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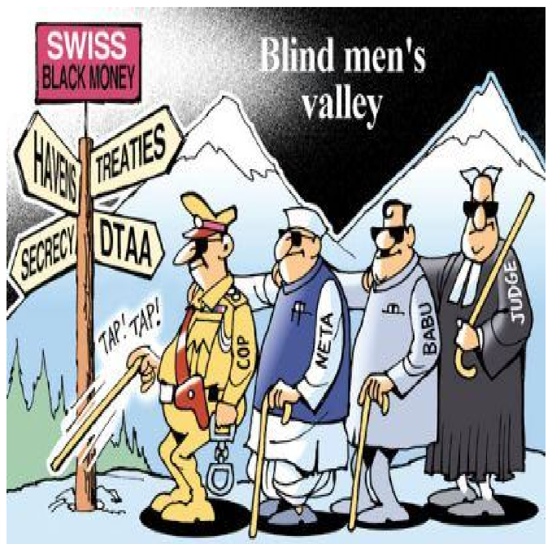
Key Features of Budget 2015-2016



"Union Budget 2015 pro-industrialist, pro-corporate, pro-business, but not quite pro- poor"

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☞ DIRECT TAXES PROPOSALS

➢ No Change in Individual Tax Rate (Other than Companies) except Rate of Surcharge

Sl.No	Income Slabs	Resident individual less than 60 years	Resident individual more than 60 years but less than 80 years	Resident individual of 80 years or above
1	Upto ` 2,50,000	Nil	Nil	Nil
2	` 2,50,001 to ` 3,00,000	10%	Nil	Nil
3	` 3,00,001 to ` 5,00,000	10%	10%	Nil
4	` 5,00,001 to ` 10,00,000	20%	20%	20%
5	Above ` 10,00,001	30%	30%	30%

Note:-

a) ***Increase in Rate of Surcharge***

Every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person, cooperative societies, firms or local authorities

The amount of income-tax shall be increased by a surcharge for the purposes of the Union at the ***rate of twelve percent***. of such income-tax in case of a person ***having a total income exceeding one crore rupees.***

b) The education cess to continue at 3 percent.

c) No Change in Other Tax Rate.

➢ Increase in deduction under section 80DD & 80U

Investment limit under section 80DD & 80U of the Income-tax Act raised from ` 50,000 to ` 75,000 for a person with disability and from ` 1,00,000 to ` 1,25,000 for a person with severe disability.

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

➢ The concessional rate of 5% withholding tax on interest payment under the section 194D will now be available on interest payable upto 30th June, 2017

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➢ Addition of Sukanya Samriddhi Account Scheme for deduction under section 80C & Other benefits of this account

The following tax benefits have been envisaged in the Sukanya Samriddhi Account scheme:

i) The investments made in the Scheme will be eligible for deduction under section 80C.

ii) The interest accruing on deposits in such account will be exempt from income tax.
iii) The withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax.

Note:-

a) *These amendments will take effect retrospectively from 1st April, 2015 i.e. the deduction is also available for FY 2014-15 i.e AY 2015-16.*

b) Investment limit under section 80C of the Income-tax Act is ` 1.5 lakh.

➢ Increase in deduction under section 80D

Investment limit under section 80D of the Income-tax Act raised from ` 15,000 to ` 25,000 for individual other than senior citizen and the limit raised from ` 25,000 to ` 30,000 for senior citizen.

An additional benefit given to super Senior citizen (aged more than eighty years) :-

it is also proposed to provide that any payment 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, as does not exceed thirty thousand rupees shall be allowed as deduction under section 80D ***i.e. the deduction under 80D can be claimed on the basis of expenditure incurred irrespective of payment of insurance made or not.***

Note:-

a) *The aggregate deduction for health insurance premia and medical expenditure incurred in respect of parents would be limited to thirty thousand rupees.*

b) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

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➢ Increase/Changes in deduction under section 80DDB

Deduction limit under section 80DDB of the Income-tax Act raised from ` 60,000 to ` 80,000 only for Super Senior Citizen whose age is more than 80 years and there is no change in existing limit of individual other than senior citizen including super senior citizen and senior citizen of ` 40,000 and ` 60,000 respectively.

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.

Note:-

a) *The clause "a certificate from a doctor working in a Government hospital" causes undue hardship to the persons intending to claim the aforesaid deduction.*

So, the obtaining certificate from Government hospital will be replaced by obtain a prescription from a specialist doctor.

b) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

➢ Increase in deduction under section 80CCC

Investment limit under section 80CCC of the Income-tax Act raised from ` 1 lakh to ` 1.5 lakh. This limit is covered under the overall limit mentioned in section 80CCE of the Act.

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

➢ Additional deduction under section 80CCD

An additional deduction in respect of any amount paid, of upto fifty thousand rupees for contributions made by any individual assesses under the NPS. This limit is not covered under the overall limit mentioned in section 80CCE of the Act except of section 80CCD(1).

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

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- **Enabling of filing of Form 15G/15H for payment made under life insurance policy**

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.

Note:-

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

- **Relaxing the requirement of obtaining TAN for certain deductors**

The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Act. The quoting of TAN for reporting of Tax Deducted at Source (TDS) is a procedural matter and the same result can also be achieved in certain cases by mandating quoting of PAN especially for the transactions which are likely to be one time transaction such as single transaction of acquisition of immovable property from non-resident by an individual or HUF on which tax is deductible under section 195 of the Act.

To reduce the compliance burden of these types of deductors, it is proposed to amend the provisions of section 203A of the Act so as to provide that the requirement of obtaining and quoting of TAN under section 203A of the Act shall not apply to the notified deductors or collectors.

Note:-

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

- ***Amendment in 80G:-*** **One hundred per cent deduction for National Fund for Control of Drug Abuse**

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

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

- The benefits of deduction under section 80JJJA of the Act shall be available to all assesses and threshold for weighted deduction from tax for wages of new workmen reduced from 100 to 50.

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- **Tax benefits for Swachh Bharat Kosh and Clean Ganga Fund**

Deduction in respect to 80G:-

It is proposed to provide that donations made by ***any donor*** to the Swachh Bharat Kosh ***and*** donations made ***by domestic donors*** to Clean Ganga Fund will be eligible for a deduction of ***hundred per cent*** from the total income.

However, any sum spent in pursuance of Corporate Social Responsibility (CSR) under sub-section (5) of section 135 of the Companies Act, 2013, will not be eligible for deduction from the total income of the donor.

Exemption in respect to 10(23C):-

it is also proposed to amend section 10(23C) of the Act so as to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund from income-tax.

Note:-

a) These amendments will take effect retrospectively from 1st April, 2015 i.e. the deduction is also available for FY 2014-15 i.e AY 2015-16.

- **Increase in Rate of Surcharge of Domestic Companies**

Sl.No	Income Slabs	Domestic Companies	Other than Domestic Companies
1	Upto ` One Crore	Nil	Nil
2	More than ` One Crore but less than ` ten crore	7%	2%
3	More than ` ten Crore	12%	5%

Note:-

a) In other cases (including sections 115-O, 115QA, 115R or 115TA) the surcharge shall be levied at the rate of twelve percent

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

- Proposal to reduce corporate tax from 30% to 25% over the next four years, starting from next financial year. For this year, no change in tax rate.

- Any interest payable by an Indian branch of a foreign bank to its head office to be income deemed to accrue or arise in India, also subject to withholding tax

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- ***Amendments in Sec. 269SS & 269T:-* Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances**

269SS:-

it is proposed to amend section 269SS, of the Income-tax Act so as to provide that no person shall accept from 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.

269T:-

It is also proposed to amend section 269T of the Income-tax Act so as to provide that no person shall repay any loan or deposit made with it or ***any specified advance received by it***, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more.

The specified advance shall mean any sum of money in the nature of an advance, by whatever name called, in relation to transfer of an immovable property whether or not the transfer takes place.

Note:-

a) 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

b) The education cess to continue at 3 percent.

Crux :-

Acceptance or re-payment of an advance of ` 20,000 or more in cash for purchase of immovable property to be prohibited.

- The Indian entity in the chain obligated to furnish information relating to transaction; failure to report may attract a penalty up to 2% of transaction value

- PAN being made mandatory for any purchase or sale exceeding Rupees 1 lakh.

Raising the threshold for specified domestic transaction

The threshold limit of Specified domestic transaction under section 92BA of the Income-tax Act raised from ` 5 crore to ` 25 crore.

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

Monetary limit for a case to be heard by a single member bench of ITAT increase from ` 5 lakh to `15 lakh

The threshold limit for the income-limit of the cases that may be decided by single member bench of ITAT under section 255(3) of the Income-tax Act raised from ` 5 lakh to ` 15 lakh.

Note:-

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

Abolition of levy of wealth-tax under Wealth-tax Act, 1957

It is proposed to abolish the levy of wealth tax under the Wealth-tax Act, 1957 with effect from the 1st April, 2016.

Wealth Tax has been abolished w.e.f. Financial Year 2015-16 and onwards. This is however sought to be compensated by the additional 2% surcharge in high income cases

TDS under section 194A shall be deducted on Interest on recurring deposits

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

Note:-

a) These amendments will take effect from 1st June, 2015

- Provision of indirect transfers in the Income-tax Act suitably cleaned up.

- For salaried individuals, exemption on account of transport allowance is proposed to be doubled to ` 1,600 per month from the existing limit of ` 800 per month.

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➢ ***Certain accountants not to give reports/certificates***

i) 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.
The disqualification of appointment of auditors mentioned in The CA Act, 2013 is also applicable for Income Tax Act.

ii) 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.

iii) 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.
Accountant who are disqualified for audit or furnishing of any report / certificate cannot act as AR before Income Tax authority

iii) 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.

iv) 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.

➢ ***TCS:- No double interest under section 206C(7) & Section 220(2) for same amount and same period***

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.

Note:-

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

- ***<u>Prescribed conditions relating to maintenance of accounts, audit etc to be fulfilled by the approved in-house R&D facility</u>***

it is proposed to amend the provisions of section 35(2AB) of the Act to provide that deduction under the said section shall be allowed if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfills prescribed conditions with regard to maintenance and audit of accounts and also furnishes prescribed reports.

It is also proposed to insert reference of the Principal Chief Commissioner or Chief Commissioner in section 35(2AA) and section 35(2AB) of the Act so that the report referred to therein may be sent to the Principal Chief Commissioner or Chief Commissioner having jurisdiction over the company claiming the weighted deduction under the said section.

<u>Note:-</u>

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

- ***<u>Amendment to the conditions for determining residency status in respect of Companies</u>***

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.

<u>Note:-</u>

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17.

- Rationalizations of capital gains regime for the sponsors exiting at the time of listing of the units of REITs and InvITs.

- Permanent Establishment (PE) norm to be modified to encourage fund managers to relocate to India.

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- ***Simplification of Tax Deduction at Source (TDS) mechanism for Employees Provident Fund Scheme (EPFS)***

It is proposed to insert a new provision in Act for ***deduction of tax at the rate of 10% on pre-mature taxable*** withdrawal from EPFS. However, to reduce the compliance burden of the employees having taxable income below the taxable limit, it is also proposed to provide a ***threshold of payment of Rs.30,000/-*** for applicability of this proposed provision

it is further proposed that the facility of filing self-declaration for non-deduction of tax under section 197A of the Act shall be extended to the employees receiving pre-mature withdrawal i.e. an employee can give a declaration in Form No. 15G to the effect that his total income including taxable pre-mature withdrawal from EPFS does not exceed the maximum amount not chargeable to tax and on furnishing of such declaration, no tax will be deducted by the trustee of EPFS while making the payment to such employee. Similar facility of filing self-declaration in Form No. 15H for non-deduction of tax under section 197A of the Act shall also be extended to the senior citizen employees receiving pre-mature withdrawal.

Note:-

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

- **Correction of TCS statement**

Now section 206C has been amended to enable deductor to file correction statement.

The proposed provision shall also incorporate the mechanism for computation of fee payable under section 234E of the Act.

Note:-

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

- Third party reporting entities would be required to furnish information about foreign currency sales and cross border transactions.

- Additional investment allowance (@ 15%) and additional depreciation (@35%) to new manufacturing units set up during the period 01-04-2015 to 31-03-2020 in notified backward areas of Andhra Pradesh and Telangana.

- Most provisions of Direct Taxes Code have already been included in the Income-tax Act, therefore, no great merit in going ahead with the Direct Taxes Code as it exists today.

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- ***TDS Compliance for Govt. deductors/Collectors***

  Sections 200 and 206C of the Act to provide that where the tax deducted [including paid under section 192(1A)] / collected has been paid without the production of a challan, the PAO/ TO/CDDO or any other person by whatever name called who is responsible for crediting such sum to the credit of the Central Government, shall furnish within the prescribed time a prescribed statement for the prescribed period to the prescribed income-tax authority or the person authorised by such authority by verifying the same in the prescribed manner and setting forth prescribed particulars.

  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.

  Note:-

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

- ***Evidences required for deducting TDS under Section 192 of the Act in order to claim exemptions/deductions***

  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.

  For example, house rent allowance, interest payment for claiming loss from self-occupied house property, etc.

  Note:-

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

- The 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) and subsequent years by amendment of the Act.

- Finance Act 2015 had introduced a new provision to provide rebate of INR 2,000 or actual tax payable whichever is less for resident individuals with total income up to INR 500,000. This provision is still applicable.

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- ***Declaration of all payment made to non-resident and foreign companies***

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

Non compliance of this provision would attract a penalty of Rs. One Lakh under section 195(6) of the Act.

Crux:-
The person responsible for making payment to a non-resident is now required to provide information about such payment to Indian Revenue authorities, even if such payment is not chargeable to tax in India

Note:-
a) These amendments will take effect from 1st June, 2015

- ***TDS to be deducted on Interest on time deposits by co-operative banks to its members***

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.

- ***TDS under section 194A shall be deducted on total income by banking company or the co-operative bank or the public company which has adopted core banking solutions and not branch wise***

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 by the banking company or the co-operative bank or the public company which has adopted core banking solutions.

Note:-
a) These amendments will take effect from 1st June, 2015

- **TDS under section 194A shall be deducted at the time of payment by the the Motor Accident Claim Tribunal compensation**

It is, therefore, proposed to amend the provisions of section 194A of the Income-tax Act, 1961 to provide that deduction of tax under section 194A of the Act from interest payment on the compensation amount awarded by the Motor Accident Claim Tribunal compensation shall be made only at the time of payment, if the amount of such payment or aggregate amount of such payments during a financial year exceeds Rs. 50,000/-.

Note:-

a) These amendments will take effect from 1st June, 2015

- ***TDS under section 194C:-* Clarification regarding deduction of tax from payments made to transporters/ No deduction in payment made to transporters who is not owing more than 10 goods carriage**

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.

Note:-

a) These amendments will take effect from 1st June, 2015

- ***Simplification of approval regime for issue of notice for re-assessment***

it is proposed to provide that no notice under section 148 shall be issued by an assessing officer upto four years from the end of relevant assessment year without the approval of Joint Commissioner and beyond four years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner

Note:-

a) These amendments will take effect from 1st June, 2015

- Tax neutrality on merger of similar schemes of Mutual Funds.

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- ***Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue***

it is proposed to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,—

(a) the order is passed without making inquiries or verification which, should have been made;

(b) the order is passed allowing any relief without inquiring into the claim;

(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or

(d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person

Note:-
a) These amendments will take effect from 1st June, 2015

- ***Interest for defaults in payment of advance tax in case of re-assessment and where additional income is disclosed before the Settlement Commission under section 245C***

Section 234B
it is proposed to amend clause (3) of section 234B of the Income-tax Act to provide that the period for which the interest is to be computed will begin from the 1st day of April next following the financial year and end on the date of determination total income under section 147 or section 153A.

Section 245C(2A)
it is proposed to insert a new sub section (2A) so as to provide that where an application under sub-section (1) of section 245C for any assessment year has been made, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section

Note:-
a) These amendments will take effect from 1st June, 2015

- ***Orders passed by the prescribed authority under section sub-clauses (vi) and (via) of clause (23C) of section 10 made appealable before Income-tax Appellate Tribunal***

It is proposed to amend the said sub-section (1) of section 253 so as to provide that an assessee aggrieved by the order passed by the prescribed authority under sub-clause (vi) or (via) of section 10(23C) may appeal to the Appellate Tribunal.

- ***No Payment of MAT by Companies on share of profit from AOP***

it is proposed to amend the section 115JB so as to provide that the share of a member of an AOP, in the income of the AOP, on which no income–tax is payable in accordance with the provisions of section 86 of the Act, should be excluded while computing the MAT liability of the member under 115JB of the Act. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT.

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17

- ***No Payment of MAT by Companies on income arising on any security held by a Foreign Institutional Investor***

It is, therefore, proposed to amend the provisions of section 115JB so as to provide that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17

Crux:-

Capital gain income of FII (other than short-term capital gain not subject to securities transaction tax) to be excluded from levy of minimum alternate tax (MAT)

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- ***Change in Furnishing of return of income by certain universities and hospitals referred to in section 10 (23C) of the Act***

It is proposed to amend the Act in order to provide that entities covered under clauses (iiiab) and (iiiac) of clause (23C) of section 10 shall be mandatorily required to file their return of income

Universities, educational institutions, hospitals and other institutions for medical treatment which are substantially financed by government will now be mandatorily required to file return of income

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17

- ***Power of the Central Board of Direct Taxes to prescribe the manner and procedure for computing period of stay in India***

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

Note:-

a) *These amendments will take effect retrospectively from 1st April, 2015 i.e. the deduction is also available for FY 2014-15 i.e AY 2015-16.*

- ***Due date of filing of Form 10 by charitable trusts and institutions for Appling accumulation of Income/ Conditions for availing benefit of income accumulation***

it is proposed to amend the Act to provide 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 Form 10 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.

Note:-

a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17

- ***<u>Clarification regarding source rule in respect of interest received by the non-resident in certain cases</u>***

  it is proposed to amend the Act to provide that, in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery would apply . Accordingly, the PE in India shall be obligated to deduct tax at source on any interest payable to either the head office or any other branch or PE, etc. of the non-resident outside India. Further, non-deduction would result in disallowance of interest claimed as expenditure by the PE and may also attract levy of interest and penalty in accordance with relevant provisions of the Act.

  <u>Crux:-</u>
  Interest payable by an Indian branch to its head office or other offshore branches is taxable in India, and is deemed to be a separate and an independent person from its head office or offshore branches for taxation purposes

  <u>Note:-</u>
  a) These amendments will take effect from 1st April, 2016 i.e. the deduction is available from FY 2015-16 i.e AY 2016-17

- ***<u>Change in rate of TDS in case of payment made to a non resident (other than a company) or a foreign company</u>***

  it is proposed to certain payments made to a non-resident (other than a company) or a foreign company, in the nature of income by way of royalty or fees for technical services, the TDS deduction rate shall be ten per cent, of such income.

- Propose to rationalize capital gain tax regime for real investment trusts.

- CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act

- ***Procedure for appeal by revenue when an identical question of law is pending before Supreme Court***

it is proposed to insert a new section 158AA so as to provide that notwithstanding anything contained in this Act, where any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court, in an appeal or in a special leave petition under Article 136 of the Constitution filed by the revenue, against the order of the High Court in favour of the assessee, the Commissioner or Principal Commissioner may, instead of directing the Assessing Officer to appeal to the Appellate Tribunal under sub-section (2) or sub-section (2A) of section 253, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the earlier case.

It is further proposed to provide that the Commissioner or Principal Commissioner shall proceed under sub-section (1) only if an acceptance is received from the assessee to the effect that the question of law in the other case is identical to that arising in the relevant case. However, in case no such acceptance is received the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in section (2) or section (2A) of section 253 and accordingly may, if he objects to the order passed by the Commissioner (Appeals), direct the Assessing Officer to appeal to the Appellate Tribunal.

It is also proposed to provide that where the order of the Commissioner (Appeals) is not in conformity with the final decision on the question of law in the other case (if the Supreme Court decides the earlier case in favour of the Department), the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order within sixty days from the date on which the order of the Supreme Court is communicated to the Commissioner or Principal Commissioner and save as otherwise provided in the said section 158AA, all other provisions of Part B of Chapter XX shall apply accordingly

Note:-

a) These amendments will take effect from 1st June, 2015

This provision is introduced to avoid repetitive filing of appeals by the revenue on the same issue resulting in needless litigation.

- ***Assessment of income of a person other than the person in whose case search has been initiated or books of account, other documents or assets have been requisitioned.***

It is proposed to amend the aforesaid section to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing belongs to, or any books of account or documents seized or requisitioned pertain to, or any information contained therein, relates to, any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

Note:-

a) These amendments will take effect from 1st June, 2015

- ***Key features of new law on black money***

Evasion of tax in relation to foreign assets to have a punishment of rigorous imprisonment upto 10 years, be non-compoundable, have a penalty rate of 300% and the offender will not be permitted to approach the Settlement Commission

Non-filing of return/filing of return with inadequate disclosures to have a punishment of rigorous imprisonment upto 7 years

Undisclosed income from any foreign assets to be taxable at the maximum marginal rate.

Mandatory filing of return in respect of foreign asset.

Entities, banks, financial institutions including individuals all liable for prosecution and penalty.

Concealment of income/evasion of income in relation to a foreign asset to be made a predicate offence under PML Act, 2002.PML Act, 2002 and FEMA to be amended to enable administration of new Act on black money.

Bill for a comprehensive new law to deal with black money parked abroad to be introduced in the current session.

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- Seized cash can be adjusted towards assessees tax liability.

- ***<u>100% deduction of additional deprecation to manufacturing and power sector irrespective to date of installation</u>***

  The allowance of balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year

- Concessional rate of 5% withholding tax on interest payable to FIIs and QFIs on their investment in government securities and rupee denominated bonds to be available upto 30 June, 2015.

- Benefit of reduced tax rate of 5% on rupee denominated bonds issued to QIP extended upto 30 June 2017

- Benami Transactions (Prohibition) Bill to curb domestic black money to be introduced in the current session of Parliament.

- Definition of GDRs are proposed to be amended to include GDRs issued against shares of listed companies

- Yoga to be included within the ambit of charitable purpose under Section 2(15) of the Income-tax Act.

- Exemption to income of Core Settlement Guarantee Fund (SGF) of the Clearing Corporations.

- To mitigate the problem being faced by many genuine charitable institutions, it is proposed to modify the ceiling on receipts from activities in the nature of trade, commerce or business to 20% of the total receipts from the existing ceiling of ` 25 lakh.

<u>Net Effect of the direct tax proposals to result in revenue loss of Rs. 8315 crore</u>

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☞ INDIRECT TAXES PROPOSALS

Custom

- No penalty in cases the amount is paid within 30 days from the date of receipts of notice provided in a case not involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty.

- 15% of penalty in cases where the amount is involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty

- Basic Custom duty on certain inputs, raw materials, inter mediates and components in 22 items, reduced to minimize the impact of duty inversion.

- All goods, except populated printed circuit boards for use in manufacture of ITA bound items, exempted from SAD.

- SAD reduced on import of certain inputs and raw materials.

- Basic custom duty on digital still image video camera with certain specification reduced to nil.

- Increase in basic custom duty:
  a) Metallergical coke from 2.5 % to 5%.
  b) Tariff rate on iron and steel and articles of iron and steel increased from 10% to 15%.
  c) Tariff rate on commercial vehicle increased from 10 % to 40%.

- Decrease in Increase in basic custom duty:
  a) Bituminous coal from 55 % to 10 %.

- Artificial heart exempt from basic custom duty of 5% and CVD

- Concessions on custom and excise duty available to electrically operated vehicles and hybrid vehicles extended upto 31.03.2016.

- Advance ruling benefit extended to resident firms, LLPs, sole proprietors and one person company

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- Section 112 provides for penalty for improper importation of goods, etc. Section 112 is being amended so as to substitute sub-clause (ii) of clause (b) to provide that any person who acquires possession of or is in any way concerned with or in any other manner deals with any dutiable goods, other than prohibited goods, which he knows or has reasons to believe are liable to confiscation under section 111, shall, subject to the provisions of section 114A, be liable to a penalty not exceeding 10% of the duty sought to be evaded of ` 5000, whichever is greater. ***The Same provision is applicable in case of import subjected to change in number of relevant section thereof.***

- In cases of short levy or non-levy or short payment or non-payment and erroneous refund of duty for reasons of collusion or any willful misstatement or suppression of facts, if the duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within 30 days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to paid by such person under this section shall be 25% of the penalty so determined. ***The Same provision is applicable in case of import subjected to change in number of relevant section thereof.***

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Excise

- Central excise plus education cesses increased from 12.36% to 12.50% to facilitate transition to GST.

  Education cess and the Secondary and Higher education cess to be subsumed in Central Excise Duty.

- Central excise/Service tax assesses to be allowed to use digitally signed invoices and maintain record electronically.

- Specific rates of central excise duty in case of certain other commodities revised.

- Excise levy on cigarettes and the compounded levy scheme applicable to pan masala, gutkha and other tobacco products also changed.

- Excise duty on footwear with leather uppers and having retail price of more than ` 1000 per pair reduced to 6%.

- Online central excise and service tax registration to be done in two working days.

- Time limit for taking CENVAT credit on inputs and input services increased from 6 months to 1 year.

- Clean energy cess increased from ` 100 to ` 200 per metric tonne of coal, etc. to finance clean environment initiatives.

- Excise duty on sacks and bags of polymers of ethylene other than for industrial use increased from 12% to 15%.

- Concessions on custom and excise duty available to electrically operated vehicles and hybrid vehicles extended upto 31.03.2016.

- Excise duty on rails for manufacture of railway or tram way track construction material exempted retrospectively from 17-03-2012 to 02-02-2014, if not CENVAT credit of duty paid on such rails is availed.

- Excise duty exemption for captively consumed intermediate compound coming into existance during the manufacture of agarbathi.

- Penalty increased from INR 2,000 to INR 5,000 for cases related to dealing with confiscation of goods

- Cenvat Credit Rule 4(7) is being amended to allow Cenvat 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.

- **Section 11AC of CEA,1944 is proposed to be changed with new provision to impose penalty to tackle two situations as below** :

1. *Evasion of duty or non payment of duty but without suppression*

    a) a penalty not exceeding 10% of the duty determined or Rs.5000 whichever is higher shall be payable;

    b) no penalty shall be payable if duty and interest payable thereon under section 11AA is paid before issue of show cause notice or no penalty shall be payable if duty and interest payable thereon under section 11AA is paid within 30 days of issue of show cause notice.

    c) the penalty will be reduced to 25% provided the 25% of the penalty out of total penalty imposed along with duty and interest is paid within 30 days of the date of communication of such order.

2. *Evasion or non payment with suppression*

    a) a penalty equal to the duty so determined shall be payable.

    b) for the period beginning with 8th April, 2011 and upto the date of assent to the Finance Bill, 2015, the penalty payable shall be 50% of the duty so determined provided details of transactions of evasion are recorded

    c) 15% penalty shall be payable, of the duty determined, if duty and interest payable thereon under section 11AA is paid within 30 days of issue of show cause notice.

    d) the penalty will be reduced to 25% provided the 25% of the penalty out of total penalty imposed alongwith duty and interest is paid within 30 days of the date of communication of such order.

- Facility of direct dispatch of goods by registered, dealer from seller to customer's premises is being provided. Similar facility is also being allowed in respect of job-workers. Registered importer can also send goods directly to customer from the port of importation.

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- Excise duty of 2% without CENVAT credit or 6% with CENVAT credit is being levied on condensed milk put up in unit containers. It is also being notified under section 4A of the Central Excise Act for the purpose of valuation with reference to the Retail Sale Price with an abatement of 30%.

- Excise duty on chassis for ambulances is being reduced from 24% to 12.5%.

- Inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and LED lamps from 12% to 6% .

- Mobiles handsets, including cellular phones from 1% without CENVAT credit or 6% with CENVAT credit to 1% without CENVAT credit or 12.5% with CENVAT credit. NCCD of 1% on mobile handsets including cellular phones remains unchanged.

- All goods falling under Chapter sub-heading 2101 20, including iced tea, are being notified under section 4A of the Central Excise Act for the purpose of assessment of Central Excise duty with reference to the Retail Sale Price with an abatement of 30%. Such goods are also being included in the Third Schedule to the Central Excise Act, 1944.

- Goods, such as lemonade and other beverages, are being notified under section 4A of the Central Excise Act for the purpose of assessment of Central Excise duty with reference to the Retail Sale Price with an abatement of 35%. Such goods are also being included in the Third Schedule to the Central Excise Act, 1944.

- Penalty provisions in Customs, Central Excise & Service Tax are being rationalized to encourage compliance and early dispute resolution.

- Tablet computers from 12% to 2% without CENVAT credit or 12.5% with CENVAT credit.

- Advance ruling benefit extended to resident firms, LLPs, sole proprietors and one person company

- The manner of determining utilisation of CENVAT credit has been introduced
    - First from opening balance
    - Then from admissible credit used during the month
    - Lastly from inadmissible credit used during the month

- Separate provisions for recovery of excise duty where non-payment or short payment of duty is reflected in periodic returns to be notified.

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- Penalty provisions have been rationalized as under in tabular form:-

Act of contravention of law	Scenario	Duty & Interest	Penalty
Not involving fraud, collusion, mis-statement, etc.	Pertaining to recovery of duty not paid/levied or short paid/levied or erroneously refunded	Yes	Higher of 10% of duty or INR 5,000
	If paid within 30 days from date of issue of notice	Yes	Nil
	If paid within 30 days from date of receipt of order	Yes	25% of penalty
Involving fraud, collusion, misstatement, etc.	Pertaining to recovery of duty not paid/levied or short paid/levied or erroneously refunded	Yes	100% of duty
	Above cases where transaction is recorded (between 8 Apr 2011 to assent to Finance Bill 2015)	Yes	50% of duty
	If paid within 30 days from date of receipt of notice	Yes	15% of duty
	If paid within 30 days from date of receipt of order	Yes	25% of duty

- Changes introduced for direct dispatch of goods to customers and job workers to be in line with cenvat credit change.

- Exemption on specified battery packs extended up to 31 March 2016.

- Manufacturers can take CENVAT credit against inputs and capital goods sent directly to the job worker's premises. CENVAT credit on capital goods allowed even if the goods remain with the job worker for an extended period of 2 years (instead of 6 months earlier).

Service Tax

- The Service Tax rate is being increased from 12% plus Education Cesses to 14%. Effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%.

  Education cess and the Secondary and Higher education cess to be subsumed in Central Excise Duty

  Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall continued to be levied in Service Tax

  w.e.f:
  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

- Enabling provision to levy Swachh Bharat cess at a rate of 2% or less on all or certain services, if need arises.
- This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.
- Central excise/Service tax assesses to be allowed to use digitally signed invoices and maintain record electronically.
- Online central excise and service tax registration to be done in two working days.
- Services by common affluent treatment plant exempt from Service-tax.
- Service-tax exemption on Varishtha Bima Yojana.
- Service Tax exemption extended to certain pre cold storage services in relation to fruits and vegetables so as to incentivise value addition in crucial sector.
- 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.
- 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.

- **<u>Service-tax to be levied on service provided by way of access to amusement facility, entertainment events or concerts, pageants, non recognized sporting events etc</u>**

  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 INR 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.

- Service-tax exemption:

  a) Services of pre-conditioning, pre-cooling, ripening etc. of fruits and vegetables.
  b) Life insurance service provided by way of Varishtha Pension Bima Yojana.
  c) All ambulance services provided to patients.
  d) Admission to museum, zoo, national park, wild life sanctuary and tiger reserve.
  f) Transport of goods for export by road from factory to land customs station.

- **<u>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</u>**
  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.

In other words, other entries of Sl. No. 12 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.

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- 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.

- 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.

- Exemption is being withdrawn on the following service:

  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.

Note:- Service tax on these services shall be levied on reverse charge basis

- 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.

- **Uniform abatement rate for Service Tax on GTA**

  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.

- 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.

  a) Economy Class – abatement of 60 percent; and
  b) Other than economy class – abatement of 40 percent

- 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.

- CENVAT credit of service tax paid under a partial reverse charge can be taken on payment of service tax even where the value is not paid.

- **Section 76 is being amended to rationalize penalty**

  In cases not involving fraud or collusion or willful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,

  a) penalty not to exceed ten per cent of service tax amount involved in such cases;
  b) no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice under section 73 (1);
  c) 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
  d) 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 67 prescribes for the 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. 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.

  (b) amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case maybe, 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;

- **Section 78 is being amended to rationalize penalty**

  In cases involving fraud or collusion or willful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,

  a) Penalty shall be hundred per cent of service tax amount involved in such cases;
  b) 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;
  c) 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
  d) 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.

- Advance ruling benefit extended to resident firms, LLPs, sole proprietors and one person company

- Job-work activity for manufacture of alcohol for human consumption brought under the purview of service tax

- 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.

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CST

- No change in CST rate.

GST

- Affirmed the introduction of GST from 1 April 2016

Tax proposals on the indirect taxes side are estimated to yield Rs 23,383 crore.

Thus, the net impact of all tax proposals would be revenue gain of Rs 15,068 crore

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