IMPORTANT AMENDMENTS OF FINANCE BILL, 2015

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Dear reader,

We have prepared this document as a reference to some of the important amendments of the Finance Bill, 2015 presented on 28th February 2015 by the Finance Minister Shri Arun Jaitley. This book covers only some of the important amendments of the Income Tax Act and Service tax provisions and does not cover changes proposed under Customs and Central Excise provisions.

This book is divided into two parts “The Summary section” and “The Detailed section”. While the summary section broadly gives the reader an idea of the changes proposed in the budget, the detailed section draws reference to the relevant provisions of the Income Tax, the present provision of the act, the rationale behind the amendment and the amended provisions.

While we have taken utmost care to ensure the document is free of any error or discrepancy we advise the reader go through the original budget memorandum and the final Finance Act, 2015. We will not be liable for any decision taken based on this document

Yours faithfully

CA. Roshan Thomas, DISA (ICAI)

SUMMARY OF AMENDMENTS

CHANGES IN DIRECT TAXES

A. RATES OF INCOME-TAX

In case of Individual, HUF, Association of Persons, Body of Individuals, every artificial juridical person

Total income does not exceed Rs 2,50,000	Nil
Total income exceeds Rs 2,50,000 but does not exceed Rs 5,00,000	10% of amount of total income exceeding Rs 2,50,000
Total income exceeds Rs 5,00,000 but does not exceed Rs 10,00000	Rs 25,000 plus 20% of total income exceeding Rs 5,00,000
Total income exceeds Rs 10,00,000	Rs 1,25,000 plus 30% of total income exceeding Rs 10,00,000

In case of senior citizen aged 60 years or more the basic exemption limit of Rs 3,00,000 and for super senior citizens aged 80 years or more the basic exemption limit is Rs 5,00,000.

Total income tax to be increased by 12% surcharge if total income exceeds one crore.

In case of every firm, local authority

On the whole of total income	30% of total income

Total income tax to be increased by 12% surcharge if total income exceeds one crore.

In case of every domestic company

On the whole of total income	30% of total income

Total income tax to be increased by 7% surcharge if total income exceeds one crore but not exceeding ten crore and by a surcharge of 12% if total income exceeds ten crore.

In case of every other company i.e foreign company

On the whole of total income	30% of total income

Total income tax to be increased by 2% surcharge if total income exceeds one crore but not exceeding ten crore and by a surcharge of 5% if total income exceeds ten crore.

In case of co-operative society

Total income does not exceed Rs 10,000	10% of total income
Total income exceeds Rs 10,000 but does not	Rs 1000 plus 20% of amount of total income

exceed Rs 20,000	exceeding Rs 10,000
Total income exceeds Rs 20,000	Rs 3,000 plus 30% of total income exceeding Rs 20,000

Total income tax to be increased by 12% surcharge if total income exceeds one crore.

Marginal relief will be available in respect of surcharge in all the above cases

B. MEASURES TO CURB BLACK MONEY

Amount received as advance or otherwise in excess of Rs 20,000 for transfer of immovable property to be only through Account payee cheque, bank transfer or bank draft. Similarly restriction introduced in repayment of such amount received by amending Sec 269 SS and 269T. Contravention will attract equal amount penalty.

The existing provisions contained in section 269SS of the Income-tax Act provide that no person shall take from any person or give to any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is twenty thousand rupees or more. However, certain exceptions have been provided in the section.

In order to curb generation of black money by way of dealings in cash in immovable property transactions it is proposed to amend section 269SS and 269T, of the Income-tax Act so as to provide that no person shall accept or repay from or to any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more

It is further proposed to make consequential amendments in section 271D and section 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively.

These amendments will take effect from 1st day of June, 2015.

C. MEASURES TO PROMOTE DOMESTIC MANUFACTURING AND IMPROVING THE INVESTMENT CLIMATE (Make in India)

Provisions relating to General Anti Avoidance Rule ("GAAR") deferred by 2 years

The implementation of GAAR provisions has been reviewed. Concerns have been expressed regarding certain aspects of GAAR. Accordingly, it is proposed that implementation of GAAR be deferred by two years and GAAR provisions be made applicable to the income of the financial year 2017-18 (Assessment Year 2018-19).

This amendment will take effect from 1st April, 2015.

Incentive to the state of Andhra Pradesh and Telengana for setting up new undertaking in the next 5 years by way of Additional Investment Allowance of 15% over and above existing investment allowance u.s 32AC.

It is proposed to insert a new section 32AD in the Act to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—

(a) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and

(b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.

This deduction shall be available over and above the existing deduction available under section 32AC of the Act.

The phrase "new asset" has been defined as 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) any 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.

With a view to ensure that the manufacturing units which are set up by availing this proposed incentive actually contribute to economic growth of these backward areas by carrying out the activity of manufacturing for a substantial period of time, it is proposed to provide suitable safeguards for restricting the transfer of the plant or machinery for a period of 5 years.

Incentive to the state of Andhra Pradesh and Telengana for investing in new plant and machinery in the next 5 years by way of Additional Depreciation Allowance of 35% instead of existing additional depreciation provision of 20%

In order to incentivise acquisition and installation of plant and machinery for setting up of manufacturing units in the notified backward area in the State of Andhra Pradesh or the State of Telangana, it is proposed to allow higher additional depreciation at the rate of 35% (instead of 20%) in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed by a manufacturing undertaking or enterprise which is set up in the

notified backward area of the State of Andhra Pradesh or the State of Telangana on or after the 1st day of April, 2015.
This higher additional depreciation shall be available in respect of acquisition and installation of any new machinery or plant for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020. The eligible machinery or plant for this purpose shall not include the machinery or plant which are currently not eligible for additional depreciation as per the existing proviso to section 32(1)(iia) of the Act.

Deduction for Indian Company on paying additional wages for 3 assessment years to the extent of 30% of wages paid is now extended to all types of assesse. Also additional wages will be now calculated on wages paid to workers in excess of 50 workmen employed during the year instead of 100 workmen in the earlier provision

The existing provisions contained in section 80JJAA of the Act, *inter alia*, provide for deduction to an Indian company, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is 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.

Explanation to the section defines “Additional wages” to mean the wages paid to the new regular workmen in excess of hundred workmen employed during the previous year.

With a view to encourage generation of employment, it is proposed to amend the section so as to extend the benefit to all assessees having manufacturing units rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Balance Allowance of 50% of the additional depreciation when assets are put to use for less than 180 days in the year of acquisition will be allowed in the immediately succeeding previous year. Earlier only 50% of the additional depreciation was allowed, forcing assesse to defer their purchase of such assets.

Currently additional depreciation would be restricted to 50% when the new plant or machinery acquired and installed by the assessee, is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in the previous year.
Non-availability of full 100% of additional depreciation for acquisition and installation of new plant or machinery in the second half of the year may motivate the assessee to defer such investment to the next year for availing full 100% of additional depreciation in the next year. To remove this discrimination it is proposed to provide that the balance 50% of the additional depreciation in the immediately succeeding previous year.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

D. EASE OF DOING BUSINESS/DISPUTE RESOLUTION

The limit of specific domestic transaction to attract the provisions of 92BA has been raised from 5 crore to 20 crore.

The existing provisions of section 92BA of the Act define "specified domestic transaction" in case of an assessee to mean any of the specified transactions, not being an international transaction, where the aggregate of such transactions entered into by the assessee in the previous year exceeds a sum of five crore rupees.

In order to address the issue of compliance cost in case of small businesses on account of low threshold of five crores rupees, it is proposed to amend section 92BA to provide that the aggregate of specified transactions entered into by the assesse in the previous year should exceed a sum of twenty crore rupees for such transaction to be treated as 'specified domestic transaction'.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

The value of receipts from activities of trade carried on to achieve objects of general public utility has been revised to 20% of total receipts of trust from 25 Lakhs to qualify as charitable. The teaching of yoga has been included as charitable activity.

Advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity and such fee or consideration exceeds twenty five lakh rupees in the previous year.

The institutions which, as part of genuine charitable activities, are being put to hardship due to first and second proviso to section 2(15). It is, therefore, proposed to amend the definition of charitable purpose to provide that activity carried on for advance of object of general public utility, which is in the nature of trade, commerce or business for a cess or fee or other consideration, the aggregate receipts from such activity or activities, during the previous year, <u>do not exceed twenty percent of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year shall be charitable activity.</u>

The activity of Yoga has been one of the focus areas in the present times and international recognition has also been granted to it by the United Nations. Therefore, it is proposed to include 'yoga' as a specific category in the definition of charitable purpose on the lines of education.
These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Levy of wealth-tax under Wealth-tax Act, 1957 to be abolished and to be reintroduced as 2% additional surcharge on high taxpayers. The information collected through Wealth Tax return will be collected by suitably modifying Income tax return

Currently, wealth-tax is levied on an individual or HUF or company, if the net wealth of such person exceeds Rs.30 lakh on last date of the previous year. The collection of wealth-tax over the years has not shown any significant growth and has only resulted into disproportionate compliance burden on the assessees and administrative burden on the department. It is, therefore, proposed to abolish the levy of wealth tax under the Wealth-tax Act, 1957.

It is also proposed that the objective of taxing high net worth persons shall be achieved by levying a surcharge on tax payer earning higher income and information relating to assets which is currently required to be furnished in the wealth-tax return shall be captured by suitably modifying income-tax return.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

E. BENEFITS FOR INDIVIDUAL TAXPAYERS

Investment under the Sukanya Samriddhi Account Scheme is already eligible for tax benefits under section 80C. Now the maturity proceeds including Interest earned has been exempted under Sec 10(11A)

A new clause (11A) is proposed to be inserted in section 10 of the Act so as to provide that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 shall not be included in the total income of the assessee. As a result, the interest accruing on deposits in, and withdrawals from any account under the scheme would be exempt.

These amendments will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

The deduction available to individual to keep in force health insurance for himself, his family or parents have been raised to Rs 25,000 from Rs 15,000. This limit is Rs 30,000 from 20,000 in case the insured is a senior citizen. Super senior citizen can claim deduction of medical expenditure if not covered by any health insurance policy to the extent of Rs 30,000.

The existing provisions contained in section 80D, *inter alia*, provide for deduction of Rs 15,000 on health insurance premium paid for assesse or members of family and another Rs 15,000 for health insurance premium paid for parents. A deduction of Rs 20,000 is available if the person insured is a senior citizen of sixty years of age or above.

In view of continuous rise in the cost of medical expenditure, it is proposed to amend section 80D so as to raise the limit of deduction from Rs 15,000 to Rs 25,000. It is further proposed to raise the limit of deduction for senior citizens from Rs 20,000 to Rs 30,000.

As a welfare measure towards very senior citizens, it is also proposed to provide that any payment upto Rs 30,000 made on account of medical expenditure in respect of a very senior citizen, if no payment has been made to keep in force an insurance on the health of such person, shall be allowed as deduction under section 80D. The aggregate deduction available to any individual, his family or parents in respect of health insurance premia and the medical expenditure incurred would however be limited to Rs 30,000.

These amendments will take effect from the 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Actual medical expenditure incurred in treating specified disease is eligible for deduction upto Rs 60,000 for senior citizen. Now a new limit of Rs 80,000 has been introduced for super senior citizens. Also the requirement of obtaining a certificate from specialized doctor working in a Government Hospital has been relaxed. Now such certificate can be obtained from any specialist doctor.

An assessee, resident in India is allowed a deduction of a sum not exceeding Rs 40,000 , for the medical treatment of certain chronic and protracted diseases such as Cancer, full blown AIDS, Thalassaemia, Haemophilia etc. This deduction is allowed up to Rs 60,000 where the expenditure is in respect of a senior citizen i.e. a person who is of the age of sixty years or more at any time during the relevant previous year.

Under the existing provisions of this section, a certificate from specialist doctor working in a Government hospital is required. It may be difficult for the taxpayer to obtain a certificate from a Government hospital. In view of the above, it is proposed to amend section 80DDB so as to provide that the assessee will be required to obtain a prescription from a specialist doctor for the purpose of availing this deduction.

Further, it is also proposed to amend section 80DDB to provide for a higher limit of deduction of upto Rs 80,000, for the expenditure incurred in respect of the medical treatment of a “very senior citizen”.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

The limit of deduction under section 80DD and 80U for persons with disability and severe disability has been raised to Rs 75,000 and Rs 1,00,000 in case of severe disability

The existing provisions of section 80DD provide for deduction to an Individual incurring medical expenditure for treatment for treatment of a dependent with specified disability upto Rs 50,000 and Rs 1,00,000 in case of severe disability.

The existing provisions of section 80U provide for a deduction to an individual, suffering from specified disability upto Rs 50,000 and Rs 1,00,000 in case of severe disability.

In view of the rising cost of medical care and special needs of a disabled person, it is proposed to amend section 80DD and section 80U so as to raise the limit of deduction in respect of a person with disability to Rs 75,000 and Rs 1,20,000 in case of severe disability.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Limit of deduction under 80CCC raised to Rs 1,50,000 on amount deposited in a pension scheme

Under the existing provisions contained in sub-section (1) of the section 80CCC, an assessee, being an individual is allowed a deduction upto one lakh rupees in the computation of his total income, of an amount paid or deposited by him to effect or keep in force a contract for any annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from a fund set up under a pension scheme.

In order to promote social security, it is proposed to amend sub-section (1) of the said section so as to raise the limit of deduction under section 80CCC from one lakh rupees to one hundred and fifty thousand rupees, within the overall limit provided in section 80CCE.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Investment under 80C, 80CC, 80CCB and 80CCC is restricted to Rs 1,50,000. Now an additional limit of Rs 50,000 is proposed for contribution to National Pension System by an Individual taking the total deduction to Rs 2,00,000

An individual who has paid or deposited any amount in a previous year in his account under a notified pension scheme, is eligible for a deduction of such amount not exceeding ten per cent. of his salary or gross total income as the case maybe

Sub-section (1A) of section 80CCD provides that the amount of deduction under sub-section (1) shall not exceed one hundred thousand rupees. Till date, under section 80CCD, only the National Pension System (NPS) has been notified by the Ministry of Finance.

It is proposed to insert a new sub-section (1B) so as to provide for an additional deduction in respect of any amount paid, of upto fifty thousand rupees for contributions made by any individual assessees under the NPS. Consequential amendments are also proposed in sub-section (3) and sub-section (4) of section 80CCD.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

Presently tax has to be deducted @ 2% on payment received from life insurance policy in excess of Rs 1,00,000 u/s 194DA. If payment above Rs 1,00,000 is not taxable in the hands of the assesse then Form 15G/15H can now onwards be submitted for non-deduction of tax at source.

The Finance (No.2) Act, 2014, inserted section 194DA in the Act with effect from 1.10.2014 to provide for deduction of tax at source at the rate of 2% from payments made under life insurance policy, which are chargeable to tax. It has been further provided that no deduction shall be made if the aggregate amount of payment during a financial year is less than Rs. 1,00,000.

Sometimes even payment above Rs 1,00,000 will not be taxable in the hands of the assesee. It is, therefore, proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194DA also eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

This amendment will take effect from 1st June, 2015.

New items of deduction under 80G with respect to National Fund for Control of Drug Abuse and Swachh Bharat Kosh and Clean Ganga Fund

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 charitable institutions. Since National Fund for Control of Drug Abuse is also a Fund of national importance, it is proposed amend section 80G so as to provide **hundred percent deduction** in respect of donations made to the said National Fund for Control of Drug Abuse.

"Swachh Bharat Kosh" has been set up by the Central Government to mobilize resources for improving sanitation facilities in rural and urban areas and school premises through the Swachh Bharat Abhiyan. Similarly, Clean Ganga Fund has been established by the Central Government to attract voluntary contributions to rejuvenate river Ganga. Deduction of 50% of total donation to this fund is available under section 80G.

These amendments will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

F. RATIONALISATION MEASURES

Ambiguity with regard to time of filing FORM 10 to claim accumulation and set apart of income of trust for 5 years now removed.

Under the provisions of section 11 of the Act, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions that such person submits the prescribed Form 10 to the assessing. In order to remove the ambiguity regarding the period within which the assessee is required to file Form 10, it is now provided that the said Form shall be filed before

the due date of filing return of income specified under section 139 of the Act for the fund or institution.
In case the Form10 is not submitted before this date, then the benefit of accumulation would not be available and such income would be taxable at the applicable rate. Further, the benefit of accumulation would also not be available if return of income is not furnished before the due date of filing return of income.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

In case of Individual who is a member of crew of foreign ship leaving India, the period of stay shall be determined as per the conditions to be prescribed by the Board. Earlier such Individual will be a resident if his period of stay in India exceeds 182 days.

It is proposed to amend the Act to provide that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

This amendment will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

Tax to be deducted on Payments to Transporters @ 1% or 2% as the case maybe if payment exceeds Rs 75,000 in aggregate or single payment Rs 30,000. If transporter furnishes declaration that he owns less than 10 goods carriages and he is assessed eligible for assessment under presumptive taxation of Sec 44AE then tax not to be deducted at source.
Under the existing provisions of section 194C of the Act payment to contractors is subject to tax deduction at source (TDS) at the rate of 1% in case the payee is an individual or Hindu undivided family and at the rate of 2% in case of other payees if such payment exceeds Rs. 30,000 or aggregate of such payment in a financial year exceeds Rs. 75,000.

Finance (No.2) Act, 2009 provided for non- deduction of tax from payments made to the contractor during the course of plying, hiring and leasing goods carriage if the contractor furnishes his Permanent Account Number (PAN) to the payer. The memorandum explaining the provisions of Finance (No.2) Bill, 2009 indicates that the intention was to exempt only small transport operators (as defined in section 44AE of the Act) from the purview of TDS on furnishing of Permanent Account Number (PAN). Thus, the intention was to reduce the compliance burden on the small transporters. However, the current language of sub-section (6) of section 194C of the Act does not convey the desired intention and as a result all transporters, irrespective of their size, are claiming exemption from TDS under the existing provisions of sub-section (6) of section 194C of the Act on furnishing of PAN.

Therefore it is proposed to amend the provisions of section 194C of the Act to expressly provide that the relaxation under sub-section (6) of section 194C of the Act from non-deduction of tax shall only be applicable to the payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to an contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and who is eligible to compute income as per the provisions of section 44AE of the Act (i.e a person who is not owning more than 10 goods carriage at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN.

This amendment will take effect from 1st June, 2015.

Provisions of 194A have been amended to expressly provide that co-operative banks will be liable to deduct TDS on interest paid on time deposit. However certain co-operative society will continue to enjoy exemption.

Due to ambiguity in the provisions of 194A a doubt has been created regarding the applicability of the specific provisions mandating deduction of tax from the payment of interest on time deposits by the co-operative banks to its members

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In view of this, it is proposed to amend the provisions of the section 194A of the Act to expressly provide from the prospective date of 1st June, 2015 that the exemption provided from deduction of tax from payment of interest to members by a co-operative society under section 194A(3)(v)) of the Act shall not apply to the payment of interest on time deposits by the co-operative banks to its members and co-operative bank will be liable to deduct TDS.

However, the existing exemption provided under section 194A(3)(viia)(a) of the Act to primary agricultural credit society or a primary credit society or a co-operative land mortgage bank or a co-operative land development bank from deduction of tax in respect of interest paid on deposit shall continue to apply. Therefore, these co-operative credit societies/banks referred to in said clause (viia)(a) would not be required to deduct tax on interest payment to depositors even after the proposed amendment.

This amendment will take effect from 1st June, 2015.

Provisions of 194A have been amended to include recurring deposit within the ambit of time deposit and banks and co-operative banks will be liable to deduct TDS on interest paid on such recurring deposit also.

The definition of "time deposits" provided in the section 194A of the Act excludes recurring deposit from its scope. Therefore, payment of interest on recurring deposits by banking company or co-operative bank is currently not subject to TDS.

The recurring deposit is also made for a fixed tenure and, therefore, the same is akin to time deposit. It is, therefore, proposed to amend the definition of 'time deposits' so as to include recurring deposits within its scope. However, the existing threshold limit of Rs 10,000 for non-deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors.

This amendment will take effect from 1st June, 2015.

Provisions of 194A have been amended to provide that banks and co-operative banks which have adopted core banking solution should deduct TDS with reference to income credited by the Company as a whole instead of with reference to each branch.

Currently, provisions of proviso to section 194A(3)(i) of the Act provide that the interest income for the purpose of deduction of tax by the banking company or the co-operative bank or the public company shall be computed with reference to a branch of these entities.

As currently, most of these entities are computerised and follow core banking solutions for crediting interest, there is no rationale for continuing branch wise calculation of interest by the entities who have adopted core banking solutions.

It is, therefore, proposed to amend the provisions of section 194A of the Act to provide that the computation of interest income for the purposes of deduction of tax under section 194A of the Act should be made with reference to the income credited or paid by the banking company or the co-operative bank or the public company which has adopted core banking solutions.

This amendment will take effect from 1st June, 2015.

Rationalisation of provisions relating to processing of TDS returns and introduction of provision to file TCS correction statement, computation of Interest etc…

The existing provisions of section 200A of the Act does not provide for determination of fee payable under section 234E of the Act at the time of processing of TDS statements. It is, therefore, proposed to amend the provisions of section 200A of the Act so as to enable computation of fee payable under section 234E of the Act at the time of processing of TDS statement under section 200A of the Act.

Currently, there does not exist any provision for allowing a collector to file correction statement in respect of TCS statement which has been furnished. It is, therefore, proposed to amend the provisions of section 206C of the Act so as to allow the collector to furnish TCS correction statement.

It is proposed to provide that intimation generated after processing of TCS statement shall be

(i) subject to rectification under section 154 of the Act;
(ii) appealable under section 246A of the Act; and
(iii) deemed as notice of demand under section 156 of the Act.

The failure to pay the tax specified in the intimation shall attract levy of interest as per the provisions of section 220(2) of the Act. However, section 206C (7) of the Act also contains provisions for levy of interest for non-payment of tax specified in the intimation to be issued. To remove the possibility of charging interest on the same amount for the same period of default both under section 206C (7) and section 220(2) of the Act, it is proposed to provide that where interest is charged for any period under section 206C (7) of the Act on the tax amount specified in the intimation issued under proposed provision, then, no interest shall be charged under section 220(2) of the Act on the same amount for the same period.

These amendments will take effect from 1st June, 2015.

There was no punitive clause in the Act for delay in Filing 24G by Government deductors, now such provision has been introduced and Rs 100/- penalty is chargable under 272A

In order to improve the reporting of payment of TDS/TCS made through book entry and to make existing mechanism enforceable, it is proposed to amend the provisions of sections 200 and 206C of the Act to provide that the PAO/TO/CDDO shall furnish within the prescribed time a prescribed statement for the prescribed period to the prescribed income-tax authority

To ensure compliance of this proposed obligation of filing statement, it is proposed to amend the provisions of section 272A of the Act so as to provide for a penalty of Rs.100/- for each day of default during which the default continues subject to the limit of the amount deductible or collectible in respect of which the statement is to be furnished.

These amendments will take effect from 1st June, 2015.

Uniform format has been prescribed for government deductors to collect evidence or proof of particulars of claim, deduction, exemption etc… by the assessee the Act for delay in Filing 24G by Government deductors, now such provision has been introduced and Rs 100/- penalty is chargable under 272A

Under section 192 of the Act, the DDO has to depend upon the evidence/particulars furnished, if any, by the employees in support of their claim of deductions, exemptions, etc. As the existing provisions of the Act do not contain any guidance regarding nature of evidence/documents to be obtained by the DDO, there is no uniformity in the approach of the DDO in this matter.

In order to bring clarity in this matter, it is proposed to amend the provisions of section 192 of the Act to provide that the person responsible for paying, for the purposes of estimating income of the assessee or computing tax deductible under section 192(1) of the Act, shall obtain from the assessee evidence or proof or particulars of the prescribed claim (including claim for set-off of loss) under the provisions of the Act in the prescribed form and manner.

These amendments will take effect from 1st June, 2015.

Furnishing of prescribed information (Form 15CA/CB) to be become mandatory for all types of remittance to non-redients, whether it is taxable or not. Also furnishing of inaccurate information will lead to penalty of Rs 1,00,000

The existing provisions of sub-section (6) of section 195 of the Act provide that the person referred to in section 195(1) of the Act shall furnish prescribed information. Therefore, obtaining of information only in respect of remittances which the remitter declared as taxable defeats one of the main principles of obtaining information for foreign remittances i.e. to identify the taxable remittances on which tax was deductible but was not deducted.

In view of this, it is proposed to amend the provisions of section 195 of the Act to provide that the person responsible for paying any sum, whether chargeable to tax or not, to a non-resident, not being a company, or to a foreign company, shall be required to furnish the information of the prescribed sum in such form and manner as may be prescribed.

Further, currently there is no provision for levying of penalty for non-submission/inaccurate submission of the prescribed information in respect of remittance to non-resident. It is proposed that in case of non-furnishing of information or furnishing of incorrect information under sub-section (6) of section 195(6) of the Act, a penalty of one lakh rupees shall be levied.

It is also proposed to amend the provisions of section 273B of the Act to provide that no penalty shall be imposable under this new provision if it is proved that there was reasonable cause for non-furnishing or incorrect furnishing of information under sub-section (6) of section 195 of the Act.

These amendments will take effect from 1st June, 2015.

In order to simplify of Tax Deduction at Source (TDS) for payment from Employees Provident Fund Scheme (EPFS), tax deduction at source at 10% has been prescribed for premature withdrawal exceeding Rs 30,000/-. If the aggregate income still fall below the taxable limit, he can give declaration in Form 15G/H

Payment from a Recognized Provident Fund before continuous service of five years (other than the cases of termination due to ill health, closure of business, etc.) and without opting for transfer of accumulated balance to new employer attracts tax. The tax on withdrawn amount is required to be calculated by re-computing the tax liability of the years for which the contribution to RPF has been made by treating the same as contribution to unrecognized provident fund.

At times, it is not possible for the trustees of EPFS to get the information regarding taxability of the employee such as year-wise amount of taxable income and tax payable for the purposes of computation of the amount of tax liability under rule 9 of the Schedule-IV-A of the Act.

It is, therefore, proposed to insert a new provision in Act for deduction of tax at the rate of 10% on pre-mature taxable withdrawal from EPFS. It is also proposed to provide a threshold of payment of Rs.30,000/- for applicability of this proposed provision.

It such income along with other income does not exceed taxable limit, the assesse may give declaration in Form 15G/H

These amendments will take effect from 1st June, 2015.

Condition determining residential status of Companies has been amended to provide that companies with Place of Effective Management in India will be resident in India. Earlier provision requiring situation of control and management wholly within India during the whole year has been removed.

Under the existing Section 6 determining residential status of Companies, a company is said to be resident in India in any previous year, if-

(i) it is an Indian company; or

(ii) during that year, the control and management of its affairs is situated wholly in India.

Due to the requirement that whole of control and management should be situated in India and that too for whole of the year, the condition has been rendered to be practically inapplicable. A company can easily avoid becoming a resident by simply holding a board meeting outside India. This facilitates creation of shell companies which are incorporated outside but controlled from India.

'Place of effective management' (POEM) is an internationally recognized concept for determination of residence of a company incorporated in a foreign jurisdiction.. The principle of POEM is recognized and accepted by Organisation of Economic Cooperation and Development (OECD) also.

In view of the above, it is proposed to amend the provisions of section 6 to provide that a person being a company shall be said to be resident in India in any previous year, if-

(i) it is an Indian company; or

(ii) its place of effective management, at any time in that year, is in India .

Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

In order to ensure the independence of accountant issuing report and certificates, accountants not to give reports/certificates, if they are not eligible for being appointed as auditors of such company or such disqualification prescribed on similar lines for non-companies. However such accountant can continue to attend income tax proceeding.

The Act contains several provisions (e.g. section 44AB, section 80-IA, section 92E, section 115JB, etc.) which mandate the taxpayers to furnish audit reports and certificates issued by an 'accountant' for ensuring correct reporting/computation of taxable income by the tax payers.

Explanation below section 288(2) of the Act defines an ‘accountant’ as a chartered accountant within the meaning of Chartered Accountants Act, 1949 (including a person eligible to be appointed as auditor under section 226(2) of the Companies Act, 1956, of the companies registered under any State).

The audit/certification function under the Income-tax Act is mainly provided for protecting the interests of revenue. An auditor who is not independent cannot meaningfully discharge his function of protecting the interests of revenue. Therefore, it is proposed to amend section 288 of the Act to provide that an auditor who is not eligible to be appointed as auditor of a company as per the provisions of sub-section (3) of section 141 of the Companies Act, 2013 shall not be eligible for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of that company.

On similar lines, ineligibility for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of non-company is also proposed to be provided. However, it is proposed to provide that the ineligibility for carrying out any audit or furnishing of any report/certificate in respect of an assessee shall not make an accountant ineligible for attending income-tax proceeding referred to in sub-section (1) of section 288 of the Act as authorised representative on behalf of that assessee. It is further proposed to provide that the person convicted by a court of an offence involving fraud shall not be eligible to act as authorised representative for a period of 10 years from the date of such conviction. (It is also proposed to revise the definition of ‘accountant’ in Explanation below section 288(2) of the Act on the lines of definition of ‘chartered accountant’ in the Companies Act, 2013).

These amendments will take effect from 1st June, 2015.

CHANGES IN SERVICE TAX

The Service Tax Rate has been increased from 12.36% to 14% (inclusive of cess) with effect from date to be notified

The Service Tax rate is being increased from 12% plus Education Cesses to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14***%.***

The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015. Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall continue to be levied in Service Tax.

Swachh Bharat Cess is to be imposed @ 2% of the value of all taxable services as maybe prescribed from the date to be notified

An enabling provision is being made to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives.

This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.

Amusement parks and facility has been removed from negative list and is now taxable

Service Tax is now to be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places. ***The Negative List entry that covers access to amusement facility is being omitted [section 66D***(j)]. Consequently, the definition of "amusement facility" [section 65B(9)] is also being omitted.

These proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

Admission to entertainment events, concerts, functions charging more than Rs 500 for admission has been removed from negative list and is now taxable

Service Tax to be levied on service by way of admission to entertainment event of concerts, non-recognized sporting events, pageants, music concerts, award functions, if the amount charged is more than Rs 500 for right to admission to such an event. However, the existing exemption to service by way of admission to entertainment events, namely, "exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets, by way of the Negative List entry shall be continued, irrespective of the amount charged for such service, through the route of exemption.

For this purpose a new entry is being inserted in Notification No. 25/2012-ST, dated 20.6.2012. ***The proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.***

Service by way of process amounting to manufacture or production of alcoholic liquor for human consumption has been excluded from Negative List and is now taxable

The entry in the Negative List that covers service by way of any process amounting to manufacture or production of goods [section 66D (f)] is being pruned to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing /job work for production of potable liquor for a consideration. In this context, the definition of the term "process amounting to manufacture or production of goods" [section 65B (40) is being amended] with a consequential amendment in S.No. 30 of notification No. 25/12-ST, to exclude intermediate production of alcoholic liquor for human consumption from its ambit.

The proposed changes shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

Exemptions available to certain services like construction services provided to Government in certain cases, original works pertaining to an airport or port, artist performing classical dance and charging more than Rs 1,00,000 for performance has be done away with

Exemption presently available on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority or a governmental authority (vide S. No. 12 of the said notification) shall be limited only to,-

(a) a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity;
(b) canal, dam or other irrigation work; and
(c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal. Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.

Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn. The other exemptions covered under S. No. 14 of notification No. 25/12-ST shall continue unchanged.

Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance

Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.

Exemptions are being withdrawn on the following services:

(a) services provided by a mutual fund agent to a mutual fund or assets management company,

(b) distributor to a mutual fund or AMC,

(c) selling or marketing agent of lottery ticket to a distributor.

Exemption is being withdrawn on the following service,-

(a) Departmentally run public telephone;

(b) Guaranteed public telephone operating only local calls; and

(c) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

All the above changes in notification No. 25/12-ST, dated 20.6.2012 shall come into effect from the 1st day of April, 2015.

Exemption from Service Tax is now provided to certain service like service in relation to fruits and vegetables, movie exhibitor, ambulance services, admission to zoo, transportation of goods for export till port or airport and certain other services.

Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.

Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.

Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.
Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of it's members is being exempted.

Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from service tax. The scope of this exemption is being widened to include all ambulance services.

Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve is being exempted.

Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from service tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

All the above New Exemptions shall come into effect from the 1st day of April, 2015

The value of taxable service shall include all reimbursable expenditure charged by the service provider

Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for service shall include all reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically by this provision.

The value of taxable service shall include all the difference between face value of lotter ticket and price at which the agent sells such ticket.

Section 67 prescribes for the valuation of taxable services. Amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets;

Service tax declared in return but not paid shall be recovered without service of any notice

A new sub-section (1B) is being inserted to provide that recovery of the service tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73

Penalty to be collected in cases involving and not involving fraud or collusion or willful misstatement of suppression of facts has been rationalized and only 15% of penalty has to be paid if service tax, interest and such penalty is paid within 30 days of receipt of notice. 25% of penalty to be paid if service tax, interest and penalty paid within 30 days of order.

In cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act	**In cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act**
penalty not to exceed ten per cent of service tax amount involved in such cases;	penalty shall be hundred per cent of service tax amount involved in such cases;
no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice	penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within 30 days of service of notice
a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the service tax, interest and reduced penalty is paid within 30	a reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by an order, is to be paid if the service tax, interest and reduced penalty is paid within

days of such order	30 days of such order
if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible	if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible.

Abatement in case of Transport of goods and passengers by rail, road and vessels has been prescribed at 30% in order to bring uniformity.

At present, service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road provided by a goods transport agency and 40% for goods transport by vessels. The conditions also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel. Service Tax shall be payable on 30% of the value of such services subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.

This change comes into effect immediately i.e. w.e.f. 1.4.2015

Abatement in case of Air transport in any class, economy or higher is reduced to 40% from 60%

At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and service tax would be payable on 60% of the value of such higher classes.

This change comes into effect immediately i.e. w.e.f. 1.4.2015

Abatement is being withdrawn from chit fund service and Service Tax shall be paid by the foremen at full commission received

Abatement is being withdrawn from chit fund service. Consequently, Service Tax shall be paid by the chit fund foremen at full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit.

This change comes into effect immediately i.e. w.e.f. 1.4.2015

Service provided by E-commerce aggregator website will be liable to pay service tax in India if its brand name is used in any manner in India, any representative appointed shall pay tax on their behalf

Aggregator model is an Electronic commerce business model where a firm (that does not produce or warehouses any item) collects (aggregates) information on goods and/or services from several competing sources at its website. The firm's strength lies in its ability to create an 'environment' which draws visitors to its website, and in designing a system which allows easy matching of prices and specifications.

In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner.

If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012.

This change comes into effect immediately i.e. w.e.f. 1.3.2015.

Conditions and procedures for registration under service tax shall be specified by CBEC and records can be digitally maintained

Rule 4 is being amended to provide that the CBEC, by way of an order, specify the conditions, safeguards and procedure for registration in service tax.

Provision for issuing digitally signed invoices are being added along with the option of presentation of records in electronic form. The conditions and procedure in this regard shall be specified by the CBEC.

Alternative rates prescribed for certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent has also been revised proportionately on upward revision of Service Tax rate

In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates shall also be revised proportionately. Amendments to this effect have been proposed in the Service Tax Rules.

These amendments shall come into effect when the new service tax rate comes into effect.

Manpower supply and security services will now be covered under Full Reverse charge

Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.

This change will come into effect from 1.4.2015.

Services of Mutual Fund Agents/Distributors and Lottery selling agents brought under Reverse Charge

Service Tax in respect of mutual fund agents and mutual fund distributors services shall be paid by assets management company or, as the case may be, by the mutual fund receiving such services.

In respect of sub-agents of lottery, Service Tax shall be paid by the distributor or selling agent of lottery.

This change will come into effect from 1.4.2015.

CENVAT Credit on Service Tax paid under Reverse Charge will be available irrespective of payment of Invoice to Service provider

Rule 4(7) is being amended to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

This change will come into effect from 1.4.2015

Service provided by commission agent outside India to exporter in India fall outside the taxable territory

Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is rescinded. The definition of "intermediary" in the Place of Provision of Services Rules, has made service by such agents outside the taxable territory.

This change will come into immediate effect.