UNION BUDGET 2014

N.A. SHAH ASSOCIATES

Chartered Accountants

FOREWORD

The first budget of Modi Sarkar managed to partially meet the expectations of pro-growth reforms and clarity in policies. The Honourable Finance Minister Mr. Arun Jaitley presented a longish budget and played it safe by balancing it with sprinklings of populist and reformist measures. The budget also tries to address a structural predicament of this government by promising to bring down the fiscal deficit to 4.1% for the current year.

The budget speech reemphasized this Government's intention to create a stable regulatory and tax environment for businesses and investors. However, no clarity has emerged in regards to the draconian retrospective tax provisions introduced in the Finance Bill, 2012. Further, the adverse change in tax provisions in relation to debt instrument and unlisted securities would take the sheen off investment products such as debt mutual funds and fixed maturity plans.

From the corporate perspective, this Budget promotes a favourable investment climate in India by liberating the foreign direct investment policy in capital intensive sectors such as real estate, infrastructure and defence. Further, clarification regarding treatment of profits from portfolio investments would boost FII's investments in equities. The introduction of tax provisions for real-estate investment trusts will aid the ailing real-estate sector. On the domestic front, additional tax deductions have been provided for capital investments by the manufacturing sector.

From the Aam Aadmi perspective, the Budget has failed to provide any significant tax sops to increase the disposable income and therefore the consumption. It also does not provide any respite from inflation by providing policy measures to remove supply-side bottlenecks.

To summarize, Budget 2014 has been presented with a view to maintain the status quo. We hope Mr. Jaitley will introduce bolder measures in his next budget to truly put the country on its 'Journey towards sustained growth of 7-8%'.

July 10, 2014 **Mumbai**

I DIRECT TAXES[1]

A TAX RATES

- **PERSONAL TAX**

  - Tax slab for individuals (below the age of 60 years)

Tax Rate	Present Slab	Proposed Slab
10%	INR 200,000 to INR 500,000	INR 250,000 to INR 500,000
20%	INR 500,001 to INR 1,000,000	INR 500,001 to INR 1,000,000
30%	Above INR 1,000,000	Above INR 1,000,000

  - Tax slab for senior citizens (i.e. individuals over 60 years of age but less than 80 years of age)

Tax Rate	Present Slab	Proposed Slab
10%	INR 250,000 to INR 500,000	INR 300,000 to INR 500,000
20%	INR 500,001 to INR 1,000,000	INR 500,001 to INR 1,000,000
30%	Above INR 1,000,000	Above INR 1,000,000

  - No change in the slab rates for senior citizens over 80 years of age

- **CORPORATE TAX**

  - Basic tax rate remains unchanged at 30% for domestic companies and 40% for foreign companies

- **FIRMS**

  - Basic tax rate remains unchanged at 30%

- **SURCHARGE ON INCOME-TAX**

[1] Most of the proposed amendments are effective from A.Y. 2015-16 unless specified otherwise

- Surcharge for domestic companies and foreign companies remains unchanged at 5% and 2%, respectively, on the income exceeding INR 1 crore but not exceeding INR 10 crores and at 10% and 5% respectively on income exceeding INR 10 crores

- Surcharge for firms and individuals remains unchanged at 10% on the income exceeding INR 1 Crore

- EDUCATION CESS AND SECONDARY & HIGHER SECONDARY CESS

  - Remains unchanged at 2% and 1% respectively in all cases

B DIVIDEND DISTRIBUTION TAX

- Presently DDT of 15% plus applicable surcharge and cess (effective rate being 16.995%) is applied on the amount of dividend distributed by domestic companies to its shareholders. Similar distribution tax is applicable to income distributed by specified company or mutual fund

- Now it is proposed that the dividend from domestic company, specified company or mutual fund shall be grossed up for the purpose of computation of DDT

- The effective DDT rates from 1st October 2014 will be as under:

Dividend by domestic company

Particulars	Dividend by domestic Company	
	Current	Proposed
Tax rate	16.995%	20.476%

Dividend by mutual funds

Particulars	Dividend by Mutual Funds			
	Individuals/HUFs		Any other person	
	Current	Proposed	Current	Proposed
Tax rate	28.32%	39.52%	33.99%	51.49%

C TAX ON FOREIGN DIVIDEND

- Dividend received by a domestic holding company from its foreign subsidiary company will continue to be taxed @ 15% plus applicable surcharge and education cess for FY 2014-15 and subsequent years

D MINIMUM ALTERNATE TAX

- MAT rate remains unchanged at 18.50% and thereby the maximum effective rate of MAT remains unchanged at 20.961%

E ALTERNATE MINIMUM TAX

- AMT in respect of Firm and LLP remains unchanged at 18.50% and thereby the maximum effective rate of AMT remains unchanged at 20.961%

- Presently, adjusted total income for the purpose of AMT is to be derived by increasing the total income of the assessee by profit linked deductions claimed under Chapter VI-A and under section 10AA of the Act

- It is proposed to include deduction under section 35AD (as reduced by depreciation allowable on such capital assets) in computing adjusted total income

- It is clarified that tax credit for AMT will be available even if condition relating to total income of INR 20 lac is not met in subsequent years

F DEDUCTION U/S 80C

- Amount eligible for deduction u/s 80C is increased from INR 100,000 to INR 150,000

G INTEREST ON HOUSING LOAN

- Limit for deduction of interest on loan taken for acquisition or construction of house property is raised from INR 150,000 to INR 200,000 in case of self-occupied property

H CAPITAL GAIN – UNLISTED SHARES AND UNITS OF MUTUAL FUNDS

- Currently shares of a company (whether listed or unlisted) and units of Mutual Fund qualify as a short-term capital asset in case the period of its holding is not more than 12 months
- Now it is proposed that shares of unlisted company and units of debt oriented mutual fund shall be considered as short-term capital asset if the period of its holding is not more than 36 months
- Benefit of long term capital gain tax rate of 10% (without indexation) will not be available to units of debt oriented fund
- This will increase tax liability on income from investment in FMP and debt schemes of Mutual funds

I CAPITAL GAIN – INVESTMENT IN HOUSE PROPERTY

- Restricting Capital Gain exemption to one House Property-
  - Presently under section 54 and 54F an Individual or HUF can claim exemption from Long Term Capital Gain by investing into new residential property. Based on judicial decisions it was possible to invest capital gains/sale proceeds into more than one residential house
  - It is now proposed that investment of LTCG/Sale proceeds in only one house property will be counted
  - Further it has been clarified that new house should be situated in India

J CAPITAL GAINS - INVESTMENT IN SPECIFIED BONDS

- It is clarified that exemption from long term capital gains by investing in specified bonds within six months from the date of transfer (in one or more year) cannot exceed INR 50 lac

K CAPITAL GAINS - FOREIGN INSTITUTIONAL INVESTORS (FII)

- It is now clarified that FII which has invested in security in accordance with the regulation made under the SEBI Act will be treated as capital assets and accordingly gain arising from such security will be taxable as capital gains

L CAPITAL GAINS - COMPULSORY ACQUISITION

- Presently the amount of enhanced compensation by a court, tribunal or any other authority on transfer by way of compulsory acquisition is taxed in the year of receipt

- It is proposed that in case an interim order is passed by the court, tribunal or any other authority, the amount of enhanced compensation arising therefrom shall be taxed in the previous year in which final order of such court, tribunal or other authority is passed

M REAL ESTATE INVESTMENT TRUST & INFRASTRUCTURE INVESTMENT TRUST

- Tax pass-through status granted to REIT and INVIT (Business Trust)
  - In order to have pass through status, REIT and INVIT have to be registered trust (Business Trust)
  - Units of Business Trust are required to be listed on a recognised stock exchange, in accordance with the SEBI regulations
- Tax treatment of income in hands of REIT/INVIT:
  - No income tax on interest and dividend received from SPV
  - No Capital gain tax on disposal of assets/SPV in the hands of REIT/INVIT if distributed to Unit Holders. If not distributed then tax leviable at the applicable rate
  - No withholding tax by SPV on interest paid to REIT/INVIT
  - Other income to be taxed at maximum marginal rate
- Tax treatment of income from REIT/INVIT in hands of Unit holders:
  - In respect of income attributable as interest
    - Non-resident unit holder liable to tax at 5% and resident unit holder liable to tax at their normal tax rate
    - REIT/INVIT to deduct tax (TDS) at 5% in respect of payment to non resident and 10% in respect of payment to resident
  - Income attributable as dividend is exempt from tax in the hands of Unit holders

- Income attributable as capital gains and if distributed to Unit holders will be liable to tax in the hands of Unit holders in the same manner as REIT/INVIT

- Other income (on which REIT/INVIT has paid tax at the maximum marginal rate) will not ordinarily be again taxed in the hands of Unit Holders

- Tax treatment on sale of REIT/INVIT Units (other than Sponsor):

  - Same tax treatment as available to listed securities

  - On sale of units through stock exchange

    - STT payable at 0.1%
    - No long term capital gains tax,
    - Short term capital gains tax at 15%

- Tax treatment on sale of REIT/INVIT Units held by Sponsor:

  - Not liable to tax at the time of exchange of shares of SPV held by Sponsor for Units of REIT/INVIT

  - Upon sale of units:
    - Original cost of shares of SPV to be treated as cost of Units for computation of capital gains
    - Period of holding of shares of SPV also to be counted while computing capital gains

  - Benefit of concessional tax treatment not available to Sponsors (as available to listed securities where STT is paid)

- Benefit of reduced rate of tax at 5% under section 194 LC shall be available on interest payment to non-resident on external commercial borrowing by a REIT / INVIT

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

N INVESTMENT ALLOWANCE - MANUFACTURING COMPANIES

- Presently a company engaged in the business of manufacture or production of an article or thing is entitled to a deduction of 15% of the actual cost of new assets (plant or machinery), if it acquires and install new plant or machinery exceeding INR 100 crore during the period 1st April, 2013 to 31st March, 2015

- Now, it is proposed that the deduction of 15% of the actual cost of new assets will be allowed if actual cost of such new assets acquired and installed during any previous year exceeds INR 25 crore. Deduction can be claimed for assets acquired and installed during 1st April, 2014 to 31st March 2017

- The New Asset cannot be transferred for a period of 5 years except in case of amalgamation or de-merger. However, the above condition shall continue to apply to the amalgamated company or resulting company, as the case may be

O CORPORATE SOCIAL RESPONSIBILITY (CSR)

- Expenditure incurred towards CSR, shall not be deemed to have been incurred for the purpose of business and will not be allowed as business expenditure under section 37. However, the expenditure incurred under CSR provisions will continue to be allowed as deductible if it is allowable under any specific sections of the Act subject to fulfilment of conditions, if any, specified therein

P DISALLOWANCE OF EXPENDITURE ON NON - DEDUCTION OF TAX AT SOURCE

- Payment to Non Resident
  - Presently deduction in respect of payments of interest, royalty and fee for technical services made to a non-resident is disallowed if tax is not deducted or tax is not deposited during the previous year or in subsequent year before the expiry of time prescribed under section 200(1)
  - To bring the allowance criteria to parity for payments made to residents and non-residents, it is proposed that disallowance will be attracted, if after deduction of tax during the previous year, the same has not been paid on or before the due date of filing of return of income under section 139(1)
- Payment to Resident
  - Presently, any payment in respect of interest, commission or brokerage, rent, royalty, fees for professional services, fees for technical services and payments to contractors or subcontractors on which tax is deductible is disallowed in case tax is not deducted or after deduction is not paid on or before the due date of filing of return of income under section 139(1)

- It is now proposed that disallowance for non-deduction of tax or after deduction if the same is not paid on or before the due date of filing return of income under section 139(1), shall be restricted to only 30% of such expenditure as against entire expenditure. Further all payments to residents on which tax is deductible (e.g. even salary) will be covered under this section

Q EXPENDITURE ON SPECIFIED BUSINESS

- Deduction of 100% in respect of capital expenditure incurred (excluding expenditure on land or goodwill or financial instrument) is extended to the following businesses commencing on or after 1st April 2014:-
    - laying and operating a slurry pipeline for the transportation of iron ore;
    - setting up and operating a semiconductor wafer fabrication manufacturing unit
- Any asset in respect of which a deduction is claimed and allowed under this section shall be used for the specified business for a period of eight years
- In the event such asset is used for any purpose other than the specified business within eight years, the amount of deduction so claimed as reduced by the depreciation allowable in respect of such capital assets (as if no such deduction is claimed) will be taxed under the head 'Profits and gains of business or profession' in the previous year in which the asset is so used. However, this condition, of utilisation of assets in the specified business for a minimum period of eight years is not applicable to a sick industrial company
- It has been clarified that deduction for the same expenditure cannot be claimed under section 35AD as well as under section 10AA which provides for profit linked deduction in respect of units set-up in Special Economic Zones

R POWER SECTOR COMPANIES

- Sunset clause for deduction u/s 80IA for power sector is extended by two years (for a period upto 31st March 2017)

S TRADING IN SHARES - NOT SPECULATION BUSINESS

- Currently profit or loss from dealing in shares incurred by companies (other than banking company) whose gross total income consists mainly of "Business or Profession" is treated as speculation business and hence loss on such trading was not available for set off against other income

- Now profits or loss on sale of shares by a company whose principal business consists of trading in shares will not be considered as speculation business and will be available for set off against other income

T CONCESSIONAL RATE OF WITHHOLDING TAX - OVERSEAS BORROWING

- Benefit of lower withholding tax of 5% on interest paid on amount borrowed in foreign currency from a source outside India under a loan agreement or through issue of long-term infrastructure bonds extended by two years from 1st July 2015 to 1st July 2017

- The concessional rate of 5% extended to any long term bond issued between 1st October 2014 and 30th June 2017

- Provisions of section 206AA (withholding tax at a higher rate in absence of PAN of payee) shall not apply to above

- The above amendment shall take effect from 1st October, 2014

U TRANSFER PRICING

- INTERNATIONAL TRANSACTION

  - Presently deemed international transaction has been defined under the Act to include a transaction between the assessee and an unrelated party, where there exists a prior agreement or understanding or arrangement. It has been clarified that such unrelated parties may be resident

- Advance Pricing Agreement (APA)

  - Presently, the APA entered into by the assessee is valid for a period of 5 consecutive assessment years

  - It is now proposed to introduce 'roll back' in the APA. The APA may provide for determining the ALP for international transaction entered into by a person during any period not exceeding four previous years preceding the first previous year for which APA applies

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

- Use of multiple data in transfer pricing

  - Finance Minister announced use of "multiple year data" and "range concept" for determination of arm's length price, appropriate rules will be prescribed with this regard

V TAXATION OF CHARITABLE TRUST AND INSTITUTION

- Treatment of income otherwise exempt u/s 10

  - Presently income derived by the Charitable Trust/institutions is exempt from tax if it is utilized for the object of the trust or institution. Income exempt from tax u/s 10 can also be excluded even if not spent under general exemptions

  - It is proposed that where registration granted u/s 12A is in force in any year, then entire income of charitable trust/institution will be dealt with by specific provisions applicable to charitable trust/institutions and general exemption under section 10 (except agricultural income) cannot be claimed by the Charitable Trust or Institutions

  - Similar provision is made for trusts/institutions registered u/s 10(23C), hospitals and educational institutions

- Double deduction of depreciation

  - Presently the amount utilized for purchase of capital assets is allowed as expenditure on object of the trust. Further, as per judicial decisions, depreciation on the same capital asset is also allowed as deduction while computing income of the charitable trust/institution

  - It is proposed that deduction of depreciation cannot be claimed for assets which is allowed as expenditure on object of the trust

- Institutions substantially financed by Government

  - Presently certain institutions are exempt from tax if they are wholly or substantially financed by the government. Now it is clarified that substantially financed by the government means where government grant exceeds such percentage (to be notified) of the total receipts of the institution

- Cancellation of registration
  - Presently the Commissioner of Income Tax can cancel the registration only on following two circumstances –
    - Activities of the trust or institution are not genuine or
    - Activities are not carried out in accordance with the object of the trust or institution
  - It is now proposed to extend the above list by inserting -
    - Its income does not ensure for the benefits of general public;
    - It is established for the benefit of particular religious community or caste;
    - Income or property of the trust is applied for the benefits of the trustee, authors etc.;
    - Funds are invested in instruments other than those specified u/s 13
  - This amendment will take effect from 1st October 2014
- Registration of Trust
    - Presently a trust can claim exemption u/s 11 and 12 only after registration has been granted to it. Hence the trust could not claim exemption for the period prior to registration and the income was subject to tax
    - In order to mitigate such hardship it is now proposed to provide exemption to the trust even for the period prior to its registration, provided assessment proceedings are pending and objects and activities of the trust remain same in the preceding years
    - This amendment will take effect from 1st October, 2014
- Anonymous donations
    - While computing tax liability in case of assessee being university, hospital, charitable organisations etc. receipts by way of anonymous

donations which have been taxed @30% to be reduced and balance total income to be taxed at normal rates

W MISCELLANEOUS

- Advance received for transfer of a capital asset
  - Presently, any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset is to be reduced from the cost of acquisition if such sum is forfeited and the negotiations do not result in transfer of such capital asset. Such sum does not get taxed at the time of forfeiture but cost of capital assets gets reduced
  - Now, it is proposed to amend the definition of 'Income' to include such sum of money received as an advance or otherwise in the course of negotiations and liable to tax if such sum is forfeited under the head 'Income From Other Sources'
- Estimation of value of assets by Valuation Officer
  - Currently AO may make a reference to a Valuation Officer (VO) to estimate the value of Investment (bullion, jewellery, or other valuable article). Further no timeframe is specified for VO to submit the report
  - The section is amended to widen its scope to include any asset, property or investment. Further, the VO has to submit the report within a period of six months from the end of the month in which a reference is made
  - Time limit for completion of assessment is extended by the period commencing from the date AO makes reference to the date on which report of VO is received by AO
  - This amendment will take effect from 1^{st} October, 2014
- Tax Deducted at Sources
  - Processing of TDS return
    - Presently time limit for processing TDS returns is (i) two years from the end of financial year in which TDS return is filed and (ii) in other cases, six years from the end of the financial year in which credit/payment which is subject matter of TDS

  - It is now proposed to extend the time limit for passing order u/s 201(1) to seven years from the end of the financial year in which payment/credit is made

  - The amendment will take effect from 1st October, 2014

- Presumptive Taxation For the business of plying, hiring or leasing goods carriages

  - Presently, the income of an assessee, engaged in the business of plying, hiring or leasing goods carriages and not owning more than ten goods carriages at any time during the previous year, is to be presumptively considered at Rs.5,000 per heavy goods vehicle (HGV) and Rs.4,500 for other goods vehicle, for every month during which the goods carriage is owned by the taxpayer

  - It has been proposed to provide a uniform rate of presumptive income of Rs.7,500 per month eliminating different income rates for HGV and vehicles other than HGV

- Tax Deductible At Source on payments made under life insurance policy

  - TDS @ 2% to be deducted on sum paid under a life insurance policy, including the sum allocated by way of bonus

  - Not applicable to

    - Where the aggregate sum paid in a financial year does not exceed INR 100,000
    - Sum received under a life insurance policy which is exempt under the Act

  - This amendment will be effective from 1st October, 2014

- Mode of acceptance or repayment of loan or deposits

  - Presently, no person shall accept or repay any loan or deposits of INR 20,000 or more from any person, otherwise than by an account payee cheque or bank draft

  - Now it is proposed that any loans or deposit of INR 20,000 or more can also be accepted and repaid by use of electronic clearing system through a bank account

- Interest payable on ascertained demand

    - Presently, any amount specified in a notice of demand under section 156 shall be paid within 30 days of notice and on failure, the assessee would be liable to simple interest at 1% per month

    - It is proposed that where any notice of demand has been served upon an assessee and any appeal or other proceeding is filed or initiated in respect of the amount specified in the said notice of demand, then such demand shall be deemed to be valid till the disposal of appeal by the last appellate authority or disposal of proceedings

    - It is further proposed that as a result of an order under section 154, 155, 250, 254, 260, 262, 264 or an order of settlement commission under section 245D(4), the assessee shall be liable to pay interest on the amount payable as a result of such order, from the day immediately following the end of the period mentioned in the first notice of demand and ending with the day on which the amount is paid

    - The amendment will take effect from 1st October, 2014

- Commodity derivative - It is clarified that eligible transaction in respect of trading in commodity derivative carried out in a recognised association shall not be considered to be speculative transaction if it is chargeable to commodities transaction tax

- Transfer of Government security

    - In order to facilitate listing and trading of Government securities outside India, it is proposed that any transfer of capital assets in the form of Government Security on which interest is payable periodically, by a non-resident to another non-resident through an intermediary dealing in settlement of security outside India shall not be regarded as transfer resulting into capital gain tax

II SERVICE TAX

A Rate of Tax

- No change in effective rate of service tax of 12.36%

B Negative List Amended Leading to Expanded Taxable Services

- Advertisement services amended
  - Online and mobile advertising have now been made taxable
  - Sale of space in print media for advertisement would continue to be exempt. Print media means books and newspapers as defined in Press and Registration of Act, 1967 but excludes business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes. Consequentially hoardings would now come under the ambit of taxable services
- Radio taxis or radio cabs [whether or not air-conditioned]
  - The above services are now been brought on par with rent a cab services. The abatement available to the rent a cab service would also be available radio taxis or radio cabs
- Effective date not notified

C Exemption withdrawn / Rationalised [effective immediately]

- Exemption Withdrawn resulting in widening the base of taxable services to include:
  - Services by way of clinical research on human participants
  - Service provided by air-conditioned contract carriages like buses. Abatement of 60% would be available to the said service providers
- Exemption Rationalised
  - Exemption from service tax with respect to services provided to government or local authority has been limited to service like water supply, public health, sanitation, waste management or slum

improvement. Earlier any activity in relation to functions which was entrusted to municipality was also exempt

- Currently services received by eligible education institutions were exempted from levy of service tax under the concept of auxiliary educational services. Now it is proposed that only services specified below received by an eligible educational institution would be exempt
  - Transportation of students, faculty and staff
  - Catering service
  - Security or cleaning or house keeping
  - Services relating to admission to such institution or conduct of examination

  Consequently renting of immovable property to an eligible education institute would now be covered under service tax

- Rewording of exemption available to accommodation services in case where tariff is less than Rs 1,000 per day per unit to bring clarity

D NEW EXEMPTIONS / INCREASE IN ABATEMENT

- The abatement increased from 50% to 60% in case of transportation of goods by vessel. Accordingly the effective rate of tax will reduce from 6.18% to 4.944%. This change would be effective from 1st October 2014.

- Services exempt [effective from 11th July 2014]

  - Life micro insurance scheme for poor where the sum assured does not exceed Rs 50,000

  - Transport of organic manure by vessel, rail or road

  - Loading, unloading, packing, storage or warehousing and transport by vessel, rail or road of cotton, ginned or baled

  - Services provided by common bio-medical waste treatment facility operators to clinical establishments

  - Services received by RBI from outside India in relation to management of foreign exchange reserves

  - Services provided by Indian tour operators to foreign tourist in respect of tour wholly conducted outside India

- Services provided by ESIC during the period prior to 1st July 2012

E AMENDMENT TO SERVICE TAX RULES

- In case of works contracts including maintenance, repair, finishing services related to immoveable property where the value of goods is not separately determined [other than execution of original work and maintenance, repair and reconditioning of moveable property]; the service portion of the works contract would be deemed to be 70% instead of 60%. This would be effective from 1st October 2014. Effective tax rate increased from 7.42% to 8.65%

- Services brought under reverse charge mechanism [effective immediately]

    - Services provided by a director to a body corporate are brought under reverse charge mechanism. Body corporate also includes companies incorporated outside India

    - Services provided by recovery agents to banks, financial institutions and NBFC. Entire tax needs to be paid by the recipient of service

- Cenvat Credit rules

    - Changes with immediate effect

        - Where service tax is paid under full reverse charge mechanism, the condition to make payment to the vendor for availing the cenvat credit has been done away with

        - Re-credit of cenvat credit reversed on account of non receipt of money within the specified period can now be taken if the money is received within one year from the specified period.

        - Service receiver can avail the abatement with respect to good transport agency service without obtaining the certificate as regards non-availment of cenvat credit from the service provider.

    - Main service provider would now be eligible to take credit of service tax paid by sub-contractor in case of rent-a-cab service and tour operator service. This change is effective from 1st October 2014

    - Currently there is no time limit for availment of cenvat credit on inputs and input service. Time limit of six months has now been prescribed. This is effective from 1st September 2014

- Place of provision of service rules [effective 1st October 2014]

- In case of goods that are temporarily imported into India for repairs and are exported after the repairs, additional condition that the goods should not be put to use in India in order to qualify for service provided outside India has been prescribed

- In case of hiring of vessel [other than yatch] or aircraft irrespective of the period of hire the place of provision of service would be the location of the service receiver. Earlier in case of hiring upto a period of one month, place of provision of such service was the location of service provider

- Definition of 'intermediary' is amended to include agent for sale of goods. Earlier only sale of services was covered. Consequently all commission earned on sale of goods by intermediary in India would be taxable. Also service tax on commission paid to foreign agent would not be payable under reverse charge mechanism

- Point of Taxation Rules

  - Service tax under reverse charge will now be required to be paid earlier of date of payment or three months (as against six months earlier) from the date of invoice. This change is effective from 1st October 2014. Further a transition provision has been prescribed for unpaid invoice as on 1st October 2014

F OTHER AMENDMENTS/CLARIFICATIONS

- In case of renting of motor vehicles service tax payable by the service receiver and service provider under partial reverse charge mechanism will now be 50% each. Earlier there were different rates depending upon whether abatement was taken or not by the service provider. This is effective 1st October 2014

- Currently the rate of exchange for valuation of service in foreign currency is based on customs notified rate. New rules are proposed to be issued for determination of rate of exchange

- Interest on delay in payment of service tax changed from a flat rate of 18% p.a. to range of 18% p.a. to 30% p.a. depending on period of delay. Above one year the rate would 30% p.a. This is effective 1st October 2014

- Procedural simplifications have been made with respect to services provided to SEZ [with immediate effect]

- Benefit of advance ruling authority has been extended to resident Private Limited Companies
- All assesses would be required to pay service tax electronically from 1st October 2014

III FOREIGN DIRECT INVESTMENT (FDI)

- Real Estate sector

  Following relaxations granted for FDI in real estate sector:

  - Built up area reduced from 50,000 sq. m. to 20,000 sq. m.
  - Minimum capitalization for wholly owned subsidiary reduced from USD 10 million to USD 5 million
  - Projects which commits at least 30 % of the total project cost for low cost affordable housing will be exempted from minimum capitalization and built up area norms

- Manufacturing sector with FDI permitted to sell its products through retail including E-commerce platforms without any additional approval

- Insurance and Defence sector

  - The composite cap of foreign investment in the Insurance and Defence Sector to be increased from existing 26% up to 49% subject to full Indian management and control under the FIPB approval route

IV GLOSSARY

Act	Income-tax Act, 1961
AIR	Annual Information Return
AMT	Alternate Minimum Tax
AO	Assessing Officer
APA	Advance Pricing Agreement
A.Y.	Assessment Year
CBDT	Central Board of Direct Taxes
CSR	Corporate Social Responsibility
DDT	Dividend Distribution Tax
FDI	Foreign Direct Investment
FII	Foreign Institutional Investment
F.Y.	Financial Year
HUF	Hindu Undivided Family
HGV	Heavy Goods Vehicle
INR	Indian National Rupee
INVIT	Infrastructure Investment Trust
LTCG	Long-term capital gains
MAT	Minimum Alternate Tax
PAN	Permanent Account Number
RBI	Reserve bank of India
REIT	Real Estate Investment Trust
SEBI	Securities Exchange Board of India
SPV	Special Purpose Vehicle
STT	Securities Transaction Tax
TDS	Tax Deducted at Source

N. A. Shah Associates
B 41-45 Paragon Centre,
Pandurang Budhkar Marg,
Worli, Mumbai - 400 013.

Tel : +91 22 4073 3000
Fax : +91 22 4073 3090
Email: info@nashah.com