

UNION BUDGET 2016-2017

HIGHLIGHTS OF THE FINANCE BILL, 2016

The Finance Minister, Mr. Arun Jaitley, appears to have presented this Third Union Budget of NDA which looks like presentation of plan to fulfill the vision of Prime Minister Mr. Narendra Modi.

With huge savings in import bills on account of softening of crude oil prices on one side, and huge expenditures to be provided for implementing award of Pay Commission, One Rank One Pension, and Re-capitalization of Stressed Public Sector Banks etc., on the another side; for balancing act the Finance Minister had to decide whether to stick to Fiscal Plan of containing Fiscal Deficit; or maintain and increase government spending to boost demand to meet challenge of global slowdown and defer fiscal consolidation.

In the end, he chose the tough and challenging route of sticking to the Fiscal Plan.

This required the Finance Minister to raise revenues and at the same time tone up the environment of business, economy and to create a vibrant atmosphere for the people.

The Finance Minister accordingly, listed Nine Pillars on which he based the Budget. The Budget looks like fulfillment on long term vision of laying solid foundations of the economy, transforming tax-system to raising revenue with less of botherations to tax payers and politically taking care of all the stake holders and in particular farmers, women and low income people keeping in mind the forthcoming state elections.

CHARTERED ACCOUNTANTS

As an annual event, we hereby elucidate and analyze the major and important amendments proposed in the Direct Tax and Service Tax Laws, with their implications; and are sure that the same would be handy to you.

As of date, these are proposals only, and if adopted by the Parliament and passed as Finance Act; will come into force for and from Assessment Year 2017-2018 relevant to Financial Year 2016-17, unless specifically provided otherwise.

The key highlights of the this Budget are that the focus is towards broadening the tax base, simplicity, rationalizing tax provisions so as to reduce litigation and, bring certainty and clarity to the taxpayers as regards the tax regime, all of which we have discussed with the respective proposed amendments herein below.

As evident from the Finance Minister's lengthy Budget Speech, a significant number of changes have been proposed in the Finance Bill, therefore our presentation this time is a bit lengthy, which we request you to bear with us.

I. DIRECT TAXES

Amendments proposed under the Income-tax Act, 1961 (hereafter referred to as "the Act").

A. Rates of Tax

- 1. Basic Exemption Limit, Income Slabs, Rates of Taxes and Education Cess unaltered, Surcharges increased for Individuals and HUF's:**

Income thresholds, basic tax rates and Education Cess

The rates of **Basic Tax, Education Cess and Higher Secondary Education Cess** (Education Cess and Higher Secondary Education Cess collectively referred to as 'Education Cess'), as well as the Basic Exemption Limits and the income slabs, have been kept **unaltered for all Assesseees other than Company.**

The applicable Basic Exemption and Income Slabs as well as basic tax rates, are given in the below Table for your ready reference:

Assessee	Basic exemption and Income Slabs for Financial Year 2015-16	
	Total Income	Tax Rate
<i>All Individuals, HUF, AOP and BOI (except those stated below)</i>	upto Rs.2,50,000/-	Nil
	Rs.2,50,001/- to Rs.5,00,000/-	10% of income above Rs.2,50,001/-
	Rs.5,00,001/- to Rs.10,00,000/-	Rs.25,000/- plus 20% of income above Rs.5,00,001/-
	Above Rs.10,00,000/-	Rs.1,25,000/- plus 30% of income above Rs.10,00,001/-
<i>Individuals, being resident, and above 60 years upto the age of 80 years</i>	upto Rs.3,00,000/-	Nil
	Rs.3,00,001/- to Rs.5,00,000/-	10% of income above Rs.3,00,001/-
	Rs.5,00,001/- to Rs.10,00,000/-	Rs.20,000/- plus 20% of income above Rs.5,00,001/-
	Above Rs.10,00,000/-	Rs.1,20,000/- plus 30% of income above Rs.10,00,001/-
<i>Individuals, being resident, and age 80 years and above</i>	upto Rs.5,00,000/-	Nil
	Rs.5,00,001/- to Rs.10,00,000/-	20% of income above Rs.5,00,001/-
	Above Rs.10,00,000/-	Rs.1,00,000/- plus 30% of income above Rs.10,00,001/-

Increase in Surcharges for Individuals and HUF's

The Finance Minister has proposed to **increase the Surcharge by 3% i.e. 15% in case of Individuals, HUF's, AOP's and BOI's**. However, marginal relief would be allowed to ensure that the additional tax and surcharge payable on excess of income over Rs.1 crore is limited to the amount by which the income exceeds Rs.1 crore.

Further, the rate of Surcharge for all other Assesseees is kept unaltered (with marginal relief as stated in the preceding paragraph).

2. Rate of Tax reduced for Domestic Small Company, Rates of Surcharge and Education Cess unaltered:

Keeping up to the promise in the last Budget, this time the Finance Minister has proposed to indeed **reduce the Corporate Tax from present 30% to 29%** (plus Surcharge and Cess as applicable) for domestic companies having turnover or gross receipts less than Rs.5 Crores in the last year i.e. Financial Year 2015-16 relevant to Assessment Year 2016-17.

3. Concessional Rate of Tax for newly set-up Domestic Company, Rates of Surcharge and Education Cess unaltered:

In order to provide relief to newly setup domestic companies engaged solely in the business of manufacture or production of article or thing, it is proposed that the income-tax payable shall be payable at 25% (plus Surcharge and Cess as applicable) at the option of the Company if all the following conditions are satisfied-

- a) the company has been setup and registered on or after 1st day of March, 2016;
- b) the company is engaged in the business of manufacture or production of any article or thing and is not engaged in any other business;
- c) the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and
- d) the option is furnished in the prescribed manner before the due date of furnishing of income.

B. Measures benefitting Individuals, HUF's and Small Businesses

4. Dividend on Shares in excess of Rs.10 Lakh, now Taxable:

In an attempt to mobilize the tax on dividend earned by the High Net Worth Individuals, the Finance Minister has proposed to insert Section 115BBDA of the Act with effect from 1st April 2017, so as to provide that any income by way of dividend on Shares in excess of Rs.10 lakh, shall be liable to tax on gross basis, in the case of an Individual, Hindu Undivided Family (HUF) or a Firm resident in India, at the rate of 10% of such dividend.

However, such Dividend earned by Corporate Entities, Trusts, AOP and NRI, would continue to enjoy the exemption under section 10(34) of the Act.

Further, it may be noted that the Dividend earned on the Units of Mutual fund units is not proposed to be taxed as such, and therefore it would continue to be exempt to even for such Individuals and HUF's under section 10 (35) without any limit.

5. Higher Tax Rebate to Individual Tax-payers in the lower-income Bracket :

In a move to grant relief to the resident individuals in the lower income group having a taxable income upto Rs 5 Lakhs the Finance Minister has enhanced the maximum limit of tax rebate as per the provisions of Section 87A from Rs. 2,000 to Rs.5, 000, which effectively means that such resident individual who is below the age of Sixty and having a taxable income upto Rs.3 Lakhs would not have to pay tax and such person who is above Sixty years and below Eighty years would not have to pay tax up to a taxable income of Rs.3.50 Lakhs

6. Rationalization of tax treatment of Recognized Provident Funds, Pension Funds and National Pension Scheme:

In order to bring greater parity in tax treatment of different types of pension plans, Recognized Provident Funds and National Pension Scheme, the following changes are proposed:

- a) In respect of the contributions made on or after the 1st April 2016 by an employee participating in a Recognized Provident Fund and Superannuation Fund, withdrawal of accumulated balance exempt to the extent of 40% only.

- b) Any payment on commutation of an annuity purchased out of contributions made on or after the 1st April 2016, exceeding 40% of the annuity, shall be chargeable to tax.
- c) Any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme referred to in Section 80CCD, to the extent it does not exceed 40% of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax. However, the whole amount received by the nominee, on death of the Assessee shall be exempt from tax.
- d) Limit of Rs.1,50,000/- per employee per annum for employer's contribution to Recognized Provident Fund and Superannuation Fund, without attracting tax to the relevant employee.
- e) Exemption to one-time portability from a Recognized Provident Fund to National Pension System;
- f) Any payment from an approved Superannuation Fund by way of transfer to the account of the employee under NPS referred to in section 80CCD and notified by the Central Government shall be exempt from tax.

We expect further clarification on this from the Finance Minister regarding the taxability.

7. Extending the Presumptive Taxation Scheme for Persons having Income-from-Profession:

A new Section 44ADA is proposed to be inserted, applicable to resident Assesseees (Individuals and Partnership Firms) who are engaged in the professions specified in the sub-section (1) of the Section 44AA of the Act, whose gross receipts from profession does not exceed Rs.50 Lakhs in the previous year, to deem their income from profession on presumptive basis to be 50% of their total gross receipts or a sum higher, if they so declare.

For such Assessee who is availing the scheme, it would be assumed that all the deductions available as per section 30 to 38 of the Act have been claimed and no further deduction can be claimed for the year.

Those Assesseees to whom the proposed Presumptive Taxation Scheme is applicable but claims that their Income from Profession is less than 50% of their total gross receipts, would be required to get their books audited as per section 44AB of the Act.

8. Increase in Threshold Limit for audit for Persons having Income-from-Profession:

The existing provisions of section 44AB of the Act provide that every person carrying on a profession is required to get his accounts audited if the total gross receipts in a previous year exceed Rs.25 Lakhs.

An amendment is now proposed, to increase the above threshold limit of total gross receipts from Rs.25 Lakhs to Rs.50 Lakhs in a previous year, to get the accounts audited.

9. Increase in the Threshold limit of the Presumptive Taxation Scheme applicable to the Persons having Income-from-Business:

The threshold limit of turnover/ gross receipts from specified business for presumptive taxation is proposed to be increased to Rs.2 Crores from the existing limit of Rs.1 Crore.

Further, it is also proposed that the expenditure in the nature of salary, remuneration, interest etc. paid to the partners subject to limits as per clause (b) of section 40 of the Act (which was earlier deductible) shall not be now deductible while computing the income under section 44AD.

It is also proposed that where an eligible Assessee declares profit for any previous year in accordance with the provisions of this section and then he declares profit in any of the five consecutive assessment years relevant to the previous year succeeding such previous year which is not in accordance with the provisions of sub-section (1) of this Section, he shall not be eligible to claim the benefit of the provisions of this Section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1).

The Partnership firms doing eligible business under section 44AD of the Act would now be at a disadvantage as the Interest and Remuneration to Partners allowable as per provisions of section 40(b) of the Act would now be not eligible for deduction from the Profits from business from next year, which could entail higher tax burden.

Once the Assessee chooses to pay tax under this section and he stops maintaining the books of account, the question to ask would be what if he does not pay tax on presumptive basis under this section in one of the year out of five years, what would be opening balances that the Assessee would start his books of account with and how would the Auditor verify the correctness of the same to issue the Report under section 44AB of the Act.

One has to examine, whether having chosen to pay tax under this section, would the Assessee ever be able to pay tax at the rate less than 8% of the gross receipts as Total Income (unless proper accounts are maintained for all the years).

Though the limit of Turnover has been increased to Rs.2 Crores, the corresponding amendment in Section 44AB has remained to be done. This leaves us with a question as to whether a person claiming benefit of Section 44AD with Turnover above Rs.1 Crore and less than Rs.2 Crores would have to get their books of account audited.

10. Enhancement of Deduction under section 80GG:

The existing limit under section 80GG of the Act of deduction at the rate of Rs.2,000/- per month of any expenditure incurred by an individual in excess of ten per cent of his total income towards payment of rent in respect of any furnished or unfurnished accommodation occupied by him for the purposes of his own residence, is proposed to be increased to Rs.5,000/- per month or twenty-five per cent of his total income for the year, whichever is less, subject to other conditions as prescribed therein.

11. Rationalization of Section 56 of the Act for Individuals and HUF:

As per the existing provisions of Section 56 (2)(vii) of the Act when any shares of a company of the value exceeding Rs.50,000/- are received on demerger or amalgamation by an Individual or HUF without consideration, the same is chargeable to tax as Income from Other Sources (unlike in case of Firm or Company wherein the same is not taxable).

With a view to bring uniformity in tax treatment, it has been proposed to amend the Act so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of Section 56(2)(vii).

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12. Increased Period for acquisition or construction of self-occupied house property for claiming deduction of interest:

Given that the real estate projects do not get completed on time, the Finance minister is considerate and has proposed to increase the period for completion of the acquisition or construction of the self-occupied house property from 3 years to 5 years from the end of the financial year in which capital was borrowed, for claiming deduction of interest on borrowed capital.

13. Benefit of filing of Form 15G/15H extended to rental payments under section 194I:

In order to reduce the burden on the Assesseees in the lower income bracket, it is now proposed to extend the facility of 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 would take effect from 1st June 2016.)

C. Compliance, Governance and Rationalization

14. Exemption from furnishing PAN under section 206AA in certain cases:

Section 206AA of the Act provides that any person including a Non Resident Individual who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIIB of the Act shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Act or at the rate in force or at the rate of twenty per cent., whichever is higher, except for interest on long-term bonds referred to in section 194LC wherein the tax is deductible at 5%.

In order to reduce compliance burden, it is proposed to amend the said section 206AA so as to provide that the provisions of this section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed.

(The above amendment would take effect from 1st June 2016.)

15. Rationalization of scope of tax incentive under section 32AC of the Ac:

As per the existing provisions of Section 32AC(1A), a company which is engaged in manufacturing or production of any article or thing, on acquiring and Installing new Plant and Machinery exceeding Rs.25 Crores in a previous year, is entitled to an investment allowance at the rate of 15% on investment made in new plant and machinery . This tax incentive is available till 31st March, 2017.

The dual condition of acquisition and installation causes genuine hardship in cases where assets have been acquired but could not be installed in same previous year.

Therefore, an amendment to section 32AC is proposed to provide that the Asset acquired would have to be installed by 31st March, 2017 2017 in order to avail the benefit of investment allowance of 15%. Further, it is also proposed that the investment allowance @ 15% would be allowable in the year of installation if the acquisition of the Plant and Machinery is in a different year.

16. Deduction in respect of provision for bad and doubtful debt in the case of Non-Banking Financial Companies:

Considering the fact that Non-Banking Financial companies (NBFC's) are also engaged in financial lending to different sectors of society, it is proposed to provide deduction from total income of the NBFC (computed before making any deduction under this clause and Chapter-VIA) on account of provision for bad and doubtful debts to the extent of 5% of the total income.

17. Resolution of Controversy- Applicability of MAT on the Foreign Companies:

To resolve the ongoing controversy relating to applicability of Minimum Alternate Tax ('MAT') provisions to the Foreign Companies, Section 115JB of the Act is proposed to be amended with retrospective effect from 1st April, 2001, so as to provide that the provisions of this section would not be applicable to the Foreign Companies if:

- (i) The Foreign Company is a resident of a country or a specified territory with which India has an agreement referred to in sub-section (1) of section 90 or the Central Government has adopted any agreement under sub-section (1) of section 90A and the Foreign Company does not have a permanent establishment in India in accordance with the provisions of such Agreement; or

- (ii) The Foreign Company is a resident of a country with which India does not have an agreement of the nature referred to in clause (i) above and the Foreign Company is not required to seek registration under any law for the time being in force relating to Companies.

18. Simplification and rationalization of provisions relating to taxation of unrealized rent and arrears of rent:

To simplify the provisions relating to taxation of unrealized rent and arrears of rent a new section 25A is proposed to substituted in place of current sections 25A, 25AA and 25B providing that any arrears of rent or unrealized rent received in the financial year shall be considered as income from House Property of the Assessee in the year of its receipt irrespective of the fact whether the Assessee is the owner of the property or not in the financial year, and the Assessee would be entitled to a deduction of 30 % of the same.

19. Tax Treatment of Capital Gain and Interest on Deposit Certificates issued under the Gold Monetization Scheme, 2015:

With a view to extend the same tax benefits as were available to the Gold Deposit Scheme, 1999 to the Deposit Certificates issued under Gold Monetization Scheme 2015 ("the Scheme") it is proposed to amend Section 2(14) of the Act to exclude Deposit Certificate issued under the Scheme from the definition of Capital Assets and hence not liable to Capital Gains tax.

Further, it also proposed that the interest on Deposit Certificates issued under the Scheme, shall be exempt from Income-tax.

(The above amendment would take effect from Assessment Year 2016-17.)

20. Modification in conditions of special taxation regime for Off Shore Funds:

To expand international investments and business, in the last Budget, the Finance Minister inserted Section 9A providing that the activities of certain Off shore funds would not constitute business connection and hence would not be considered to be resident in India for the purpose of Section 6 of the Act merely because the eligible fund manager undertaking fund management activities on behalf of the fund is situated in India.

In order to rationalize the regime and to address the concerns of the industry, it is proposed to modify the conditions to provide that the eligible investment fund for purposes of Section 9A shall also mean a fund established or incorporated or registered outside India in a country or a specified territory notified by the Central Government in this behalf.

Further, it is also proposed to provide that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.

21. Tax Incentives to International Financial Services Centre:

To attract the business and investments and to provide incentives to the entities operating in the International Financial Services Centers, following amendments have been proposed:

- To exempt long term capital gains tax under Section 10(38) of the Act on transaction undertaken in foreign currency on a recognized stock exchange located in any of the International Financial Services Centers even without payment of STT.
- In case of a Company, being a unit located in International Financial Services Centre and deriving its income solely in convertible foreign exchange, the Minimum Alternate Tax as per section 115JB shall be chargeable @ 9% (in place of current rate of 18.5% which is otherwise applicable).
- No Dividend Distribution Tax on distribution of profits by unit located in International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year, on any amount declared, distributed or paid by such Company, by way of Dividends (whether interim or otherwise) on or after the 1st April, 2017 out of its current income, either in the hands of the Company or the person receiving such Dividend.

22. Conversion of Company into Limited Liability Partnership (“ L L P”)

As per the existing provisions of section 47 (xiii) of the Act any conversion of a Private Company or Unlisted Public Company to a LLP shall not be regarded as transfer subject to certain conditions laid down therein which includes a condition that the company's gross receipts, turnover or total sales in any of the preceding three years did not exceed Rs.60 lakhs.

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The amendment proposed to the said section includes in addition to the existing conditions as laid therein an additional condition that the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place does not exceed Rs Five Crores.

23. Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property.

With a view to rationalize the provision of Section 50C and to bring it in line with the provisions of Section 43CA, to avoid undue hardship to the Assessee, it is proposed to provide that where the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.

Further, it is also proposed that the amended provision shall apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of the immovable property.

24. Taxation of amount received/receivable for Non-Compete Fees or rights in the case of Profession.

Any amount received/receivable in cash or in kind ,under an agreement for non-compete of business was taxable under Section 28 of the Act and any amount received /receivable for transfer of the rights to manufacture ,produce or process any article or right to carry on any business was chargeable under the head Capital Gains as per provisions of section 45 of the Act .

Amounts received/receivable for non-compete fees in the case of Profession was hitherto neither taxable under Section 28 nor under Section 45 of the Act.

Therefore, to plug this anomaly the Finance Minister has proposed to amend the provisions of section 28 to include any Non-Compete fees received/receivable in respect of not carrying on any profession and any amount received /receivable in case of any transfer of rights to carry on Profession shall be taxable under the head Capital gains. Corresponding amendments are also made in Section 55 of the Act so as to provide that the cost of acquisition /improvement in such case of capital receipt shall be taken as *Nil*.

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25. Clarification regarding the definition of the term 'unlisted securities' for the purpose of Section 112 (1) (c).

In order to clarify the taxability of the unlisted securities as stated in Section 112(1)(c)(iii) of the Act, an amendment is now proposed to provide that the Long term capital gain arising on transfer of shares of unlisted securities or shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax @ 10%.

26. No further deferment of provisions relating to General Anti Avoidance Rule (“GAAR”):

Unlike the last budget, this time around the Finance Minister has reiterated the Government’s commitment to implement the provisions relating to General Anti Avoidance Rules (“GAAR”) from 1st April 2017; without further deferral.

27. Deferment of provisions relating to 'Place of Effective Management' by one year (“POEM”):

As per the existing provisions in the Act, the concept of POEM would come into effect from 1st April 2016 i.e. Assessment Year 2016-17 relevant to Financial Year 2015-16. However, considering the representations made by stakeholders, the Finance Minister has proposed to defer the implementation of POEM by one year, to address the concerns of the stakeholders and to provide clarity in respect of implementation of POEM based rule of residence.

Further, transition provisions for a foreign company not assessed earlier in India would be notified in terms of determination of income, set-off or carry forward of losses, applicability to specified subsequent periods, etc.

Therefore, it is proposed to implement POEM 1st April 2017 i.e. Assessment Year 2017-18 relevant to Financial Year 2016-17.

28. Benefit of additional depreciation extended to power sector:

Hitherto, the benefit of additional depreciation was not available on the new machinery or plant installed by an Assessee engaged in the business of transmission of power.

However, in order to rationalize the incentive of power sector, it is proposed to amend Section 32(1)(iia) of the Act, so as to provide that an Assessee engaged in the business of transmission of power shall also be allowed additional depreciation at the rate of 20% of actual cost of new machinery or plant acquired and installed in a previous year.

29. Tax incentives for Start-ups:

With a view to providing an impetus to Start -ups and facilitate their growth in the initial phase of their business, the following incentives are proposed:

- a) Deduction of 100% of the profits and gains derived by an eligible start-up (setup before 1st April, 2019) for three consecutive assessment years out of five years (at the option of the Assessee) beginning from the year in which the eligible start-up is incorporated; from a business involving innovation development deployment or commercialization of new products, processes or services driven by technology or intellectual property.
- b) To establish a Fund that intends to raise Rs. 2,500 Crores annually for four years to finance the start-ups.
- c) Exemption from capital gains tax if the long term capital gains proceeds are invested by an Assessee in units of Fund specified above, as may be notified by the Central Government in this behalf, subject to the condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the specified fund shall be allowed up to Rs.50 Lakhs during any financial year.
- d) Long term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than fifty per cent shares of the company and such company utilizes the amount invested in shares to purchase new asset before due date of filing of return by the investor.
- e) With a view to avoid the incidence of the aforesaid condition on start-ups where computers or computer software form the core asset base owing to nature of business activity, it is proposed to amend section 54GB so as to provide that the expression "new asset" includes computers or computer software in case of technology driven start-ups so certified by the Inter-Ministerial Board of Certification notified by the Central Government in the official Gazette.

30. Incentives for Promoting Housing for All:

With a view to incentivize affordable housing sector as a part of larger objective of 'Housing for All', the following incentives are proposed:

- a) 100% Deduction of the profits of an Assessee developing and building affordable housing projects if the housing project is approved by the competent authority before the 31st March, 2019 subject to certain conditions as prescribed.

- b) To incentivize first-home buyers availing home loans, additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs.50,000/- is proposed. This incentive is proposed to be extended to a house property of a value less than Rs.50 Lakhs in respect of which a loan of an amount not exceeding Rs.35 Lakh has been sanctioned during the period from the 1st April 2016 to 31st March 2017. It is also proposed to extend the benefit of this deduction till the repayment of loan continues (earlier this benefit was available for two Assessment Years only i.e. AY 2014-15 & AY 2015-16).

31. Incentives for employment generation:

With a view to extend the employment generation incentive to all sectors, it is proposed to provide that the deduction under the Section 80JJAA shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to Rs.25,000/- per month. No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government.

It is further proposed to relax the norms for minimum number of days of employment in a financial year from 300 days to 240 days and also the condition of 10% increase in number of employees every year is proposed to be done away with, so that any increase in the number of employees will be eligible for deduction under the provision.

It is also proposed to provide that in the first year of a new business, 30% of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction.

32. Rationalization of Sovereign Gold Bond Scheme, 2015 and Rupee Denominated Bonds:

Sovereign Gold Bond Scheme, 2015

With a view to providing parity in tax treatment between physical gold and Sovereign Gold Bond, it is proposed to amend Section 47 of the Income-tax Act, so as to provide that any redemption of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains.

Further, it is also proposed to provide indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond to all eligible Assesseees.

Rupee Denominated Bonds

To provide relief to non -resident investor who bears the risk of currency fluctuation, it is proposed to provide that the capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax.

33. Tax neutrality on merger of different plans in a scheme of Mutual Funds:

In order to facilitate consolidation of different plans in a scheme of Mutual Fund, it is proposed to provide tax neutrality to unit holders upon consolidation or merger of mutual fund plans in a scheme of Mutual Fund.

34. Exemption from Dividend Distribution Tax ('DDT') on distribution made by an SPV to Business Trust-Welcome move for Real Estate Investment Trusts ('REIT'):

In order to further rationalize the taxation regime for business trusts (REITs and INVITs) and their investors, it is proposed to provide a special dispensation and exemption from levy of DDT.

The salient features of the proposed dispensation are: —

- a) Exemption from levy of DDT in respect of distributions made by SPV to the business trust.

- b) Dividend received by the business trust and its investor shall not be taxable in the hands of trust or investors.
- c) The exemption from levy of DDT would only be in the cases where the business trust either holds 100% of the share capital of the SPV or holds all of the share capital other than that which is required to be held by any other entity as part of any direction of any Government or specific requirement of any law to this effect or which is held by Government or Government bodies.
- d) The exemption from the levy of DDT would only be in respect of dividends paid out of current income after the date when the business trust acquires the shareholding referred in (c) above in the SPV. The dividends paid out of accumulated and current profits upto this date shall be liable for levy of DDT as and when any dividend out of these profits is distributed by the company either to the business trust or any other shareholder.

(The above amendment would take effect from 1st June 2016.)

35. New Taxation Regime for Securitization Trust and its investors:

In order to rationalize the tax regime for securitization trust and its investors, and to provide tax pass through treatment, it is proposed to amend the provisions of the Act to substitute the existing special regime for securitization trusts by a new regime having the following elements: -

- a) The new regime shall apply to securitization trust being an SPV defined under SEBI (Public Offer and Listing of Securitized Debt Instrument) Regulations, 2008 or SPV as defined in the guidelines on securitization of standard assets issued by RBI or being setup by a securitization company or a reconstruction company in accordance with the SARFAESI Act;
- b) The income of securitization trust shall continue to be exempt. However, exemption in respect of income of investor from securitization trust would not be available and any income from securitization trust would be taxable in the hands of investors;
- c) The income accrued or received from the securitization trust shall be taxable in the hands of investor in the same manner and to the same extent as it would have happened had investor made investment directly in the underlying assets and not through the trust;

- d) Tax deduction at source shall be effected by the securitization trust at the rate of 25% in case of payment to resident investors which are individual or HUF and @ 30% in case of others. In case of payments to non-resident investors, the deduction shall be at rates in force;
- e) The facility for the investors to obtain low or nil deduction of tax certificate would be available; and
- f) The trust shall provide breakup regarding nature and proportion of its income to the investors and also to the prescribed income-tax authority.

Further, it is proposed to provide that the current regime of distribution tax shall cease to apply in case of distribution made by securitization trusts with effect from 1st June 2016.

(These above amendments will take effect from 1st June 2016.)

36. 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. Fifty Lakhs against the existing limit of Rs. Fifteen Lakhs.

D. Mobilization of Resources

37. 'Equalization Levy' to tap tax on income accruing to foreign E-commerce companies from India:

Considering the potential of new digital economy, the rapidly evolving nature of business operations and the challenges in terms of taxation of digital transactions, the Finance Minister has proposed to insert a new levy called an the 'Equalization Levy' such that a person making payment to a nonresident, not having a permanent establishment in India, exceeding an aggregate amount of Rs.1 lakh in a year, as consideration for specified services, will withhold tax at 6% of gross amount paid, as Equalization Levy and pay the same to the Government, similar to tax deducted at source.

The complete details as to the scheme of 'Equalization Levy', definitions, provisions of collection and recovery of tax, administration etc. are proposed in a new Chapter titled 'Equalization Levy' in the Finance Bill.

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(The above Chapter will take effect from the date appointed in the notification to be issued by the Central Government.)

38. Tax Collection at Source ('TCS') on sale of Vehicles; goods or services:

With the objective of reducing the quantum of cash transaction in sale of any goods or services, to curb the flow of unaccounted money, and to bring high value transactions within the tax net, the Finance Minister has proposed to collect tax at source at the rate of 1% from the purchaser; on sale of motor car with value exceeding Rs.Ten Lakh, sale of any goods (other than bullion and jewellery which are covered hitherto) or provision of services (other than payments on which tax is deducted at source under Chapter XVII-B) with consideration exceeding Rs.Two Lakhs.

(The above amendments will take effect from 1st June 2016).

39. Clarification on Section 115QA-Levy of Buyback tax enlarged:

With a view to put at rest, the recent doubts regarding the effect of buybacks undertaken by the company under different provisions of the Companies Act, 1956 or the Companies Act, 2013; and also the lack of clarity in determination of consideration received by the company at the time of issue of shares being bought back by the company; in order to provide clarity and remove any ambiguity on the above issues, it is proposed to amend section 115QA to provide that the provisions of this section shall apply to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956. It is further proposed to provide that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined in the prescribed manner.

The rules regarding manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganizations and in different tranches etc. would be framed subsequently.

(The above amendments will take effect from 1st June 2016.)

40. Levy of tax where the charitable institution ceases to exist as such or converts into a non-charitable organization:

In order to ensure that the benefit conferred to trusts or institutions over the years by way of exemption is not misused, and the intended purpose of exemption is achieved; there is a need to ensure that a specific provision in the Act is required for imposing a levy in the nature of an exit tax which is attracted when the charitable organization is converted into a non-charitable organization or gets merged with a non-charitable organization or does not transfer the assets to another charitable organization.

Accordingly, it is proposed to amend the provisions of the Act and introduce a new Chapter to provide for levy of additional income-tax in case of conversion into, or merger with, any non-charitable form or on transfer of assets of a charitable organization on its dissolution to a non-charitable institution.

The complete detail as to the scheme of taxation of accreted income of certain trusts and institutions is proposed in the new Chapter of the Finance Bill.

(The above Chapter will take effect from 1st June 2016.)

41. Carry forward and set off of losses by Specified Business under section 73A of the Act.

It is proposed to amend Section 80 so as to provide that the loss determined as per section 73A of the Act shall not be allowed to be carried forward and set off, if such loss has not been determined in pursuance of a return filed in accordance with the provisions of sub-section (3) of section 139. Consequential amendment is also proposed in section 139(3) of the Act.

42. Phasing out of Deductions and Exemptions:

Keeping to his promise in last Budget, of reducing the rate of corporate tax from 30% to 25% over the next four years along with corresponding phasing out of exemptions and deductions; the Finance Minister has proposed to implement this decision in a phased manner, on the following guiding principles:

- a) Profit linked, investment linked and area based deductions will be phased out for both corporate and non-corporate tax payers;
- b) The provisions having a sunset date will not be modified to advance the sunset date. Similarly the sunset dates provided in the Act will not be extended;

- c) In case of tax incentives with no terminal date, a sunset date of 31st March 2017 will be provided either for commencement of the activity or for claim of benefit depending upon the structure of the relevant provisions of the Act.

The specific provisions as to the dates of phasing out of various incentives are provided in the relevant section, which are not reiterated hereunder for the sake of brevity.

43. Taxation of Income from 'Patents':

In order to encourage indigenous research & development activities and to make India a global R&D hub, the Government has decided to put in place a concessional taxation regime for income from patents.

Accordingly, it is proposed to insert new section 115BBF to provide that where the total income of the eligible Assessee includes any income by way of royalty in respect of a patent developed and registered in India, then such royalty shall be taxable at the rate of 10% (plus applicable Surcharge and Cess) on the gross amount of royalty, which otherwise would be taxed according to the slab rate. It is also clarified that no deduction of expenditure or allowance under the Act shall be allowed in computing the royalty income.

Further, it has also been proposed that the provisions of Minimum Alternate Tax would not be applicable on the royalty from patents as above. Consequential amendment is also proposed in Section 115JB.

44. The Income Declaration Scheme, 2016:

The Finance Minister has proposed to provide an opportunity to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totaling in all to 45% of such undisclosed income declared.

The scheme is proposed to be brought into effect from 1st June 2016 and will remain open up to the date to be notified by the Central Government in the official gazette. The scheme is proposed to be made applicable in respect of undisclosed income of any Financial Year upto 2015-16.

It is proposed to provide that declarations made under the scheme shall be exempt from wealth-tax in respect of assets specified in declaration. It is also proposed that no scrutiny and enquiry under the Income-tax Act and Wealth-tax Act be undertaken in respect of such declarations and immunity from

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prosecution under such Acts be provided. Immunity from the Benami Transactions (Prohibition) Act, 1988 is also proposed for such declarations subject to certain conditions.

The complete details as to the eligibility of Assessee, manner of declaration, immunity proposed etc. are given in the new Chapter IX to the Finance Bill.

45. No set off of losses against deemed undisclosed income:

To bring to end the current uncertainty and avoid unnecessary litigation, on the issue of set-off of losses against income referred in section 115BBE of the Act, it is proposed to amend the provisions of the sub-section (2) of section 115BBE to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D.. The matter has been carried to judicial forums and courts in some cases have taken a view that losses shall not be allowed to be set -off against income referred to in section 115BBE. However, the current language of section 115BBE of the Act does not convey the desired intention and as a result the matter is litigated.

E. Others

46. Processing of Income Tax return filed under section 143(1) of the Act mandatory before passing of Order under section 143(3) of the Act.

As per existing provisions of section 143(1D) of the Act the processing of a return of income filed shall not be necessary, where a notice under section 143(2) has been issued to the Assessee.

An amendment is proposed to section 143(1D) to provide that before passing of an assessment order under section 143(3) of the Act , the return shall be processed under section 143(1) .

The above amendments would be effective from A.Y 2017-18.

47. Payment of Advance tax under section 209 and Interest under section 234C.

Effective from the Assessment year 2007-18 all Assesseees except the Assessee paying tax under presumptive tax under section 44AD shall be liable to pay the Advance tax worked out as per section 209 in Four installments and the due date and the amounts payable are, as under:

On or before 15 th June	Not less than 15% of the Advance tax payable
On or before 15 th September	Not less than 45% of the advance tax payable as reduced by the advance tax paid in June Installment.
On or before 15 th December	Not Less than 75% of the advance tax payable less Advance tax paid in earlier two installments
On or before 15 th March	The entire amount of Advance tax payable for the year Less the advance tax paid in the earlier three quarters

Provided further that an eligible Assessee in respect of an eligible business referred to in Section 44AD, to the extent of the whole amount of such advance tax during each financial year on or before 15th March:

The Consequential amendments are also proposed to be made to section 234C which provides for chargeability of interest for deferment of advance tax to bring it in sync with the amendments proposed in section 211.

Further, it is also provided that interest under section 234C shall not be chargeable in case of an Assessee having income under the head "Profits and gains of business or profession" for the first time, subject to fulfillment of conditions specified therein.

(These above amendments will take effect from 1st June 2016.)

F. Easing of compliance burden and dealing with the Department

48. Interest on Refund under section 244A

The following amendments are being proposed for granting interest under section 244A of the Act.

- In order to ensure filing of return within the due date it is proposed to amend section 244A to provide that in cases where the return is filed after the due date, the period for grant of interest on

refund may begin from the date of filing of return and not from 1st April of the Assessment Year concerned.

- In the interest of fairness and equity, it is further proposed to provide that an Assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.

The above clarification regarding payment of Interest on Self-Assessment Tax is a welcome move, which would go long way in avoiding futile litigation by the tax payers to claim interest on Self-Assessment Tax, which is happening currently.

- Further, in a case where a refund arises as a result of giving effect to an order under section 250 or section 254 or section 260 or section 262 or section 263 or section 264, wholly or partly, otherwise than by making a fresh assessment or reassessment, the Assessee shall be entitled to receive, in addition to the interest payable at 6% per annum, an additional interest on such amount of refund calculated at the rate of 3% per annum, for the period beginning from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.

(The above amendments will take effect from 1st June, 2016.)

49. Providing Time limit for disposing certain Applications made by Assessee:

Under the existing provisions, no time limit has been provided regarding the passing of orders either under section 220 or sections 273A or 273AA of the Act. Further, these provisions do not specifically mandate that Assessee be given an opportunity of being heard in case such application is rejected by an authority.

Therefore, in order to rationalize the provisions and provide for specific time-line, amendments to the existing provisions have been proposed to provide that an Order shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such application is received, after giving an opportunity of being heard to the Assessee.

Further, it is clarified that, in respect of applications pending as on 1st June 2016, the order under above said sections shall be passed on or before 31st May 2017.

50. Rationalization of Time-limit for completion of assessments, re-assessments etc.:

Taking benefit of digitization of processes within the Department to the next level, the Finance Minister has indicated desire to have proceedings under the Act finalized more expeditiously. In order to simplify the provisions of existing section 153 of the Act, the following changes in time limit are proposed:

- a) the period, for completion of assessment under section 143 or section 144 be changed from existing two years to twenty-one months from the end of the assessment year in which the income was first assessable;
- b) the period for completion of assessment under section 147 be changed from existing one year to nine months from the end of the financial year in which the notice under section 148 was served;
- c) the period for completion of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or cancelling an assessment be changed from existing one year to nine months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner.
- d) The period, for completion of assessment under section 153A, in respect of each assessment year falling within six assessment years referred to in clause (b) of sub-section (1) of section 153A and in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A be changed from existing two years to twenty-one months from the end of the financial year in which the last of the authorizations for search under section 132 or for requisition under section 132A was executed.
- e) The period, for completion of assessment in case of other person referred to in section 153C shall be changed from existing two years to twenty-one months from the end of the financial year in which the last of the authorization for search under Section 132 or requisition under section 132A was executed or nine months (changed from the existing one year) from the end of the financial year in which the books of account or documents or assets seized or requisition are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.

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The provisions of section 153B as they stood immediately before their amendment by the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or re-computation made before the 1st June, 2016.

There apart, another welcome move for the Assessee is, providing time limit for the Officers in giving effect to an order, under sections 250 or 254 or 260 or 262 or 263 or 264 or an order of the Settlement Commission under sub-section (4) of section 245D, where effect can be given wholly or partly otherwise than by making a fresh assessment or reassessment, within three months from the end of the month in which order is received or passed, as the case may be, by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

It is also proposed that in a case where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such reasons in writing from the Assessing Officer, if satisfied, may allow additional time of six months to give effect to the said order. However, in respect of cases pending as on 1st June 2016, the time limit for passing such order is proposed to be extended to 31st March 2017.

(The above amendments will take effect from 1st June 2016.)

51. Rationalization of provisions relating to Filing of return of Income:

In order to rationalize the time allowed for filing of returns, completion of proceedings, and realization of revenue without undue compliance burden on the taxpayer, and to promote the culture of compliance, it is proposed to make following amendments:

- a) Mandatory filing of return of income by a person if, such person has only earned income during the previous year which is exempt under Section 10(38); and otherwise not required to file return of income for the year.
- b) Time limit for filing belated return curtailed, to furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.
- c) Belated return filed can be revised to correct any omission or any wrong statement therein, at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

- d) A return without payment of self-assessment tax and interest in accordance with the provisions of section 140A would not be treated defective, if otherwise valid.

G. Measures to reduce litigation

52. Provisions regarding Income Tax Appellate Tribunal (“ITAT”).

- The Government in its commitment to reduce litigation have proposed to delete Section 253(2A) and section 253(3A) with regards to filing of Appeal against the order of Dispute Resolution Panel (‘DRP’) to the ITAT. Thus, the Order of the DRP shall be binding and the same shall not be disputed by the Assessing Officer .
- The Assessing Officer or the Assessee, as the case may be, on receipt of notice that an appeal against the order of the Commissioner (Appeals), has been preferred under sub- section (1) or sub-section (2) by the other party, may, notwithstanding that he may not have appealed against such order or any part thereof, within thirty days of the receipt of the notice, file a memorandum of cross-objections, verified in the prescribed manner, against any part of the order of the Commissioner (Appeals), and such memorandum shall be disposed of by the ITAT as if it were an appeal presented within the time specified in sub-section (3).
- The existing provisions sub-section (2) of the section 254 of the Act, provide that the ITAT may rectify any mistake apparent from the record in its order at any time within four years from the date of the order.
- In order to bring certainty to the order of ITAT, it is proposed to amend sub-section (2) of section 254 to provide that the ITAT may rectify any mistake apparent from the record in its order at any time within six months from the end of the month in which the order was passed.

(The above amendments will take effect from 1st June 2016.)

53. The Direct Tax Dispute Resolution Scheme, 2016:

In order to reduce the huge backlog of cases and to enable the Government to realize its dues expeditiously, it is proposed to bring the Direct Tax Dispute Resolution Scheme, 2016 in relation to tax arrears and specified tax. The salient features of the proposed scheme are as under:

- a) The scheme would be applicable to "tax arrear" which is defined as the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on the 29th day of February, 2016.
- b) The pending appeal could be against an assessment order or a penalty order.
- c) The declarant under the scheme be required to pay tax at the applicable rate plus interest upto the date of assessment. However, in case of disputed tax exceeding Rs. Ten Lakhs, 25% of the minimum penalty leviable shall also be required to be paid.
- d) In case of pending appeal against a penalty order, 25% of minimum penalty leviable shall be payable along with the tax and interest payable on account of assessment or reassessment.
- e) Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.

Apart from reducing the number of appeals pending before the Commissioner (Appeals) as above, the scheme proposes that person may also make a declaration in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Income-tax Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which is pending as on 29th February 2016 (referred to as 'specified tax').

For availing the benefit of the Scheme with respect to 'specified tax', the declarant shall be required to withdraw any writ petition or any appeal filed against such specified tax before the Commissioner (Appeals) or the Tribunal or High Court or Supreme Court, before making the declaration and shall also be required to furnish a proof of such withdrawal. Further, if any proceeding for arbitration conciliation or mediation has been initiated by the declarant or he has given any notice under any law or agreement entered into by India, whether for protection of investment or otherwise, he shall be required to withdraw such notice or claim for availing benefit under this Scheme.

The complete details as to the eligibility of Assessee, manner of declaration, immunity proposed etc. are given in the new Chapter X to the Finance Bill.

H. Revamp of provisions relating to Penalty

54. Rationalization of Penalty provisions-New Section 270A in place of existing Section 271:

In order to rationalize and bring objectivity, certainty and clarity in the penalty provisions, it is proposed that section 271 shall not apply to and in relation to any assessment year commencing on or after the 1st of April, 2017 i.e. from and onwards Assessment Year 2017-18, for which penalty would be levied under the newly inserted section 270A.

The new section 270A provides for levy of penalty in cases of under reporting and misreporting of income.

A person shall be considered to have under reported his/ her income if:

- a) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;
- b) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;
- c) the income reassessed is greater than the income assessed or reassessed immediately before such re-assessment;
- d) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143.
- e) the amount of deemed total income assessed as per the provisions of section 115JB or 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;
- f) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

Further, it is also proposed that the following cases would not be considered as under reporting of income:

- i. where the Assessee offers an explanation and the income-tax authority is satisfied that the explanation is bona fide and all the material facts have been disclosed;

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- ii. where such under-reported income is determined on the basis of an estimate, if the accounts are correct and complete but the method employed is such that the income cannot properly be deducted there from;
- iii. where the Assessee has, on his own, estimated a lower amount of addition or disallowance on the issue and has included such amount in the computation of his income and disclosed all the facts material to the addition or disallowance;
- iv. where the Assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X and disclosed all the material facts relating to the transaction;
- v. where the undisclosed income is on account of a search operation and penalty is leviable under section 271AAB.

The rate of Penalty for under reporting of income is **50%** of the tax on income so under reported.

However in a case where under reporting of income results from misreporting of income by the Assessee, penalty at the rate of **200%** of the tax payable on such misreported income

A person shall be considered to have misreported his income if:

- a) misrepresentation or suppression of facts;
- b) non-recording of investments in books of account;
- c) claiming of expenditure not substantiated by evidence;
- d) recording of false entry in books of account;
- e) failure to record any receipt in books of account having a bearing on total income;
- f) failure to report any international transaction or deemed international transaction under Chapter X.

Further it is proposed that the Tax Payable for computing Penalty in case of Company, Firm or Local Authority, shall be calculated as if, the under-reported income is the total income; and in any other case the Tax Payable shall be 30% of the under-reported income.

55. Certainty of Penalty under section 271 AAB:

The discretion given to the Assessing officer under section 271AAB (1) (c) has been done away with and it is proposed that penalty @ 60% on undisclosed income shall be levied.

56. Penalty under section 272A:

It is proposed to amend sub-section (1) of section 272A to further include levy of penalty of Rs. 10,000/- for each default or failure to comply with a notice issued under sub-section (1) of section 142 or sub-section (2) of section 143 or failure to comply with a direction issued under sub-section (2A) of section 142.

Further, it is also proposed to amend sub-section (3) of section 272A to provide that penalty in case of failure referred above shall be levied by the income tax authority issuing such notice or direction.

I. Futuristic Measures-laying foundation for future expansion of global businesses

57. Exemption of income of Foreign company from storage and sale of crude oil stored as part of strategic reserves:

In order to achieve neutrality in terms of taxation to encourage the National Oil Companies ('NOCs') & multinational companies ('MNCs') to store their crude oil in India and to build up strategic oil reserves, it is proposed to amend the provisions of section 10 of the Act to provide that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil there from to any person resident in India shall not be included in the total income, provided it satisfies the prescribed conditions.

(This amendment will take effect retrospectively from 1st April 2016 and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years.)

58. Exemption in respect of certain activity related to diamond trading in "Special Notified Zone":

In order to facilitate the foreign mining companies to undertake activity of display of uncut diamond (without any sorting or sale) in the special notified zone, it is proposed to amend section 9 of the Act to provide that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and un-assorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf.

(This amendment will take effect retrospectively from 1st April 2016 and will accordingly apply in relation to assessment year 2016-17 and subsequent assessment years.)

59. BEPS action plan - Country-By-Country Report and Master file:

In order to implement the international consensus and meet with India's commitment to BEPS initiative of OECD and G-20, the Finance Minister has proposed provisions for requirement of country by country reporting for companies with consolidated revenue of more than Euro 750 million.

The relevant details as to implementation of reporting requirements etc. are proposed in the Finance Bill.

J. Amendments in Tax Deducted at Source provisions ('TDS')

60. Rationalization of TDS provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors:

In order to rationalize the TDS regime in respect of payments made by the investment funds to its investors, it is proposed to amend section 194LBB to provide that the person responsible for making the payment to the investor shall deduct income-tax under section 194LBB at the rate of 10% where the payee is a resident and at the rates in force where the payee is a non-resident (not being a company) or a foreign company.

Further, it is proposed to amend section 197 to include section 194LBB in the list of sections for which a certificate for deduction of tax at lower rate or no deduction of tax can be obtained. Consequential changes are also proposed to be made to the definition of "rates in force" so as to include section 194LBB in it.

(These amendments will take effect from 1st June 2016.)

61. Existing threshold limit and/or rates of TDS rationalized on the following payments:

Sr. No.	Nature of payments	Threshold limit (Rs.)		Rate of TDS(%)	
		Existing	Proposed	Existing	Proposed
1	Payment of accumulated balance of provident fund due to an employee	30,000	50,000	No change	No change
2	Winnings from a horse race	5,000	10,000	No change	No change
3	Payment to contractors	75,000 Aggregate annual limit	1,00,000 Aggregate annual limit	No change	No change
4	Insurance commission	20,000	15,000	10% (rate in force)	5%
5	Payment towards a life insurance policy	No change	No change	2%	1%
6	Payment towards a NSS deposit	No change	No change	20%	10%
7	Commission on sale of lottery tickets	1,000	15,000	10%	5%
8	Commission or brokerage	5,000	15,000	10%	5%
9	Payment of compensation on acquisition of certain immovable property	2,00,000	2,50,000	No change	No change

II. INDIRECT TAXES - SERVICE TAX:

The amendments proposed by the Finance Minister with respect to Service tax are discussed herein below.

1. Roll out of Goods and Services Tax ('GST'):

Like the last year, in his Speech this year, the Finance Minister has given reaffirmed commitment to ensure the passage of the Constitutional amendments to enable the implementation of the Goods and Service Tax, the passage of Insolvency and Bankruptcy law and other important reform measures which are pending before the Parliament.

2. Rate of Service Tax:

It is proposed to continue to tax services at the rate of 14% plus Swach Bharat Cess of 0.5% i.e. effective rate of 14.50%.

However, the Finance Minister has come introduced an additional Cess of 0.5% on all taxable services with effect from 1st June 2016, to be called as Krishi Kalyan Cess to finance and promote initiatives to improve agriculture.

Thus, the Effective service tax rate from 1st June 2016 is increased from the existing rate of 14.50% to 15%.

Further, the Finance Minister had stated in his Budget Speech that CENVAT Credit of this new cess will be available. However, no notification has been issued to this effect. It is expected that in due course of time notification to this effect may be issued.

The change in rate of Service Tax would be effective 1st June 2016. Till such time the effective rate of Service tax would continue to be 14.50%.

3. Clarification regarding scope of services of lottery distributor and selling agent:

Explanation 2 in section 65B (44) of the Finance Act, 1994 is being amended so as to clarify that, any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, of the State Government as per the provisions of the Lotteries (Regulation) Act, 1998 (17 of 1998), is leviable to Service Tax.

4. Rationalization of Interest Rate:

This is a welcome move by the Finance Minister, wherein it is proposed to rationalize the Interest rates on delayed payment of duty/tax across all indirect taxes uniformly at 15% per annum.

However, in case of Service Tax collected but not deposited to the exchequer, the rate of interest will be 24% per annum from the date on which the Service Tax payment became due.

Further, in case of Assessee, whose value of taxable services in the preceding year/years covered by the notice is less than Rs.60 Lakh, the rate of interest on delayed payment of Service Tax will be 12%.

[The above changes will come into effect on the day the Finance Bill receives the assent of the President.]

5. Clarity on deemed conclusion of proceedings against person liable under Section 78A:

This is another welcome move by the Finance Minister, wherein it is proposed to provide that penalty proceedings under section 78A shall be deemed to be closed in cases where the main demand and penalty proceedings have been closed under section 76 or section 78, by making suitable changes to section 78A by addition of an explanation.

6. Increase in monetary limit for certain offences specified in Section 89:

The Finance Minister has proposed to rationalize the monetary limit in case of offences specified in Clause (a), (b) or (c) of Section 89, to Rs.2 Crores against the existing limit of Rs.50 Lakhs, for imprisonment.

7. Restriction on power of arrest:

It is proposed to restrict the power to arrest in Service Tax only in situations where the tax payer has collected the tax but not deposited it to the exchequer, and that too above a threshold of Rs.2 Crores.

Further, the monetary limit for launching prosecution is being increased from Rs.1 Crore to Rs.2 Crores of Service Tax evasion.

8. Broadening of tax base-Negative List pruned:

With the object of broadening the tax base, the list of services in the Negative List is proposed to be reduced by bringing the following services within the ambit of taxation of services, which were hitherto outside the levy of Service tax:

- Service of transportation of passengers, with or without accompanied belongings, by a stage carriage (w.e.f. 1st June 2016);

However, such services by a non-air-conditioned contract carriage will continue to be exempted by way of exemption Notification No. 25/2012-ST, as amended by notification No. 09/2016-ST, dated 1st March 2016

The service of transportation of passengers by air-conditioned stage carriage is being taxed at the same level of abatement (60%) as applicable to the transportation of passengers by a contract carriage, with same conditions of non-availment of Cenvat credit.

- Educational services by way of (a) pre-school education and education up to higher and secondary school or equivalent, (b) education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force and (c) education as a part of an approved vocational education course (This amendment would come into effect from the date of enactment of Finance Bill, 2016);
- Services provided by them by way of transportation of goods by a vessel from outside India up to the customs station in India (w.e.f. 1st June 2016).

However such services by an aircraft will continue to be exempted by way of exemption Notification No. 25/2012-ST, as amended by notification No. 09/2016-ST dated 1st March, 2016.

9. Broadening of tax base-Declared services expanded:

With the object of broadening the tax base, the list of Declared services is proposed to be expanded by bringing the Assignment by the Government of the right to use the radio-frequency spectrum and subsequent transfers thereof within the ambit of taxation of services, which were hitherto outside the levy of Service.

This is done to as to make it clear that assignment of right to use the spectrum is a service leviable to Service Tax and not sale of intangible goods.

10. Broadening of tax base-Withdrawal of Exemptions:

In order to widen the tax base, the following exemptions are proposed to be withdrawn:

- Services provided by a senior advocate to an advocate or partnership firm of advocates or business entity having turnover up to Rs.10 Lakh in preceding financial year
- Services provided by a person represented on an arbitral tribunal to an arbitral tribunal;

Further, it has been clarified that the Service tax in above two cases would be payable by the service provider (effective from 1st April 2016).

- Exemption on transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway;

(The above changes would come into effect from the 1st April 2016.)

- Exemption to construction, erection, commissioning or installation of original works pertaining to monorail or metro, in respect of contracts entered into on or after 1st March 2016;

(The above change would come into effect from the 1st March 2016.)

11. New Exemptions:

The Finance Minister has proposed to provide the following new exemptions:

- The services of life insurance business provided by way of annuity under the National Pension System (NPS) regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from service tax;
- Services provided by Securities and Exchange Board of India (SEBI) set up under SEBI Act, 1992, by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market are being exempted from service tax.
- Services provided by Employees' Provident Fund Organization (EPFO) to employees are being exempted from service tax.
- Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to the incubatees are being exempted from service tax.
- Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from service tax.
- Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted from service tax.
- Services of general insurance business provided under „Niramaya“ Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted from service tax.
- The threshold exemption limit of consideration charged for services provided by a performing artist in folk or classical art forms of music, dance or theatre, is being increased from Rs 1 lakh to Rs 1.5 lakh per performance.
- Services provided by way of skill/vocational training by Deen Dayal Upadhyay Grameen Kaushalya Yojana training partners are being exempted from service tax.
- Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted from service tax.
- Services by way of construction, erection etc. of a civil structure or any other original works pertaining to the “In-situ Rehabilitation of existing slum dwellers using land as a resource through private participation” component of Housing for All (HFA) (Urban) Mission / Pradhan Mantri Awas Yojana (PMAY), except in respect of such dwelling units of the projects which are not constructed for existing slum dwellers, is being exempted from service tax (w.e.f.1st March, 2016).

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- Services by way of construction, erection etc., of a civil structure or any other original works pertaining to the “Beneficiary-led individual house construction / enhancement” component of Housing for All (HFA) (Urban) Mission/ Pradhan Mantri Awas Yojana (PMAY) is being exempted from service tax (w.e.f.1st March, 2016).
- Services by way of construction, erection, etc., of original works pertaining to low cost houses up to a carpet area of 60 sq.m per house in a housing project approved by the competent authority under the “Affordable housing in partnership” component of PMAY or any housing scheme of a State Government are being exempted from service tax (w.e.f.1st March, 2016).
- Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management(PGPM) (other than executive development programme), admissions to which are made through Common Admission Test conducted by IIMs, 5 year Integrated Programme in Management and Fellowship Programme in Management are being exempted from service tax (w.e.f.1st March, 2016).

(All the above changes in would come into effect from the 1st April 2016, except specifically stated otherwise.)

12. Special Provision for exemption in certain cases:

The Finance Minister has proposed to provide the following which were withdrawn earlier:

- Services provided to a Governmental Authority relating to Construction of canal, dam, etc. [Section 101]:

It is proposed that taxable Services provided to an specified authority, board or any other body set up by an Act of Parliament or a State Legislature or established by the government, by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of canal, dam or other irrigation works would not attract Service Tax for the period 1st July 2012 to 29th January 2014.

Where Service tax has already been paid for the above period, refund will be available provided such refund application is made within six months from the date on which the Finance Bill, 2016 receives the assent of the President.

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- Services of construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc.[Section 101]:
- Services of construction of ports, airports

The above two exemptions are proposed to be restored in respect of services provided under contracts which had been entered into prior to 1st March 2015 on payment of applicable stamp duty, with retrospective effect from 1st April 2015 to 29th February 2016.

(The above changes would come into effect retrospectively after enactment of the Finance Bill, 2016.)

13. Other exemption:

In order to avoid an overlap between Service Tax and Excise/ Customs Duty, a new exemption notification has been introduced in relation to information technology software recorded on a media in respect of which the Retail Sale Price is required to be declared under the provisions of the Legal Metrology Act, 2009.

14. Rationalization of Abatements:

- In cases where the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour, abatement of 90% is available with specified conditions. However, this abatement of 90% cannot be claimed in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.
- Abatement rates in respect of services by a tour operator in relation to a tour other than above, is being rationalized from 75% and 60% to 70%.
- Services provided by foreman to a chit fund under the Chit Funds Act, 1982 are proposed to be taxed at an abated value of 70% (with abatement of 30%) subject to the condition that CENVAT credit of inputs, input services and capital goods has not been availed.
- For availing abatement of 60% on the gross value of renting of motor-cab services (provided no CENVAT credit has been taken.), the cost of fuel should be included in the consideration charged for providing renting of motor-cab services for availing the abatement.
- A uniform abatement at the rate of 70% is now being prescribed for services of construction of complex, building, civil structure, or a part thereof, subject to fulfillment of the existing conditions.

- It is proposed to continue with the same level of abatement for the service of transport of passengers by rail. However, benefit of CENVAT credit of input services for the said service is now available.
- A reduced abatement rate of 60% with credit of input services is being prescribed for transport of goods in containers by rail by any person other than Indian Railway.
- It is proposed to continue with the same level of abatement for the service of transport of goods by vessel. However, benefit of CENVAT credit of input services for the said service is now available.
- Abatement on transport of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of 60% without availment of CENVAT credit on inputs, input services and capital goods by the service provider.

(The proposed rationalization in abatements shall come into effect from the 1st April, 2016.)

15. Amendments in Reverse Charge Mechanism:

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

It is proposed to provide that the services provided by mutual fund agent/distributor to a mutual fund or asset management company, are being made taxable under forward charge with effect from 1st April 2016, so as to enable the small sub-agents down the distribution chain to avail small scale exemption having threshold turnover of Rs.10 Lakhs per year, subject to fulfillment of other conditions prescribed.

- Services by Govt. or Local Authority

Currently, Service tax is leviable on 'Support service' provided by Government or Local authority and such tax is collected under Reverse Charge mechanism.

It is now proposed to levy Service Tax on 'Any Service' instead of 'Support Service' provided by Government or Local Authority by expanding the scope of reverse charge to include 'Any service' provided by Government or Local authority to a business entity.

16. Section 73- Increase in period of limitation in cases not involving fraud, suppression etc.:

Section 73 of the Finance Act, 1994 is being amended so as to enhance the limitation period by one year, that is, from 18 months to 30 months for short levy/non levy/short payment/non-payment/erroneous refund of Service Tax.

17. Rebate to an exporter of Goods-Retrospective effect to Notification No. 01/2016:

Notification No. 41/2012- ST, dated the 29th June 2012 was amended by notification No.1/2016-ST dated 3rd February, 2016 so as to, inter alia, allow refund of Service Tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods, for the export of the said goods.

Further, time period of one month is proposed to be allowed to the exporters whose claims of refund were earlier rejected in absence of amendment carried out vide notification No.1/2016-ST dated 3rd February 2016.

(This amendment is proposed to be made effective from the date of application of the parent notification i.e. 1st July 2012).

18. Rationalization of Service Tax Rules, 1994:

- The benefits of (a) quarterly payment of service tax and (b) payment of service tax on receipt basis, which are available to individual and partnership firms, are being extended to One Person Company ('OPC') whose aggregate value of services provided is up to Rs.50 Lakhs in the previous financial year.

Further, the benefit of quarterly payment of service tax is also being extended to HUF.

- The service tax liability on single premium annuity (insurance) policies is being rationalized and the effective alternate service tax rate (composition rate) is being prescribed at 1.4% of the total premium charged, in cases where the amount allocated for investment or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service.

- Recipient of services availed from foreign shipping line by a business entity located in India will get taxed under reverse charge at the hands of the business entity. 5 (which will come into effect from 1st June 2016)

(The above changes would come into effect from 1st April 2016, except as otherwise stated.)

19. CENVAT Credit:

With a view to simplify and rationalize the CENVAT Credit Rules, 2004, a number of amendments are being carried out in them. Following are the important changes relevant to Service tax:

- Service by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India is being excluded from the definition of 'exempted service'. This would allow shipping lines to take credit on inputs and input services used in providing the said service.
- It has been provided that the CENVAT Credit shall not be utilized for payment of Infrastructure Cess that would be leviable as per the Finance Bill, 2016.
- It is being provided that CENVAT credit of Service Tax paid on amount charged for assignment by Government or any other person of a natural resource such as radio-frequency spectrum, mines etc. shall be spread over the period of time for which the rights have been assigned. It is also being provided that where the manufacturer of goods or provider of output service further assigns such right to use assigned to him by the Government or any other person, in any financial year, to another person against a consideration, balance CENVAT credit not exceeding the service tax payable on the consideration charged by him for such further assignment, shall be allowed in the same financial year. It is also being provided that CENVAT credit of annual or monthly user charges payable in respect of such assignment shall be allowed in the same financial year.
- Rule 6 of CENVAT Credit Rules, which provides for reversal of credit in respect of inputs and input services used in manufacture of exempted goods or for provision of exempted services, is being redrafted with the objective of simplifying and rationalizing the same without altering the established principles of reversal of such credit.
- Rule 7 of the Rules dealing with distribution of credit on input services by an Input Service Distributor is being completely rewritten to allow an Input Service Distributer to distribute the input service credit to an outsourced manufacturing unit also in addition to its own manufacturing units.

- Rule 9A of the Rules is being amended to provide for filing of an annual return by a manufacturer of final products or provider of output services for each financial year, by the 30th day of November of the succeeding year in the form as specified by a notification by the Board.
- The existing sub- rule (2) of rule 14 prescribes a procedure based on FIFO method for determining whether a particular credit has been utilized. The said sub-rule is being omitted. Now, whether a particular credit has been utilised or not shall be ascertained by examining whether during the period under consideration, the minimum balance of credit in the account of the assessee was equal to or more than the disputed amount of credit.

(The above amendments would be effective from 1st April 2016)

20. Refund of CENVAT Credit

Notification No. 27/2012 – C.E. (N.T.) is being amended so as to provide that time limit for filing application for refund of CENVAT Credit under Rule 5 of the CENVAT Credit Rules, 2004, in case of export of services, shall be one year from the date of –

- a) receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
- b) the date of issue of invoice, where payment for the service has been received in advance prior to the date of issue of the invoice.

21. Indirect tax Dispute Resolution Scheme, 2016

A scheme in respect of cases pending before Commissioner (Appeals) is proposed, wherein the Assessee, after paying the duty, interest and penalty equivalent to 25% of duty, can file a declaration, is being introduced. In such cases the proceedings against the Assessee will be closed and he will also get immunity from prosecution. However, this scheme will not apply in certain specified type of cases.

22. Annual Return

A new concept of furnishing of Annual Return is proposed to be introduced in service tax. Such annual return shall be required to be filed in addition to the existing system of Half Yearly returns.

Key features of the proposed Annual return are as under:

- Annual Return to be filed by All Assesseees in addition to existing returns;
- Form and manner to be prescribed by CBEC;
- Return to be filed by 30th November of succeeding financial year;
- CBEC may exempt certain Assessee or class of Assesseees from filing Annual Return;
- Annual return can be revised within one month of date of filing Annual Return;
- Late fees of Rs.100/- per day upto maximum of Rs. 20,000/- for delayed filing of Annual Return;
- No revision of Belated Annual Return.

23. Others:

- Section 67A is being amended to obtain rule making powers in respect of the Point of Taxation Rules, 2011, so as to provide that the point in time when service has been provided or agreed to be provided shall be determined by rules made in this regard.
- Section 93A of the Finance Act, 1994 is being amended so as to empower the Central Government to grant rebate by way of notification as well as the Rules.

(The above amendment in the rules would come into force with effect from the date of enactment of the Finance Bill, 2016.)