



CRK & ASSOCIATES
CHARTERED ACCOUNTANTS

Indian Union Budget 2017-18

Key Tax Proposals



Foreword



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This year's budget was presented amidst major political and financial uncertainties across the globe. Many organizations have revised India's growth rate downwards due to reduction in demand post demonetization. In the light of these changes, it was very important to give economy a push and the government has tried to do just that.

On the macro economic front, the total Fiscal Deficit was targeted at 3.2% of GDP for FY2017-18 and 3% for the next year, while revenue deficit is targeted at 1.9% for the current year. The debt to GDP ratio will also be maintained at 60% by the year 2023. This indicates the government is committed to gradual fiscal consolidation over a period.

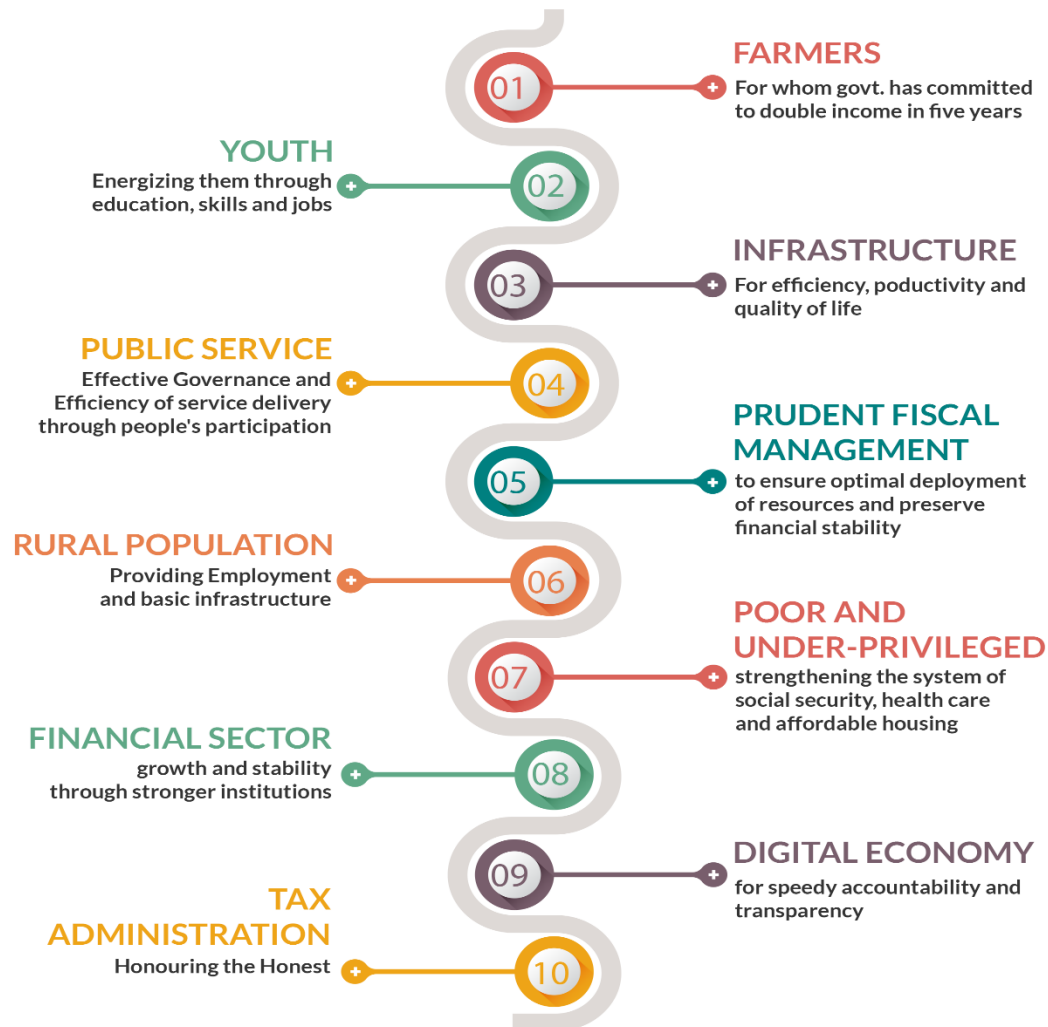
Reduction of tax rates for MSMEs and personal taxes (first slab) will increase the disposable income in the economy albeit at a small rate. This will however bring demand back in the economy. The government will be incurring a revenue loss of INR 15,500 crores by reducing the tax rate in the INR 2.5 lakhs to INR 5 lakhs category. This will be offset by imposition of 10% surcharge on individuals earning above INR 50 lakhs and upto INR 1 crore, to an extent of INR 2,700 crores. This move is seen largely as a fiscal stimulus (net of INR 12,800 crores) much needed to increase the demand in the economy.

The budget remained committed to improving governance, with capping donations received by Political Parties in cash and making it mandatory to file income tax returns.

We consider granting infrastructure status to affordable housing will provide significant benefits to the real estate sector. This means that the sector will get more institutional funding; stabilizing it in the long term.

Overall we think this budget has made a very good effort in further reigning in black money and increasing transparency in the economy. Though it did lack some major tax reforms that the market was expecting, it is pro-reform and in the right direction towards general improvement of the country.

10 THEMES OF BUDGET SPEECH



TEC INDIA



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- ▶ Transform the quality of governance and quality of life of our people.
- ▶ Energise various sections of society, especially the youth and the vulnerable and enable them to unleash their true potential.
- ▶ Clean the country from the evils of corruption, black money and non-transparent political funding.

Direct Tax Proposals

Tax Rates

For Individual, Hindu Undivided Family (HUF), Association of Persons (AOP), Body of Individuals (BOI), Artificial Juridical Persons (AJP) :

Slabs	Existing Rates	New Rates
Up to INR 2,50,000	Nil	Nil
INR 2,50,000 to INR 5,00,000	10%	5%
INR 5,00,000 to INR 10,00,000	20%	20%
Above INR 10,00,000	30%	30%



For resident individuals with age 60 years or more (but less than 80 years) :

Slabs	Existing Rates	New Rates
Up to INR 3,00,000	Nil	Nil
INR 3,00,000 to INR 5,00,000	10%	5%
INR 5,00,000 to INR 10,00,000	20%	20%
Above INR 10,00,000	30%	30%



There is no change in the income tax rates for resident individuals with the age of 80 years or above.

- Surcharge of 10% of tax payable would be levied on individuals whose annual taxable income is between INR 50 lakhs and INR 1 crore.
- Education cess (EC) and Secondary & higher education cess (SHEC) of 3% will remain unchanged for all taxpayers.
- Tax Rebate under Section 87A is proposed to be restricted from existing INR 5,000 to INR 2,500 for resident individuals, whose total income does not exceed INR 3.5 lakhs.
- The tax rates and surcharge in case of Co-operative societies, Firms and Local Authorities will remain unchanged.



In case of domestic companies, the income tax rates from the FY 2017-18 shall be as under:

Turnover/Gross Receipts In FY 2015-16	Rate
Upto INR 50 crores	25%
Above INR 50 crores	30%

- There is no change in the applicable tax rates for Foreign Companies.
- Surcharge, Education cess (EC) and Secondary & higher education cess (SHEC) will remain unchanged for all corporate taxpayers.

Increase in threshold limit for maintenance of books of account – Section 44AA

It is proposed to amend the provisions of Section 44AA to increase monetary limits of income and turnover for maintenance of books of account from existing INR 1.20 lakhs to INR 2.50 lakhs and from INR 10 lakhs to INR 25 lakhs, respectively in the case of Individuals and Hindu undivided family carrying on business or profession.

Exclusion of certain specified person from requirement of audit of accounts – Section 44AB

It is proposed to increase the threshold limit for tax audit of eligible Assessee u/s 44AD, who opts for presumptive income scheme from INR 1 crore to INR 2 crore. This amendment will take effect from AY2017-18.

Measures for promoting digital payments in case of small unorganised business – Section 44AD

In order to encourage small unorganised business (whose turnover is upto INR 2 crore) to accept digital payments, it is proposed to reduce the existing rate of presumptive income u/s 44AD of 8% to 6% in respect of the amount of total turnover or gross receipts received by account payee cheque or account payee bank draft or use of electronic clearing system through a bank account during the previous year or upto the due date of filing of return.

However, the existing rate of deemed profit of 8%, shall continue to apply in respect of total turnover or gross receipts received in any other mode. This amendment will take effect from AY2017-18.

Phasing out of deduction under Section 80CCG

The deduction available to new individual retail investors for investments in listed equity shares or listed units of an equity oriented fund with effect from AY 2018-19 is proposed to be withdrawn.

It is however clarified that such individuals who have already made investments before the phasing out of the provision shall continue to be eligible for the deduction under this section.



Rationalisation of deduction u/s 80CCD for self-employed individual

Deduction for the amount deposited in National Pension System (NPS) u/s 80CCD is proposed to be rationalized for individuals other than employees by increasing the existing upper limit of 10% of gross total income of contribution to 20%.

Advance Tax – Section 211 and Section 234C

It is proposed that professionals declaring profits and gains under presumptive taxation regime shall be liable to pay advance tax in one installment on or before the 15th March. Consequently, interest u/s 234C(1) shall be levied, if the advance tax paid on or before the 15th March, is less than the tax due on the returned income.

Vide Finance Act, 2016, tax on certain dividends received from domestic companies is to be levied, if such income exceeds INR 10 lakhs. Now, it is proposed to provide that in case of shortfall in payment of advance tax on account of under-estimation or failure in estimation of such dividend, the interest u/s 234C shall not be levied subject to fulfillment of certain conditions. These amendments will take effect from AY2017-18.

Enabling of Filing of Form 15G/15H for commission payments – Section 194D

It is proposed to amend Section 197A to make individuals and HUF's eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in respect of insurance commission.

This amendment will take effect from 1st June, 2017.

Tax-exemption to partial withdrawal from National Pension System (NPS)

At present, payment from NPS trust to an employee on closer of his account or opting out is exempt up to 40% of total amount payable to him.

It is proposed that partial withdrawal not exceeding 25% of the contribution made by an employee from National Pension System (NPS) will be tax exempt.



Capital Gains

Long Term Capital Gain – Section 2(42A)

Holding period for computing long term capital gains from transfer of immovable property (land or building or both) is proposed to be reduced from the existing 36 months to 24 months

Shifting Base Year for Capital Gains Calculation – Section 55

Proposal to amend Section 55 and 48 of the Act so as to shift base year for the computation of fair market value and indexation from 1st April, 1981 to 1st April, 2001 for all class of assets including immovable property. Further, the cost of improvement shall include only those capital expenses, which are incurred after 01.04.2001.

Scope of Long Term Bonds Expanded – Section 54EC

To widen the scope of the Section for sectors, which may raise fund by issue of bonds eligible for exemption under Section 54EC, it is proposed to provide that investment in any bond redeemable after 3 years, which has been notified by the Central Government shall also be eligible for exemption.

Fair Market Value of shares to be full value of consideration in certain cases

A new Section 50CA has been proposed to be introduced to provide that, where consideration for transfer of shares of a company (other than quoted shares), is less than the Fair Market Value (FMV) of such shares, then such FMV shall be deemed to be the full value of consideration for the purpose of computing income under the head “Capital gains”.

Extension of capital gain exemption to Rupee Denominated Bonds

It is proposed to provide that any transfer of Rupee denominated bond of Indian company issued outside India, by a non-resident to another non-resident shall not be regarded as transfer, and therefore will not be liable to capital gain tax.

As per current provisions, gains arising on account of appreciation of rupee at the time of redemption of rupee denominated bond, shall be ignored for the purpose of computation of full value of consideration, for the primary holders of such bond. Now, it is also proposed to provide that such exemption shall also be available to secondary holders of bond.





Exemption of long term capital gains tax – Section 10(38)

Exemption of long term capital gain arising from transfer of long term capital asset being equity share of a company or a unit of an equity oriented fund shall be available only if the acquisition of share is chargeable to Securities Transactions Tax (STT) except for genuine cases where STT could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company, acquisition by non-resident in accordance with FDI policy of the Government etc.

Tax neutral conversion of preference shares to equity shares – Section 47

To provide tax neutrality, it is proposed that the conversion of preference share of a company into its equity share shall not be regarded as transfer.

Consequential amendments are also proposed in Section 49 and Section 2(42A) in respect of cost of acquisition and period of holding.

Capital Gains in case of JDA – Section 45 (5A)

To minimise the genuine hardship to an assessee being individual or Hindu undivided family, who enters into a Joint Development Agreement for development of a project, in paying capital gains tax in the year of transfer, it is proposed that the capital gains shall be chargeable to tax as income of the previous year, in which the certificate of completion for the whole or part of the project is issued by the competent authority.

It is further proposed that the stamp duty value of his share, being land or building or both, in the project on the date of issue of said certificate of completion as increased by any monetary consideration received shall be deemed to be the full value of the consideration.

The benefit of this proposal shall not apply to an assessee, who transfers his share in the project on or before the date of issue of said certificate of completion and in such a situation, the capital gains will be determined under general provisions.

Affordable Housing – Section 80 IBA

To promote the development of affordable housing sector, it is proposed to amend Section 80-IBA so as to provide the following relaxations:

- Size of residential unit shall be measured by the “carpet area” and not the “built-up area”.
- Restriction of 30 square meters on the size of residential units shall not apply to the place located within 25 kms from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai.
- Period of completion of project shall be increased from existing 3 years to 5 years.

No Notional Income for House Property held as Stock in Trade – Section 23

For real estate developers, it is proposed that where the house property is held as stock-in-trade and is not let out, the annual value of such property for the period upto 1 year from the end of the financial year, in which the certificate of completion of construction is obtained from the competent authority, shall be taken as Nil.

Extending the Period for Claiming Deduction by Start Ups – Section 80-IAC

Proposal to extend the period of claiming deduction by an eligible start-up for any 3 consecutive assessment years out of 7 years (as against existing 5 years) beginning from the year in which such eligible start-up is incorporated.

Tax Credit Period for Minimum Alternate Tax & Alternate Minimum Tax – Section 115JAA & 115JD

It is proposed that the tax credit determined under MAT and AMT can be carried forward up to 15 assessment years immediately succeeding the assessment years in which such tax credit becomes allowable.



Carry Forward and Set Of Loss – Section 79

To facilitate ease of doing business and to promote start up India, it is proposed that where a change in shareholding has taken place in a previous year, loss shall be carried forward and set off against the income of the previous year, if all the shareholders, which held shares carrying voting power on the last day of the year(s) in which the loss was incurred, continue to hold those shares.

Such losses would have been incurred during the period of 7 years beginning from the year of incorporation.

Increase in the limit of deduction for bad and doubtful debts

Currently, the deduction of 7.5% of the total income is allowed as provision for bad and doubtful debts for a scheduled bank, non-scheduled bank and specified cooperative banks.

It is proposed to increase the available deduction by enhancing the present limit of 7.5% to 8.5% of the total income.



Tax Deducted At Source/Tax Collected At Source (TDS/TCS)

TDS by Individual or HUF (other than those covered under 44AB) on Rent – Section 194-IB

It is proposed to insert a new Section 194-IB to provide that an Individual or a HUF (other than those covered under 44AB of the Act), responsible for paying to a resident any income by way of rent exceeding INR 50,000 for a month or part of month during the previous year, shall deduct tax at source @ 5% of such rent. In order to reduce the compliance burden, it is further proposed that the deductor shall not be required to obtain tax deduction account number (TAN) as per Section 203A of the Act and the deductor shall be liable to deduct tax only once in a previous year. This amendment will take effect from 1st June, 2017.

Extension of Eligible Period of Concessional Tax Rate – Section 194LC and Section 194LD

The existing provisions of Section 194LC and Section 194LD provide for lower rate of tax deduction at source in respect of specified interest payable to non-residents @ 5% of such interest. Such concessional rate was applicable only for the interest payable before 1st July, 2017.

It is proposed to amend these sections to provide that the concessional rate of 5% TDS on such specified interest will now be available on interest payable before the 1st July, 2020.

It is further proposed to extend the benefit of Section 194LC to Rupee Denominated Bond (Masala Bonds) issued outside India before the 1st July, 2020. This amendment will take effect w.e.f AY 2016-17.

Simplification of the provisions of tax deduction at source under Section 194J

It is proposed to amend Section 194J to reduce the rate of deduction of tax at source to 2% from 10% in case of payments received or credited to a payee, being a person engaged only in the business of operation of call center. This amendment will take effect from 1st June, 2017.



Exemption from tax collection at source under Section 206C(1F) in case of certain specified buyers

The existing provision of Section 206C(1F) of the Act, provides that the seller who receives consideration for sale of a motor vehicle exceeding INR 10 lakhs, shall collect 1% of the sale consideration as tax from the buyer.

Now, it is proposed to exempt the Central Government; State Government; an embassy; High Commission, legation, commission, consulate and the trade representation of a foreign State; local authority; a public sector company which is engaged in the business of carrying passengers, from the applicability of said section.

Strengthening of PAN quoting mechanism in the TCS regime

It is proposed that while paying any sum, on which tax is collectable at source, PAN shall be furnished and failing which tax shall be collected at twice the rate mentioned in the relevant section or at the rate of 5%, whichever is higher.

Further, proposal to mandatory quote PAN of the collectee in all correspondences, bills, vouchers and other documents.



Transfer Pricing

Specified Domestic Transaction – Section 92BA

Proposal to exclude transactions entered with person referred to in under Section 40A(2)(b) from the ambit of Domestic Transfer Pricing (SDT). SDT will be restricted if one of the entities involved in related is claiming specified profit linked deduction. This amendment will take effect from AY2017-18.

Limitation of Interest deduction – Section 94B

Proposal to restrict interest expenses to its associated enterprises claimed by an entity (*Indian company or PE of a foreign company not involved into the business of Banks and Insurance*) to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable, whichever is less as recommended in the OECD report on Action 4 of BEPS Action Plan.

It is also proposed that when the debt is issued by a lender which is NOT Associated Enterprise but an Associated Enterprise either provides an implicit or explicit guarantee to such lender or deposits a corresponding and matching amount of funds with the lender, such debt shall be deemed to have been issued by an Associated Enterprise.

Carry forward is also provided of aforesaid disallowed interest upto 8 AYs and deduction can be claimed against the business income to the extent of maximum allowable interest expense.

Limitation of Interest deduction would apply only if such interest expense exceeds INR 1 crore.



Secondary Adjustments – Section 92CE

Proposal to carry out secondary adjustment in Transfer Pricing, where the primary adjustment to transfer price, has been made *suo-motu* by the assessee in his ROI; or made by the AO and has been accepted by the assessee; or is determined by an APA; or is made as per the safe harbour rules; or is arising as a result of resolution of an assessment by way of the MAP.

As a result of primary adjustment to the transfer price, there is an increase in the total income or reduction in the loss, of the assessee, the excess money which is available with its AE, if not repatriated to India, shall be deemed to be an advance made by the assessee to such AE and the interest on such advance, shall be computed as the income of the assessee.

Secondary adjustment would not be done in case the amount of primary adjustment does not exceed INR 1 crore and it is made in respect of an AY commencing on or before 1st April,2016.



Tax Assessments & Procedures

Rationalization of time limit for assessment, reassessment and re-computation.

To finalize the proceedings under the Act more expeditiously as digitization of processes within the Department has overall enhanced the efficiency, Section 153 is proposed to be substituted with the following changes in time limits

- The Finance Act, 2016 had reduced the time limit for the completion of assessment from two years to 21 months. It is now proposed to further reduce the time limit to 18 months from the end of the relevant AY for AY 2018-19.
- Furthermore, it also proposed to further reduce the time limit for the assessments to 12 months from the end of the relevant AY from AY 2019-20.
- It is proposed to increase the time limit for completing re-assessment of notices issued on or after 1 April 2019 to 12 months from the end of the FY in which the notice is served for reassessment as against the existing time limit of 9 months from the end of the FY in which the notice is served for reassessment.
- It has been proposed to increase the time limit for the issuance of the assessment order initiated pursuant to an order passed by the Tribunal in appellate proceedings or by the Principal Commissioner or Commissioner in revision proceedings to 12 months from the end of the FY in which the order is received from the existing 9month limit.
- It is also proposed to provide for a time limit of 12 months for passing an effect order in cases where the verification or opportunity of being heard is required pursuant to an order of the appellate authorities or courts. The time limit of 12 months shall apply from the end of the FY in which such an order from the appellate authorities or courts is received.



Widening of scope of Section 153A

Notice u/s 153A can be issued for assessment years beyond sixth assessment year upto the 10th assessment year, if:

- The documents in possession of AO reveals that the income escaping assessment amounts to INR 50 lakhs or more in one year or in aggregate in the relevant four assessment years (falling beyond the sixth year)
- Such income escaping assessment is represented in the form of asset;
- Income escaping assessment relates to such years.

Restriction over revision of Return of Income

(Applicable with effect from 1 April 2018 and shall apply from AY 2018-19)

It is proposed to reduce the time limit available to the taxpayer for filing a revised return from the existing two year limit from the end of the relevant financial year to one year.

Fee for Delayed Filing of Income Tax Return

Proposal to introduce fee for delay in furnishing of return in cases where the return is not filed within the due dates specified for filing of return under Section 139 (1).

The proposed fee shall be as under:

- a fee of INR 5000 shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;
- a fee of INR 10,000 shall be payable in any other case.

However, fee amount shall not exceed INR 1,000 where the total income does not exceed INR 5 lakhs.



Clarification on computation of undertaking in Special Economic Zones (SEZ), claiming deduction

Many courts (including the Supreme Court) have taken a view that the deduction for SEZ undertaking (under Section 10A) is to be allowed from the total income of the undertaking and not from the total income of the taxpayer.

The above rulings have now been overturned and it has been proposed that deduction be allowed from the total income before considering this deduction. It is further proposed that the deduction in no case shall exceed the total income.

Rationalization of taxation of income by way of dividend

(Applicable with effect from 1 April 2018, apply from AY 2018-19)

The Finance Act, 2016 had introduced Section 115BBDA which provided for taxing dividend in the hands of an individual, HUF and firm earned from a domestic company in excess of INR 1 million at the rate of 10% on a gross basis.

It is now proposed to apply the said section to all residents except a domestic company, a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred in Sub-clause (iv) or Sub-clause (v) or Sub-clause (vi) or Sub-clause (via) of Section 10(23C), trust or institution registered under Section 12AA.

Clarification with regard to the interpretation of 'terms' used in an agreement entered into under Section 90 and 90A

It is clarified that where a particular 'term' is defined under the Double Tax Avoidance Agreement (DTAA), the term shall have the same meaning as mentioned in the DTAA. However, only in cases where the 'term' is not defined under a DTAA, it shall have the meaning as assigned under the Act and any explanation given to it by the central government.



Power to withhold refund is reintroduced

When a case is selected for a Revenue Audit and when the refund becomes due based on the summary assessment, the tax officer can withhold the refund if he is of the view that granting the refund may adversely affect the revenue recovery. However, this can be done only after submitting the reason for it and with prior approval from the Principal Commissioner or Commissioner.

Interest on refund due to deductor

Akin to the taxpayer, it is now proposed that the tax deductor is also entitled to interest at the rate of 0.5%, on any refund of taxes deducted at source, from the date on which the claim for the refund is made, up to the date it is granted. However, the period of delay attributable to the deductor will not be eligible for interest.

Search and seizure

Section 132 (search and seizure that Indian Tax Authorities are not required has now been clarified and discloses reasons recorded for a search to any person or any authority or the Appellate Tribunal. A similar amendment is also proposed under Section 132A (Powers to Requisition Books of Accounts).

Provisional attachment of property for search cases

(Applicable with effect from 1 April 2018 and shall apply from AY 2017-18)

It is proposed to introduce Sub-section (9B), (9C) and 9(D) to Section 132 to empower Indian Tax Authorities to provisionally attach any property belonging to the taxpayer after obtaining an approval during the course of search or seizure or within 60 days from the date of execution of the search to protect the interest of revenue. Such attachment shall cease to have effect after six months from its date of order.

The tax officer can make a reference to the valuation officer for the purpose of estimation of the fair market value of any property during the course of search and seizure or within 60 days from the date of execution.

Other Proposals



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Enabling claim of credit for foreign tax paid in cases of dispute

It is proposed to provide that where credit for foreign taxes paid is not given for the relevant assessment year on the grounds that the payment of such foreign tax was in dispute, such credit shall also be allowed by AO through rectifying the assessment order or an intimation u/s 143(1), subject to condition that the Assessee furnishes the following, within 6 months from the end of month, in which dispute is settled:

- Proof of settlement of such dispute;
- Evidence that the foreign tax liability has been discharged; and
- An undertaking that credit of such amount of foreign tax paid has not claimed or shall not be claimed for any other assessment year.

Widening Scope of Income from Other Sources – Section 56(2)(x)

It is proposed to introduce a new Section 56(2)(x) to provide that any receipt of sum of money or property by any person, without consideration or inadequate consideration, in excess of INR 50,000 shall be chargeable to tax in the hands of all recipient Assessee instead of a certain category of assesses as per existing provisions.

Further, it is also proposed that the receipt by certain trusts or institutions and receipt by way of certain transfers shall not be regarded as transfer u/s 47.

Merger of Authority in Advance Ruling

To promote the ease of doing business, the government has proposed to merge the Authority of Advance Ruling for direct and indirect taxes. In this regard, relevant changes have been made to the provisions of Advance Ruling by amending the definition of applicant to include applicants of other laws i.e. customs duty, excise and service tax.



Modification in the conditions of the special taxation regime for offshore funds under Section 9A

(Applicable retrospectively with effect from 1 April 2016 and shall apply from AY 2016-17)

The Finance Act, 2015 had introduced Section 9A which provided that in case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such a fund shall not constitute business connection in India subject to fulfilment of certain conditions.

One of the conditions provided was that the monthly average corpus of the fund shall not be less than INR 1 billion. However, a representation to that effect was made in a case where the fund was being wound up, it was not possible to maintain the monthly average of the corpus of the fund.

In order to rationalise the provision, it is now proposed that the said clause shall not apply to a fund which is wound up in the previous year.

Extension of deduction of interest payable to cooperative banks

Presently, a deduction for the interest on loans from scheduled banks is allowed as a deduction only if the amount is paid before the due date of filing the return. It is proposed to extend the applicability of this provision to the interest payable on any loan or advance from specified cooperative banks as well.

Disallowance for non-deduction of tax from payment to resident

It is proposed to amend Section 58, that provisions of Section 40(a)(ia) shall be applicable while computing income chargeable under the head "Income from other sources".

Accordingly, 30% of the expenditure, on which tax has not been deducted by the Assessee, shall be disallowed while computing total income of the Assessee.



Interest on refund due to deductor

Akin to the taxpayer, it is now proposed that the tax deductor is also entitled to interest at the rate of 0.5%, on any refund of taxes deducted at source, from the date on which the claim for the refund is made, up to the date it is granted. However, the period of delay attributable to the deductor will not be eligible for interest.

Restriction on set-off of loss from house property

It is proposed that set-off of loss under the head “Income from house property” against any other head of income shall be restricted to INR 2 lakhs for any assessment year.

Unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years.

Clarity relating to Indirect transfer provisions – Section 9

Existing Explanation 5 to Section 9(1)(i), contains that asset or capital asset, (being any share or interest in a company or entity registered or incorporated outside India) shall be deemed to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

In order to avoid multiple taxation, it is now proposed to clarify that the Explanation 5 shall not apply to any asset or capital asset mentioned therein, being investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor, and in a registered Category-I or Category II Foreign Portfolio Investor.

This amendment will take effect retrospectively from AY 2012-13.



Charitable trust or institution

It is proposed to insert a new explanation stating that any amount paid or credited, out of donations received, to the corpus of other charitable trust or institution will not be considered as an application of income for the former charitable trust or institution.

It is also proposed that in order to claim the deduction under Section 11 or 12, the charitable trust or institution will be required to file its tax return within the time frame prescribed. A delay in filing the tax return would make them ineligible to claim exemptions under Section 11 or 12.

It is further proposed that the trust or institution granted registration under Section 12AA shall be required to obtain a fresh registration by making an application within a period of thirty days from the date of such modifications of the objects in the prescribed form and manner. In case such an application is not made, the trust or institution would not be eligible to claim exemptions under Section 11 or 12.

Section 133A of the Act has been amended to empower the tax authorities to conduct a survey at any place at which activities for charitable purposes are carried out (Applicable with effect from 1 April 2017 and shall apply from AY 2017-18).

Promotion Of Digital Economy



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Restriction on cash transactions – Section 269ST and 271DA

It is proposed to insert Section 269ST to provide that no person shall receive an amount of INR 3 lakhs or more:

- in aggregate from a person in a day;
- in respect of a single transaction; or
- in respect of transactions relating to one event or occasion from a person,

Otherwise than by an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account.

It is also proposed to insert Section 271DA to provide for a penalty of 100% of such receipt, on a person who receives a sum in contravention of the provisions of the proposed Section 269ST. The said penalty will not be levied if the person proves that there were good and sufficient reasons for such contravention.

These provisions shall not apply to Government, any Banking Company, Post Office Savings Bank or Co-operative Bank.

Restricting Cash Donations – Section 80G

It is proposed to amend Section 80G so as to provide that deduction shall not be allowed u/s 80G in respect of donation in cash exceeding INR 2,000 as against existing limit of INR 10,000.



Reduction in threshold limit for cash payment in a day – Section 40A(3) and 40A(3A)

It is proposed to reduce the threshold of cash payment to a person in a single day from existing INR 20,000 to INR 10,000; i.e. any payment in cash above INR 10,000 to a person in a day, shall not be allowed as deduction in computation of Income from “Profits and gains of business or profession”.

Disallowance of capital expenditure incurred in cash – Section 32; 35AD and 43

In order to discourage cash transactions for capital expenditure, it is proposed to amend the provisions of Section 43 & Section 35AD to provide that where an Assessee acquires any capital asset in respect of which a payment is made in cash to a person in a day, exceeds INR 10,000, such expenditure shall be ignored for the purposes of determination of actual cost of such asset and deduction shall not be allowed in respect of any such expenditure.

Donation To Political parties

Currently, political parties receiving donations above INR 20,000 from a particular person are expected to provide such donor’s details to the Election Commission. However, there is no restriction on the receipt of donation in cash by a political party. In order to bring transparency in the source of funding to political parties and to discourage cash transactions, it is proposed that political parties would not be allowed to obtain donations above INR 2,000 in cash.

Furthermore, in order to claim the exemption, political parties would be required to file tax returns within the time limit prescribed.

Also, it is proposed that electoral bonds would be issued according to the guidelines of the Reserve Bank of India, which can be used as an instrument for receiving donations. The political party is not required to disclose details of donors who have donated the funds through such electoral bonds.

Indirect Tax Proposals



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Goods & Service Tax (GST)

The Union FM reiterated the substantial progress made towards ushering in GST which, he noted, is the biggest tax reform since Independence.

The GST Council, appointed under the Constitution through the amendment made on September 16, 2016 has held 9 meetings so far to discuss various issues pertaining to

GST including:

- Broad contours of GST rate structure.
- Threshold exemption and parameters of composition scheme.
- Details of compensation to the States due to implementation of GST.
- Clause-wise examination of draft Model GST law and draft IGST Law and the Compensation Law; and
- Administration mechanism for GST

The FM also noted that the preparation of Information Technology system for GST is also on schedule.

The Union Government, through the CBEC, will commence an extensive reach-out effort to trade and industry for GST which will start from April 1, 2017 onwards to make them aware of the new taxation system.



Service Tax

Rate of Service Tax

The basic rate of Service Tax remains unchanged at 15% with Swach Bharat Cess leviable at 0.5 % and Krishi Kalyan Cess at 0.5%.

Services proposed to be exempted from levy of Service Tax

No Service tax shall be leviable on one time upfront amount (premium, salami, cost price, development charges or by whatever name called) in relation to, services provided from 1st June, 2007 to 21st September, 2016 (both days inclusive), by State Government industrial development Corporation or undertaking to industrial units by way of grant of long term lease of 30 years or more of industrial plots.

Services provided by the Army, Naval and Air Force Group Insurance Funds by way of life insurance to members of the Army, Navy and Air Force, respectively, from 10th September, 2004 to 1st February, 2016 (both days inclusive) under the Group Insurance Schemes of the Central Government.

Further, refund in respect of above services shall be allowed in respect of service tax, already collected during the said period. And the application for the same can be filed within 6 months from enactment of Finance Act, 2017.

Services provided by the Indian Institutes of Management, to their students, by way of two year *residential as well as non-residential* full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test, conducted by Indian Institute of Management.



Services proposed to be exempted from levy of Service Tax

Exemption from Service Tax on the amount payable as Viability Gap Funding to selected airline operators for the services of transport of passengers by air, with or without accompanied belongings, embarking from or terminating at a Regional Connectivity Scheme Airport (“RCS”). The exemption would be valid for a period of one year from the date of commencement of operations of the RCS.

Services of life insurance business provided or agreed to be provided by the Army, Naval and Air Force Group Insurance Funds to members of the Army, Navy and Air Force, respectively, under the Group Insurance Schemes of the Central Government.

Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption proposed to be deleted from the negative list however the Service tax exemption has been continued via amending the exemption notification no. 25/2012-ST, the given provision would be effective from the date of enactment of Finance Act, 2017.

New services brought/exemption withdrawn

Research and Development Cess Act, 1986 has been proposed to be repealed. Therefore the Service Tax exemption of the amount of Research and Development Cess payable on import of technology would no longer be available.

Amendment in the valuation rules of Works Contract

It has been clarified that with effect from 1st July, 2010, the value of service portion in execution of works contract shall not include value of property involve in transfer of goods and land or undivided share of land, as the case may be.

Where the amount charged for works contract includes the value of goods as well as land or undivided share of land, the service tax shall be payable on 30% of the total amount charged for works contract, the given percentage would be different for different time period provided in the sixth schedule of the Finance Bill, 2017.



Central Excise

Rate of Central Excise

The standard rate of Excise Duty on most products remains unchanged at 12.5%.

Products proposed to be exempted from levy of Central Excise

The government has exempted resin and catalyst for manufacture of cast components for Wind Operated Energy Generators (WOGEG) from levy of Excise Duty, subject to actual user conditions as the government is trying promote the development and application of renewable sources of energy.

Miniaturized POS card, Micro-ATM, Finger Print Reader / Scanner or Iris Scanner along with the parts and components for their manufacture have been exempted from Excise Duty by the government in its attempt to shift towards a digital and cashless economy.

The exemption was already available till 31st March, 2017, and now it has been extended to 30th June, 2017.



Change in Rates

The government has increased the rate of Excise Duty on Sin goods such as tobacco and cigarettes in order to increase its revenue while discouraging their usage at the same time.

The details of the changed rates are given below:

Sr.No.	Commodity	Current rate	Proposed rate
1.	Cigarandcheroots	12.5% or INR 3,755 per thousand, whichever is higher	12.5% or INR 4,006 per thousand, whichever is higher
2.	Cigarettes of tobaccosubstitutes	INR 3,755 per thousand	INR 4,006 per thousand
3.	Pan Masala (not containing tobacco)	6%	9%
4.	Unmanufactured Tobacco	4.2%	8.3%
5.	Paper rolled biris – handmade	INR 21 per thousand	INR 28 per thousand
6.	Paper rolled biris – machine made	INR 21 per thousand	INR 78 per thousand

The rate of Basic Excise Duty on components for manufacture of renewable sources of energy has been reduced by the government. Details of the changed rates are given below:

Sr.No.	Commodity	Current rate	Proposed rate
1.	Parts/raw materials for manufacture of solar tempered glass for use in solar cells/modules	12.5%	6%
2.	All items of machinery required for balance of systems operating on biogas/ bio-methane/by-product hydrogen	12.5%	6%
3.	All items of machinery required for fuel cell based power generating systems to be set up in the country or for demonstration purposes	12.5%	6%



Amendments in the Central Excise Act, 1944

The advance ruling authority has been defined as an Authority for Advance Ruling as constituted under Section 245-O of the Income Tax Act, 1961.

Section 23C of the Central Excise Act has been amended so as to increase the application fee for seeking advance ruling from INR 2,500 to INR 10,000. Further, Section 23D has been amended to extend the time limit for pronouncement of the ruling to 6 months from 90 days.

Every application and proceeding pending before the erstwhile authority of Advance Ruling (Central Excise, Service Tax, Customs) shall be transferred to the advance ruling authority of Income Tax from the stage at which the such application stood at the date of Enactment of Finance Act, 2017.

A long awaited amendment has finally been made in Section 32E of Central Excise Act, 1944 to enable any person, other than assessee to make an application before the Settlement Commission.

Previously, only an assessee as defined in Section 31(a) of the Central Excise Act was allowed to make an application before the Settlement Commission in relation to a case pending against him.

As a consequence of this amendment, co-noticee to a Show-cause notice can now file applications for settlement in relation to a case.

A new sub-Section (5A) has been inserted in Section 32F enabling the Settlement Commission to amend the order passed by it to rectify any error evident on the face of record at any time within three months from the date of passing the order.



Amendments in the Central Excise Rules, 2002

A sub-rule (2) has been inserted in Rule 21 so as to provide a time limit of 3 months {further extendable by 6 months} for granting remission of duty under the said rule read with Section 5 of the Central Excise Act.

Amendments in CENVAT Credit Rules, 2004

Rule 10 which deals with Transfer of CENVAT Credit on account of shifting of factory, transfer of business due to merger, sale etc. has been amended. Sub rule (4) has been inserted in order to provide a time limit of three months {further extendable by 6 months} from the date of receipt of application for transfer of such credit.



CUSTOMS

Change in Rates

The rate of Customs Duty on components for manufacture of renewable sources of energy has been reduced by the government in its initiative to promote the development and application of renewable sources of energy. Details of the changed rates are given below:

Sr.No.	Commodity	CurrentRate	Proposed rate
1.	Parts/raw materials for manufacture of solar tempered glass for use in photovoltaic cells/modules.	CVD – 12.5%	CVD – 6%
2.	Resin and catalyst for manufacture of cast components for Wind Operated Energy Generators	BCD – 7.5% CVD – 12.5% SAD – 4%	BCD – 5% CVD – Nil SAD – Nil
3.	All items of machinery required for fuel cell based power generating systems	BCD – 10% / 7.5% CVD – 12.5%	BCD – 5% CVD – 6%
4.	All items of machinery required for balance of systems operating on biogas/ bio-methane/by-product hydrogen	BCD – 10% / 7.5% CVD – 12.5%	BCD – 5% CVD – 6%

Exemption to certain imports

Goods imported through postal parcels, packets and letters with a CIF (Cost Insurance Freight) value up to INR 1000 per consignment have been exempted from levy of Basic Customs Duty, Counter-vailing Duty and Special Additional Duty. The government has exempted Basic Customs Duty, Counter-vailing Duty and Special Additional Duty on import of POS devices, Micro ATMs, fingerprint-reader/scanner, Iris Scanner in order to facilitate the transition towards a digital and cashless economy.

Solar Tempered glass for use in manufacture of solar cells/panels/modules have been exempted from Basic Customs Duty by the government in order to encourage the development and application of renewable sources of energy.



Amendments in the Customs Act, 1962

The application fee for seeking advance ruling has been increased from INR 2,500 to INR 10,000 by amending Section 28H of Customs Act, 1962.

A new clause (3A) has been inserted in Section 2 to define beneficial owner as any person on whose behalf goods are being imported or exported or who exercises effective control over the goods being imported or exported.

The definitions of exporter and importer have been amended so as to include beneficial owner as defined in newly introduced clause 3A.

Section 47(2) has been amended. Time limit for payment of Customs Duty reduced from earlier two days (excluding holidays) from the date on which the bill of entry is returned to importer for payment of duty, to one day from the date on which the bill of entry is returned to importer for payment of duty, or one day of presentation of bill of entry in case of self-assessment.

Section 46(3) has been amended so as to make it mandatory to file the bill of entry before the end of next day following the day on which the aircraft or vessel carrying the goods arrives at the customs station.

Section 17 has been amended to rationalize the requirement of documents for verification of self assessment.



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