



UNION BUDGET 2015

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FOREWORD

The Honourable Finance Minister, Mr. Arun Jaitley, presented his second Budget against the backdrop of a considerably improved macro-economic environment and tame consumer inflation. Many ‘Big Bang’ reforms were expected, however subsidy reforms have not been fully embraced and reliance on disinvestment continues. The FM has favoured the creation of an investor friendly climate rather than focus on boosting consumption, the main driver of India's GDP. It would seem that the finance minister has left the demand stimulation to RBI through lower rates, and has focused the current budget on the capacity building initiative of the government, to support larger reforms in the future.

Union Budget 2015 has taken concrete steps to create a stable regulatory and tax environment for investors; such as providing tax pass through status to category I and II Alternative Investment Funds, relief from MAT to foreign institutional investor and the much needed tax break to sponsors of Real Estate Investment Trusts. The budget has additionally delayed implementation of GAAR, provided visibility for future corporate taxes and wealth tax has been abolished however, Income tax surcharge rates have been increased by 2% for taxpayer with income in excess of INR 1 crore. All this, while firmly focusing on bringing down the country’s fiscal deficit to 3% in the coming years, will make investors smile.

From the ‘Aam Aadmi’ perspective, the Budget has failed again to provide any significant sops to increase the disposable income and consumption. Service tax rates have been increased from 12.36% to 14% thereby reducing disposable income. The Budget has however provided tax incentives and initiatives to encourage medical insurance and pension investments by offering tax rebates to the middle class and subsidized insurance and pension schemes for the poor.

Issue of black money is being tackled by including non-compoundable punishments, high penalty rates and imprisonment for offenders. The success of these would however, be dependent on the quality of implementation.

We hope that the first full year budget of the Modi Sarkar will deliver on his call for ‘sabka saath sabka vikas’.

March 1, 2015 **Mumbai**

I DIRECT TAXES[1]

A TAX RATES

♦ PERSONAL TAX

Tax slab for individuals remains unchanged as under

Tax Rate	Age below 60 Years	Age over 60 years but less than 80 years	Age over 80 years
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	INR 500,001 to INR 1,000,000
30%	Above INR 1,000,000	Above INR 1,000,000	Above INR 1,000,000

♦ CORPORATE TAX

Basic corporate tax rate remains unchanged at 30% for domestic companies and 40% for foreign companies. However, finance minister has announced intention to reduce the corporate tax rate from 30% to 25% over the next four years.

♦ FIRMS

- Basic tax rate remains unchanged at 30%

[1]Proposed amendments effective from A.Y. 2016-17 unless specified otherwise

- **SURCHARGE ON INCOME-TAX**

  - Surcharge for domestic companies and foreign companies is proposed as under

Particulars	Domestic Company		Foreign Company	
	Present	Proposed	Present	proposed
Income exceeding INR 1 crore but not exceeding INR 10 crores	5%	7%	2%	2%
income exceeding INR 10 crores	10%	12%	5%	5%

  - Surcharge for Firms and individuals has increased from 10% to 12% 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

- The basic DDT rates remain unchanged. The effective DDT rates are as under:

Particulars	Dividend by domestic Company	Dividend by Mutual Funds	
		Individuals/HUFs	Any other person
Tax rate	20.358%	38.453%	49.439%

C TAX ON FOREIGN DIVIDEND

- The basic tax rate on dividend received by a domestic holding company from its foreign subsidiary company remains unchanged at 15%. The tax shall be further increased by applicable surcharge and education cess.

D MINIMUM ALTERNATE TAX ANDALTERNATE MINIMUM TAX

- MAT and AMT remain unchanged at 18.50% (the maximum effective rate shall be 21.342%).

E RESIDENTIAL STATUS

- COMPANY

  - Presently a foreign company is treated as resident, if during that year, its control and management of affairs is wholly situated in India.

  - It is now proposed that a foreign company shall be treated as a Resident in India if "place of effective management" at any time during that year, is in India.

  - "Place of effective management" means 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.

F ABOLITION OF WEALTH TAX

- The levy of wealth tax has been abolished.

G GENERAL ANTI AVOIDANCE RULE

- The GAAR provisions are deferred by two years and shall now be applicable from 1st April 2017. Further, the GAAR provisions shall not be applicable on investments made upto 31st March 2017.

H SPECIFIED DOMESTIC TRANSACTIONS

- Threshold limit for Specified Domestic Transactions increased from INR 5 crores to INR 20 crores.

I COMPUTATION OF BOOK PROFITS

- Presently share of income from an AOP is liable to MAT.

- It is now proposed that share of income from AOP shall be excluded and expenditure, if any, debited to the profit and loss account, corresponding to such income, shall be added back while computing book profit under MAT.

- Capital gain (other than short term capital gain on securities on which STT not paid) earned by FII shall be excluded and expenditure, if any, debited to the profit and loss account, corresponding to income which is excluded from the MAT liability, shall be added back while computing book profit under MAT.

J PASS THROUGH STATUS TO CATEGORY II ALTERNATIVE INVESTMENT FUNDS

- Under existing provisions pass through status is only granted to Funds which were registered as Category I AIF.
- It is proposed to grant pass through status to Category II AIF also.
- The Salient features of taxation of AIF I and AIF II:
  - Income of the Fund (other than Profits and gains of business):
    - Income accruing or paid to a Unit holder chargeable to tax in the hands of Unit holder in the same manner as if such investment had been made directly by the Unit holder.
    - Such income not taxable in the hands of the Fund.
    - The Fund required to deduct TDS at the rate of 10% on such income accruing or paid to the Unit holder.
  - Income of the Fund (in the nature of profits and gains of business):
    - Such income taxable in the hands of the Fund at the maximum marginal rate (if the Fund is registered as a trust) or at the rates applicable to Company or Firm (if the Fund is registered as such).
    - Such income not liable to tax in the hands of Unit holder.
  - Income of the Fund exempt from tax:
    - Tax free income of the Fund (e.g. dividend) is also exempt in the hands of the Unit holder.
  - Losses of the Fund:
    - If in any year there is a loss, such loss not to be allocated to the Unit holder but to be dealt with as under:
      - Loss which can be set off against other income of the Fund to be set off against such other income.
      - Balance loss, to be carried forward by fund and to be set off against future income.

- TDS on income of the Fund:
    - Notification to be issued for not subjecting income of the fund to TDS.
- Dividend Distribution Tax:
    - Fund not liable to pay DDT on distribution of income to the Unit holder.
- Income tax returns:
    - Mandatory for Fund to file tax return.
    - Fund to provide break up of income under different heads to the Unit holder and tax authorities.

K REAL ESTATE INVESTMENT TRUST & INFRASTRUCTURE INVESTMENT TRUST (BUSINESS TRUST)

- Under existing provisions:
    - Deferral of capital gains tax in the hands of sponsors when shares of SPV were exchanged for units of Business Trust
    - Concessional rate of capital gains tax/tax exemption not available to the sponsor, when Units of Business Trust sold by the Sponsors through IPO or stock exchange,
    - Pass through status not available to the rental income earned by the Business Trust.
- It is proposed that
    - Capital Gains on sale of Units:
        - Sponsor to get the benefit of concessional tax rate of 15% for short term capital gains/exemption from long term capital gains on sale of Units of Business Trust (acquired in exchange of its shareholding in the SPV) at the time of IPO or on sale of Units through stock exchange.

- Rental income on real estate owned by Business Trust:
    - Rental income exempt in the hands of REIT.
    - Unit holder liable to pay tax on his income comprising of rental income in the same manner as the Business Trust
    - Business Trust to deduct TDS @ 10% on distribution of rental income to resident and at the applicable rate of tax in case of non-resident.
- TDS on rental income
    - TDS is not applicable on rental income paid to Business Trust.

L PRESENCE OF FUND MANAGER IN INDIA NOT TO CONSTITUTE PE

- Presently, in case of an off-shore fund, the presence of a fund manager in India may create business connection of the off-shore fund in India even though the fund manager may be an independent person. Similarly, if the fund manager located in India undertakes fund management activity in respect of investments outside India for an off-shore fund, the profits made by the fund from such investments may be liable to tax in India due to attribution of such profits to the activity of the fund manager undertaken on behalf of the off-shore fund in India.
- To avoid location based taxing regime it is now proposed that -
    - In case of an eligible investment fund, the fund management activity carried out through an eligible fund manager shall not constitute business connection of the said fund in India.
    - An eligible investment fund shall not be said to be resident in India merely because the eligible fund manager is situated in India undertaking fund management activities on its behalf.
- Eligible investment fund shall fulfill the following conditions –
    - The fund is not resident in India;
    - The fund is a resident of country with whom India has entered into DTAA;
    - Aggregate participation or investment in the fund, of resident in India does not exceed 5% of the corpus of the fund;

  - The fund and its activities are subject to investor protection regulation in the country where it is established/incorporated or is a resident;
  - The fund has a minimum of 25 members who are, directly or indirectly, not connected persons;
  - Any member of the fund alongwith connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding 10%;
  - The investment by the fund in an entity shall not exceed 25% of the corpus of the fund;
  - No investment shall be made by the fund in its associate entity;
  - The monthly average of the corpus of the fund shall not be less than INR 100 crore;
  - The fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;
  - The fund or any person acting on its behalf is not engaged in any activity which constitutes a business connection in India other than the activities undertaken by the eligible fund manager on its behalf;
  - The remuneration to fund manager for fund management activity shall not be less than the ALP of such activity.

- Eligible fund manager shall fulfill the following conditions –
  - The person is not an employee of the eligible investment fund or a connected person of the fund;
  - The person is registered as a fund manager or investment advisor in accordance with the specified regulations;
  - The person is acting in the ordinary course of his business as fund manager;
  - The person alongwith his connected persons shall not be entitled, directly or indirectly, to more than 20% of the profits accruing or arising to the eligible investment fund from the transaction carried out by the fund through such fund manager;

- Eligible investment fund is required to furnish a statement in the prescribed form within 90 days of end of the financial year. Non-compliance of the same would lead a penalty of INR 5,00,000/-.

M INDIRECT TRANSFERS

- Post decision of the Supreme Court in the case of Vodafone, the Government had retrospectively amended provisions relating to indirect transfer of assets by foreign entities.

- As per earlier amendment, income from transfer of any shares or interest in a company or entity registered/incorporated outside India which derives its value substantially through assets/property located in India, was liable to tax in India.

- Now, it is clarified that the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets located in India, if, on the specified date, the value of such assets:

    - exceeds INR 10 crore; and
    - is at least 50% of the value of all the assets owned by the Foreign Company or the entity.

- Value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.

- The specified date shall mean:

    - The balance sheet date preceding the date of transfer or
    - The Date of transfer, if there is an increase in book value of the assets of the company by more than 15% from such balance sheet date.

- This provision will not apply if Transferor and its associated enterprises do not hold:
    - the right of management or control in such company/entity,
    - more than 5% voting power of such company/entity;

- Where all the assets of the company/entity are not located in India, the income of the non-resident transferor is to be determined on the basis of attribution of such part of the income as is reasonably attributable to assets located in India and determined in such manner as may be prescribed.

- Transfer of share or interest in a company/entity registered or incorporated outside India which derive its value substantially from the share or shares of an Indian company, shall not be regarded as transfer, under a scheme of amalgamation or demerger, if-

    - at least 25% of the shareholders of the amalgamated foreign company or shareholders, holding not less than 75% in value of the shares of the demerged foreign company, continue to remain shareholders of the amalgamated/resulting foreign company; and
    - such transfer does not attract tax on capital gains in the country in which the amalgamated/demerged foreign company is incorporated.

- Indian concern in which the assets are held by the foreign company/entity to furnish prescribed information for the purpose of determination of any income accruing or arising in India through off-shore transaction. Failure of such reporting shall attract penalty of -
    - 2% of the value of transaction in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern;
    - INR 5,00,000/- in any other case.

N TAX ON ROYALTY AND FEES FOR TECHNICAL SERVICES

- Currently Royalty and Fees for Technical services received by a non-resident which is effectively not connected with PE in India, is chargeable to tax @ 25% on gross basis.
- Now it is proposed that such income shall be chargeable to tax @ 10% on gross basis.

O TAXATION OF CHARITABLE TRUST AND INSTITUTION

- The definition of “Charitable Purposes” amended to include “yoga”.
- Carrying on activity of trade, commerce or business
    - Under existing provisions, advancement of any other object of general public utility not considered as a charitable purpose if it involved carrying on of any activity in the nature of trade, commerce or business for a cess, fees or any consideration and receipt from such activities exceeded INR 25 lakhs. If the trust carried on such activities, it would lose tax exemption.
    - It is now proposed that in order for such activities to be charitable purpose

- Such activity should be undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

- The aggregate receipts from such activities, during the year should not exceed twenty percent of the total receipt.

- Option to spend income in subsequent year:

  - Charitable institution has an option to spend 85% of the income in the year in which income is received or in the subsequent year by filing option letter to this effect.

  - The form of filing such option letter will now be prescribed.

- Accumulation of Income:

  In order to claim the benefit of accumulation of income for a period of five years, Form 10 for accumulation of income and return of income to be filed on or before the due date of filing return of income.

- Filing of tax return:

  University, educational institute, hospital and other specified institutes, are now mandatorily required to file return of income.

P INVESTMENT ALLOWANCE FOR MANUFACTURING COMPANIES IN AP & TELANGANA

- Additional investment allowance of 15% of the cost of new asset acquired and installed from 1st April 2015 to 31st March 2020 for setting up industrial undertaking in the backward area of the State of Andhra Pradesh and the State of Telangana.

- Further additional depreciation at the rate of 35% will also be allowed on new plant and machinery acquired and installed in above undertaking will be allowed.

Q ADDITIONAL DEPRECIATION

- Presently, additional depreciation @ 20% is allowed on new plant and machinery. However where the assets are put to use for less than 180 days, only 10% (50% of 20%) additional depreciation is allowed.

- Under existing provision, there was no clarity whether balance 10% would be allowed in immediately succeeding year. Various ITAT benches had ruled that balance 10% can be claimed in subsequent year.

- Now it is clarified that the balance 10% of the additional depreciation shall be allowed in the immediately succeeding year.

R CONDITIONS FOR APPROVED IN-HOUSE RESEARCH & DEVELOPMENT FACILITY

- Presently, the prescribed companies are allowed weighted deduction of 200% u/s 35(2AB) upon fulfilment of certain conditions.

- It is proposed that in addition to the prescribed conditions the deduction shall be allowed only if the company enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfils prescribed conditions with regard to maintenance and audit of accounts and also furnishes prescribed reports to the prescribed authority.

S TAX DEDUCTED AT SOURCE

- **TDS ON PAYMENT TO CONTRACTORS**

  - Currently, a view is taken that TDS is not applicable in case of payment made to transporter if PAN is provided by the transporter.

  - It is now proposed to restrict the scope to small transporters only (i.e transporter not owning more than 10 goods carriages); provided a declaration and PAN is provided by the transporter.

  - This amendment will take effect from 1st June 2015.

- **TDS ON INTEREST BY CO-OPERATIVE BANKS**

  - Currently no TDS is deducted by Co-Operative Bank on time deposit and recurring deposit interest paid to its members. Henceforth Co-operative bank liable to deduct TDS if interest exceeds INR 10,000

  - Currently, the threshold limit of INR 10,000 for deduction TDS is computed branch wise, which henceforth to be bank wise.

  - This amendment will take effect from 1st June 2015.

- **TDS ON EMPLOYEE COMPENSATION**

  - Employers will now have to obtain from employees evidence or proof or particulars for deduction/ exemption/set off in the prescribed form and manner for the purpose of computation of TDS on Salary.

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

- **PAYMENT TO NON – RESIDENT**

  - Presently, any person making payment to a non-resident of sum which is chargeable to tax is required to submit prescribed information
  - Now, it is proposed that the prescribed information will have to be given in respect of remittance even if not liable to tax in India.
  - Penalty of INR 1,00,000 for non-furnishing of information or furnishing of incorrect information.
  - This amendment will take effect from 1st June 2015.

- **PREMATURE WITHDRAWAL FROM EMPLOYEES PROVIDENT FUND SCHEME (EPFS)**

  - Deduction of tax at the rate of 10% on pre-mature taxable withdrawal from EPFS subject to threshold limit of INR 30,000/-.

  - Employee can give form 15G for non-deduction of tax.

  - Non-furnishing of PAN to EPFS will attract TDS at MMR

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

- **BORROWINGS IN FOREIGN CURRENCY**

  - Currently, tax @ 5% is withheld on the interest payable to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds.

  - It is proposed that the concessional withholding tax rate of 5% will be extended to 1st July 2017.

- **RELAXING THE REQUIREMENT OF TAN**

  - To reduce the compliance burden on non-regular deductors like buyers of immovable properties who are required to deduct TDS on purchase consideration, it is provided that the requirement of obtaining and quoting of TAN shall not apply to the notified deductors/ collectors.

- The amendments will take effect from 1st June 2015.

T DEDUCTIONS UNDER CHAPTER VI-A

- IN RESPECT OF EMPLOYMENT OF NEW WORKMEN

  - Currently, an Indian company can claim additional deduction of thirty per cent of additional wages paid to new regular workmen employed in its factory.

  - In order to encourage employment generation; it is now proposed -

    - The above benefit extended to all the assessees having manufacturing units and not merely companies.

    - Restriction of minimum number of workmen reduced from 100 to 50.

    - Deduction not available if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.

  - TAX BENEFITS UNDER SUKANYA SAMRIDDHI ACCOUNT SCHEME

    - Any contribution made by a parent/ legal guardian in an account opened in the name of the girl child shall be eligible for deduction under section 80C to the extent of INR 1,50,000/-.

    - Any interest earned/withdrawals made from such account to be exempt from tax.

    - The amendment will take effect retrospectively from 1st April 2015.

- CONTRIBUTION TO CERTAIN PENSION FUNDS

    - Deduction for contributions to certain pension funds increased from INR 1,00,000 to INR 1,50,000/-.

- CONTRIBUTION TO PENSION SCHEME OF CENTRAL GOVERNMENT

    - Presently, deduction upto INR 1,00,000/- available on contributions to certain pension scheme of Central Government within limit u/s 80CCE.

- It is proposed that deduction of INR 50,000 to be available on contribution to pension schemes of Central Government in addition to deduction of INR 150,000 under section 80CCE.

- **CONTRIBUTION IN RESPECT OF HEALTH INSURANCE PREMIUM**

  - Deduction allowable for health insurance premium is revised as under:

Particulars	Existing limits	Proposed limits
Individual	INR 15,000/-	INR 25,000/-
Senior citizen/ very senior citizen	INR 20,000/-	INR 30,000/-

  - Senior citizen means an individual resident of age more than 60 years and very senior citizen of age more than 80 years.

  - Medical expenditure incurred in respect of very senior citizen shall be allowed as deduction to the extent of INR 30,000/- in cases where no payment is made towards health insurance premium.

  - Overall deduction of INR 30,000/- is proposed towards the health insurance premium and medical expenditure incurred for parents.

  - A similar deduction will also be available to HUF in case the payment is made towards health insurance premium/ medical expenditure of any member of the HUF.

- **MEDICAL TREATMENT**

  - Presently, a deduction upto INR 40,000/- and in case of senior citizen upto INR 60,000/- can be claimed on account of medical expenditure of an individual or a dependent relative for treatment of certain chronic and protracted diseases such as Cancer, full blown AIDS, Thalassemia, Haemophilia etc. To claim the deduction, a certificate from a specialist working in a government hospital is required to be obtained.

  - Now, it has been proposed that a prescription from a specialist doctor can be obtained to claim the deduction.

  - Further, the deduction has now been increased to INR 80,000/- for such expenditure incurred in case of a very senior citizen.

- **PERSON WITH DISABILITY**

  - Presently, a deduction upto INR 50,000/- can be claimed on account of medical expenditure/ maintenance of an individual or a dependent relative with a disability. This deduction is allowed upto INR 1,00,000/- in case the individual or the dependent relative is suffering from severe disability.

  - Now, the limits have been increased to INR 75,000/- and INR 1,25,000/- respectively.

- **DONATION TO CERTAIN FUNDS**

  - 100% deduction is introduced for donations made to National Fund for Control of Drug Abuse.

  - Further, the donations made any time after 1st April 2015 to the Swatch Bharat Kosh and to the Clean Ganga Fund will qualify for 100% deduction. However, the deduction for donation to Clean Ganga Fund is only available to resident assessees.

  - However, any expenditure incurred towards Corporate Social Responsibility will not be eligible for deduction.

U MISCELLANEOUS

- **CONCEALMENT PENALTY**

  - Presently, no penalty can be levied if there is no change in income under MAT and additions are made to income computed under normal provision of Income Tax Act. This view has been affirmed by Supreme Court in the case of Nalwa Sons Investment Limited.

  - It is proposed to provide for levy of penalty on additions made under normal provision even if income computed under MAT remains same. The amount of tax sought to be evaded for the purpose of computation of penalty shall be the sum total of tax sought to be evaded under the normal provisions and that under MAT provisions.

  - If similar addition is made under MAT provision as well as under normal provision, then addition made under MAT shall not be considered in computation of tax sought to be evaded.

  - Further, in case where MAT provisions are not applicable, the computation of tax sought to be evaded under the MAT provisions shall be ignored.

- **TAX AUDITOR**

  - To ensure independence of auditor, it is proposed to provide that an auditor who is not eligible to be appointed as auditor of a company as per the provisions 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.

  - However, such a disqualification does not make a person ineligible to be an authorized representative on behalf of the assessee for the purpose of attending the income tax proceedings.

  - 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 authorized representative for a period of 10 years from the date of such conviction.

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

- **COST OF ACQUISITION IN HANDS OF RESULTING COMPANY**

  - Capital asset transferred by a demerged company to resulting company is not treated as a transfer.

  - There is no explicit provision specifying the cost of acquisition of such asset transferred to the resulting company.

  - It is clarified that cost of acquisition of the asset acquired by resulting company shall be cost of asset to the demerged company.

- **REVISION OF ORDERS PREJUDICIAL TO THE INTEREST OF REVENUE**

  - It is proposed to clarify that an order passed by the AO shall be deemed to be erroneous in so far as it is prejudicial to the interest of the revenue, if, in the opinion of the Principal Commissioner or Commissioner -

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

  - the order is passed allowing any relief without inquiring the claim;

  - the order has not been made in accordance with any order, direction or instruction issued by the Board; or

- the order has not been passed in accordance with any decision which is 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 June 2015.

- **ACCEPTANCE AND REPAYMENT OF LOAN OR DEPOSIT IN CASH**

  - In order to curb black money, acceptance or repayment of loan or advance in relation to transfer of an immovable property is prohibited if such amount is INR 20,000/- or more.

  - Above provision is effective from 1st June 2015.

- **PROCEDURE FOR APPEAL BY REVENUE WHEN AN IDENTICAL QUESTION IS PENDING BEFORE SUPREME COURT**

  - Where a question of law is pending before the Supreme court and a same question of law arises in subsequent years for the same assessee the department is required to file an appeal before the tribunal.

  - Section 158AA proposes that revenue will not file an appeal before the tribunal for the same ground, to reduce litigation.

  - However the revenue is required to make an application to the tribunal in prescribed form within 60 days of the CIT(A) order stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the earlier year.

  - This amendment will be effective from 1st June 2015.

- **RULES FOR GRANTING FOREIGN TAX CREDIT**

  - Presently, the relief in respect of income tax on the income which is taxed in India as well as in the country which there is no DTAA is provided in section 91 and in case of countries with which India has DTAA, relief in respect of income tax on doubly taxed income is available as per the respective DTAAs.

  - It is proposed that CBDT shall provide rules prescribing the manner of granting such relief or deduction, of any income tax paid.

  - This amendment will be effective from 1st June 2015.

- **INTEREST BY PERMANENT ESTABLISHMENT IN INDIA**

  - In the case of a non-resident engaged in the business of banking, any interest paid by the PE in India of such non-resident to the head office or any PE 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 PE in India and PE in India shall be deemed to be a person separate and independent of the non-resident person.

- The PE in India shall deduct tax at source on such interest.
- Non-deduction shall lead to disallowance of expenditure of the PE and shall be liable for interest and penalty.

- **SETTLEMENT COMMISSION**
  - It is proposed that where a notice of reopening is issued for any assessment year, the assessee can approach Settlement Commission for other assessment years as well even if notice for reopening for such other assessment years has not been issued, if the return of income for the such other assessment year or years has been furnished.
  - Simple interest @ 1% p.m. shall be charged on the additional income disclosed in the application as well as on the income increased by Settlement Commission from the first day of the assessment year till the date of application or order date as the case may be.
  - It is proposed to provide that the asset seized under section 132/requisitioned under section 132A may also be adjusted against the amount of liability arising on an application made before Settlement Commission.
  - These amendments will take effect from 1st June 2015.

- **ANNOUNCEMENT MADE IN BUDGET SPEECH - RULE TO BE PRESCRIBED**
  - Quoting of PAN is being made mandatory for any purchase or sale exceeding the value of INR 1 lakh.
  - Transport allowance exemption is being increased from INR 800 per month to INR 1,600 per month.

II SERVICE TAX

A RATE OF TAX

- Effective tax rate increased from 12.36% to 14%. [education cess and secondary & higher education cess would be subsumed in revised rate of tax]. This would be effective from the date to be notified after enactment of Finance Bill 2015.

- Consequent to the above upward revision in the service tax rate, specific /special rates prescribed for services like money changing services, air travel agent, insurance service, and services provided by lottery distributor to be proportionately increased.

- Additional 2% Cess for Swachh Bharat initiative on specified taxable services. This would be effective from the date to be notified.

B NEGATIVE LIST PRUNED – FOLLOWING BECOMING TAXABLE SERVICES

- Services provided by way of access to amusement facility, which provides fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, water parks, theme parks or such other places.

- Admission to award function, concert, non-recognised sporting events, pageants, music concerts if the entry fee is more than Rs 500 per person.

- Services in relation to contract manufacturing / job work for production of potable liquor.

- All services (earlier it was only specified support services) provided by the Government or local authority to a business entity except the services that are specifically exempted, or covered by any another entry in the Negative List.

- The above changes shall come into effect from a date to be notified after the enactment of the finance bill.

C EXEMPTION WITHDRAWN / RATIONALISED [EFFECTIVE FROM 1ST APRIL 2015]

- Exemption Withdrawn

  - Services in relation to construction, erection, commissioning etc. provided to the government or local authority in respect of following

- Civil structure or any other original works meant for use other than for commerce or any other business or profession
- Structure meant for use as educational, clinical or art or cultural establishment
- Residential complex for self-use or use of their employees

- Services in relation to construction, erection, commissioning of original work pertaining to an airport or port.

- Services provided by mutual fund agent/ distributor to a mutual fund or asset management company.

- Services provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent.

- Departmentally run public telephone, guaranteed public telephone operating only local calls and services by way of making telephone calls from free telephone at airport and hospital [where no bill is issued].

- Exemption Rationalised

    - Service provided by a performing artist in folk or classical would be taxable if the consideration charged for such performance is more than Rs 1 lac.

    - Exemption to transportation of food stuff by rail, vessels or road would be limited to milk, salt and food grains including rice, pulse and flour. Consequently transportation of tea, coffee, sugar, jaggery and edible oil would now be taxable.

D NEW EXEMPTIONS [EFFECTIVE FROM 1ST APRIL 2015]

- Pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits & vegetables which do not change or alter the essential characteristics of the fruits or vegetables.

- Operator of common effluent treatment plant.

- Life insurance service provided by way of Varishtha Pension Bima Yojna.

- Exhibition of movie by an exhibitor to the distributor or an association of persons consisting of exhibitors as one of its member.

- All ambulance services for transportation of patient.
- Admission to museum, zoo, national park, wild life sanctuary and tiger reserve.
- Transport of goods meant for exports - by road from place of removal to Land Custom Station.

E ABATEMENT WITHDRAWN/RATIONALIZED [EFFECTIVE FROM 1ST APRIL 2015]

- Uniform abatement rate of 70% is now prescribed for transport of passengers & goods by rail, transport of goods by road and vessel. Further cenvat credit is not available.
- In respect of transport of passengers by air, uniform abatement [@60%] was prescribed for both economy class and other than economy class. Now the abatement for other than economy class is reduced to 40%.
- Abatement of 30% given to chit fund service is withdrawn. They would however be eligible to take cenvat credit.

F AMENDMENTS MADE TO PROVIDE CLARITY & REDUCE LITIGATION

- The term Government has now been defined to address the interpretational issues in relation the service provided / received by the Government.
- Services provided by chit fund foremen and distributor or selling agents of lottery would be a taxable service.
- Reimbursable expenditure or cost incurred and charged by the service provider would be part of value of taxable service, except in circumstances, and subject to such conditions, as may be prescribed.
- The difference between the face value of the lottery ticket and the consideration charged by the selling agent to form part of the value of taxable service.

G AMENDMENT TO SERVICE TAX RULES, 1994

- With effect from 1st March 2015, in case of services provided by a person using the brand name of the aggregator, the taxable service will be deemed to be provided by the aggregator. The tax to be paid by the Aggregator or any of his representative office located in India or an agent and in absence of office/ agent, the person to be nominated by the aggregator. Further service tax liability on services received by Aggregator to be discharged under Reverse charge mechanism by the aggregator.

- An aggregator is defined as a person who owns and manages a web based software application, and by means of the application and a communication device, enables a potential customer to connect with persons providing service of a particular kind under the brand name or the trade name of the aggregator.

- Reverse charge mechanism [effective 1st April 2015]

    - Manpower supply and security services when provided by an individual or partnership firm to a body corporate have been brought under full reverse charge from partial reverse mechanism.

    - Consequent to the withdrawal of exemption to mutual fund agents / distributors and agents of lottery distributors, these services are being brought under full reverse charge mechanism.

H OTHER AMENDMENTS/CLARIFICATIONS

- Ease of doing business

    - Online service tax registration would be done in two working days.

    - It would now be possible to issue digitally signed invoices.

    - Option of maintaining records in electronic form has been provided.

    - Time limit of taking cenvat credit on inputs and input services has been increased from six months to one year.

    - Cenvat credit rules amended to allow credit of service tax paid under partial reverse charge by service receiver without linking it to the payment to the service provider. This change is effective from 1st April 2015.

    - Allowing Cenvat credit on input and capital goods received directly by job workers.

    - Cenvat credit on capital goods sent to job worker for further processing can be taken if capital goods are returned within the period of 2 years [earlier 180 days].

    - Cenvat credit if wrongly taken but not utilized, to be recovered from the assesse as normal recoveries but without interest.

- Any person can now approach the Advance Ruling authority for availing an advance ruling judgement. Earlier only resident private limited companies were covered.

- Recovery of service tax amount declared in the return but not paid can be made without service of notice.

- Penalty have been rationalised subject to fulfilment of certain conditions. Further, provisions relating to waiver of penalty in case of reasonable cause have been removed.

- Rule 6 of Cenvat Credit Rules is being amended to provide that non-excisable goods will also be considered as exempted goods. This would impact the calculation of proportionate reversal of Cenvat credit.

III FOREIGN EXCHANGE LAWS

- Distinction between different categories of foreign investments, especially between foreign portfolio investments and foreign direct investments, to be done away with and shall be replaced with composite caps.

- Foreign investments to be permitted in Alternate Investment Funds.

- In the event of any person holding foreign exchange, foreign security, or any immovable property outside India in contravention of provision of FEMA, then such person's assets in India of equivalent value may be liable to be seized.

IV PROPOSED LAW ON BLACK MONEY

- Key Features of the proposed law on black money are as under:

  - Beneficial owner or beneficiary of foreign assets will be mandatorily required to file return, even if there is no taxable income

  - Non filing or filing of return with inadequate disclosure of foreign assets will be liable for prosecution with punishment of rigorous imprisonment up to 7 years.

  - Concealment of income & assets and evasion of tax in relation to foreign assets will be prosecutable with punishment of rigorous imprisonment upto 10 years and such income (with no exemptions/deductions) shall be taxable at the maximum marginal rate of 34.61% with penalty at the rate of 300% of tax levied. Further such offence shall be non-compoundable.

  - The offence of concealment of income or evasion of tax in relation to a foreign asset will be made a predicate offence under the Prevention of Money-laundering Act, 2002 (PMLA) which will enable attachment and confiscation of unaccounted assets held abroad and launch prosecution against persons indulging in laundering of black money.

- A new and more comprehensive Benami Transactions (Prohibition) Bill will be introduced which will enable confiscation of benami property and provide for prosecution.

V OTHERS

- Derivatives to include Repo, reverse repo and commodity derivatives, consequently will now be considered as Securities under the Securities Contracts (Regulation) Act, 1956.

- Forward Contracts (Regulation) Act, 1952 shall be repealed and from such date SEBI shall regulate the commodity forward markets.

- NBFCs having asset size in excess of INR 500 crore shall have access to the SARFAESI Act, 2002 thus enabling faster recovery of its debt.

VI GLOSSARY

ACT	Income-tax Act, 1961
AIDS	Acquired Immuno Deficiency Syndrome
AIF	Alternative Investment Funds
AOP	Association of Person
A.Y.	Assessment Year
DDT	Dividend Distribution Tax
EPFS	Employees Provident Fund Scheme
FII	Foreign Institutional Investment
F.Y.	Financial Year
GAAR	General Anti Avoidance Rule
HUF	Hindu Undivided Family
INR	Indian National Rupee
IPO	Initial Public Offering
ITAT	Income Tax Appellant Tribunal
LTCG	Long-term capital gains
MAT	Minimum Alternate Tax
NPS	National Pension System
PAN	Permanent Account Number
QFI	Qualified Foreign Investors
REIT	Real Estate Investment Trust
SPV	Special Purpose Vehicle
STCG	Short-term capital gains
STT	Securities Transaction Tax
TAN	Tax Deduction Account Number
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
MMR	Maximum Marginal Rate

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