



Highlights of Tax Proposals in Budget 2015-16

An insight into the fine print by CA VINOD JAIN INMACS



Highlights of Budget 2015-16

DIRECT TAXES

1. No Change to be made in Slab Rates of Income tax for Individuals, HUF, AOP, BOI and firms.
2. **Corporate tax rate to reduce:**
Corporate tax rate to be rationalised. Earlier the Tax Rate was 30% of Income offered for Tax, the same is to be reduced to 25% of the income offered to tax over a period of four years. (No change is proposed to be effective from FY 2015-16)
3. **Wealth-tax Act** is proposed to be deleted for the Assessment year 2016-17.
4. **Super Rich Surcharge:** Additional surcharge on income tax of 2 per cent applicable to all assesses having taxable income of over Rs. 1 crore annually. (Effective from 1st April, 2015)
5. **Domestic Transfer Pricing** - Threshold limit for specified domestic transfer pricing increased from Rs. 5 Crore to Rs. 20 Crore u/s section 92BA of the Income Tax Act. (Effective from Financial year 2015- 2016)
6. **MAT Relaxed:** MAT provision under section 115JB not to apply to capital gain to FIIs and share of profit to an AOP. (Effective from Financial year 2015- 2016).
7. **General Anti Avoidance Rules (GAAR):** The existing provisions of General Anti Avoidance Rule (GAAR) introduced by the Finance Act, 2013 which was earlier proposed to be effective from FY 2015-16 has been deferred by 2 years.
8. **Residential Status Section 6:** A foreign company will be considered as a Resident in India in any previous year in terms of proposed clause 3(ii), if its **place of effective management at any time** in that year, is in India".
Place of effective management means: A place where key management and commercial decision that are necessary for the conduct of the business of an entity as a whole are in substance made. (Effective from Previous year 2015-16)
9. **Section 9 Indirect Transfer of Indian Assets:**
A new Explanation 6 has been inserted in Section 9 to define the value of assets located in India specified under Explanation 5 of the said section under which the share or interest in a company or entity incorporated outside India shall be deemed to have situated in India, if to tax in India, transfer of any shares or interest in a foreign company/ entity in case underlying assets in India owned by such foreign company or entity exceeds Rs. 10 crores **and** represents atleast 50% of the value of assets owned by the company or entity. (Effective from Previous year 2015-16)

This taxability will not arise if the said foreign company directly owning Indian assets do not hold management right or control or share/ interest exceeding 5% along with associate enterprises.

10. Sukanya Samriddhi Scheme – Deduction under Section 80C & Tax free interest

Sukanya Samriddhi Scheme meaning Girl Child Prosperity Scheme is a special deposit scheme launched by Prime Minister for girl child.

Under the scheme, an interest of 9.1 per cent is provided on deposited amount which is tax free. Under this scheme, a bank account can be opened by the parent or legal guardian of a girl child of less than 10 years of age with a minimum deposit of ₹ 1,000/- up to ₹ 1, 50,000/- in any post office or authorised branches of commercial bank in an year.

Partial withdrawal up to 50 per cent of the account balance is allowed to meet education expenses of the girl child till she attains 14 years of age. The account will remain operative up to 21 years of age of girl child or till marriage of the girl child.

Deduction Under section 80C is also available for the amount contributed every year.

11. Section 32

- **Additional Depreciation on acquisition of new Plant & Machinery**

An additional depreciation @20% is allowed on acquisition of new plant and machinery. However, the quantum of depreciation would be restricted to 50%, if the asset acquired by the assessee during the previous year has been put to use for the purposes of business for a period less than one hundred and eighty days in that previous year.

Now, Section 32 has been amended to allow carry forward of balance 50% depreciation to be allowed as a deduction in the next year.

This amendment is a clarificatory in nature and may be considered even for earlier years.

- The rate of additional depreciation @ 35% shall be allowed instead of 20% if the enterprise is set up in backward area in State of Andhra Pradesh & Telangana. (Effective from year commencing 1 April, 2015)

12. DEDUCTIONS

- a. Deduction in respect of contribution to notified Pension Schemes under Section 80CCC has been increased to Rs. 150,000/- from Rs. 100,000/-.
- b. Additional deduction of Rs. 50,000 for contribution to National Pension Scheme u/s 80CCD shall be allowed to all individuals.

c. Deduction u/s 80G:

- i. Donation made to National fund for control of Drug Abuse eligible for 100% deduction(*Effective from 1 April, 2016*)
- ii. 100% deduction for contributions, **other than CSR**, to Swachh Bharat Kosh and Clean Ganga Fund(*Effective retrospective from 1st April, 2014*)

d. Deduction u/s 80D:- (Health Insurance)

Payment of medical insurance premium	Existing	Revised (Effective from 1 April, 2016)
Self/Family	15,000/-	25,000/-
Parents	15,000/-	25,000/-
Parents who are Senior Citizens	Additional 5,000/-	Additional 5,000/-

Super Senior Citizens above the age of 80 years who are not covered by Health Insurance, to be allowed deduction of Rs. 30,000 towards actual medical expenditure. (*Effective from 1st April, 2016*)

- e. Serious Diseases: Deduction limit of Rs. 60,000 to be enhanced to Rs. 80,000 with respect to specified diseases of serious nature for senior citizen u/s 80DDB. (*Effective from 1st April, 2016*).
- f. Disability Deduction: Deduction limit of Rs. 50,000 to be enhanced to Rs. 75,000 for disabled person along with enhancement of limit of Rs. 1 Lac to Rs. 1.25 Lacs in case of severe disability u/s 80U of Income Tax Act. (*Effective from 1st April, 2015*).
- g. **80JJA –Special deduction for employment creation**

The existing provisions contained in section 80JAA of the Act, inter alia, provide for a deduction to an Indian company, deriving profits from manufacture of goods in a factory, equal to 30% of additional wages paid to new regular workmen, in excess of 100 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. A further deduction is allowed for every increase beyond 10% of regular workforce for 30% of their salary up to 3 years.

With a view to encourage generation of employment, it is proposed to amend the said section so as to extend the benefit to **all assesses** having manufacturing units (rather than restricting it to corporate assesses only) employing new regular workmen in excess of **fifty workmen** employed during the previous year.

This amendment will take effect from Assessment Year 2016-17.

- 13. **Accumulation of Charitable Funds:** Section 11(2) has been substituted to provide that an assessee is required to submit the declaration in Form 10 for accumulation of income to be applied for charitable purpose in subsequent years on or before the due date of filing of return of income specified u/s 139(*Effective from 1st April, 2016*).

14. **Cash Advance prohibited:** It is proposed to amend section 269SS and 269T which provides prohibition to accept or repayment of an advance of Rs. 20,000 or more in cash for purchase of immovable property. **It may be noted that there is no prohibition to pay full consideration in cash.**
15. **Withholding Tax on Royalty:** Rate of Income Tax on Royalty & Fees for Technical Services paid to Non – residents to be reduced from 25% to 10% u/s 115A to facilitate technology inflow.
16. **Conveyance Allowance – Salary:** Transport Allowance exemption limit has been increased from Rs. 800per month to Rs. 1600 per month.
17. **Compulsory Return of Income:** All educational institutions, hospitals, universities etc. are to mandatorily file return of Income.
18. **Rationalization of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS):**
 - a. Section 192 has been amended to prescribe manner in which evidence or proof of claims shall be taken from employee claiming deductions/benefit.
 - b. Relaxation to transporters under section 194C of the Act from non-deduction of tax shall only be applicable to contractor who is engaged in the business of transport and eligible to compute income as per the provisions of section 44AE of the Act i.e. not owning more than 10 goods carriage at any time during the previous year. *(Effective from 1st June, 2015)*
 - c. Definition of ‘time deposits’ is amended to include recurring deposits within its scope for the purposes of deduction of tax under section 194A of the Act. *(Effective from 1st June, 2015)*
 - d. It is 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 in all branches put together by the banking company or the co -operative bank or the public company which has adopted core banking *(Effective from 1st June, 2015)*
 - e. Section 206C of the Act to be amended to allow the collector to furnish TCS collection statement. *(Effective from 1st June, 2015)*
 - f. It is proposed to amend section 194LD to provide that the concessional rate of 5% withholding tax on interest payment to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds will now be available for 2 more years i.e. interest payable up to 30th June, 2017
 - g. It is proposed to amend section 295 of the Income-tax Act to provide that CBDT may make rules to provide the procedure for granting relief or deduction of any income-

tax paid in any country or specified territory outside India against the income-tax payable. *(Effective from 1st June, 2015).*

- h. It is proposed to amend the provisions of section 195 of the Act to provide for furnishing of information for paying any sum, whether chargeable to tax or not, to a non-resident. Further, 195(6) to be amended to provide a penalty of Rs. 100,000/- for non-furnishing or incorrect furnishing of information. *(Effective from 1st June, 2015)*

The proposed amendment reinforces the requirement of obtaining comprehensive information before issuing certificates in form I5CA and I5CB in respect of all payments made to non-residents whether taxable or not.

19. Amendment to Specific Taxation Regime for Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (Invit) *(Effective from 1st April, 2016)*

- Rationalisation of capital gains regime for the sponsors offloading Investment Trusts (REIT) and Infrastructure Investment Trusts
 - Under the existing provisions tax structure of the REIT's/ INVIT's is as follows:

Nature of Income	Taxability of REIT's/ Business Trust	Taxability of Investors
Interest Income	Exempt u/s. 10(23FC)	Taxable
Sale of Shares/Debt of SPV by the Business Trust	Taxable as LTCG/STCG u/s. 112/111A with STT payment	Exempt
Dividend Income	Exempt	Exempt
Other Income	Taxable at Maximum Marginal Rate	Exempt

- The listed units of a business trust, when traded on a recognised stock exchange, would be liable to securities transaction tax (STT), and the long term capital gains shall be exempt and the short term capital gains shall be taxable at the rate of 15%.
- Withholding tax at the rate of 5% in case of payment of interest component of income distributed to non-resident unit holders, and at the rate of 10% in respect of payment of interest component of distributed income to a resident unit holder is required to be effected by the trust.
- The dividend received by the trust is subject to dividend distribution tax at the level of SPV. Dividend paid by trust is exempt from this tax.
- In case of capital gains arising to the sponsor at the time of exchange of shares in Special Purpose Vehicle (SPV), being the unlisted company through which income generating assets are held indirectly by the business trusts, with units of the business trust, the taxation of gains is deferred and in case of sale of units at the time of listing, STT will be charged to sponsor with benefit of capital gain tax similar to a listed entity.

20. Charitable Trusts *(Effective from 1st April, 2016)*

- Yoga to be included within the ambit of charitable purpose under Section 2(15) of the Income-tax Act.
- Ceiling on receipts from activities in the nature of trade, commerce or business increases to 20% of the total receipts from the existing ceiling of Rs. 25 lakh under Section 2(15) of the Income-tax Act.

21. Foreign Investments *(Effective from 1st April, 2016)*

- Foreign investments in Alternate Investment Funds to be allowed. Tax “pass through” is to be allowed to both category I and category II alternative investment funds.
- The definition of Permanent Establishment (PE) to be modified to no to tax FII in India, even if Fund manager is based in India.

22. Evasion of Tax in relation to foreign assets shall lead to 10 years of rigorous imprisonment (non-compoundable) plus 300% penalty. (Proposed Law)

23. Non-filing of return/filing of return with inadequate disclosures of foreign assets to have a punishment of rigorous imprisonment up to 7 years. (Proposed Law)

24. Beneficial owners of foreign assets being resident Indians have to file a return of income compulsorily in India, even if there is no taxable income in India. (Proposed Law)

25. Foreign Exchange Management Act, 1999 is amended to the effect that if a foreign exchange or asset is held outside India in contravention of the provisions of this act, then assets of equivalent value situated in India can be seized and eventually confiscated. This contraventions are also liable for levy of penalty and prosecution with imprisonment up to 5 years. (Proposed Law).

INDIRECT TAXES

A. SERVICE TAX**1. RATE OF SERVICE TAX**

- Service Tax rate is being increased from 12% plus education cess to 14%. *(Effective from date of proposed notification)*.
- The Central Government may impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% on the value of such taxable services. (w.e.f. date to be notified by the CG)
Introduction of Swachh Bharat Cess will increase the effective service tax rate to 16%.

2. Online Service Tax Registration within two working days

3. Addition of Services Liable to Service Tax: *(Effective from date of notification)*

- Service Tax to be levied on the services 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.

- Service Tax to be levied on admission to entertainment events, concerts, non recognized sports events if amount charged for right to admission is more than Rs. 500. However, exemption on admission to exhibition of cinematographic film, circus, recognized sporting events shall be continued irrespective of amount charged.
- Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for a consideration.
- Services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any other entry in the Negative List, shall be liable to Service tax. This shall be covered in Reverse charge mechanism.

4. **Changes in Service Tax Exemptions**

- Services by way of pre-conditioning & cooling, packing & labelling of fruits and vegetables are being exempted.
- Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.
- Exemption under S. No. 12 of Notification No. 25/2012-ST on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority is now limited to only historical & archaeological monuments/sites, canal dam & irrigation work, plant for water and sewerage treatment. Exemption being withdrawn.
- 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 its members is being exempted.
- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve is being exempted.
- Scope of exemption in notification 31/12-ST dated 20.6.2012 is being widened to exempt such services when Goods Transport Agency service provided for transport of export goods by road from the place of removal to a land customs
- Exemption under S. No. 14 of notification No. 25/12-ST for construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn. The other exemptions covered shall continue unchanged.
- 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 being withdrawn. *(Effective from immediate effect)*
- Exemption to Services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, has been restricted only to such cases where amount charged is not exceeding Rs. 1,00,000/- for a performance (except brand ambassador).

5. **Reverse Charge Mechanism**

- Services provided by,-
a) Mutual fund agents, mutual fund distributors to a mutual fund or asset management company; and

b) Selling or marketing agents of lottery tickets to a lottery distributor or selling agent are being brought under the Full Reverse Charge consequent to withdrawal of the exemption on such services vide Notification No. 6/2015-ST dated 01-03-2015

- Manpower supply and Security services provided by an individual, HUF, partnership firm or association of persons to a business entity registered as body corporate have been brought under Full Reverse Charge as against Partial Reverse Charge mechanism applicable at present.
 - Service Tax shall be payable on 60% of the value of air transport of passenger for higher classes i.e. business class. Earlier service tax was payable on 40% of the value. *(Effective from 1st April, 2015)*
6. **Section 67 Valuation of taxable services:** It is being prescribed specifically in this section that consideration for service shall include:
- (a) all reimbursable expenditure or cost incurred and charged by the service provider.
 - (b) 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
7. **Cenvat Credit Rules**
- a. 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
 - b. Cenvat credit of inputs and capital goods can be taken immediately where the inputs or capital goods are directly sent to the job workers premises in pursuance of the direction of the manufacturer or output service provider.
 - c. **Cenvat credit shall now be taken within one year of the issue of any documents specified in Rule 9(1) of the Cenvat Credit Rules, whereas, earlier, it was 6 months**
8. The facility of Advance Ruling has been extended to all resident firms by specifying such firms as a class of persons for the purposed of Section 96A (b)(iii).
9. **Abatements:**
- A uniform abatement of 70% has been prescribed for transport by rail, road and vessel to bring parity in these sectors. Service tax shall be payable on 30% of the value of such service subject to a uniform condition of non-availment of Cenvat credit on Inputs, Capital goods and Input services.
Presently, Service tax is payable on 30% (in case of rail transport)/ 25% (in case of road transport)/ 40% (in case of transport by vessels). Further, there is no condition for availment of Cenvat credit on Inputs, Capital goods and Input services in case of transport by rail, which is now withdrawn.
 - The abatement for classes other than economy class (i.e. business/ first class) has been reduced from 60% to 40%. Accordingly, Service tax would be payable on 60% of the value of such higher classes.
At present, Service tax is payable on 40% of the value of transport of passenger by air for economy as well as higher classes (i.e. business/ first class).

- Abatement for the services provided in relation to Chit fund stands withdrawn. Consequently, Service tax shall be paid by on full consideration received by the Chit fund foremen.

10. **PENALTIES**

Section 76: Penalty in cases not involving fraud or collusion or will-ful mis-statement or suppression of facts or contravention of any provision of the act or rules

- Penalty not exceeding 10% 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 under section 73 (1)
- 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 days of such order; and
- 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 service tax, interest and reduced penalty is paid within 30 days of such appellate order.

Section 78: Penalty in cases involving fraud or collusion or will-ful mis-statement or suppression of facts or contravention of any provision

- Penalty shall be 100% of Service Tax involved in such cases
- 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 in this regard
- 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 30 days of such order; and
- 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 if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

B. EXCISE& CUSTOMS

1. Education Cess and Secondary & Higher Education Cess leviable on excisable goods are being subsumed and standard ad valorem rate of excise duty (i.e. CENVAT) is being increased from 12% to 12.5%

ISSUE: Accumulated available Cenvat Credit of Education Cess and Secondary & Higher Education Cess cannot be set-off as there is no output liability under the same Head. Dispute or monetary loss to companies till rules for the same is clarified.

2. Central excise/Service tax assesses to be allowed to use digitally signed invoices and maintain record electronically.
3. Online Central Excise Registration within two working days.

4. Swacchh Bharat Initiatives:

- The Scheduled rate of Clean Energy Cess levied on coal, lignite and peat has been increased from Rs. 100 per tonne to Rs. 300 per tonne. The effective rate of Clean Energy Cess has been increased from Rs. 100 per tonne to Rs. 200 per tonne; (Effective from immediate effect)
- Concessional Customs and Excise Duty rates on specified parts of Electrically Operated Vehicles and Hybrid Vehicles, presently available upto March 31, 2015, is being extended upto March 31, 2016;
- Excise Duty on sacks and bags of polymers of ethylene other than for industrial use is being increased from 12% to 15%.

5. Changes in Rates of Duties of Excise:

Particulars	Revised
leather footwear of Retail Sale Price of more than Rs. 1000 per pair	Decrease by 6%
Pig iron SG grade and Ferro-silicon- Magnesium for manufacture of Cast components of wind operated electricity generators	Fully exempted, subject to certification by MNRE in this regard
Chassis for ambulances	Decrease by 11.5%
Wafers for manufacture of integrated circuit (IC) modules for smart cards	Decrease by 6%
Inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps	Decrease by 6%
Specified raw materials for use in manufacture of pacemakers	Fully Exempted
Round copper wire and tin alloys for manufacture of Solar PV ribbon for manufacture of solar PV cells	Fully Exempted
Cigarettes:	
• Length not exceeding 65mm	Increase by 25%
• Other Lengths	Increase by 15%
Duty of Excise on waters, etc. falling under Chapter sub-heading 2202 10	Increase by 6%
Cement	Increase by INR 100 per ton
Cut tobacco	Increase by INR 10 per kg
High Speed Diesel	Increase by INR 15 per litre
Sacks and bags (including cones) of Plastics	Increase by 6%
Sacks & bags of polymers of ethyl, other than for industrial use	Increase by 3%
Condensed milk put up in unit container & peanut butter	Increase by 2% w/o or 6% with CENVAT
Solar water heater and system	Increase by 12.5% with Credit
Mobile Phones	Increase by 6.5% in with credit scheme

6. Changes in Rates of Duties of Customs:

- Basic customs duty on bituminous coal is being reduced from 55% % to 10%. *(Effective from immediate effect)*
- The tariff rate of basic customs duty on goods falling under all the tariff items of Chapters 72 and 73 that is iron and steel and articles of iron or steel, is being increased from 10% to 15%. *(Effective from immediate effect)*
- The tariff rate of basic customs duty on commercial motor vehicle is being increased from 10 to 40%. *(Effective from immediate effect)*
- Artificial Heart exempt from basic custom duty of 5% and CVD.
- All goods, except populated printed circuit boards for use in manufacture of ITA bound items, exempted from SAD. *(Effective from immediate effect)*
- SAD reduced on import of certain inputs and raw materials *(Effective from immediate effect)*