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## Budget - 2015

### Highlights

#### I. DIRECT TAXES

##### A. Income Tax

###### 1. Rates Of Income Tax

- There has been **no change** in the rate of **Personal Income Tax**.
- **Corporation Tax** will be reduced from 30% to 25% over a period of next 4 years starting from FY 2016-17.
- **Rate of Surcharge** has been **increased from 10% to 12%** in respect of Individuals, HUFs, AOPs, BOIs, AJP, Firms, and Cooperative Societies & Local Authorities having **total income exceeding Rs. One Crore**. For **Domestic Companies**, the rate of surcharge has been increased **from 5% to 7%** where **total income exceeds Rs. One Crore & from 10% to 12%** where **total Income exceeds Rs. Ten Crores**. In other cases such as Dividend Distribution Tax etc. (including sections 115-O, 115QA, 115R, or 115TA) the surcharge shall be levied @ 12%. For **foreign Companies**, there has been **no change** in the rate of Surcharge.

###### 2. Tax benefits under section 80C for the girl child under the Sukanya Samridhi Account Scheme

- Amendment of section 80C of the Act is proposed to be made so as to provide that a sum paid or deposited during the year in the Sukanya Samridhi Scheme in the name of any girl child of the individual or in the name of any girl child for whom such individual is the legal guardian, would be eligible for deduction under section 80C of the Act. **(Applicable w.e.f. A/Y 2015-16)**.

- The interest accruing on deposits in such account will be exempt from income tax & the withdrawal from the said scheme in accordance with the rules of the said scheme will also be exempt from tax. **(Applicable w.e.f. A/Y 2015-16).**

### 3. Limit of deduction under Section 80D - Raised

- The quantum of deduction allowed under Section 80D to **individuals and HUF** in respect of premium paid for health insurance has been raised from **Rs.15,000/- to Rs. 25,000/-** & for **senior citizens** the deduction has been raised from **Rs.20,000/- to Rs. 30,000/-**. **(Applicable w.e.f. A/Y 2016-17).**
- Further, as a welfare measure towards **very senior citizens**, 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 **Rs. 30,000/-** shall be allowed as deduction under section 80D. The aggregate deduction available to any individual in respect of health insurance premia and the medical expenditure incurred would however be limited to Rs. 30,000/-. Similarly aggregate deduction for health insurance premia and medical expenditure incurred in respect of parents would be limited to Rs. 30,000/-. **(Applicable w.e.f. A/Y 2016-17).**

### 4. Limit of deduction under Section 80DDB - Raised

- A higher limit of deduction of **upto Rs. 80,000/-** has been provided to **very senior citizens** in respect of expenditure incurred on medical treatment of certain chronic & protracted diseases. **(Applicable w.e.f. A/Y 2016-17).**
- Secondly, the requirement of obtaining prescription from Government Hospital to claim deduction u/s 80DDB has been done away with. Now **the assessee will be required to obtain a prescription from any specialist doctor** for the purpose of availing this deduction.

### 5. Limit of deduction under section 80DD and 80U for persons with disability and severe disability-Raised

- In view of the rising cost of medical care and special needs of a disabled person, it is proposed to amend section **80DD** and **section 80U** so as to raise the limit of deduction in respect of a person with disability from **Rs. 50,0000/- to Rs. 75,000/-**. & in respect of a person with **severe disability** from **Rs. 1,00,000/- to Rs. 1,25,000/-**. **(Applicable w.e.f. A/Y 2016-17).**

### 6. Limit of deduction under Section 80CCC (for contribution to Pension Scheme etc.) - Raised

- In order to promote social security, it is proposed to raise the limit of deduction under section 80CCC **from Rs. 1,00,000/- to Rs. 1,50,000/-**, within the overall limit provided in section 80CCE. **(Applicable w.e.f. A/Y 2016-17).**

### 7. Additional deduction under 80CCD

- With a view to encourage people to contribute towards NPS, in addition to the existing deduction of 10 % of Salary or Gross Total Income (as the case may be) in respect of contribution made to National Pension Scheme(NPS), it is proposed to provide for an additional deduction in respect of any amount paid, of upto Rs. 50,000/- for contributions made by any individual assessee under the NPS. Existing cap of Rs.

1,00,000/- on deduction has also been done away with. **(Applicable w.e.f. A/Y 2016-17).**

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

- It is, proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194DA (payment made under Life Insurance Policy) also eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A. This amendment will take effect from 1st June, 2015.

9. **Relaxing the requirement of obtaining TAN for certain deductors**

- To reduce the compliance burden of certain deductors (such as Individuals & HUFs who are not subject to Audit u/s 44AB), 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**. This amendment will take effect from 1st June, 2015.

10. **100% deduction for National Fund for Control of Drug Abuse Swachh Bharat Kosh and Clean Ganga Fund –Section 80G**

- It is proposed amend **section 80G** so as to provide **100% deduction** in respect of donations made to the **National Fund for Control of Drug Abuse**. **(Applicable w.e.f. A/Y 2016-17).**
- It is proposed to amend **section 80G** of the Act so as to incentivise donations to the two funds. 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 100% from the total income**. However, any sum spent in pursuance of Corporate Social Responsibility 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. **(Applicable w.e.f. A/Y 2015-16).**

11. **Scope of Sec 269SS & Sec 269T extended**

- In order to curb generation of black money by way of dealings in cash in immovable property transactions it is proposed to amend **section 269SS**, 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.**

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.**

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

## **12. Deferment of provisions relating to General Anti Avoidance Rule (“GAAR”)**

- It is proposed that **implementation of GAAR be deferred by two years** and GAAR provisions be made applicable to the income of the financial year 2017-18 (Assessment Year 2018-19) and subsequent years by amendment of the Act. Further, **investments made up to 31.03.2017 are proposed to be protected from the applicability of GAAR** by amendment in the relevant rules in this regard. This amendment will take effect from **1st April, 2015**.

## **13. Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)**

- The Finance (No.2) Act, 2014 had amended the Act to put in place a special taxation regime in respect of business trusts such as **Real Estate investment Trust (REIT)** or an **Infrastructure Investment Trust (InvIT)** which is registered under regulations framed by Securities and Exchange Board of India (SEBI) in this regard. **There were certain anomalies in the existing provisions** as contained in the different sections of the Income Tax Act.

**In order to provide parity, it is proposed that,-**

(i) the sponsor would get the same tax treatment on offloading of units under an Initial offer on listing of units as it would have been available had he offloaded the underlying shareholding through an IPO.

(ii) the Finance (No. 2) Act, 2004 be amended to provide that STT shall be levied on sale of such units of business trust which are acquired in lieu of shares of SPV, under an Initial offer at the time of listing of units of business trust on similar lines as in the case of sale of unlisted equity shares under an IPO.

(iii) the benefit of concessional tax regime of tax @15 % on STCG and exemption on LTCG under section 10(38) of the Act shall be available to the sponsor on sale of units received in lieu of shares of SPV subject to levy of STT.

Further, in case of a business trust, being REITs, the income is predominantly in the nature of rental income. This rental income arises from the assets held directly by REIT or held by it through an SPV. The rental income received at the level of SPV gets passed through by way of interest or dividend to the REIT, the rental income directly received by the REIT is taxable at REIT level and does not get pass through benefit.

In order to provide pass through to the rental income arising to REIT from real estate property directly held by it, it is proposed to provide that :-

(i) any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust shall be exempt;

(ii) the distributed income or any part thereof, received by a unit holder from the REIT, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such REIT, shall be deemed to be income of such unit holder and shall be charged to tax.

(iii) the REIT shall effect TDS on rental income allowed to be passed through. In case of resident unit holder, tax shall deducted @ 10%, and in case of distribution to non-resident unit holder, the tax shall be deducted at rate in force as applicable for deduction of tax on payment to the non-resident of any sum chargeable to tax .

(iv) no deduction shall be made under section 194-I of the Act where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset held directly by such REIT.

**(Applicable w.e.f. A/Y 2016-17).**

#### **14. Extension of eligible period of concessional tax rate under section 194LD**

- **Benefit of lower withholding tax @ 5%** in case of interest payable at any time on or after the 1st day of June, 2013 but before the 1st day of June, 2015 to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds **has been extended.**

It is proposed to amend section 194LD to provide that the concessional rate of 5% withholding tax on interest payment under the section **will now be available on interest payable upto 30th June, 2017.**

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

#### **15. Reduction in tax rate on Income by way of Royalty and Fees for technical services in case of non-residents- Sec 115A**

- In order to reduce the hardship faced by small entities due to high rate of tax of 25%, **Rate of Tax in case of a non-resident taxpayer**, where the total income includes any **income by way of Royalty and Fees for technical services** (FTS) received by such non-resident from Government or an Indian concern after 31.03.1976, and which is not effectively connected with permanent establishment, if any, of the non-resident in India, **has been reduced to 10%. (Applicable w.e.f. A/Y 2016-17).**

#### **16. Deduction for employment of new workmen- Scope of Sec 80JJAA widened**

- The existing provisions contained in **section 80JJAA** of the Act, provide for **deduction to an Indian company**, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is equal to 30% of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.
- With a view to encourage generation of employment, it is proposed to amend the section 80JJAA so as **to extend the benefit to all assessees having manufacturing units** rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen.

**(Applicable w.e.f. A/Y 2016-17)**

#### **17. Allowance of balance 50% additional depreciation- Sec 32(1) (ia)**

- Additional depreciation @ 20% of cost of new Plant & Machinery is allowed to manufacturing & power sector where new machinery or plant is acquired, installed & put to use for a period of more than 180 days otherwise 50% of the same is allowed. To remove this discrimination, it is proposed to provide that the 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. **(Applicable w.e.f. A/Y 2016-17)**

#### **18. Raising the threshold for specified domestic transaction**

- In order to address the issue of compliance cost in case of small businesses on account of **low threshold of Rs. 5.00 crores**, it is proposed to amend section 92BA to provide that the aggregate of **specified transactions** entered into by the assessee in the previous year should exceed a sum of **Rs. 20.00 crores** for such transaction to be treated as '**specified domestic transaction**'. (Applicable w.e.f. A/Y 2016-17)

#### **19. Rationalisation of definition of charitable purpose in the Income-tax Act**

- The **activity of Yoga** has been included as a specific category in the definition of **charitable purpose** on the lines of education.
- It is also, proposed to amend the definition of charitable purpose to provide that the **advancement of any other object of general public utility** shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless,-
  - (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; **and**
  - (ii) the **aggregate receipts from such activity** or activities, during the previous year, **do not exceed twenty percent. of the total receipts**, of the trust or institution undertaking such activity or activities, for the previous year .

(Applicable w.e.f. A/Y 2016-17)

#### **20. Raising the Income-limit of the cases that may be decided by single member bench of ITAT**

- It is proposed to amend sub-section (3) of section 255 of the Income-tax Act so as to provide that a **bench constituted of a single member** may dispose of a case where the **total income as computed by the Assessing Officer does not exceed Rs. 15,00,000/-**. Earlier this limit was Rs. 5,00,000/-. This amendment will take **effect from 1st day of June, 2015**.

#### **21. 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 allowed to be filed when the decision on the question of law becomes final in the earlier case.**

However, this procedure is to be adopted only where 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. This amendment will take **effect from the 1st day of June, 2015**.

## **22. Board to notify rules for giving foreign tax credit u/s 91**

- Presently, the Income-tax Act does not provide the manner for granting credit of taxes paid in any country outside India. Accordingly, it is proposed to amend sub-section (2) of section 295 of the Income-tax Act so as to provide that 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. This amendment will take **effect from 1st day of June, 2015**.

## **23. Clarification regarding deduction of tax from payments made to transporters- Sec 194C**

- 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 on payments made to transporters**, shall only **be applicable to the** payment in the nature of transport charges (whether paid by a person engaged in the business of transport or otherwise) made to an contractor who is engaged in the business of transport i.e. plying, hiring or leasing goods carriage and **who is eligible to compute income as per the provisions of section 44AE of the Act (i.e a person who is not owning more than 10 goods carriage at any time during the previous year) and who has also furnished a declaration to this effect along with his PAN.**

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

## **24. Rationalisation of provisions relating to deduction of tax on interest (other than interest on securities- Sec 194A**

- **TDS exemption on Interest payment (on Time Deposit) by Cooperative bank to its Members withdrawn:** 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.
- **Henceforth Interest on Recurring Deposit will also be subject to TDS:** It is, proposed to amend the definition of 'time deposits' so as to **include recurring deposits within its scope for the purposes of deduction of tax under section 194A** of the Act. However, the existing threshold limit of Rs 10,000 for non-deduction of tax shall also be applicable in case of interest payment on recurring deposits to safeguard interests of small depositors.
- **Threshold Limit of Rs. 10,000/- is to be applied Bank wise & 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. **There is no rationale for continuing branch wise calculation of interest by the entities who have adopted core banking solutions.**
- **TDS on Interest on compensation on payment basis instead of accrual basis:** It is, 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** 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/-.

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

## **25. Rationalisation of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS)**

- It is, proposed to amend the provisions of section 200A of the Act so as to enable computation of fee payable under section 234E of the Act at the time of processing of TDS as well as TCS statements under section 200A of the Act.
- Currently, there does not exist any provision for allowing a collector to file TCS correction statement in respect of TCS statement which has been furnished. It is, proposed to amend the provisions of section 206C of the Act so as to **allow the collector to furnish TCS correction statement**.
- Provisions of Rectification u/s 154, appeal u/s 246A & intimation deemed as notice of Demand, presently applicable to TDS statements shall also be applicable to Intimation generated after processing of TCS Statements.
- Existing provisions relating to payment of TDS/TCS by Government deductors have also been rationalised.
- 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**.
- 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. **Penalty of Rs. 1.00 lac** is proposed to be levied in case of non-furnishing of Information or furnishing of incorrect information u/s 195(6) of the Act.

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

## **26. TDS on premature withdrawal from 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. **Employees having NIL tax liability** can give **declaration in Form 15G/15H**. It is also proposed that **non-furnishing of PAN to the EPFS** for receiving these payments **would attract deduction of tax at the maximum marginal rate**.

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



## **27. Amendment to the conditions for determining residency status in respect of Companies**

- 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 (POEM), 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.

It is proposed that in due course, a set of guiding principles to be followed in determination of POEM would be issued for the benefit of the taxpayers as well as, tax administration.

**(Applicable w.e.f. A/Y 2016-17)**

## **28. Certain accountants not to give reports/certificates**

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

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

## **29. Penalty u/s 271(1)(c) to be levied where concealment of Income occurs under the Income computed under general provisions of the Act & Tax is paid under the provisions of MAT.**

- It is proposed to amend section 271 of the Act so as to provide that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC. However, if an amount of concealment of income on any issue is considered both under the general provisions and provisions of section 115JB or 115JC then such amount shall not be considered in computing tax sought to be evaded under provisions of section 115JB or 115JC. **(Applicable w.e.f. A/Y 2016-17)**

**30. Cost of acquisition of a capital asset in the hands of resulting company to be the cost for which the demerged company acquired the capital asset**

- It is proposed to amend **Sec 49(1)(iii)(e)** to provide that the cost of acquisition of an asset acquired by resulting company shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company. Further, the period of holding of such asset in the hands of resulting company should include the period for which the asset was held by the demerged company. **(Applicable w.e.f. A/Y 2016-17)**

**31. Clarificatory amendment with regard to Explanation 5 in section 9(1)(i) w.r.e.f 01/04/1962**

- **Based on the recommendation of Expert committee under the chairmanship of Dr. Parthasarthi Shome** following amendments are proposed in the provisions of sec 9 relating to Indirect transfer:

(i) the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-

(a) exceeds the amount of ten crore rupees ; and

(b) represents at least fifty per cent. of the value of all the assets owned by the company or entity.

(ii) value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.

(iii) the specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.

(iv) however, if the book value of the assets of the company on the date of transfer exceeds by at least 15% of the book value of the assets as on the last balance sheet date preceding the date of transfer, then instead of the date mentioned in (iii) above, the date of transfer shall be the specified date of valuation.

(v) the manner of determination of fair market value of the Indian assets vis-a vis global assets of the foreign company shall be prescribed in the rules.

(vi) the taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The method for determination of proportionality are proposed to be provided in the rules.

(vii) the exemption shall be available to the transferor of a share of, or interest in, a foreign entity if he along with its associated enterprises,

(a) neither holds the right of control or management,

(b) nor holds voting power or share capital or interest exceeding five per cent. of the total voting power or total share capital,

in the foreign company or entity directly holding the Indian assets (direct holding company).

(viii) in case the transfer is of shares or interest in a foreign entity which does not hold the Indian assets directly then the exemption shall be available to the transferor if he along with its associated enterprises,-

(a) neither holds the right of management or control in relation to such company or the entity,

(b) nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding five percent. in the direct holding company or entity.

(ix) exemption shall be available in respect of any transfer, subject to certain conditions ,in a scheme of amalgamation, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company.

(x) exemption shall be available in respect of any transfer, subject to certain conditions, in a demerger, of a capital asset, being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company.

(xi) there shall be a reporting obligation on Indian concern through or in which the Indian assets are held by the foreign company or the entity. The Indian entity shall be obligated to furnish information relating to the off-shore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of any failure on the part of Indian concern in this regard a penalty shall be leviable. The proposed penalty shall be-

- (a) a sum equal to two percent of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; and
- (b) a sum of five hundred thousand rupees in any other case.

**(Applicable w.e.f. A/Y 2016-17)**

### **32. Tax neutrality on merger of similar schemes of Mutual Funds**

- In order to facilitate consolidation of similar schemes of mutual funds in the interest of the investors, it is proposed to **provide tax neutrality to unit holders upon consolidation or merger of mutual fund schemes** provided that the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than equity oriented fund.
- It is further proposed that the cost of acquisition of the units of consolidated scheme shall be the cost of units in the consolidating scheme and period of holding of the units of the consolidated scheme shall include the period for which the units in consolidating schemes were held by the assessee.

**(Applicable w.e.f. A/Y 2016-17)**

### **33. Clarity regarding source rule in respect of interest received by the non-resident in certain cases- Sec 9(1)(v)**

- **In order to set to rest several disputes relating to source rule in respect of interest received by the non-resident in certain cases, following amendment is proposed in the Act:**

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.

**(Applicable w.e.f. A/Y 2016-17)**

### **34. Rationalisation of provisions of section 11 relating to accumulation of Income by charitable trusts and institutions**

- In order to remove the ambiguity regarding the period within which the assessee is required to file **Form 10** in order to claim deduction in respect of accumulation of 85% of

its Income for a period of 5 years, and to ensure due compliance of the above conditions within time, 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. (Applicable w.e.f. A/Y 2016-17)**

**35. 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 henceforth, entities covered under clauses (iiiab) and (iiiac) of clause (23C) of section 10 such as **Universities or educational institutions, hospitals or other institutions which are wholly or substantially financed by the government**, shall be **mandatorily required to file their return of income. (Applicable w.e.f. A/Y 2016-17)**

**36. 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. **(Applicable w.e.f. A/Y 2015-16).**

**37. Rationalising the provisions of section 115JB**

- Presently, MAT is payable by a company on its share of an AOP, even if that income is exempt u/s 86 since such income is not excluded from the definition of 'Book Profit'.
- In view of the above, 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.
- Similar relief is given to foreign institutional investors on its Income from transactions in securities.
- 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.

**(Applicable w.e.f. A/Y 2016-17).**

### **38. Clarificatory amendment in section 153C of the Act.**

- Disputes have arisen as to the interpretation of the words “**belongs to**” in respect of a document, used in section 153C(1).

Accordingly, 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.

This amendment will take effect **from the 1st day of June, 2015.**

### **39. Simplification of approval regime for issue of notice for re-assessment**

- To bring simplicity to the provisions of Sec 151, it is proposed to provide that no notice under section 148 shall be issued by an assessing officer up to 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.

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

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

- The interpretation of expression “erroneous in so far as it is prejudicial to the interests of the revenue” as contained in sec 263(1), has been a contentious one.

In order to provide clarity on the issue 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 ; 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.

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

### **41. Exemption of Transport allowance increased- Sec 10(14)**

- Exemption on account of Transport allowance to Salaried Tax payer has been **increased from Rs. 800/- pm. To Rs. 1600/- pm.**

## 42. Others

- Permanent Establishment (PE) norm to be modified to encourage fund managers to relocate to India.
- 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.
- Seized cash can be adjusted towards assessee's tax liability.
- Tax Administration Reform Commission (TARC) recommendations to be appropriately implemented during the course of the year.
- **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.
- Concealment of income will attract 10 yrs of rigorous imprisonment.
- Mandatory filing of return in respect of foreign asset.
- Stringent penalties and jail for Black Money holders and evaders.
- 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.
- PAN being made mandatory for any purchase or sale exceeding Rupees 1 lakh.
- Provision to tackle splitting of reportable transactions.
- Third party reporting entities would be required to furnish information about foreign currency sales and cross border transactions.
- Benami property transaction bill to tackle black money transaction in real estate soon.
- To Allow Tax Pass-through for Alternative Investment Funds.
- To Tighten Reporting Of Cash Transactions.
- Quoting PAN a must for all purchases above One Lakh.
- Tax pass through to be allowed in alternative investment funds to boost small firms, startups

## **B. Wealth Tax**

### 1. **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**. It is also proposed that information relating to assets which is currently required to be furnished in the wealth-tax return shall be captured by suitably modifying income-tax return.

## **II. INDIRECT TAXES**

### **A) SERVICE TAX**

1. **GST will be implemented by April 2016. Educational cess and higher educational cess to be subsumed as a part of GST.**

**2. Rate of Service Tax increased from 12.36% to 14%**

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

Applicable from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

**3. Swachh Bharat Cess:**

- **Swachh Bharat Cess** is proposed to be imposed on all or any of the taxable services **at a rate of 2%** of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives.

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

**4. Broadening of tax base:**

**(A) Review of the Negative List**

- **Entry to amusement park /entertainment events will become costlier:**

Service provided by way of **access to amusement facility** has been omitted from Negative list. This service shall henceforth be taxable.

Service in relation to '**Entertainment event**' has been taken out of Negative List. **Now, Service Tax is 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 ` 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.

- **Job Work for production of alcoholic liquor is now taxable:**

Any service by way of carrying out **any processes for production or manufacture of alcoholic liquor for human consumption** shall now be subject to Service Tax.

- Henceforth, all **services provided by the Government or local authority to a business entity** except the services that are specifically exempted, or covered by any other entry in the Negative List, **shall be liable to Service Tax** .

Applicable from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

**(B) Review of general exemptions extended under Notification No. 25/2012-ST, dated 20.6.2012:**

- Exemption presently available on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority or a governmental authority ( vide S. No. 12 of the said notification ) shall be limited only to,-
  - (a) a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity;
  - (b) canal, dam or other irrigation work; and
  - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.
- Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn.
- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance.
- Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.
- Exemptions are being withdrawn on the following services:
  - (a) services provided by a mutual fund agent to a mutual fund or assets management company,
  - (b) distributor to a mutual fund or AMC,
  - (c) selling or marketing agent of lottery ticket to a distributor.
 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.

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

## **5. New Exemptions:**

- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.
- Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.
- **Benefit given to senior citizen:**

Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted from levy of Service Tax.
- 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' members is being exempted.
- **Exemption for ambulance services:**



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

- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve is being exempted.
- Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from service tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

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

**6. New entries being incorporated in notification No. 25/12-ST, to continue exemption to some of the services that are presently covered by the Negative List entries which are being omitted:**

- Service by way of right to admission to,-
  - (i) exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
  - (ii) recognized sporting events.
  - (iii) concerts, pageants, award functions, musical or sporting event not covered by the above exemption, where the consideration for such admission is upto ` 500 per person.

These changes shall be brought into effect from the date the amendments being made in the Negative List, concerning the service by way of admission to entertainment events, come into effect

**7. Other changes (to be effective from the date Finance Bill, 2015 receives the assent of the president**

- Services, excluding few specified services, provided by the government have been included in the Negative List. Further, specified services received by the government are also exempt. A definition of the term “government” is being incorporated in the Act.
- An Explanation is being inserted in the definition of “service” to specifically state the intention of the legislature to levy service tax on activities undertaken by chit fund foremen in relation to chit, and distributors or selling agents of lottery in relation to lotteries.

➤ **Reimbursement made taxable under Service Tax**

The government has clarified that the value of reimbursements of all expenses incurred during provision of a taxable service shall be subject to Service tax levy.

- Recovery of the service tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice.
- Exemption from levy of penalty on defaulters has been removed. Section 73(4A) omitted.

➤ **Revised Penalty provisions**

- ✓ Penalty provisions, **in cases not involving fraud** or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, have been rationalized in the following manner,-
  - (i) penalty not to exceed ten per cent of service tax amount involved in such cases;
  - (ii) no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice under section 73 (1);
  - (iii) 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
  - (iii) 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.
  
- ✓ Penalty provisions, **in cases involving fraud or collusion** or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, have been rationalized in the following manner,-
  - (i) penalty shall be hundred per cent of service tax amount involved in such cases;
  - (ii) 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;
  - (iii) 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
  - (iv) 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.
  
- ✓ Section 80, which provided for waiver of penalty in specified situations, is being omitted.

**8. Rationalization of Abatements:**

➤ **Uniform abatement for transport by rail, road and vessel:**

A uniform abatement is now being prescribed for transport by rail, road and vessel thereby service Tax shall be payable on 30% of the value of such service subject to a uniform condition of non-availment of CENVAT Credit on inputs, capital goods and input services.

The impact of the above amendment is that cost of transportation through road and railway is increased whereas transportation cost through vessel is get reduced.

➤ **Air Travel by Business Class becomes costlier.**

Rate of Abatement in respect of Air transport of passengers by Business Class has been reduced from 60% to 40%.

➤ **Abatement withdrawn from Chit fund Service.**



