build roads in North eastern states and connect them to Myanmar with assistance from WB & ADB,
  * Raising corpus of Rural Infrastructure Development Fund (RIDF) to ₹ 20,000 crore and
  * ₹ 5,000 crore to NABARD to finance construction for warehousing. Window to Panchayats to finance construction of godowns.

Road Construction

- A regulatory authority for road sector.
- 3000 kms of road projects in Gujarat, Madhya Pradesh, Maharashtra, Rajasthan and Uttar Pradesh will be awarded in the first six months of 2013-14.

Cabinet Committee on Investment

- The Cabinet Committee on Investment (CCI) has been set up. Decisions have been taken in respect of a number of gas, power and coal projects.

New Investment

- Companies investing ₹ 100 crore or more in plant and machinery during the period 1.4.2013 to 31.3.2015 will be entitled to deduct an investment allowance of 15 per cent of the investment.

- Incentives to semiconductor wafer fab manufacturing facilities, including zero customs duty for plant and machinery.

Savings

- Need to incentivise greater savings by household sector in financial instrumnets. Following measures proposed:
  - * Rajiv Gandhi Equity Savings Scheme to be liberalised.
  - * Additional deduction of interest upto ₹ 1 lakh for a person taking first home loan upto ₹ 25 lakh during period 1.4.2013 to 31.3.2014
  - * In consultation with RBI, instruments protecting savings from inflation to be introduced.

Industrial Corridors

- Plans for seven new cities have been finalised and work on two new smart industrial cities at Dholera, Gujarat and Shendra Bidkin, Maharashtra will start during 2013-14
- Delhi Mumbai Industrial Corridor (DMIC) to be provided additional funds during 2013-14 within the share of the Government of India in the overall outlay, if required.
- Chennai Bengaluru Industrial Corridor to be developed.
- Preparatory work has started for Bengaluru Mumbai Industrial Corridor.

Leh-Kargil Transmission Line

- Government to construct a transmission system from Srinagar to Leh at a cost of ₹ 1,840 crore.

Ports

- Two new major ports will be established in Sagar, West Bengal and in Andhra Pradesh to add 100 million tonnes of capacity.
- A new outer harbour to be developed in the VOC port at Thoothukkudi, Tamil Nadu through PPP at an estimated cost of ₹ 7,500 crore.

National Waterways

- A bill to declare the Lakhipur-Bhanga stretch of river Barak in Assam as the sixth national waterway to be moved in Parliament.
- Preparatory work underway to build a grid connecting waterways, roads and ports.

Oil and Gas

- A policy to encourage exploration and production of shale gas will be announced.
- The 5 MMTPA LNG terminal in Dabhol, Maharashtra will be fully operational in 2013-14.

Coal

- In the medium to long term need to reduce our dependence on imported coal. One way forward is to devise a PPP policy framework with Coal India Limited as one of the partners.
- Ministry of Coal to announce Government's policies in due course.

Power

- Guidelines regarding financial restructuring of DISCOMS have been announced. State Government urged to prepare the financial restructuring plan, quickly sign MoU and take advantage of the scheme.

Micro, Small and Medium Enterprises

- Benefits or preferences enjoyed by MSME to continue upto three years after they grow out of this category.
- Refinancing capacity of SIDBI raised to ₹ 10,000 crore.
- Another sum of ₹ 100 crore provided to India Microfinance Equity Fund.
- A corpus of ₹ 500 crore to SIDBI to set up a Credit Guarantee Fund for factoring.
- A sum of ₹ 2,200 crore during the 12th Plan period to set up 15 additional Tool Rooms and Technology Development Centres with World Bank assistance.
- Ministry of Corporate Affairs to notify that funds provided to technology incubators located within academic Institutions and approved by the Ministry of Science and Technology or Ministry of MSME will qualify as CSR expenditure.

Textiles

- Technology Upgradation Fund Scheme (TUFS) to continue in 12th Plan with an investment target of ₹ 1,51,000 crore.
- Allocation of ₹ 50 crore to Ministry of Textile to incentivise setting up Apparel Parks within the SITPs to house apparel manufacturing units.
- A new scheme called the Integrated Processing Development Scheme will be implemented in the 12th Plan to address the environmental concerns of the textile industry.
- Working capital and term loans at a concessional interest of 6 per cent to handloom sector.
- Scheme of Fund for Regeneration of Traditional Industries (SFURTI) extended to 800 clusters during the 12th Plan.

Foreign Trade

- Support to measures to be taken to boost exports of goods and services.

FINANCIAL SECTOR

- A standing Council of Experts to be constituted in the Ministry of Finance to analyse the international competitiveness of the Indian financial sector.

Banking

- Compliance of public sector banks with Basel III regulations to be ensured. ₹ 14,000 crore provided in BE 2013-14 for infusing capital.
- All branches of public sector banks to have ATM by 31.3.2014.
- Proposal to set up India's first Women's Bank as a public sector bank. Provision of ₹ 1,000 crore as initial capital.
- ₹ 6,000 crore to Rural Housing Fund in 2013-14.
- National Housing Bank to set up Urban Housing Fund. ₹ 2,000 crore to be provided to the fund in 2013-14.

Insurance

- A multi-pronged approach to increase the penetration of insurance, both life and general, in the country.
- Number of proposals finalised, in consultation with IRDA such as empowering insurance companies to open branches in Tier-II cities and below without prior approval of IRDA, KYC of banks to be sufficient to acquire insurance policies, banks to be permitted to act as insurance brokers, banking correspondent allowed to sell micro-insurance products and achieving the goal of having an office of LIC and an office of at least one public sector general insurance company in towns with population of 10,000 or more.
- Rashtriya Swasthya Bima Yojana to be extended to other categories such as rickshaw, auto-rickshaw and taxi drivers, sanitation workers, rag pickers and mine workers.
- A comprehensive social security package to be evolved for unorganised sector by facilitating convergence among different schemes.

Capital Market

- Proposal to amend the SEBI Act, to strengthen the regulator, under consideration.
- Number of proposal finalised in consultation with SEBI.
  - Designatged depository participants, authorised by SEBI, may register different classes of portfolio investors, subject to compliance with KYC guidelines.
  - SEBI will simplify the procedures and prescribe uniform registration and other norms for entry for foreign portfolio investors.

* Rule that, where an investor has a stake of 10 per cent or less in a company, it will be treated as FII and, where an investor has a stake of more than 10 per cent, it will be treated as FDI will be laid.
* FIIs will be permitted to participate in the exchange traded currency derivative segment to the extent of their Indian rupee exposure in India.
* FIIs will also be permitted to use their investment in corporate bonds and Government securities as collateral to meet their margin requirements.
* SEBI to prescribed requirement for angel investor pools by which they can be recognised as Category I AIF venture capital funds.
* Small and medium enterprises, to be permitted to list on the SME exchange without being required to make an initial public offer (IPO).
* Stock exchanges to be allowed to introduce a dedicated debt segment on the exchange.

ENVIRONMENT

- Support to municipalities that will implement waste-to-energy projects.
- Government to provide low interest bearing fund from the National Clean Energy Fund (NCEF) to IREDA to on-lend to viable renewable energy projects.
- 'Generation-based incentive' reintroduced for wind energy projects and ₹ 800 crore allocated for this purpose.

OTHER PROPOSALS

Backward Regions Grant Fund

- New criteria for determining backwardness to be evolved and reflect them in future planning and devolution of funds.

Skill Development

- Target of skilling 50 million people in the 12th Plan period, including 9 million in 2013-14.

Defence

- Allocation for Defence increased to ₹ 2,03,672 crore including ₹ 86,741 crore for capital expenditure.
- Constraints not to come in the way of providing any addition requirement for the security of nation.

Science and Technology

- Despite constraints substantial enhancements given to Science and Technology, Space and Atomic Energy.
- ₹ 200 crore to be set apart to fund organisations that will scale up S&T innovations and make these products available to the people.

Institutions of Excellence

- A grant of ₹ 100 crore each made to 4 institution of excellence.

Sports

- National Institute of Sports Coaching to be set up at Patiala at a cost of ₹ 250 crore over a period of three years.

Broadcasting

- All cities having a population of more than 1,00,000 will be covered by private FM radio services.

Panchayati Raj

- Augmentation in the Budget allocation of Rajiv Gandhi Panchayat Sashaktikaran Abhiyan (RGPSA) to ₹ 455 crore in 2013-14. An additional ₹ 200 crore proposed to be provided.

Post Offices

- An ambitious IT driven project to modernise the postal network at a cost of ₹4,909 crore. Post offices to become part of the core banking solution and offer real time banking services.

Ghadar Memorial

- Government to fund the conversion of the Ghadar Memorial in San Francisco into a museum and library.

Central Schemes

- Centrally Sponsored Schemes (CSS) and Additional Central Assistance (ACA) Schemes to be restructured into 70 schemes. Central fund for the schemes to be given to the States as part of central plan assistance.

Three promises

- Promises made to woman, youth and poor.
    * We stand in solidarity with our girl children and women. And we pledge to do everything possible to empower them and to keep them safe and secure. A fund - "Nirbhaya Fund" - to be setup with Government contribution of ₹ 1,000 crore.
    * Youth to be motivated to voluntarily join skill development programmes. National Skill Development Corporation to set the curriculum and standards for training in different skills. ₹ 1000 crore set apart for this scheme.
    * To the poor of India direct benefit transfer scheme will be rolled out throughout the country during the term of the UPA Government with the motive "Äapka paisa aapke haath".

Budget Estimates

- Plan expenditure is placed at ₹ 5,55,322 crore.
- Non Plan Expenditure is estimated at ₹ 11,09,975 crore.
- Fiscal deficit for the current year contained at 5.2 per cent and for the year 2013-14 at 4.8 per cent.
- Revenue deficit for the current year at 3.9 per cent and for the year 2013-14 at 3.3 per cent.
- By 2016-17 fiscal deficit to be brought down to 3 per cent, revenue deficit to 1.5 per cent and effective revenue deficit to zero per cent.

Good and Services Tax

- A sum of ₹ 9,000 crore towards the first instalment of the balance of CST compensation provided in the budget.
- Work on draft GST Constitutional amendment bill and GST law expected to be taken forward.

DIRECT TAX PROPOSALS

DIRECT TAXES

Rates of income-tax for assessment year 2014-15

1. Rates of Income Tax

(*A*) *I. In the case of every Individual (other than those covered in part (II) or (III) below) or Hindu undivided family or AOP/BOI* (*other than a co-operative society*) *whether incorporated or not, or every artificial judicial person*

Upto ₹2,00,000	Nil
₹2,00,010 to ₹5,00,000	10%
₹5,00,010 to ₹10,00,000	20%
Above ₹10,00,000	30%

II. In the case of every **individual,** being a **resident in India,** who is of the **age of 60 years or more but less than 80 years** at any time during the previous year.

Upto ₹2,50,000	Nil
₹2,50,010 to ₹5,00,000	10%
₹5,00,010 to ₹10,00,000	20%
Above ₹10,00,000	30%

III. In the case of every **individual,** being a **resident in India,** who is of the **age of 80 years or more** at any time during the previous year.

Upto ₹5,00,000	Nil
₹5,00,010 to ₹10,00,000	20%
Above ₹10,00,000	30%

Surcharge: The amount of income-tax computed in accordance with the above rates shall be increased by a surcharge at the rate of 10% of such income-tax in case of a person having a total income exceeding ₹ 1 crore.

Marginal relief: The total amount payable as income-tax and surcharge on total income exceeding ₹ 1 crore shall not exceed the total amount payable as income-tax on a total income of ₹ 1 crore by more than the amount of income that exceeds ₹ 1 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess (SHEC)' @ 1% on income tax shall be chargeable.

(B) In the case of every co-operative society

(1) where the total income does not exceed ₹10,000	10% of the total income;
(2) where the total income exceeds ₹10,000 but does not exceed ₹20,000	₹1,000 *plus* 20% of the amount by which the total income exceeds ₹10,000;
(3) where the total income exceeds ₹20,000	₹3,000 *plus* 30% of the amount by which the total income exceeds ₹20,000.

Surcharge: The amount of income-tax shall be increased by a surcharge at the rate of 10% of such income-tax in case of a co-operative society having a total income exceeding ₹ 1 crore.

Marginal relief: The total amount payable as income-tax and surcharge on total income exceeding ₹ 1 crore shall not exceed the total amount payable as income-tax on a total income of ₹ 1 crore by more than the amount of income that exceeds ₹ 1 crore.

Cess: 'Education Cess' @ 2% and SHEC @ 1% on income tax shall be chargeable.

(C) In case of any firm (including limited liability partnership) — 30%.

Surcharge: The amount of income-tax shall be increased by a surcharge at the rate of 10% of such income-tax in case of a firm having a total income exceeding ₹ 1 crore.

Marginal relief: The total amount payable as income-tax and surcharge on total income exceeding ₹ 1 crore shall not exceed the total amount payable as income-tax on a total income of ₹ 1 crore by more than the amount of income that exceeds ₹ 1 crore.

Cess: 'Education Cess' @ 2% and SHEC @ 1% on income tax shall be chargeable.

(D) In the case of a company

(i) For domestic companies: 30%,

Surcharge: The surcharge of 5% in case of a domestic company shall be levied if the total income of the domestic company exceeds ₹ 1 crore but does not exceed ₹10 crore.

The surcharge at the rate of 10% shall be levied if the total income of the domestic company exceeds ₹1 crore.

Marginal relief: However, the total amount payable as income-tax and surcharge on total income exceeding ₹1 crore but not exceeding ₹10 crore, shall not exceed the total amount payable as income-tax on a total income of ₹ 1 crore, by more than the amount of income that exceeds ₹1 crore. The total amount payable as income-tax and surcharge on total income exceeding ₹10 crore, shall not exceed the total amount payable as income-tax and surcharge on a total income of ₹10 crore, by more than the amount of income that exceeds ₹10 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @ 1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

(ii) For foreign company: 40%.

Surcharge: In case of companies other than domestic companies, the surcharge of 2% shall be levied if the total income exceeds ₹ 1 crore but does not exceed ₹10 crore.

The surcharge at the rate of 5% shall be levied if the total income of the company other than domestic company exceeds ₹10 crore.

Marginal relief: However, the total amount payable as income-tax and surcharge on total income exceeding ₹1 crore but not exceeding ₹10 crore, shall not exceed the total amount payable as income-tax on a total income of ₹ 1 crore, by more than the amount of income that exceeds ₹1 crore. The total amount payable as income-tax and surcharge on total income exceeding ₹10 crore, shall not exceed the total amount payable as income-tax and surcharge on a total income of ₹10 crore, by more than the amount of income that exceeds ₹10 crore.

Cess: 'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @ 1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

Amendments relating to Definitions

1. Amendment in the definition of Capital Asset [Section 2(1A) and section 2(14)] [W.e.f. A.Y. 2014-15]

The existing provisions contained in clause (14) of section 2 of the Income-tax Act define the term "capital asset" as property of any kind held by an assessee, whether or not connected with his business or profession. Certain categories of properties including agricultural land have been excluded from this definition. Sub-clause (iii) of clause (14) of section 2 provides that (a) agricultural land situated in any area within the jurisdiction of a municipality or cantonment board having population of not less than ten thousand according to last preceding census, or (b) agricultural land situated in any area within such distance not exceeding eight kilometers from the local limits of any municipality or cantonment board, as notified by the Central Government having regard to the extent and scope of urbanization and other relevant factors, forms part of capital asset.

It is proposed to amend item (b) of sub-clause (iii) of clause (14) of section 2 so as to provide that the land situated in any area within the distance, measured aerially (shortest aerial distance), (I) not being more than two kilometers, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten thousand but not exceeding one lakh; or (II) not being more than six kilometers, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than one lakh but not exceeding ten lakh; or (III) not being more than eight kilometers, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than ten lakh, shall form part of capital asset.

It is also proposed to define the expression "population" to mean population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

Similar amendments are also proposed in clause (1A) of section 2 of the Income-tax Act, 1961 relating to the definition of "agricultural income" and in respect of the definition of "urban land" in the Wealth-tax Act, 1957.

Amendments relating to Income Exempt from Tax

2. Raising the limit of percentage of eligible premium for life insurance policies of persons with disability or disease [Section 10(10D)] [W.e.f. A.Y. 2014-15]

It is proposed to provide that any sum including the sum allocated by way of bonus received under an insurance policy issued on or after 01.04.2013 for the insurance on the life of any person who is—

(i) a person with disability or a person with severe disability as referred to in section 80U, or

(ii) suffering from disease or ailment as specified in the rules made under section 80DDB,

shall be exempt under section 10(10D) if the premium payable for any of the years during the term of the policy does not exceed 15% of the actual capital sum assured.

It is also proposed to amend sub-section (3A) of section 80C so as to provide that the deduction under the said section on account of premium paid in respect of a policy issued on or after 01.04.2013 for insurance on the life of a person referred to above shall be allowed to the extent the premium paid does not exceed 15% of the actual capital sum assured.

3. Amendment regarding Keyman Insurance Policy [Section 10(10D)] [W.e.f. A.Y. 2014-15]

The existing provisions of clause (10D) of section 10, inter alia, exempt any sum received under a life insurance policy other than a keyman insurance policy. Explanation 1 to the said clause (10D) defines a keyman insurance policy to mean a life insurance policy taken by a person on the life of another person who is or was the employee of the first-mentioned person or is or was connected in any manner whatsoever with the business of the first-mentioned person.

It has been noticed that the policies taken as keyman insurance policy are being assigned to the keyman before its maturity. The keyman pays the remaining premium on the policy and claims the sum received under the policy as exempt on the ground that the policy is no longer a keyman insurance policy. Thus, the exemption under section 10(10D) is being claimed for policies which were originally keyman insurance policies but during the term these were assigned to some other person. The Courts have also noticed this loophole in law.

With a view to plug the loophole and check such practices to avoid payment of taxes, it is proposed to amend the provisions of clause (10D) of section 10 to provide that a keyman insurance policy which has been assigned to any person during its term, with or without consideration, shall continue to be treated as a keyman insurance policy.

4. Exemption to income of Investor Protection Fund of depositories [Section 10(23ED)] [W.e.f. A.Y. 2014-15]

Under the provisions of SEBI (Depositories and Participants) Regulations, 1996, as amended in 2012, the depositories are mandatorily required to set up an Investor Protection Fund.

Under the existing provisions, section 10(23EA) provides that income by way of contributions from a recognised stock exchange received by a Investor Protection Fund set up by the recognised stock exchange shall be exempt from taxation .

On similar lines, it is proposed that income, by way of contribution from a depository, of the Investor Protection Fund set up by the depository in accordance with the regulations prescribed by SEBI will not be included while computing the total income subject to same conditions as are applicable in respect of exemption to an Investor Protection Fund set up by recognised stock exchanges.

However, where any amount standing to the credit of the fund and not charged to income-tax during any previous year is shared wholly or partly with a depository, the amount so shared shall be deemed to be the income of the previous year in which such amount is shared.

5. Pass through Status to certain Alternative Investment Funds [Section 10(23FB)] [W.r.e.f. A.Y. 2013-14]

Existing provisions of section 10(23FB) of the Income-tax Act provide that any income of a Venture Capital Company (VCC) or Venture Capital Fund (VCF) from investment in a Venture Capital Undertaking (VCU) shall be exempt from taxation. Section 115U of the Income-tax Act provides that income accruing or arising or received by a person out of investment made in a VCC or VCF shall be taxable in the same manner as if the person had made direct investment in the VCU.

These sections provide a tax pass through status (i.e. income is taxable in the hands of investors instead of VCF/VCC) only to the funds which satisfy the investment and other conditions as are provided in SEBI (Venture Capital Fund) Regulations, 1996. Further the pass through status is available only in respect of income which arises to the fund from investment in VCU, being a company which satisfies the conditions provided in SEBI (Venture Capital Fund) Regulations, 1996.

The SEBI(Alternative Investment Funds) Regulations, 2012 (AIF regulations) have replaced the SEBI (Venture Capital Fund) Regulations, 1996 (VCF regulations) from 21st May, 2012.

In order to provide benefit of pass through to similar venture capital funds as are registered under new regulations and subject to same conditions of investment restrictions in the context of investment in a venture capital undertaking, it is proposed to amend section 10(23FB) to provide that—

(i) The existing VCFs and VCCs (i.e. which have been registered before 21/05/2012) and are regulated by the VCF regulations, as they stood before repeal by AIF regulations, would continue to avail pass through status as currently available.

(ii) In the context of AIF regulations, the Venture Capital Company shall be defined as a company and Venture capital fund shall be defined as a fund set up as a trust, which has been granted a certificate of registration as Venture Capital Fund being a sub-category of Category I Alternative Investment Fund and satisfies the following conditions:—

  (a) That at least two-thirds of its investible funds are invested in unlisted equity shares or equity linked instruments of venture capital undertaking.

  (b) No investment has been made by such AIFs in a VCU which is an associate company.

  (c) Units of a trust set up as AIF or shares of a company set up as AIF, are not listed on a recognised stock exchange.

(iii) In the context of AIF regulations, the Venture Capital Undertaking shall be defined as it is defined in the Alternative Investment Funds Regulations.

6. Exemption to the shareholder on account of buy back of shares [Section 10(34A)] [W.e.f. A.Y. 2014-15]

See para 28.

7. Exemption of distributed income received from a Securitisation Trust by an investor [Section 10(35A)]

See para 30.

8. Exemption to National Financial Holdings Company Limited [Section 10(49)] [W.e.f. A.Y. 2014-15]

The Specified Undertaking of Unit Trust of India (SUUTI) was created vide the Unit Trust of India (Transfer of Undertaking and Repeal) Act, 2002 as the successor of Unit Trust of India (UTI). Exemption from Income-tax was available to SUUTI in respect of its income up to 31.3.2014.

SUUTI has been wound up and is succeeded by a new company wholly owned by the Central Government. It has been incorporated on 7.6.2012 as National Financial Holdings Company Limited (NFHCL).

In order to provide the exemption on the lines of SUUTI to NFHCL, it is proposed to amend section 10 to grant exemption to National Financial Holdings Company Limited in respect of its income accruing, arising or received on or before 31.03.2014.

This amendment will take effect retrospectively from 1.4.2013 and will, accordingly, apply in relation to the assessment year 2013-14 and assessment year 2014-15.

Amendments relating to Income from Business and Profession

9. Incentive for acquisition and installation of new plant or machinery by manufacturing company [Section 32AC] [W.e.f. A.Y. 2014-15]

In order to encourage substantial investment in plant or machinery, it is proposed to insert a new section 32AC in the Income-tax Act to provide that where an assessee, being a company,—

(a) is engaged in the business of manufacture of an article or thing; and

(b) invests a sum of more than ₹100 crore in new assets (plant or machinery) during the period beginning from 1.4.2013 and ending on 31.3.2015, then, the assessee shall be allowed—

   (i) for assessment year 2014-15, a deduction of 15% of aggregate amount of actual cost of new assets acquired and installed during the financial year 2013-14, if the cost of such assets exceeds ₹100 crore;

   (ii) for assessment year 2015-16, a deduction of 15% of aggregate amount of actual cost of new assets, acquired and installed during the period beginning on 1st April, 2013 and ending on 31st March, 2015, as reduced by the deduction allowed, if any, for assessment year 2014-15.

The phrase "new asset" has been defined as new plant or machinery but does not include—

(i) any plant or machinery which before its installation by the assessee was used either within or outside India by any other person;

(ii) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;

(iii) any office appliances including computers or computer software;

(iv) any vehicle;

(v) ship or aircraft; or

(vi) any plant or machinery, the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

It is further proposed to provide suitable safeguards so as to restrict the transfer of the plant or machinery for a period of 5 years. However, this restriction shall not apply in a case of amalgamation or demerger but shall continue to apply to the amalgamated company or resulting company, as the case may be.

10. Clarification for amount to be eligible for deduction as bad debts in case of banks [Section 36(1)(vii) & (viia)] [W.e.f. A.Y. 2014-15]

Under the existing provisions of section 36(1)(viia) of the Income-tax Act, in computing the business income of certain banks and financial institutions, deduction is allowable in respect of any provision for bad and doubtful debts made by such entities subject to certain limits specified therein. The limit specified under section 36(1)(viia)(a) of the Act restrict the claim of deduction for provision for bad and doubtful debts for certain banks (not incorporated outside India) and certain cooperative banks to 7.5% of gross total income (before deduction under this clause) of such banks and 10% of the aggregate average advance made by the rural branches of such banks. This limit is 5% of gross total income (before deduction under this clause) under sections 36(1)(viia)(b) and 36(1)(viia)(c) for a bank incorporated outside India and certain financial institutions.

Provisions of clause (vii) of section 36(1) of the Act provides for deduction for bad debt actually written off as irrecoverable in the books of account of the assessee. The proviso to this clause provides that for an assessee, to which section 36(1)(viia) of the Act applies, deduction under said clause (vii) shall be limited to the amount by which the bad debt written off exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1) (viia) of the Act.

The provisions of section 36(1)(vii) of the Act are subject to the provisions of section 36(2) of the Act. The clause (v) of section 36(2) of the Act provides that the assessee, to which section 36(1)(viia) of the Act applies, should debit the amount of bad debt written off to the provision for bad and doubtful debts account made under section 36(1)(viia) of the Act.

Therefore, the banks or financial institutions are entitled to claim deduction for bad debt actually written off under section 36(1)(vii) of the Act only to the extent it is in excess of the credit balance in the provision for bad and doubtful debts account made under section 36(1)(viia) of the Act. However, certain judicial pronouncements have created doubts about the scope and applicability of proviso to section 36(1)(vii) and held that the proviso to section 36(1)(vii) applies only to provision made for bad and doubtful debts relating to rural advances.

Section 36(1)(viia) of the Act contains three sub-clauses, i.e. sub-clause (a), sub-clause (b) and sub-clause (c) and only one of the sub-clauses i.e. sub-clause (a) refers to rural advances whereas other sub-clauses do not refer to the rural advances. In fact, foreign banks generally do not have rural branches. Therefore, the provision for bad and doubtful debts account made under clause (viia) of section 36(1) and referred to in proviso to clause (vii) of section 36(1) and section 36(2)(v) applies to all types of advances, whether rural or other advances.

It has also been interpreted that there are separate accounts in respect of provision for bad and doubtful debt under clause (viia) for rural advances and urban advances and if the actual write off of debt relates to urban advances, then, it should not be set off against provision for bad and doubtful debts made for rural advances. There is no such distinction made in clause (viia) of section 36(1).

In order to clarify the scope and applicability of provision of clause (vii), (viia) of sub-section (1) and sub-section (2), it is proposed to insert an Explanation in clause (vii) of section 36(1) stating that for the purposes of the proviso to section 36(1)(vii) and section 36(2)(v), only one account as referred to therein is made in respect of provision for bad and doubtful debts under section 36(1)(viia) and such account relates to all types of advances, including advances made by rural branches. Therefore, for an assessee to which clause (viia) of section 36(1) applies, the amount of deduction in respect of the bad debts actually written off under section 36(1)(vii) shall be limited to the amount by which such bad debts exceeds the credit balance in the provision for bad and doubtful debts account made under section 36(1)(viia) without any distinction between rural advances and other advances.

Note: The amendment has been made to overrule the judicial decision in the case of Catholic Syrian Bank Ltd. v CIT (2012) 206 Taxman 182 (SC).

11. Commodities Transaction Tax to be allowed as a deduction [Section 36(xvi)] [W.e.f. A.Y. 2014-15]

It is proposed to insert clause (xvi) in section 36 of the Income-tax Act to provide that an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowable as deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

It is also proposed to insert an Explanation to provide that for the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013.

12. Disallowance of certain fee, charge, etc. in the case of State Government Undertakings [Section 40(a)(iib)] [W.e.f. A.Y. 2014-15]

The existing provisions of section 40 specifies the amounts which shall not be deducted in computing the income chargeable under the head "Profits and gains of business or profession". The non-deductible expense under the said section also includes statutory dues like fringe benefit tax, income-tax, wealth-tax, etc.

Disputes have arisen in respect of income-tax assessment of some State Government undertakings as to whether any sum paid by way of privilege fee, license fee, royalty, etc. levied or charged by the State Government exclusively on its undertakings are deductible or not for the purposes of computation of income of such undertakings. In some cases, orders have been issued to the effect that surplus arising to such undertakings shall vest with the State Government. As a result it has been claimed that such income by way of surplus is not subject to tax. It is a settled law that State Government undertakings are separate legal entities than the State and are liable to income-tax.

In order to protect the tax base of State Government undertakings vis-a-vis exclusive levy of fee, charge, etc. or appropriation of amount by the State Governments from its undertakings, it is proposed to amend section 40 of the Income-tax Act to provide that any amount paid by way of fee, charge, etc., which is levied exclusively on, or any amount appropriated, directly or indirectly, from a State Government undertaking, by the State Government, shall not be allowed as deduction for the purposes of computation of income of such undertakings under the head "Profits and gains of business or profession". The expression "State Government Undertaking" has also been defined for this purpose.

13. Special provision for full value of consideration for transfer of assets other than capital assets in certain cases [Section 43CA] [W.e.f. A.Y. 2014-15]

Currently, when a capital asset, being immovable property, is transferred for a consideration which is less than the value adopted, assessed or assessable by any authority of a State Government for the purpose of payment of stamp duty in respect of such transfer, then such value (stamp duty value) is taken as full value of consideration under section 50C of the Income-tax Act. These provisions do not apply to transfer of immovable property, held by the transferor as stock-in-trade.

It is proposed to provide by inserting a new section 43CA that where the consideration for the transfer of an asset (other than capital asset), being land or building or both, is less than the stamp duty value, the value so adopted or assessed or assessable shall be deemed to be the full value of the consideration for the purposes of computing income under the head "Profits and gains of business of profession".

It is also proposed to provide that where the date of an agreement fixing the value of consideration for the transfer of the asset and the date of registration of the transfer of the asset are not same, the stamp duty value may be taken as on the date of the agreement for transfer and not as on the date of registration for such transfer. However, this exception shall apply only in those cases where amount of consideration or a part thereof for the transfer has been received by any mode other than cash on or before the date of the agreement.

Amendments relating to Income from Other Sources

14. Taxability of immovable property received for inadequate consideration [Section 56(2)(vii)] [W.e.f. A.Y. 2014-15]

The existing provisions of sub clause (b) of clause (vii) of sub-section (2) of section 56 of the Income-tax Act, inter alia, provide that where any immovable property is received by an individual or HUF without consideration, the stamp duty value of which exceeds fifty thousand rupees, the stamp duty value of such property would be charged to tax in the hands of the individual or HUF as income from other sources.

The existing provision does not cover a situation where the immovable property has been received by an individual or HUF for inadequate consideration. It is proposed to amend the provisions of clause (vii) of sub-section (2) of section 56 so as to provide that where any immovable property is received for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, the stamp duty value of such property as exceeds such consideration, shall be chargeable to tax in the hands of the individual or HUF as income from other sources.

Considering the fact that there may be a time gap between the date of agreement and the date of registration, it is proposed to provide that where the date of the agreement fixing the amount of consideration for the transfer of the immovable property and the date of registration are not the same, the stamp duty value may be taken as on the date of the agreement, instead of that on the date of registration. This exception shall, however, apply only in a case where the amount of consideration, or a part thereof, has been paid by any mode other than cash on or before the date of the agreement fixing the amount of consideration for the transfer of such immovable property.

Amendments relating to Deductions from Gross Total Income

15. Raising the limit of percentage of eligible premium for life insurance policies of persons with disability or disease [Section 80C] [W.e.f. A.Y. 2014-15]

See para 2.

16. Expanding the scope of deduction in respect of investment made under an equity saving scheme [Section 80CCG] [W.e.f. 2014-15]

The existing provisions of section 80CCG, inter-alia, provide that a resident individual who has acquired listed equity shares in accordance with the scheme notified by the Central Government, shall be allowed a deduction of fifty per cent of the amount invested in such equity shares to the extent that the said deduction does not exceed ₹25,000. The deduction is a one-time deduction and is available only in one assessment year in respect of the amount so invested. The deduction is available to a new retail investor whose gross total income does not exceed ₹10,00,000. Rajiv Gandhi Equity Savings Scheme has been notified under section 80CCG.

With a view to liberalize the incentive available for investment in capital markets by the new retail investors, it is proposed to amend the provisions of section 80CCG so as to provide that investment in listed units of an equity oriented fund shall also be eligible for deduction in accordance with the provisions of section 80CCG. It is proposed to provide that "equity oriented fund" shall have the meaning assigned to it in clause (38) of section 10.

It is further proposed to provide that the deduction under this section shall be allowed for three consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units were first acquired by the new retail investor whose gross total income for the relevant assessment year does not exceed ₹20,00,000.

17. Deduction for contribution to Health Schemes similar to CGHS [Section 80D] [W.e.f. A.Y. 2014-15]

The existing provisions of section 80D, inter alia, provide that the whole of the amount paid in the previous year out of the income chargeable to tax of the assessee, being an individual, to effect or to keep in force an insurance on his health or the health of the family or any contribution made towards the Central Government Health Scheme (CGHS) or any payment made on account of preventive health check-up of the assessee or his family, as does not exceed in the aggregate ₹15,000, is allowed to be deducted in computing the total income of the assessee.

It has been noticed that there are other health schemes of the Central and State Governments, which are similar to the CGHS but no deduction for such schemes is available to the subscribers of such schemes. In order to bring such schemes at par with the CGHS, it is proposed to amend section 80D, so as to allow the benefit of deduction under this section within the said limit, in respect of any payment or contribution made by the assessee to such other health scheme as may be notified by the Central Government.

18. Deduction in respect of interest on loan sanctioned during financial year 2013-14 for acquiring residential house property [Section 80EE] [W.e.f. A.Y. 2014-15]

Under the existing provisions of section 24 of the Income-tax Act, income chargeable under the head 'Income from House Property' is computed after making the deductions specified therein. The deductions specified under the aforesaid section are as under:—

(i) A sum equal to 30% of the annual value;

(ii) Where the property has been acquired, constructed, repaired, renewed or reconstructed with borrowed capital, the amount of any interest payable on such capital.

It has also been provided that where the property consists of a house or part of a house which is in the occupation of the owner for the purposes of his own residence or cannot actually be occupied by the owner by reason of the fact that owing to his employment, business or profession carried on at any other place, he has to reside at that other place in a building not belonging to him, then the amount of deduction as mentioned above shall not exceed ₹1,50,000 subject to the conditions provided in the said section.

Keeping in view the need for affordable housing, an additional benefit for first-home buyers is proposed to be provided by inserting a new section 80EE in the Income-tax Act relating to deduction in respect of interest on loan taken for residential house property.

The proposed new section 80EE seeks to provide that in computing the total income of an assessee, being an individual, there shall be deducted, in accordance with and subject to the provisions of this section, interest payable on loan taken by him from any financial institution for the purpose of acquisition of a residential house property.

It is further provided that the deduction under the proposed section shall not exceed ₹1,00,000 and shall be allowed in computing the total income of the individual for the assessment year beginning on 1st April, 2014 and in a case where the interest payable for the previous year relevant to the said assessment year is less than ₹1,00,000, the balance amount shall be allowed in the assessment year beginning on 1st April, 2015.

It is also provided that the deduction shall be subject to the following conditions:- (i) the loan is sanctioned by the financial institution during the period beginning on 1st April, 2013 and ending on 31st March, 2014; (ii) the amount of loan sanctioned for acquisition of the residential house property does not exceed ₹25,00,000; (iii) the value of the residential house property does not exceed ₹40,00,000; (iv) the assessee does not own any residential house property on the date of sanction of the loan.

It is also provided that where a deduction under this section is allowed for any assessment year, in respect of interest referred to in sub-section (1), deduction shall not be allowed in respect of such interest under any other provisions of the Income-tax Act for the same or any other assessment year.

19. 100% deduction for donation to National Children's Fund [Section 80G] [W.e.f. A.Y. 2014-15]

Under the existing provisions of section 80G an assessee is allowed a deduction from his total income in respect of donations made by him to certain funds and institutions. The deduction is allowed at the rate of 50% of the amount of donations made except in the case of donations made to certain funds and institutions specified in clause (i) of sub-section (1) of section 80G, where deduction is allowed at the rate of 100%. In the case of donations made to the National Children's Fund, deduction is allowed at the rate of 50% of the amount so donated.

Donations to Funds which are of national importance have been generally provided a deduction of 100% of the amount donated. Since the National Children's Fund is also a Fund of national importance, it is proposed to allow 100% deduction in respect of any sum paid to the Fund in computing the total income of an assessee.

20. Contributions to political parties not to be in cash [Section 80GGB & 80GGC] [W.e.f. A.Y. 2014-15]

Under the existing provisions of section 80GGB, any sum contributed by an Indian company to any political party or an electoral trust in the previous year, is allowed as deduction in computing the total income of such Indian company. A similar deduction is available to an assessee, being any person other than local authority and artificial juridical person under section 80GGC. There is no specific mode provided for making such contribution.

With a view to discourage cash payments by the contributors, it is proposed to amend the provisions of aforesaid sections, so as to provide that no deduction shall be allowed under section 80GGB and 80GGC in respect of any sum contributed by way of cash.

21. Extension of the sunset date under section 80IA for the power sector [Section 80-IA(4)] [W.e.f. A.Y. 2014-15]

Under the existing provisions contained in the clause (iv) of subsection (4) of section 80IA, a deduction of profits and gains is allowed to an undertaking which,—

(a) is set up in any part of India for the generation or generation and distribution of power if it begins to generate power at any time during the period beginning on 1st April, 1993 and ending on 31st March, 2013;

(b) starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1st April, 1999 and ending on 31st March, 2013;

(c) undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines at any time during the period beginning on 1st April, 2004 and ending on 31st March, 2013.

With a view to provide further time to the undertakings to commence the eligible activity to avail the tax incentive, it is proposed to amend the above provisions so as to extend the terminal date by a further period of one year i.e. up to 31st March, 2014.

22. Deduction for additional wages in certain cases [Section 80JJAA] [W.e.f. A.Y. 2014-15]

The existing provisions contained in section 80JJAA of the Income-tax Act provide for a deduction of an amount equal to thirty per cent of additional wages paid to the new regular workmen employed in any previous year by an Indian company in its industrial undertaking engaged in manufacture or production of article or thing. The deduction is available for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

No deduction under this section is allowed if the industrial undertaking is formed by splitting up or reconstruction of an existing undertaking or amalgamation with another industrial undertaking.

The tax incentive under section 80JJAA was intended for employment of blue collared employees in the manufacturing sector whereas in practice, it is being claimed for other employees in other sectors also. It is, therefore, proposed to amend the provisions of section 80JJAA so as to provide that the deduction shall be available to an Indian Company deriving profits from manufacture of goods in its factory. The deduction shall be of an amount equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

It is also proposed to provide that the deduction under this section shall not be available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company.

Amendments relating to Rebate and Relief

23. Rebate of ₹2000 for individuals having total income up to ₹5 lakh [Section 87A] [W.e.f. A.Y. 2014-15]

With a view to provide tax relief to the individual tax payers who are in lower income bracket, it is proposed to provide rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed ₹5,00,000.

The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of ₹2,000, whichever is less. Consequently any individual having income up to ₹2,20,000 will not be required to pay any tax and every individual having total income above ₹2,20,000 but not exceeding ₹5,00,000 shall get a tax relief of ₹2000.

Section 87 has also been consequentially amended.

Amendments relating to Avoidance of Double Taxation

24. Tax Residency Certificate [Section 90 & 90A] [W.r.e.f. A.Y. 2013-14]

Section 90 of the Income Tax Act empowers the Central Government to enter into an agreement with the Government of any foreign country or specified territory outside India for the purpose of—

(i) granting relief in respect of avoidance of double taxation,

(ii) exchange of information and

(iii) recovery of taxes.

Further section 90A of the Income-tax Act empowers the Central Government to adopt any agreement between specified associations for above mentioned purposes.

In exercise of this power, the Central Government has entered into various Double Taxation Avoidance Agreements (DTAAs) with different countries and has adopted agreements between specified associations for relief of double taxation. The scheme of interplay between DTAA and domestic legislation ensures that a taxpayer, who is resident of one of the contracting country to the DTAA, is entitled to claim applicability of beneficial provisions either of DTAA or of the domestic law. Sub-section (4) of sections 90 and 90A of the Income-tax Act inserted by Finance Act, 2012 makes submission of Tax Residency Certificate containing prescribed particulars, as a condition for availing benefits of the agreements referred to in these sections.

It is proposed to amend sections 90 and 90A in order to provide that submission of a tax residency certificate is a necessary but not a sufficient condition for claiming benefits under the agreements referred to in sections 90 and 90A. This position was earlier mentioned in the memorandum explaining the provisions in Finance Bill, 2012, in the context of insertion of sub-section (4) in sections 90 & 90A.

General Anti Avoidance Rule

These are not being discussed as these will be applicable only from assessment year 2016-17.

Special Rates of Tax

25. Taxation of Income by way of Royalty or Fees for Technical Services [Section 115A] [W.e.f. A.Y. 2014-15]

Section 115A of the Income-tax Act provides for determination of tax in case of a non-resident taxpayer where the total income includes any income by way of Royalty and Fees for technical services (FTS) received under an agreement entered after 31.03.1976 and which are not effectively connected with permanent establishment, if any, of the non-resident in India. The tax is payable on the gross amount of income at the rate of—

(i) 30% if income by way of royalty or FTS is received in pursuance of an agreement entered on or before 31.05.1997;

(ii) 20% if income by way of royalty or FTS is received in pursuance of an agreement entered after 31.05.1997 but before 01.06.2005; and

(iii) 10% if income by way of royalty or FTS is received in pursuance of an agreement entered on or after 01.06.2005.

India has tax treaties with 84 countries, majority of tax treaties allow India to levy tax on gross amount of royalty at rates ranging from 10% to 25%, whereas the tax rate as per section 115A is 10%. In some cases, this has resulted in taxation at a lower rate of 10% even if the treaty allows the income to be taxed at a higher rate.

In order to correct this anomaly, the tax rate in case of non-resident taxpayer, in respect of income by way of royalty and fees for technical services as provided under section 115A, is proposed to be increased from 10% to 25%. This rate of 25% shall be applicable to any income by way of royalty and fees for technical services received by a non-resident, under an agreement entered after 31.03.1976, which is taxable under section 115A.

26. Lower rate of tax on dividends received from foreign companies [Section 115BBBD] [W.e.f. A.Y. 2014-15]

Section 115BBD of Income-tax Act provides for taxation of gross dividends received by an Indian company from a specified foreign company (in which it has shareholding of 26% or more) at the rate of 15% if such dividend is included in the total income for the Financial Year 2012-13 i.e. Assessment Year 2013-14.

The above provision was introduced as an incentive for attracting repatriation of income earned by residents from investments made abroad subject to certain conditions.

In order to continue the tax incentive for one more year, it is proposed to amend section 115BBD to extend the applicability of this section in respect of income by way of dividends received from a specified foreign company in Financial Year 2013-14 also, subject to the same conditions.

Dividend Distribution Tax

27. Removal of the cascading effect of Dividend Distribution Tax (DDT) [Section 115-O] [W.e.f. 1.6.2013]

Section 115-O of the Income-tax Act provides for taxation of distributed profits of a domestic company. It provides that any amount declared, distributed or paid by way of dividends, whether out of current or accumulated profits, shall be liable to be taxed at the rate of 15%. The tax is known as Dividend Distribution Tax (DDT). Such distributed dividend is exempt in the hands of recipients.

Section 115BBD of Income Tax Act provides for taxation of gross dividends received by an Indian company from a specified foreign company (in which it has shareholding of 26% or more) at the rate of 15%.

Section 115-O provides that the tax base for DDT (i.e. the dividend payable in case of a company) is to be reduced by an amount of dividend received from its subsidiary if such subsidiary has paid the DDT which is payable on such dividend . This ensured removal of cascading effect of DDT in a multi-tier structure where dividend received by a domestic company from its subsidiary (which is also a domestic company) is distributed to its shareholders.

It is proposed to amend section 115-O in order to remove the cascading effect in respect of dividends received by a domestic company from a similarly placed foreign subsidiary (ie the foreign company in which domestic company holds more than fifty percent of equity share capital). It is proposed that where the tax on dividends received from the foreign subsidiary is payable under section 115BBD by the holding domestic company then, any dividend distributed by the holding company in the same year, to the extent of such dividends, shall not be subject to Dividend Distribution Tax under section 115-O of the Income-tax Act.

Tax on Distributed Income of Domestic Company for Buy-Back of Shares [Chapter XII-DA]

28. Additional Income-tax on distributed income by company for buy-back of unlisted shares [Section 115QA to 115QC] [W.e.f. 1.6.2013]

Existing provisions of Section 2(22)(e) provide the definition of dividends for the purposes of the Income-tax Act. Section 115-O provides for levy of Dividend Distribution Tax(DDT) on the company at the time when company distributes, declares or pays any dividend to its shareholders. Consequent to the levy of DDT the amount of dividend received by the shareholders is not included in the total income of the shareholder.

The consideration received by a shareholder on buy-back of shares by the company is not treated as dividend but is taxable as capital gains under section 46A of the Act.

A company, having distributable reserves, has two options to distribute the same to its shareholders either by declaration and payment of dividends to the shareholders, or by way of purchase of its own shares (i.e. buy back of shares) at a consideration fixed by it. In the first case, the payment by company is subject to DDT and income in the hands of shareholders is exempt. In the second case the income is taxed in the hands of shareholder as capital gains.

Unlisted Companies, as part of tax avoidance scheme, are resorting to buy back of shares instead of payment of dividends in order to avoid payment of tax by way of DDT particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate.

In order to curb such practice it is proposed to amend the Act, by insertion of new Chapter XII-DA, to provide that the consideration paid by the company for purchase of its own unlisted shares which is in excess of the sum received by the company at the time of issue of such shares (distributed income) will be charged to tax and the company would be liable to pay additional income-tax @ 20% of the distributed income paid to the shareholder. The additional income-tax payable by the company shall be the final tax on similar lines as dividend distribution tax. The income arising to the shareholders in respect of such buy back by the company would be exempt where the company is liable to pay the additional income-tax on the buy-back of shares.

Tax on Distributed Income by the Mutual Funds

29 Rationalisation of tax on distributed income by the Mutual Funds [Section 115R] [W.e.f. 1.6.2013]

Under the existing provisions of section 115R any amount of income distributed by the specified company or a Mutual Fund to its unit holders is chargeable to additional income-tax. In case of any distribution made by a fund other than equity oriented fund to a person who is not an individual and HUF, the rate of tax is 30% whereas in case of distribution to an individual or an HUF it is 12.5% or 25% depending on the nature of the fund.

In order to provide uniform taxation for all types of funds, other than equity oriented fund, it is proposed to increase the rate of tax on distributed income from 12.5% to 25% in all cases where distribution is made to an individual or a HUF.

Further in case of an Infrastructure debt fund (IDF) set up as a Non-Banking Finance Company (NBFC) the interest payment made by the fund to a non-resident investor is taxable at a concessional rate of 5%. However in case of distribution of income by an IDF set up as a Mutual Fund the distribution tax is levied at the rates described above in the case of a Mutual Fund.

In order to bring parity in taxation of income from investment made by a non-resident Investor in an IDF whether set up as a IDF-NBFC or IDF-MF, it is proposed to amend section 115R to provide that tax @ 5% on income distributed shall be payable in respect of income distributed by a Mutual Fund under an IDF scheme to a non-resident Investor.

Special Provisions Relating to tax on Distributed Income by Securitisation Trusts [Chapter XII-EA]

30. Taxation of Securitisation Trusts [Section 115TA to 115TC] [W.e.f. 1.6.2013]

Section 161 of the Income-tax Act provides that in case of a trust if its income consists of or includes profits and gains of business then income of such trust shall be taxed at the maximum marginal rate in the hands of trust.

The special purpose entities set up in the form of trust to undertake securitisation activities were facing problem due to lack of special dispensation in respect of taxation under the Income-tax Act. The taxation at the level of trust due to existing provisions was considered to be restrictive particularly where the investors in the trust are persons which are exempt from taxation under the provisions of the Income-tax Act like Mutual Funds.

In order to facilitate the securitisation process, it is proposed to provide a special taxation regime in respect of taxation of income of securitisation entities, set up as a trust, from the activity of securitisation. It is proposed to amend section 10 and also insert a new Chapter XII-EA for providing a special tax regime. The salient features of the special regime are:—

(i) In case of securitisation vehicles which are set up as a trust and the activities of which are regulated by either SEBI or RBI, the income from the activity of securitisation of such trusts will be exempt from taxation.

(ii) The securitisation trust will be liable to pay additional income-tax on income distributed to its investors on the line of distribution tax levied in the case of mutual funds. The additional income-tax shall be levied @ 25% in case of distribution being made to investors who are individual and HUF and @ 30% in other cases. No additional income-tax shall be payable if the income distributed by the securitisation trust is received by a person who is exempt from tax under the Act.

(iii) Consequent to the levy of distribution tax, the distributed income received by the investor will be exempt from tax.

(iv) The securitisation trust will be liable to pay interest at the rate of one percent. for every month or part of the month on the amount of additional income-tax not paid within the specified time .

(v) The person responsible for payment of income or the securitisation trust will be deemed to be an assessee in default in respect of amount of tax payable by him or it in case the additional income-tax is not paid to the credit of Central Government.

Amendment relating to Search and Seizure

31. Application of seized assets [Section 132B] [W.e.f. 1.6.2013]

The existing provisions contained in section 132B of the Income-tax Act, *inter alia,* provide that seized assets may be adjusted against any existing liability under the Income-tax Act, Wealth-tax Act, the Expenditure-tax Act, the Gift-tax Act and the Interest-tax Act and the amount of liability determined on completion of assessments pursuant to search, including penalty levied or interest payable and in respect of which such person is in default or deemed to be in default.

Various courts have taken a view that the term "existing liability" includes advance tax liability of the assessee, which is not in consonance with the intention of the legislature. The legislative intent behind this provision is to ensure the recovery of outstanding tax/interest/penalty and also to provide for recovery of taxes/interest/penalty, which may arise subsequent to the assessment pursuant to search.

Accordingly, it is proposed to amend the aforesaid section so as to clarify that the existing liability does not include advance tax payable in accordance with the provisions of Part C of Chapter XVII of the Act.

Amendments relating to Filing of Returns and Assessments

32. Return of Income filed without payment of self- assessment tax to be treated as defective return [Section 139(9)] [W.e.f. 1.6.2013]

The existing provisions contained in sub-section (9) of section 139 provide that where the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within a period of fifteen days. If the defect is not rectified within the time allowed by the Assessing Officer, the return is treated as an invalid return. The conditions, the non-fulfillment of which renders the return defective, have been provided in the *Explanation* to the aforesaid sub-section.

Section 140A provides that where any tax is payable on the basis of any return, after taking into account the prepaid taxes, the assessee shall be liable to pay such tax together with interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax, before furnishing the return.

It has been noticed that a large number of assessees are filing their returns of income without payment of self-assessment tax.

It is, therefore, proposed to amend the aforesaid *Explanation* so as to provide that the return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return.

33. Direction for special audit [Section 142(2A)] [W.e.f. 1.6.2013]

The existing provisions contained in sub-section (2A) of section 142 of the Income-tax Act, inter alia, provide that if at any stage of the proceeding, the Assessing Officer having regard to the nature and complexity of the accounts of the assessee and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the approval of the Chief Commissioner or Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

The expression "nature and complexity of the accounts" has been interpreted in a very restrictive manner by various courts.

It is, therefore, proposed to amend the aforesaid sub-section so as to provide that if at any stage of the proceedings before him, the Assessing Officer, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Chief Commissioner or the Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit.

34. Exclusion of time in computing the period of limitation for completion of assessments and reassessments [Section 153 & 153B] [W.e.f. 1.6.2013]

The existing provisions of section 153, inter alia, provide the time limit for completion of assessment and reassessment of income by the Assessing Officer.

Explanation to section 153 provides that certain periods specified therein shall be excluded while computing the period of limitation for the purposes of the said section.

Under the existing provisions of clause (iii) of *Explanation* 1 to section 153, the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending with the last date on which the assesee is required to furnish a report of such audit, is excluded in computing the period of limitation for the purposes of assessment or reassessment.

However, the existing provision does not provide for exclusion of time in case the direction of the Assessing Officer is set aside by the court.

It is proposed to amend clause (iii) of *Explanation 1* to section 153 so as to provide that the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Commissioner, shall be excluded in computing the period of limitation for the purposes of section 153.

Similarly, the existing provisions contained in clause (viii) of *Explanation I* to section 153 provide for exclusion of the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is received by the Commissioner or a period of one year, whichever is less, in computing the period of limitation for the purposes of section 153.

At times more than one reference for exchange of information is made in one case and the replies from the foreign Competent Authorities are also received in parts. In such cases, there will always be a dispute for counting the period of exclusion i.e. whether it should be from the date of first reference for exchange of information made or from the date of last reference. Similar dispute may also arise with regard to the date on which the information so requested is received.

With a view to clarify the above situation, it is proposed to amend the aforesaid clause (viii) so as to provide that the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Commissioner or a period of one year, whichever is less, shall be excluded in computing the period of limitation for the purposes of section 153.

Similar amendments are also proposed in the Explanation to section 153B of the Income-tax Act relating to time limit for completion of search assessment.

Collection and Recovery of Tax

35. Clarification of the phrase "tax due" for the purposes of recovery in certain cases [Section 167C and 169] [W.e.f. 1.6.2013]

Section 179 of the Income-tax Act provides that where the tax due from a private company cannot be recovered from such company, then the director (who was the director of such company during the previous year to which non-recovery relates) shall be jointly and severally liable for payment of such tax unless he proves that the non-recovery of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part. This provision is intended to recover outstanding demand under the Act of a private company from the directors of such company in certain cases. However, some courts have interpreted the phrase 'tax due' used in section 179 to hold that it does not include penalty, interest and other sum payable under the Act.

In view of the above, it is proposed to clarify that for the purposes of this section, the expression "tax due" includes penalty, interest or any other sum payable under the Act. Amendments on the similar lines for clarifying the expression 'tax due' is proposed to be made to the provisions of section 167C.

Amendments relating to TDS

36. Tax Deduction at Source (TDS) on transfer of certain immovable properties (other than agricultural land) [Section 194-IA] [W.e.f. 1.6.2013]

There is a statutory requirement under section 139A of the Income-tax Act read with rule 114B of the Income-tax Rules, 1962 to quote Permanent Account Number (PAN) in documents pertaining to purchase or sale of immovable property for value of ₹5 lakh or more. However, the information furnished to the department in Annual Information Returns by the Registrar or Sub-Registrar indicate that a majority of the purchasers or sellers of immovable properties, valued at ₹30 lakh or more, during the financial year 2011-12 did not quote or quoted invalid PAN in the documents relating to transfer of the property.

Under the existing provisions of the Income-tax Act, tax is required to be deducted at source on certain specified payments made to residents by way of salary, interest, commission, brokerage, professional services, etc. On transfer of immovable property by a non-resident, tax is required to be deducted at source by the transferee. However, there is no such requirement on transfer of immovable property by a resident except in the case of compulsory acquisition of certain immovable properties. In order to have a reporting mechanism of transactions in the real estate sector and also to collect tax at the earliest point of time, it is proposed to insert a new section 194-IA to provide that every transferee, at the time of making payment or crediting of any sum as consideration for transfer of immovable property (other than agricultural land) to a resident transferor, shall deduct tax, at the rate of 1% of such sum.

In order to reduce the compliance burden on the small taxpayers, it is further proposed that no deduction of tax under this provision shall be made where the total amount of consideration for the transfer of an immovable property is less than ₹50,00,000.

37. Concessional rate of withholding tax on interest in case of certain rupee denominated long-term infrastructure bonds [Section 194LC] [W.e.f. 1.6.2013]

The existing provisions of section 194LC provide that if an Indian company borrows money in foreign currency from a source outside India either under a loan agreement or by way of issue of long-term infrastructure bonds, as approved by the Central Government, then the interest payment to a non-resident person would be subject to a concessional rate of tax @ 5%.

In order to facilitate subscription by a non-resident in the long term infrastructure bonds issued by an Indian company in India (rupee denominated bond), it is proposed to amend section 194LC of the Income-tax Act so as to provide that where a non-resident deposits foreign currency in a designated bank account and such money as converted in rupees is utilised for subscription to a long-term infrastructure bond issue of an Indian company, then, for the purpose of this section, the borrowing by the company shall be deemed to be in foreign currency. The benefit of reduced rate of tax would, therefore, be available to such non-resident in respect of the interest income arising on such subscription subject to other conditions provided in the section.

The designated bank account should be solely for the purpose of deposit of money in foreign currency and such money is to be used, after conversion, for subscription to a rupee denominated long-term infrastructure bond issue of an Indian company.

Amendment relating to Penalty

38. Penalty for non-filing of Annual Information Return [Section 271FA] [W.e.f. A.Y. 2014-15]

Section 285BA mandates furnishing of annual information return by the specified persons in respect of specified transactions within the time prescribed under sub-section (2) thereof. Sub-section (5) of the section empowers the Assessing Officer to issue notice if the annual information return has not been furnished by the due date.

The existing provisions contained in section 271FA of the Income-tax Act provide that if a person who is required to furnish an annual information return, as required under sub-section (1) of section 285BA, fails to furnish such return within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such person shall pay, by way of penalty, a sum of ₹100 for every day during which the failure continues.

It is proposed to amend the aforesaid section so as to provide that if a person who is required to furnish an annual information return, as required under sub-section (1) of section 285BA, fails to furnish such return within the time prescribed under sub-section (2) thereof, the income-tax authority prescribed under sub-section (1) of the said section may direct that such person shall pay, by way of penalty, a sum of ₹100 for every day during which the failure continues.

It is further proposed to provide that where such person fails to furnish the return within the period specified in the notice under sub-section (5) of section 285BA, he shall pay, by way of penalty, a sum of ₹500 for every day during which the failure continues, beginning from the day immediately following the day on which the time specified in such notice for furnishing the return expires.

Other Amendments

39. Extension of time for approval of Provident Fund [W.r.e.f. A.Y. 2013-14]

Rule 4 in Part A of the Fourth Schedule to the Income-tax Act provides for conditions which are required to be satisfied by a Provident Fund for receiving or retaining recognition under the Income-tax Act. One of the requirements of rule 4 as contained in clause (ea) is that the establishment has to be notified by the Central Provident Fund Commissioner under section 1(4) of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 [EPF & MP Act] and has obtained exemption under section 17 of the said Act.

Rule 3 in Part A of the Fourth Schedule provides that the Chief Commissioner or the Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions specified under the said rule 4 and the conditions which the Board may specify by rules.

The first proviso to sub-rule (1) of rule 3, inter alia, specifies that in a case where recognition under the Income-tax Act has been accorded to any provident fund on or before 31st March, 2006, but such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 on or before 31st March 2013, the recognition to such fund shall be withdrawn.

It has been noticed that a number of applications are yet to be processed by the Employees' Provident Fund Organization (EPFO) for grant of exemption under section 17 of EPF & MP Act. With a view to provide further time to the EPFO to decide on the pending applications seeking exemption under section 17 of the EPF & MP Act, it is proposed to amend the first proviso, so as to extend the time limit from 31st March, 2013 to 31st March, 2014.

40. Commodities Transaction Tax

A new tax called Commodities Transaction Tax (CTT) is proposed to be levied on taxable commodities transactions entered into in a recognised association.

It is proposed to define 'taxable commodities transaction' to mean a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognised associations.

The tax is proposed to be levied at the rate, given in the Table below, on taxable commodities transactions undertaken by the seller as indicated hereunder:-

Table

S.No.	Taxable commodities transaction	Rate	Payable by
(1)	(2)	(3)	(4)
1.	Sale of commodity derivative	0.01 per cent	Seller

The provisions with regard to collection and recovery of CTT, furnishing of returns, assessment procedure, power of assessing officer, chargeability of interest, levy of penalty, institution of prosecution, filing of appeal, power to the Central Government, etc. have also been provided.

This tax is proposed to be levied from the date on which Chapter VII of the Finance Bill, 2013 comes into force by way of notification in the Official Gazette by the Central Government.

Further, it is proposed to amend section 36 of the Income-tax Act to provide that an amount equal to the commodities transaction tax paid by the assessee in respect of the taxable commodities transactions entered into in the course of his business during the previous year shall be allowable as deduction, if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession".

It is also proposed to insert an Explanation to provide that for the purposes of this clause, the expressions "commodities transaction tax" and "taxable commodities transaction" shall have the meanings respectively assigned to them under Chapter VII of the Finance Act, 2013.

41. Securities Transaction Tax (STT) [W.e.f. 1.6.2013]

Securities Transaction Tax (STT) on transactions in specified securities was introduced vide Finance (No.2) Act, 2004.

It is proposed to amend section 98 of the Finance (No.2) Act, 2004 to reduce STT rates in the taxable securities transactions as indicated hereunder:-

Table

Sl. No.	Nature of taxable securities transaction	Payable by	Existing Rates (in per cent)	Proposed Rates (in per cent)
(1)	(2)	(3)	(4)	(5)
1.	Delivery based purchase of units of an equity oriented fund entered into in a recognised stock exchange	Purchaser	0.1	Nil
2.	Delivery based sale of units of an equity oriented fund entered into in a recognised stock exchange	Seller	0.1	0.001
3.	Sale of a futures in securities	Seller	0.017	0.01
4.	Sale of a unit of an equity oriented fund to the mutual fund	Seller	0.25	0.001

42. Enabling provisions for facilitating electronic filing of annexure-less return of net wealth [Section 14A & 14B of the Wealth Tax Act] [W.e.f. 1.6.2013]

Section 14 of the Wealth-tax Act provides for furnishing of return of net wealth as on the valuation date in the prescribed form and verified in the prescribed manner setting forth particulars of the net wealth and such other particulars as may be prescribed. Currently, certain documents, reports are required to be furnished along with the return of net wealth under the provisions of Wealth-tax Act read with the provisions of Wealth-tax Rules.

Sections 139C and 139D of the Income-tax Act contain provisions for facilitating filing of annexure-less return of income in electronic form by certain class of income-tax assessees. In order to facilitate electronic filing of annexure-less return of net wealth, it is proposed to insert new sections 14A and 14B in the Wealth-tax Act on similar lines.

Consequently, it is also proposed to amend provisions of section 46 of the Wealth-tax Act which provides for rule making powers of the Board.

CUSTOMS DUTY

CUSTOMS

AMENDMENTS IN THE CUSTOMS ACT, 1962:

(1) Clause (n) of sub-section (2) of section 11 is being amended to include "designs and geographical indications" so as to provide for protection of these rights.

(2) Section 27 is being amended to provide that if the amount of refund claimed is less than rupees hundred, the same shall not be refunded.

(3) Section 28 is being amended to provide that show cause notice will not be served where the amount demanded is less than rupees one hundred.

(4) Section 28BA is being amended to provide for provisional attachment of property belonging to any person to whom notice under sub-section (4) of section 28 has been served.

(5) Clause (a) of section 28E is being substituted so as to include any new business of import or export proposed to be undertaken by the existing importer or exporter within the meaning of "activity".

(6) Section 29 is being amended to empower the Board to permit landing of vessels and aircrafts at any place other than customs port or customs airport.

(7) Section 30 is being amended to provide for electronic filing of import manifest and also to provide that the Commissioner of Customs may, in cases where it is not feasible to deliver the import manifest by presenting electronically, allow the same to be delivered in any other manner.

(8) Section 41 is being amended to provide for electronic filing of export manifest and also to provide that the Commissioner of Customs may, in cases where it is not feasible to deliver the export manifest by presenting electronically, allow the same to be delivered in any other manner.

(9) Sub-section (2) of section 47 is being amended to reduce the interest free period for payment of import duty from five days to two days.

(10) Section 49 is being amended to restrict the period of storage of imported goods, pending clearance, in a public or private warehouse to thirty days and to provide that the Commissioner of Customs may extend the period of storage for further period not exceeding thirty days at a time.

(11) Section 69 is being substituted to provide that any warehoused goods may be exported to a place outside India without payment of import duty if a shipping bill or a bill of export in prescribed form or label or declaration accompanying the goods as referred to in section 82 has been presented in respect of such goods.

(12) Under the existing sub-section (6) of section 104, all offences under the Act are bailable. Sub-section (6) is being substituted with sub-section (6) and (7). Sub-section (6) provides that the following specified offences punishable under section 135 shall be non-bailable, namely:

(a) evasion or attempted evasion of duty exceeding ₹50 lakh;

(b) prohibited goods notified under section 11 which are also notified under sub-clause (C) of clause (i) of sub-section (1) of section 135;

(c) import or export of any goods which have not been declared in accordance with the provisions of this Act and the market price of which exceeds ₹1 crore;

(d) Fraudulently availing of or attempt to avail of drawback or any exemption from duty provided under this Act, if the amount of drawback or exemption from duty exceeds ₹50 lakh.

Sub-section (7) provides that all other offences except those specified in sub-section (6) shall be bailable.

(13) A proviso is being inserted in sub-section (2A) of section 129B to provide that in cases where the delay in disposing of the appeal is not attributable to the appellant, the Tribunal may extend the period of stay by a period not exceeding 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay order shall stand vacated.

(14) Section 129C is being amended to enhance the monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals from ₹10 lakh to ₹ 50 lakh.

(15) In sub-clauses (B) and (D) of clause (i) of section 135(1), the threshold limit for punishment in an offence relating to evasion or attempted evasion of duty or fraudulently availing of or attempting to avail of drawback or any exemption from duty in connection with export of goods, has been increased from ₹30 lakh to ₹50 lakh.

(16) A new clause (d) is being inserted in section 142 to provide (i) for recovery of money due to the Central Government from any other person other than the defaulter after giving such other person a notice in writing, (ii) that the person to whom such notice has been issued shall be bound to comply, and (iii) that if the person to whom the notice is issued fails to comply, he shall be deemed to be a defaulter in respect of the amount specified in the notice.

(17) Section 143A is being omitted.

(18) Sub-section (3) of section 144 is being amended to remove the duty liability on any sample of goods which is consumed or destroyed during the course of testing or examination.

(19) Section 146 is being substituted to change the nomenclature of "customs house agents" to "customs brokers" considering the global practice and internationally accepted nomenclature.

(20) Section 146A is being amended so as to:

(a) substitute the phrase "customs house agent" with the phrase "customs broker";

(b) include any offence committed under the Finance Act, 1994 as a disqualification for person to act as an authorized representative in customs matters.

(21) Sub-section (3) of section 147 is being amended to expand the scope of the liability of agents of the owner, importer or exporter of any goods.

(22) Full exemption from export duty is being given retrospectively on flat rolled products of iron or non-alloy steel, plated or coated with zinc falling under headings 7210 and 7212 vide notification No. 27/2011-Customs, dated 01.03.2011 from 01.03.2011.

CUSTOMS

A. General

(1) Baggage Rules are being amended to,

(i) raise the duty free allowance in respect of jewellery for an Indian passenger who has been residing abroad for over one year or a person who is transferring his residence to India from ₹10,000 to ₹50,000 in case of a gentleman passenger and from ₹20,000 to ₹1,00,000 in case of a lady passenger.

(ii) raise the duty free allowance for crew member of vessel/aircraft from ₹600 to ₹1500.

B. Proposals involving changes in rates of duty

I. AGRICULTURE/AGRO PROCESSING/PLANTATION SECTOR:

(1) Basic customs duty on dehulled oat grain is being reduced from 30% to 15%.

(2) Basic customs duty on hazel nuts is being reduced from 30% to 10%.

(3) Export duty of 10% on de-oiled rice bran oil cake is being withdrawn.

II. AUTOMOBILES:

(1) Basic customs duty on new passenger cars and other motor vehicles (high end cars) with CIF value more than US$ 40,000 and/or engine capacity exceeding 3000cc for petrol run vehicles and exceeding 2500 cc for diesel run vehicles is being increased from 75% to 100%.

(2) Basic customs duty on motor cycle with engine capacity of 800cc or more is being increased from 60% to 75%.

III. METALS:

(1) Export duty is being levied on ilmenite unprocessed at 10% and on ilmenite, upgraded at 5%.

(2) Export duty is being levied on bauxite at 10%.

(3) Basic customs duty is being reduced from 10% to 5% on stainless steel wire cloth stripe and from 7.5% to 5% on wash coat for use in the manufacture of catalytic convertors and their parts.

(4) Full exemption from export duty is being provided to galvanized steel sheets falling under certain sub-headings, retrospectively w.e.f. 01.03.2011.

IV. PRECIOUS METALS:

(1) Basic customs duty is being reduced from 10% to 2% on pre-forms of precious and semi-precious stones.

V. CAPITAL GOODS/INFRASTRUCTURE:

(1) Basic customs duty on steam coal is being increased from Nil to 2% and CVD from 1% to 2%.

(2) Basic customs duty on bituminous coal is being reduced from 5% to 2% and CVD from 6% to 2%.

(3) Basic customs duty is being reduced from 7.5% to 5% on 20 specified machinery for use in leather and footwear industry.

VI. AIRCRAFTS & SHIPS:

(1) Basic Customs Duty on yachts and motor boats is being increased from 10% to 25%.

(2) Time limit for consumption of imported goods by ship repair units is being extended from 3 months to 1 year.

(3) Time period for consumption/installation of parts and testing equipments imported for maintenance, repair and overhaul (MRO) of aircrafts by units engaged in such activities is being extended from 3 months to 1 year.

(4) Presently, the basic customs duty exemption is available to parts and testing equipments for maintenance, repair and overhaul of aircrafts. This exemption is now being extended to parts and testing equipments for maintenance, repair and overhaul of aircrafts and parts thereof.

VII. ENVIRONMENT PROTECTION:

(1) Full exemption from basic customs duty is being provided to lithium ion automotive battery for manufacture of lithium ion battery packs for supply to the manufacturers of hybrid and electric vehicles.

(2) Time period of exemption (Nil BCD, CVD of 6% and Nil SAD) for the specified parts of electric and hybrid vehicles is being extended by 2 more years up to 31st March, 2015.

VIII. TEXTILES:

(1) Basic customs duty on raw silk (not thrown), of all grades is being increased from 5% to 15%.

(2) Basic customs duty is being reduced from 7.5% to 5% on textile machinery & parts.

IX. ELECTRONICS/HARDWARE:

(1) Basic customs duty on Set Top Boxes for TV is being increased from 5% to 10%.

X. MISCELLANEOUS:

(1) Full exemption from basic customs duty and additional customs duty is being provided to trophy imported by National Sports Federation recognized by the Department of Sports and Youth Affairs or any Sports Body registered under Societies Registration Act, in connection with any international tournament held in India.

(2) Withdrawal of exemption from education cess and secondary & higher education cess on aircraft and aircraft parts, soyabean oil, olive oil etc.

CENTRAL EXCISE

EXCISE

AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944:

(1) Section 9 provides that an offence case involving evasion in which the duty leviable exceeds thirty lakh rupees shall be punishable with a term of imprisonment extending to seven years with fine. This section is being amended so as to substitute the amount of thirty lakh rupees with fifty lakh rupees.

(2) Section 9A is being amended to make an offence cognizable and non-bailable where the duty liability exceeds ₹50 lakh and punishable under clause (b) or clause (bbbb) of sub-section (1) of section 9.

(3) Section 11 is being amended so as to provide for

(i) recovery of money due to the Government from any person other than from whom money is due after giving a proper notice, if that other person holds money for or on account of the first person;

(ii) the other person to whom such notice has been issued is bound to comply and (iii) if the other person to whom the notice is served fails to comply, he shall face all the consequences under this Act.

(4) Section 11A is being amended to insert sub-section (7A) providing that service of a statement containing details of duty not paid, short levied or erroneously refunded shall be deemed to be a service of notice under sub-section (1) or (3) or (4) or (5) of this section.

(5) Reference to sub-section (1) in section 11DDA is being omitted.

(6) Section 20 is being amended so as to make the provisions applicable only to offence which is non-cognizable.

(7) Section 21 is being amended so as to make the provisions regarding release of arrested person on bail or personal bond applicable only to offence which is non-cognizable.

(8) Clause (a) of section 23A is being amended to expand the definition of the term "activity" to include any new business of production or manufacture proposed to be undertaken by the existing producer or manufacturer.

(9) The existing sub-section (2) of section 23C provides for the admissibility of application for advance ruling, inter alia, for credit of excise duty paid or deemed to have been paid. The scope of admissibility has been expanded to include credit of service tax paid or deemed to have been paid on input services.

(10) Reference to section 28-I in section 23F is being substituted with section 23D.

(11) A new proviso is being inserted in sub-section (2A) of section 35C so as to provide that in cases where delay in disposing of the appeal is not attributable to the appellant, the Tribunal may extend the period of stay by a period not exceeding 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of order, the stay shall stand vacated.

(12) Section 35D is being amended to enhance the monetary limit of the Single Bench of the Tribunal to hear and dispose of appeals from "ten lakh rupees" to "fifty lakh rupees".

(13) Section 37C is being amended to specify additional modes of delivery of specified documents i.e. by speed post with proof of delivery or through courier approved by the Central Board of Excise & Customs.

(14) Third Schedule is being amended to:

(a) insert S. No. 31A to include branded and generic Ayurvedic, Unani, Siddha, Homeopathic or Bio-chemic medicaments.

(b) substitute the present tariff item in S. No. 64 relating to pressure cooker with tariff item "7615 10 11"

The changes at para 14) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

AMENDMENTS IN CENTRAL EXCISE TARIFF ACT, 1985:

(1) First Schedule is being amended to:

(a) change the present description of tariff items 03022400 and 03033400 to "Turbots (Psetta maxima)".

(b) omit the tariff item 1517 90 20 (Peanut butter).

(c) substitute the existing tariff rates for various lengths of cigarettes and cigars of heading 2402 with the enhanced rates.

(d) enhance the tariff rate of specified tariff items of heading 8703 to 30%.

The changes at para 1) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

Proposals involving changes in rates of duty

I. AGRICULTURE/AGRO PROCESSING/PLANTATION SECTOR:

(1) Full exemption from excise duty is being provided on tapioca sago (sabudana) and tapioca starch manufactured and consumed captively in the manufacture of tapioca sago.

(2) Full exemption from excise duty is being provided on henna powder or paste, not mixed with any other ingredient.

II. AUTOMOBILES:

(1) Excise duty on SUVs is being increased from 27% to 30%.

(2) Excise duty on truck chassis (8706 00 42) is being reduced from 14% to 13%.

(3) Sports Utility Vehicles registered solely for use as taxis will not suffer additional excise duty consequent to the increase in excise duty on SUVs from 27% to 30%. Taxi refund in respect of SUVs is being adjusted accordingly.

III. METALS:

(1) Excise duty of 4% is being levied on silver manufactured from zinc/lead smelting.

(2) Compounded levy on stainless steel "Patta Patti" is being increased from ₹30,000 per machine per month to ₹40,000 per machine per month.

(3) It is being clarified that the item "trimmed or untrimmed sheets or circles of copper intended for use in the manufacture of handicrafts or utensils" presently leviable to excise duty at ₹3500 per MT includes copper and copper alloys including brass.

IV. AIRCRAFTS & SHIPS:

(1) Full exemption from excise duty is being provided on ships and other vessels. Consequently, there will be no CVD on these ships and vessels when imported.

V. TEXTILES:

(1) Full exemption from excise duty is being provided on hand made carpets and carpets and other textile floor coverings of coir or jute, whether or not handmade.

(2) 'Zero excise duty route', as existed prior to Budget 2011-12, is being restored in respect of branded readymade garments and made ups. In the case of cotton there will be zero duty at the fibre stage and, in the case of spun yarn of man made fibres, there will be a duty of 12% at the fibre stage. The 'Zero excise duty route' will be in addition to the CENVAT route now available.

VI. HEALTH:

(1) Branded Ayurvedic medicaments and medicaments of Unani, Siddha, Homeopathic or bio-chemic system are being brought under MRP based assessment with abatement of 35% from MRP.

VII. ELECTRONICS/HARDWARE:

(1) Excise duty on mobile phones of retail sale price exceeding ₹2000 is being increased from 1% to 6%.

VIII. MISCELLANEOUS:

(1) Excise duty on cigarettes is being increased by about 18% on all cigarettes except cigarettes of length not exceeding 65 mm. Cigars and cigarillos duty is also being similarly raised.

(2) Excise duty on marble tiles and slabs is being increased from ₹30 per sq. mtr to ₹60 per sq. mtr.

(3) Full exemption from excise duty is being provided to intermediate goods manufactured and consumed captively by exempted units under Area Based Exemption Scheme in Himachal Pradesh and Uttarakhand.

SERVICE TAX

Provisions made Applicable Retrospectively

1. Services provided by Indian Railways – Section 99 of the Finance Act, 1994

A retrospective exemption is being provided to the Indian Railways from the payment of service tax on various taxable services provided by it during the period prior to the 01.07.2012, for which department has issued show cause notices upto 28.02.2013.

2. Section 66BA – Reference to Section 66 to be construed as reference to Section 66B

The explanation to Section 66B has been proposed to be omitted and the same has proposed to be incorporated in the Act as a newly introduced Section 66BA inserted vide Finance Bill, 2013 with retrospective effect from 01.07.2012.

A. Provisions made applicable w.e.f. 01.03.2013

1. Change in rate of abatement

Earlier all the builders or developers engaged in Construction of a complex, building or civil structure or a part thereof, intended for sale to a buyer, except where the entire consideration is received after issuance of completion certificate by the competent Authority were entitle for the benefit of abatement of flat 75% from the gross amount charged on fulfillment of certain conditions.

However, now a dual rate of abatement has been prescribed:

Particulars	Rate of Abatement
(a) Residential unit having carpet area upto 2000 square feet ; or (b) where the amount charged is less than rupees one crore;	75%
(c) In all other cases	70%

Amendment made in Section 96A of the Act

The Public limited companies can also obtain the advance rulings on any question of law or fact regarding the liability to pay service tax in relation to the services proposed to be provided

Changes in CENVAT Credit Rules, 2004

Rule 3 of CENVAT Credit Rules, 2004

As per sub-rules (5), (5A) and (5B) of Rule 3 of CENVAT Credit Rules, 2004, an amount of CENVAT Credit is required to be paid to the government on removal or writing off of Inputs or Capital Goods whether as such or after being put to use. The provisions contained in the aforesaid sub-rules have been discussed hereunder:

Rule 3 (5):- If Inputs or Capital Goods, on which CENVAT Credit has been taken, are removed **as such** from the factory of manufacturer or premises of Output Service Provider, in that case, amount equivalent to such CENVAT Credit taken is required to be paid to the credit of Central Government.

Rule 3(5A):- If Capital Goods are removed **after being used**, whether as Capital Goods or as scrap or waste, in that case, an amount equivalent to CENVAT Credit claimed on the said goods, reduced by a prescribed percentage, is required to be paid to the credit of Central Government. The said percentages shall be determined as under:

- For Computers and Computer peripherals:

Period	**Percentage**
For Each Quarter in First Year	@ 10%
For Each Quarter in Second Year	@ 8%
For Each Quarter in third Year	@ 5%
For Each Quarter in fourth and fifth year	@1%

- For Capital Goods, other than Computers and Computer Peripherals, @ 2.5% for each Quarter.

However, if the amount so calculated is less than the amount equal to the duty leviable on transaction value; in that case, the amount to be paid shall be equal to the duty leviable on transaction value.

Rule 3(5B):- As per this Sub-Rule, if value of Inputs or Capital Goods, **before being put to use,** on which CENVAT Credit has been taken, is written off fully or partially in the books of accounts, in that case, Service Provider is required to pay an amount equivalent to CENVAT Credit taken in respect of said input or Capital Goods.

The government, vide aforesaid amendment, has levied the interest on the said amount if the said amount is not paid within the due date.

The levy of interest on wrongful availment of CENVAT Credit is governed by Rule 14 of CENVAT Credit Rules, 2004. As per said Rule, interest is levied when CENVAT Credit is **wrongly taken and utilized.** However, if payment of CENVAT Credit under aforesaid Sub-Rules [i.e. 3(5), 3(5A), 3(5B)] is not made, the said credit cannot be termed as wrongly availed. Thus, this explanation has been inserted to provide that if such payment is not made within the prescribed time, in that case, interest shall be levied on the same @ 18%/15% as the case may be.

B. Provisions made applicable w.e.f. 01.04.2013

1. **Changes in Mega Exemption Notification No. 25/2012 dated 20.06.2012 vide Notification No. 3/2013 dated 01.03.2013**

Withdrawal of benefit of Exemption

(a) No Exemption shall be available in respect of services provided ***by*** Educational Institution by way of auxiliary educational services and renting of immovable property

However, services provided by way of auxiliary educational services and renting of immovable property ***to*** educational institutes in respect of education exempted from service tax shall remain exempt.

(b) Earlier an exemption has been provided in respect of services provided by way temporary transfer or permitting the use or enjoyment of a copyright of all cinematograph films.

However, w.e.f. 01.04.2013, such exemption is limited to services provided with respect to exhibition of cinematograph films in a cinema hall or cinema theatre only.

(c) **Bad news for foodies**. Now all the restaurants, eating joints or mess having centralized air conditioning or air heating in any part of the establishment at any time during the year. The precondition to have a license to serve liquor has now been dispensed off with.

However, the restaurants, eating joints or mess which does not have centralized air conditioning or air heating facility shall remain exempt from payment of service tax.

(d) The benefit of exemption on services provided by way of transportation by rail or a vessel from one place in India to another in respect of transportation of following goods has been withdrawn:-

- petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986)
- postal mail or mail bags &
- household effects.

(e) Benefit of exemption granted to parking of vehicle for general public has now been withdrawn. Now all the parking services shall be subject to service tax

(f) Any person providing services to government, a local authority or a governmental authority by way of repair or maintenance of aircraft shall now be subject to service tax as the exemption on such services has been withdrawn.

(g) The scope of Charitable Activities has been curtailed by omitting the “advancement of any other object of general public utility” from the definition of “Charitable Activities”. Thus now only specified activities shall be termed as Charitable activities.

Extension of Benefit of Exemption

The benefit of exemption to services provided by goods transport agency by way of transportation has now been extended and now this benefit shall be available on transportation of following goods—

- agricultural produce;
- goods, where gross amount charged for the transportation of goods on a consignment transported in a single carriage does not exceed one thousand five hundred rupees;
- goods, where gross amount charged for transportation of all such goods for a single consignee does not exceed rupees seven hundred fifty;
- foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages;
- chemical fertilizer and oilcakes;
- newspaper or magazines registered with the Registrar of Newspapers;
- relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; or
- defence or military equipments

Amendments in Finance Act, 1994 – Applicable from the date of enactment of Finance Act, 2013

Section 65B (11) - **Approved Vocational Course**

No service tax could be levied even on vocational courses provided by industrial training institute or an industrial training centre affiliated to State Council for Vocational Training as the same is being proposed to cover under Negative list of services. Earlier only the courses provided by training institute or an industrial training centre affiliated to National Council for Vocational Training were covered under Negative list of services.

Section 65B (40) - Process amounting to manufacture or production

With the enactment of Finance Act, 2013, even a process amounting to manufacture or production under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 shall be covered by Negative List of Services and no service tax could be levied on such process.

Section 66D – Negative List of Services

The word, 'seed' has been proposed to be omitted from the expression 'seed testing' specified in section 66D(d)(i) of the Finance Act, 1994. Consequently, all kinds of testing including seed testing in respect of “agriculture” or “agricultural produce” shall be outside the ambit of service tax.

Section – 73 - Recovery of Service Tax not levied or paid or short levied or short paid or erroneously refunded

Insertion of Section 73(2A) after sub Section 2 provides that

If the Appellate Authority or Tribunal concludes that notice is not sustainable as the extended period cannot be invoked, then Central Excise Officer shall determine the service tax liability for the shorter period of eighteen months.

In other words, whole of proceeding shall not become void-ab-intio.

Section – 77 – Penalty for contravention of rules and provisions of Act for which no penalty is specified elsewhere

Penalty under section 77(a) for failure to take registration is proposed to be restricted to ₹10,000 only.

Section - 78A - Penalty for offences by director etc. of a company

It has been proposed to impose penalty on director, manager, secretary or any other officer of the company which may extend to ₹1 Lakh for following contraventions committed by the company:

(a) Evasion of service tax; or

(b) Issuance of invoice, bill or, as the case may be, a challan without provision of taxable service

(c) Availment and utilization of credit of taxes or duty without actual receipt of taxable service or excisable goods either fully or partially

(d) Failure to pay any amount collected as service tax to the credit of the Central Government beyond a period of six months from the date on which such payment becomes due,

Such penalty shall be imposed only if such director, manager, secretary or any other officer of the company—

(i) was in charge of, and

(ii) was responsible for the conduct of business and

(iii) was knowingly concerned with such contravention.

Section-86 – Appeals to Appellate Tribunal

Section 86(5) is proposed to be amended to provide that in case of appeal filed by assessee, CESTAT can admit an appeal or permit the filing of Memorandum of Cross Objections after the expiry of the relevant period if CESTAT is satisfied that there is a sufficient cause for delay in filing appeal.

Section- 89 – Offences and penalties

Term of Imprisonment extended from 3 years to 7 years, if assessee collects any amount exceeding ₹50 Lakhs as service tax but fails to pay the amount so collected to the credit of central government beyond a period of 6 months from the date on which such payment becomes due.

Further, if any person is convicted again for the offence specified under Section 89, then in that case for second and every subsequent offence the imprisonment may extend to seven years.

Section -90 – Cognizance of Offences

Section 90 is being introduced to specify and differentiate cognizable offences from non-cognizable and bailable offences.

Cognizable offence: If assessee collects any amount exceeding ₹50 Lakhs as service tax but fails to pay the amount so collected to the credit of central government beyond a period of 6 months from the date on which such payment becomes due.

Non-Cognizable offence: All other offences as specified under Section 89 of the Act shall be non cognizable

Section 91- Power to Arrest

The Commissioner of Central Excise has been empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise, to arrest a person for offences specified in clause (i) or clause (ii) of sub section (1) of Section 89 (i.e. for the offences where imprisonment for term may be extended for a period of three years or seven years).

It is also provided that if a person is arrested for any cognizable offence, then he shall be informed of ground of arrest. Further the concerned officer shall produce such person within twenty four hours. All arrest made under this Section shall be carried out in accordance with the provisions of the Code of Criminal Procedure, 1973 relating to arrests.

Changes in the provisions of Sections of Central Excise Act, 1994 applicable to Service Tax as per Section 83 of Finance Act, 1994

Section 37C of Central Excise Act

1. A speed post with a proof of delivery or by courier approved by the Central Board of Excise and Customs constituted under the Central Boards of Revenue Act, 1963 have been specified as modes of delivery in addition to registered post.
2. The date of delivery by courier shall be deemed to be date of serving of decision or order passed or any summon or notice, in case such decision or order or any summon or notice is served by way of courier.

Bonanza for defaulters who are non filers or stopped filing their Service Tax Return and had not discharged their Service Tax liability

The Hon'ble Finance Minister in order to increase the Service Tax collection had taken a very bold step by allowing a major relief to all those service providers who have neither filed their service tax returns nor discharged their service tax liability.

Legislature has issued this scheme called "***Service Tax Voluntary Compliance Encouragement Scheme, 2013*** to encourage the defaulters of service tax to discharge their service tax liability without any interest, penalty or any proceedings under this Act. They simply have to declare their true liability before the designated authority and discharge their liability in installments as prescribed under the scheme.

The salient features of the scheme are:

1. **Date of Application of Scheme**

This scheme shall come into force from the date of Enactment of Finance Act, 2013.

2. **Period for which the benefit of this scheme can be availed** –

This benefit is available only for the service tax payable for the period 1.10.2007-31.12.2012. Any liability for the period on or after 01.01.2013 shall be governed by the provisions of the act.

3. **Person who can avail the benefit of this scheme**

(a) Any person can avail the benefit of this scheme by filing a declaration before the designated authority (not below the rank of Assistant Commissioner as notified). However, in case a notice or order or determination has been issued under following sections before 01.03.2013, the benefit of this scheme shall not be available:

(i) Section 72 (Best Judgment Assessment),

(ii) Section 73 (Recovery of Service Tax not levied or paid or short levied or short paid or erroneously refunded)

(iii) Section 73A (Service Tax collected from any person but not deposited with Central Government)

Further this benefit shall also not be available in the above cases in respect of any period on the same issue for any subsequent period

(c) The benefit of this scheme is also not available to the person who has filed their service tax return and disclosed true liability but had not discharged their service tax liability in full or in part

4. **Discretion to reject declaration**

In case where inquiry or investigation has been initiated [in following ways] and the same is pending as on 01.03.2013, designated authority has the power to reject the declaration by passing an order in writing giving reasons thereof

(a) Search has been conducted of the premises of a person; or

(b) Summons has been issued under section 14 of Central Excise Act, 1944; or

(c) Any notice requiring production of accounts, documents or other evidence has been issued; or

(d) Any audit has been initiated

5. **Procedure to make declaration**

(a) Any person can make a declaration on or before 31.12.2013 in prescribed manner

(b) Designated authority shall acknowledge the declaration

(c) The defaulter will be required to make a truthful declaration of all his pending tax dues (from October1, 2007 to December 31, 2012) and pay—

(i) at least 50% of the tax before December 31, 2013; and

(ii) balance tax shall be paid by

— June 30, 2014 without interest; or

— December 31, 2014 with interest from July 1, 2014 onwards;

(d) After the due payment of service tax & interest (if any) and submission of proof of payment, designated authority shall acknowledge the discharge of dues

6. **Immunity**

(a) A declarant shall be immune from

(i) interest,

(ii) penalty or

(iii) any other proceedings under the Finance Act, 1994

upon payment of service tax and interest (if any) as explained in preceding paragraph

(b) Designated Authority shall issue acknowledgement of due payment of service tax and interest (if any), and on issuance of such acknowledgment the proceedings shall be deemed as conclusive and cannot be reopened

7. **Refund of Service Tax paid under this scheme**

Amount once paid under this scheme will not be refunded under any circumstances

8. **Tax declared but not paid**

Where declaration has been made by declarant under his scheme, but fails to pay the tax so declared, then the tax liability so declared along with interest shall be recovered under the provisions of Section 87 of the Act.

9. **Proceedings to be reopened in case of substantially false declaration**

(a) Commissioner of Central Excise can serve a show cause notice if he has a reason to believe that the declarant has made substantially false declaration by recording reasons in writing.

(b) Show Cause Notice so issued shall be deemed to have been issued under Section 73(1) or Section 73A of the Finance Act, 1994 as the case may be

(c) However, no show cause notice can be served on the declarant after the expiry of one year from the date of declaration

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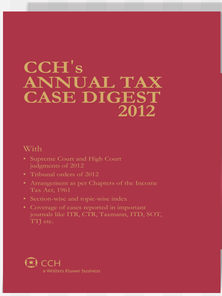

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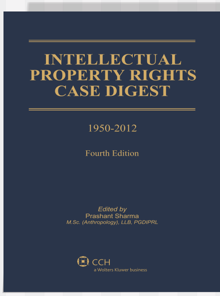

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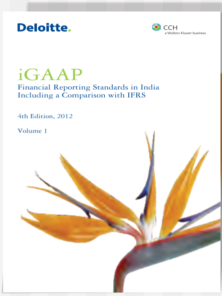

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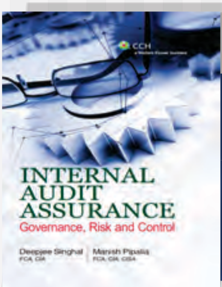

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