

Union Budget 2014 – Analysis of Major Direct tax proposals

RATES OF INCOME TAX

Basic exemption limit has been increased from Rs 2 lacs to Rs 2.50 lacs for resident individuals or HUF.

Income slabs	Income Tax Rate
Income up to Rs. 2,50,000	Nil
Rs. 2,50,001 to Rs. 5,00,000	10%
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs 10,00,000	30%

In case of resident individual who is age of 60 years or more but less than 80 years, the basic exemption limit has been raised from Rs 2.50 lacs to Rs 3.00 lacs.

Income slabs	Income tax rate
Income up to Rs. 3,00,000	Nil
Rs. 3,00,001 to Rs. 5,00,000	10%
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs 10,00,000	30%

There is no change in rate taxes for other individuals i.e resident individual who is age of 80 years or more

Income slabs	Income tax rate
Income up to Rs. 5,00,000	Nil
Rs. 5,00,001 to Rs. 10,00,000	20%
Above Rs 10,00,000	30%

Rates of Tax in case of Firms, Companies, Foreign Companies, Co-operative societies : There is no change, will remain same as in FY 2013-14.

Surcharge: There is no change, will remain same as in FY 2013-14.

Education and Secondary & Higher Education Cess: There is no change, will remain same as in FY 2013-14.

INCREASE IN LIMIT UNDER SECTION 80C

Investment Limited under section 80C has been hiked from Rs 1.00 lacs to Rs 1.50 Lacs.

INCREASE IN PUBLIC PROVIDENT FUND LIMIT

Present investment cap of Rs. 1.00 lacs under PPF scheme has been enhanced to Rs.1.50 Lacs.

INCREASE IN HOUSING LOAN INTEREST DEDUCTION

Deduction under section 24 in respect of interest on housing loan for self occupied property has been increased from Rs 1.50 Lacs to Rs 2.00 lacs.

TAX DEDUCTION AT SOURCE FROM NON-EXEMPT PAYMENTS MADE UNDER LIFE INSURANCE POLICY

In respect of sum paid under life insurance policies which are not exempted under section 10(10D) of the Act, it is proposed to insert a new section in the Act to provide for deduction of tax at the rate of 2 per cent. on sum paid under a life insurance policy, including the sum allocated by way of bonus.

In order to reduce the compliance burden on the small tax payers, it has also been proposed that no deduction under this provision shall be made if the aggregate sum paid in a financial year to an assessee is less than Rs.1,00,000/-.

This amendment will take effect from 1st October, 2014.

SECTION 32AC: INVESTMENT ALLOWANCE TO MANUFACTURING COMPANIES

The existing scheme of providing investment allowance deduction @ 15% to manufacturing companies for investing more than Rs 100 crores will continue till 31-03-2015.

Further, in order to simplify the existing provisions of section 32AC of the Act and also to make medium size investments in plant and machinery eligible for deduction, it is also proposed that the deduction under section 32AC of the Act @ 15% shall be allowed if the company on or after 1st April, 2014 invests more than Rs.25 crore in plant and machinery in a previous year. The benefit will be available for three years i.e. for investments upto 31-03-2017.

MODE OF ACCEPTANCE OR REPAYMENT OF LOANS AND DEPOSITS [SECTION 269SS & 269T]

It is proposed to amend the provisions of the said sections 269SS and 269T so as to provide that any acceptance or repayment of any loan or deposit by use of electronic clearing system through a bank account shall not be prohibited under the said sections if the other conditions regarding the quantum etc. are satisfied.

DEDUCTION IN RESPECT OF CAPITAL EXPENDITURE ON SPECIFIED BUSINESS [SECTION 35AD]

Under the existing provisions of section 35AD of the Act, investment-linked tax incentive is provided by way of allowing a deduction in respect of the whole of any expenditure of capital nature (other than expenditure on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business" during the previous year in which such expenditure is incurred.

It is proposed to include two new businesses as "specified business" for the purposes of the investment-linked deduction under section 35AD so as to promote investment in these sectors, which are :-

(a) laying and operating a slurry pipeline for the transportation of iron ore;

(b) setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines.

BUSINESS OF PLYING, HIRING OR LEASING GOODS CARRIAGES [SECTION 44AE]

It is proposed to provide for a uniform amount of presumptive income of Rs.7,500 for every month (or part of a month) for all types of goods carriage without any distinction between HGV and vehicle other than HGV.

SPECULATIVE TRANSACTION IN RESPECT OF COMMODITY DERIVATIVES

It is proposed to amend clause (e) of the proviso to the clause (5) section 43 so as to provide that eligible transaction in respect of trading in commodity derivatives carried out in a recognised association and chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 shall not be considered to be a speculative transaction.

CORPORATE SOCIAL RESPONSIBILITY (CSR) EXPENDITURE NOT ALLOWABLE AS DEDUCTION

Under the Companies Act, 2013, certain companies (which have net worth of Rs.500 crore or more, or turnover of Rs.1,000 crore or more, or a net profit of Rs.5 crore or more during any financial year) are required to spend certain percentage of their profit on activities relating to Corporate Social Responsibility (CSR).

A new explanation is inserted in section 37(1) that for the purposes of section 37(1) any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be deemed to have been incurred for the purpose of business and hence shall not be allowed as deduction under section 37. However, the CSR expenditure which is of the nature described in section 30 to section 36 of the Act shall be allowed deduction under those sections subject to fulfillment of conditions, if any, specified therein.

SECTION 54EC: CAPITAL GAINS EXEMPTION ON INVESTMENT IN SPECIFIED BONDS

Section 54EC exemptions restricted to Rs. 50 lacs even if investment is made in two financial years.

CAPITAL GAINS EXEMPTION IN CASE OF INVESTMENT IN A RESIDENTIAL HOUSE PROPERTY [SECTION 54 & 54F]

It is proposed that exemption under section 54 & 54F will be available in respect of Investment in one residential house only.

CHARACTERISATION OF INCOME IN CASE OF FOREIGN INSTITUTIONAL INVESTORS

The foreign portfolio investors (referred as foreign institutional investors in the Act) face a difficulty in characterisation of their income arising from transaction in securities as to whether it is capital gain or

business income. Further, the fund manager managing the funds of such investor remains outside India under the apprehension that its presence in India may have adverse tax consequences.

Therefore, in order to end this uncertainty, it is proposed to amend the Act to provide that any security held by foreign institutional investor which has invested in such security in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 would be treated as “capital asset” only so that any income arising from transfer of such security by a Foreign Portfolio Investor (FPI) would be in the nature of capital gain.

TAXABILITY OF ADVANCE FOR TRANSFER OF A CAPITAL ASSET

It is proposed to insert a new clause (ix) in sub-section (2) of section 56 to provide for the taxability of any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset. Such sum shall be chargeable to income-tax under the head ‘income from other sources’ if such sum is forfeited and the negotiations do not result in transfer of such capital asset..

For the purpose of capital gain, section 51 is also proposed to be amended to provide that where any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset, has been included in the total income of the assessee for any previous year, in accordance with the provisions of clause (ix) of sub-section (2) of section 56, such amount shall not be deducted from the cost for which the asset was acquired.

CAPITAL GAINS ARISING FROM TRANSFER OF AN ASSET BY WAY OF COMPULSORY ACQUISITION

It is proposed to provide that the amount of compensation received in pursuance of an interim order of the court, Tribunal or other authority shall be deemed to be income chargeable under the head ‘Capital gains’ in the previous year in which the final order of such court, Tribunal or other authority is made.

DEFINITION OF SHORT-TERM CAPITAL ASSET [SECTION 2(42A)]

It is proposed to the definition so as to provide that an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty-six months.

LTCG ON MUTUAL FUND UNITS (OTHER THAN EQUITY ORIENTED) TO ATTRACT HIGHER RATE OF TAX AT 20%

Presently, the capital gains arising on transfer of units [primarily debt oriented funds] held for more than a year is taxed at a concessional rate of 10% whereas direct investments in banks and other debt instruments attract a higher rate of tax. This tax differential makes investment in bank deposits a less preferred option as compared to investment in Units.

Hence, the proposed amendment seeks to restrict the concessional rate of tax of 10% on LTCG on listed securities and on zero coupon bonds and ***not to extend this benefit to Units (other than equity oriented funds).***

Thus, LTCG on the said Units transferred will be taxable at a higher rate of 20%.

EXTENSION OF THE SUNSET DATE UNDER SECTION 80-IA FOR THE POWER SECTOR

With a view to provide further time to the undertakings to commence the eligible activity to avail the tax incentive, it is proposed to amend the above provisions to extend the terminal date for a further period up to 31st March, 2017 i.e. till the end of the 12th Five Year Plan.

REDUCTION IN TAX RATE ON CERTAIN DIVIDENDS RECEIVED FROM FOREIGN COMPANIES [SECTION 115BBD]

With a view to encourage Indian companies to repatriate foreign dividends into the country, it is proposed to amend the Act to extend the benefit of lower rate of taxation without limiting it to a particular assessment year. Thus, such foreign dividends received in financial year 2014-15 and subsequent financial years shall continue to be taxed at the lower rate of 15%.

SCOPE OF ALTERNATE MINIMUM TAX (AMT) EXPENDED : SECTION 115JC

The amendment seeks to increase the ambit of AMT by covering the persons specified under Section 35 AD.

Also importantly, the amendment has cleared the dust over confusion of allowability of AMT credit in successive years in which the person is not getting attracted under the existing provisions of section 115JEE i.e., years in which the adjusted total income is lower than Rs 20 Lakhs or there is no claim of any deduction under section 10AA or chapter-VIA. Thus as per the proposed amendment, credit of AMT paid in earlier years will be available in subsequent years as well as under provisions of section 115JD.

DIVIDEND AND INCOME DISTRIBUTION TAX [SECTION 115-O AND 115R]

It is proposed that dividend/ Income distribution tax is to be paid after grossing up of 'Dividend / Income Distributed'

Thus, for example, where the amount of dividend paid or distributed by a company is Rs. 85, then DDT under the amended provision would be calculated as follows:

Dividend amount distributed = Rs. 85

Increase by Rs. 15 [i.e. $(85 \times 0.15) / (1 - 0.15)$]

Increased amount = Rs. 100

DDT @ 15% of Rs. 100 = Rs. 15

Tax payable u/s 115-O is Rs. 15

Dividend distributed to shareholders = Rs. 85

DISALLOWANCE OF EXPENDITURE FOR NON- DEDUCTION OF TAX AT SOURCE

The existing provisions of section 40(a)(i) of the Act provide that certain payments such as interest, royalty and fee for technical services made to a non-resident shall not be allowed as deduction for computing business income if tax on such payments was not deducted, or after deduction, was not paid within the time prescribed under section 200(1) of the Act. The Act contains similar provisions for disallowance of business expenditure in respect of certain payments made to the residents. Under section 40(a)(ia) of the

Act, in case of payments made to resident, the deductor is allowed to claim deduction for payments as expenditure in the previous year of payment, if tax is deducted during the previous year and the same is paid on or before the due date specified for filing of return of income under section 139(1) of the Act. However, in case of disallowance for non-payment of tax from payments made to non-residents, this extended time limit of payment up to the date of filing of return of income under section 139(1) is not available.

In order to provide similar extended time limit for payment of tax deducted from payments made to non-residents, it is proposed that the deductor shall be allowed to claim deduction for payments made to non-residents in the previous year of payment, if tax is deducted during the previous year and the same is paid on or before the due date specified for filing of return under section 139(1) of the Act.

As mentioned above, in case of non-deduction or non-payment of tax deducted at source (TDS) from certain payments made to residents, the entire amount of expenditure on which tax was deductible is disallowed under section 40(a)(ia) for the purposes of computing income under the head "Profits and gains of business or profession". The disallowance of whole of the amount of expenditure results into undue hardship.

In order to reduce the hardship, it is proposed that in case of non-deduction or non-payment of TDS on payments made to residents as specified in section 40(a)(ia) of the Act, the disallowance shall be restricted to 30% of the amount of expenditure claimed.

Further, existing provisions of section 40(a)(ia) of the Act provides that certain payments such as interest, commission, brokerage, rent, royalty fee for technical services and contract payment made to a resident shall not be allowed as deduction for computing business income if tax on such payments was not deducted, or after deduction, was not paid within the time specified under the said section. Chapter XVII-B of the Act mandates deduction of tax from certain other payments such as salary, directors fee, which are currently not specified under section 40(a)(ia) of the Act. The payments on which tax is deductible under Chapter XVII-B but not specified under section 40(a)(ia) of the Act may also be claimed as expenditure for the purposes of computation of income under the head "Profits and gains from business or profession".

Section 40(a)(ia) has proved to be an effective tool for ensuring compliance of TDS provisions by the payers. Therefore, in order to improve the TDS compliance in respect of payments to residents which are currently not specified in section 40(a)(ia), it is proposed that the disallowance under section 40(a)(ia) of the Act shall extend to all expenditure on which tax is deductible under Chapter XVII-B of the Act.

CORRECTION/ RECTIFICATION OF TDS QUARTERLY STATEMENTS

Under Chapter XVII-B of the Act, a person is required to deduct tax on certain specified payments at the specified rates if the payment exceeds specified threshold. The person deducting tax ('the deductor') is required to file a quarterly statement of tax deduction at source (TDS) containing the prescribed details of deduction of tax made during the quarter by the prescribed due date.

Currently, a deductor is allowed to file correction statement for rectification/ updation of the information furnished in the original TDS statement as per the Centralised Processing of Statements of Tax Deducted at Source Scheme, 2013 notified vide Notification No.03/2013 dated 15th January, 2013. However, there does not exist any express provision in the Act for enabling a deductor to file correction statement.

In order to bring clarity in the matter relating to filing of correction statement, it is proposed to amend section 200 of the Act to allow the deductor to file correction statements. Consequently, it is also proposed to amend provisions of section 200A of the Act for enabling processing of correction statement filed.

TIME LIMIT FOR DEEMING A PERSON ASSESSEE IN DEFAULT

Currently, section 201(3)(i) of the I-T Act provides a time limit for passing of an order for holding a person to be an assessee in default for non deduction or non payment of TDS. Such time limit is two years from the end of the financial year in which the quarterly TDS statement was filed. It is proposed to delete such provision because there is no rationale for not treating the deductor as assessee in default after two years only on the basis that the deductor has filed TDS statement as TDS defaults are generally in respect of the transaction not reported in the TDS statement.

Additionally, section 201(3)(ii) of the I-T Act is proposed to be amended to increase the time limit for passing an order deeming a person to be an assessee on default for non payment and non deduction of TDS on payment made to residents to 7 years from 6 years. This is to align section 201(3)(ii) of the I-T Act with section 148 of IT Act (which relates to time limit for reassessment proceedings).

These amendments are proposed to take effect from October 1, 2014.

PENALTY UNDER SECTION 271H [PENALTY FOR FAILURE TO FURNISH STATEMENTS, ETC]:

Section 271H of the I-T Act is proposed to be amended to provide that penalty there under will be levied by the assessing officer. This amendment is proposed take effect from October 1, 2014.

RATIONALISATION OF THE DEFINITION OF INTERNATIONAL TRANSACTION [SECTION 92B]

The existing provisions of section 92B of the Act define 'International transaction' as a transaction in the nature of purchase, sale, lease, provision of services, etc. between two or more associated enterprises, either or both of whom are non-residents.

Sub-section (2) of the said section extends the scope of the definition of international transaction by providing that a transaction entered into with an unrelated person shall be deemed to be a transaction with an associated enterprise, if there exists a prior agreement in relation to the transaction between such other person and the associated enterprise, or the terms of the relevant transaction are determined in substance between the other person and the associated enterprise. The sub-section as presently worded has led to a doubt whether or not, for the transaction to be treated as an international transaction, the unrelated person should also be a non-resident.

Therefore, it is proposed to amend section 92B of the Act to provide that where, in respect of a transaction entered into by an enterprise with a person other than an associated enterprise, there exists a prior agreement in relation to the relevant transaction between the other person and the associated enterprise or, where the terms of the relevant transaction are determined in substance between such other person and the associated enterprise, and either the enterprise or the associated enterprise or both of them are non-resident, then such transaction shall be deemed to be an international transaction entered into between two associated enterprises, whether or not such other person is a non-resident.

It is also proposed to **amend section 271G** of the Act to include TPO, as referred to in Section 92CA, as an authority competent to levy the penalty under section 271G in addition to the Assessing Officer and the Commissioner (Appeals).

INTRODUCTION OF 'ROLLBACK' PROVISIONS UNDER INDIAN ADVANCED PRICING AGREEMENT REGIME

Section 92CC of the Act provides for Advance Pricing Agreement (APA). It empowers the Central Board of Direct Taxes, with the approval of the Central Government, to enter into an APA with any person for determining the Arm's Length Price (ALP) or specifying the manner in which ALP is to be determined in relation to an international transaction.

In many countries the APA scheme provides for "roll back" mechanism for dealing with ALP issues relating to transactions entered into during the period prior to APA. The "roll back" provisions refers to the applicability of the methodology of determination

Therefore, it is proposed to amend the Act to provide roll back mechanism in the APA scheme. The APA may, subject to such prescribed conditions, procedure and manner, provide for determining the arm's length price or for specifying the manner in which arm's length price is to be determined in relation to an international transaction entered into by a person during any period not exceeding four previous years preceding the first of the previous years for which the advance pricing agreement applies in respect of the international transaction to be undertaken in future.

This amendment will take effect from 1st October, 2014.

I-T OFFICERS ARE GIVEN POWER TO SURVEY SO AS TO VERIFY DEDUCTION OF TAX AT SOURCE [POWER OF SURVEY : SECTION 133A]

As per the existing provisions, an income tax authority has powers to enter certain places of business for the purposes of (i) inspecting books of account or other documents, (ii) verifying cash, stock or other valuable article or thing and (iii) collecting information which may be useful for any proceeding under the Act. *The proposed amendment empowers the income tax authority to exercise some of these powers for the purpose of verifying whether tax has been deducted at source or collected at source in accordance with law or not.*

As per the existing provisions, an income tax authority exercising the powers under section 133A(1) can not retain in his custody any books of account or documents inspected by him during the course of survey for a period of exceeding ten days (exclusive of holidays) without obtaining the approval of the prescribed authorities. *The proposed amendment extends this time limit from 10 days to 15 days.*

ENQUIRY BY PRESCRIBED INCOME TAX AUTHORITY [NEW SECTION 133C]

With a view to enable prescribed income-tax authority to verify the information in its possession relating to any person, it is proposed to insert a new section 133C in the Act so as to provide that for the purposes of verification of information in its possession relating to any person, prescribed income-tax authority, may, issue a notice to such person requiring him, on or before a date to be therein specified, to furnish information or documents, verified in the manner specified therein which may be useful for, or relevant to, any enquiry or proceeding under this Act.

INCOME COMPUTATION AND DISCLOSURE STANDARDS

Section 145 of the Act provides that the method of accounting for computation of income under the heads “Profits and gains of business or profession” and “Income from other sources” can either be the cash or mercantile system of accounting.

The Finance Act, 1995 empowered the Central Government to notify Accounting Standards (AS) for any class of assesses or for any class of income. Since the introduction of these provisions, only two Accounting Standards relating to disclosure of accounting policies and disclosure of prior period and extraordinary items and changes in accounting policies have been notified.

The Central Board of Direct Taxes (CBDT) had constituted an Accounting Standard Committee in 2010. The Committee has submitted its Final Report in August, 2012. The Committee recommended that the AS notified under the Act should be made applicable only to the computation of taxable income and a taxpayer should not be required to maintain books of account on the basis of AS notified under the Act. The Final Report of the Committee was placed in public domain for inviting comments from stakeholders and general public. After examining the comments/suggestions, the Committee inter alia recommended that the provisions of section 145 of the Act may be suitably amended to clarify that the notified AS are not meant for maintenance of books of account but are to be followed for computation of income.

It is further proposed to provide that the Assessing Officer may make an assessment in the manner provided in section 144 of the Act, if the income has not been computed in accordance with the standards notified under section 145(2) of the Act.

ESTIMATE OF VALUE OF ASSETS BY VALUATION OFFICER

It is proposed to substitute the said section 142A so as to provide that the Assessing Officer may, for the purposes of assessment or reassessment, require the assistance of a Valuation Officer to estimate the value, including fair market value, of any asset, property or investment and submit the report to him. The Assessing Officer may make a reference whether or not he is satisfied about the correctness or completeness of the accounts of the assessee. The Valuation Officer, shall, for the purpose of estimating the value of the asset, property or investment, have all the powers of section 38A of the Wealth-tax Act, 1957. The Valuation Officer is required to estimate the value of the asset, property or investment after taking into account the evidence produced by the assessee and any other evidence in his possession gathered, after giving an opportunity of being heard to the assessee.

If the assessee does not co-operate or comply with the directions of the Valuation Officer he may, estimate the value of the asset, property or investment to the best of his judgment. It is also proposed to provide that the Valuation Officer shall send a copy of his estimate to the Assessing Officer and the assessee within a period of six months from the end of the month in which the reference is made. The Assessing Officer on receipt of the report from the Valuation Officer may, after giving the assessee an opportunity of being heard, take into account such report in making the assessment or reassessment.

It is also proposed to amend sections 153 and 153B of the Act so as to provide that the time period beginning with the date on which the reference is made to the Valuation Officer and ending with the date on which his report is received by the Assessing Officer shall be excluded from the time limit provided under the aforesaid section for completion of assessment or reassessment.

These amendments will take effect from 1st October, 2014.

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