

# Union Budget 2015

India

Discussion on budget highlights



# GJA Learning.



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Dear Reader,

As in the earlier years, it gives us great pleasure to present you with a quick snapshot on the Union Budget for the financial year 2015 – 2016 ('Budget 2015') presented by the Honorable Finance Minister, Mr. Arun Jaitley at the Lok Sabha on February 28, 2015.

Budget 2015 was eagerly awaited by the entire country since it was the first full budget of the BJP led NDA government since taking power last year. But Budget 2015 had none of the shock – and – awe that was widely predicted. The Finance Minister presented a sober budget which though was initially criticized, but is now generally accepted as one with practical announcements which can actually be delivered.

It may be noted that Budget 2015 was in the backdrop of the Economic Survey of India painting a rosy picture of the country's economic future, in view of factors such as the cumulative effect of reforms, declining oil prices, monetary easing due to low inflation and the expectation of a normal monsoon.

The Finance Minister reiterated that GST would be implemented on schedule on April 1, 2016 and unlike earlier finance ministers, committed to reduce the corporate tax rate to 25% from the prevailing 30%. However, sops for the individual tax payer were not too forthcoming and the Finance Minister had to console the public with promises of more when the fiscal condition improves.

We believe that you will benefit from the early insights on Budget 2015 through this issue of 'Tax News', though more clarity is expected on many of the provisions which will unravel in the coming days.

Should you require any further clarifications or details on the budget proposals or any assistance in the analysis of the impact of the proposals on your business, please do feel free to get in touch with us. Further, we always look forward to your valuable suggestions.

Yours faithfully



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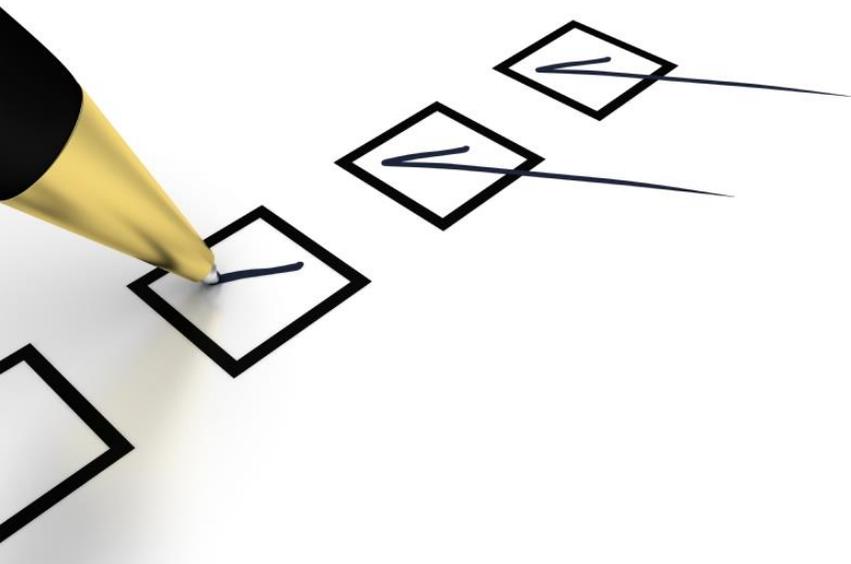
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## Executive summary



## Macro economic outlook

- ▶ GDP is expected to be around 7.4% for FY 2014-15 making India the fastest growing large economy in the world. Growth in GDP for FY 2015-16 is expected to be between 8 – 8.5% with double digit growth in the near future a distinct possibility.
- ▶ Current CPI inflation rate is at 5.1% and foreign exchange reserves are at a record USD 340 billion. The fiscal deficit for FY 2015-16 is expected to be 3.9% of the GDP.

## Direct taxation

Key areas include :

- No major changes for individual tax payers.
  - Though corporate tax rates have marginally increased in FY 2015-16, they are proposed to be reduced to 25% in the next four years.
  - The long list of tax exemptions and deductions are proposed to be pruned.
  - GAAR being deferred for another 2 years.
  - Royalties and FTS to non residents will be subject to TDS of only 10%.
  - More clarity on taxation of 'Vodafone' type transactions
- ▶ No changes in the basic exemption limit for individual tax payers. Deduction for medical insurance has been increased from Rs. 15,000 to Rs. 25,000. Claims for disability have also been increased. Individual tax payers with total income exceeding Rs. 1 crore will now be subject to a surcharge of 12% instead of the prevailing 10%.
  - ▶ Basic corporate tax rates are currently unchanged. However, the Finance Minister has committed to reduce the corporate tax rate for domestic companies from the prevailing 30% to 25% over a period of 4 years. Surcharge has been increased for domestic companies with total income exceeding Rs. 10 crores to 12% from the present 10%. This will result in the effective tax rate for FY 2015 – 16 being as high as 34.61%. The effective rate of dividend distribution tax will now be 20.92% as against the prevailing 20.47%.
  - ▶ Wealth tax has been abolished.
  - ▶ Payments of fees for technical services and royalties to non-residents will be subject to TDS of 10% as against the prevailing 25%.
  - ▶ General Anti Avoidance Rules ('GAAR') has been deferred for another 2 years to 2017.
  - ▶ As one of the measures against black money, advances and refunds for purchase of property exceeding Rs. 20,000 will have to be paid through banking channels.
  - ▶ Threshold limit for domestic transfer pricing transactions has been increased from the existing Rs. 5 crores to Rs. 20 crores.
  - ▶ All transactions with non-residents will have to be reported to the income tax department, irrespective of whether tax has been deducted.

## Indirect taxation

Key areas include :

- Marginal increase in effective rate of excise duty to 12.5%
  - Service tax increased from 12.36% to 14%.
  - BCD cut for 22 items.
  - SAD exempted for several items relating to information technology.
  - CENVAT credit can be availed within a period of 1 year from the date of invoice, instead of the present 6 months.
  - The list of exempted services have been further pruned.
  - Promise of completing service tax and excise registrations within 2 working days.
  - Harsh penalty provisions being rationalised
- ▶ Effective rate of excise duty has been marginally increased from 12.36% to 12.5%. Effective rate of service tax has been increased from 12.36% to 14%. Education cess and secondary & higher education cess will no longer be separately charged. However, the government may impose a 'Swachh Bharat Cess' of 2% on all or some services.
  - ▶ The Road Cess imposed on sale of petrol and diesel has been increased. As always, excise duty on cigarettes has been increased. Further, increases have been announced on cement as well.
  - ▶ Excise duty on leather footwear, electric and hybrid vehicles and pacemakers have been reduced.
  - ▶ Basic customs duty has been reduced on 22 items. Bituminous coal, OLED TV panels, isoprene and liquified butane are some of the items on which BCD has been reduced.
  - ▶ Special Additional Duty has been exempted on almost all goods used in manufacture of items covered under the WTO's Information Technology Agreement.
  - ▶ Access to amusement parks, entertainment events, contract manufacture of liquor, some services provided to and by the government are some of the services which are proposed to be subject to service tax.
  - ▶ Ambulance services, admission to museums and zoos, certain services in relation to fruits and vegetables and goods transport services for export goods are proposed to be exempted from service tax.
  - ▶ Aggregators and entities providing marketplace models will now be subject to service tax.
  - ▶ Service tax registrations are proposed to be completed within 2 working days from receipt of the application. Service tax authorities will now accept digitally signed invoices.
  - ▶ Abatements have been rationalised in several cases. However, due to the overall increase in service tax rates, the effective rates continue to be higher in most cases.
  - ▶ Penalties will no longer be levied if duty and interest have been paid within 30 days of the show cause notice. Further, it will be restricted to 25% of the penalty imposed where the duty and interest determined has been paid within 30 days of the adjudication order.



## Direct taxation

## Key highlights

- ▶ Tax slabs for all categories of individual assessee remain unchanged.
- ▶ Deductions relating to health insurance and expenditure on medical treatment has been increased marginally.
- ▶ Surcharge rates increased by an additional 2% to 12% for individuals with total income exceeding Rs. 1 crore.

## Individual tax payers

- ▶ Tax slabs and deductions available to individual tax payers have remained largely unchanged with only minor increments to existing deductions.
- ▶ An amendment to Sec. 80D which covers deduction for medical insurance premium, now entitles individual tax payers to an additional deduction of Rs. 10,000 by raising the deduction to Rs. 25,000 for regular individuals, while for senior citizens the deduction has been raised to Rs. 30,000. Separately, for very senior citizens, payment on account of medical expenditure would be allowed as a deduction under Sec. 80D subject to a limit of Rs. 30,000.
- ▶ The limit for deduction with respect to expenditure incurred on a dependent with disability has been raised to Rs. 75,000 (Rs. 125,000 in the case of severe disability). Similarly, deduction on expenditure incurred on treatment of chronic and protracted diseases has been increased to Rs. 60,000.
- ▶ Additional deduction of Rs. 50,000 is available for investments in the National Pension Scheme.
- ▶ Keeping in line with the ceiling for deduction in the case of PPF, Budget 2015 proposes to increase the limit for deduction in the case of any annuity plan of LIC or from any pension fund to Rs. 1.5 lacs instead of Rs. 1 lac.
- ▶ Salaried employees have over the years been accustomed to a deduction of Rs. 800 per month. The government has now recognized the impact of increase in commuting costs by doubling the deduction to Rs. 1,600 per month
- ▶ Possibly the only direct negative from the Budget 2015 from an individual's perspective is an increase in the rate of surcharge. Surcharge is now at 12% in the case taxable income exceeds Rs. 1 crore.
- ▶ Tax slabs for each category of individual tax payers are as follows:

### A. In case of senior citizens, i.e., individuals who are more than 60 years, but less than 80 years

FY 2015 – 16	
Slab	Tax rate
Below Rs. 3 lakhs	NIL
Rs. 3 to Rs. 5.0 lakhs	10.0%
Rs. 5.0 to Rs. 10.0 lakhs	20.0%
Above Rs. 10.0 lakhs	30.0%

### B. In case of very senior citizens, i.e., individuals who are more than 80 years

FY 2015 – 16	
Slab	Tax rate
Below INR 5.0 lakhs	NIL
INR 5.0 lakhs to INR 10.0 lakhs	20.0%
Above INR 10.0 lakhs	30.0%

## Key highlights

- ▶ Requirement of TAN for one-off transactions for individuals has been done away with and can be completed with PAN.
- ▶ Tax rates for companies and firms unchanged. Surcharge for domestic companies and firms increased to 7% and 12% (previously 5% and 10%).
- ▶ Surcharge for foreign companies unchanged.
- ▶ Effective tax rate for DDT stands at 20.92%.

## C. In case of other individuals

FY 2015 – 16	
Slab	Tax rate
Below INR 2.5 lakhs	NIL
INR 2.5 lakhs to INR 5.00 lakhs	10.0%
INR 5.0 lakhs to INR 10.0 lakhs	20.0%
Above INR 10.0 lakhs	30.0%

### Procedural relaxations

- ▶ Enabling of Form 15G/15H for receipts under LIC – as per the existing provisions, a tax withholding @ 2% is made at source from payments under those life insurance policy receipts which are subject to tax if the aggregate receipt is greater than Rs. 1 lac. The proposed amendment now gives an option to the tax payer to file a self declaration in form 15G/15H to avoid the tax deduction at source.
- ▶ Under section 195 of the Act, all payments to non-residents require tax deduction. Consequently, even instances such as purchase of immovable property from a non-resident resulted in a hassle of the buyer obtaining a tax deduction account number. This compliance burden for individuals has now been done away with by facilitating such one-off transactions to be completed with only a PAN.

### Tax rates for companies and firms

- ▶ Income tax rates for domestic companies and foreign companies continues at 30% and 40% respectively. However, the Finance Minister has promised to reduce the tax rate for domestic companies from 30% to 25% over a period of 4 years.
- ▶ Income tax rates for firms / LLPs remains unchanged at 30%.
- ▶ Rates of surcharge have been increased by an additional 2%. Surcharge for domestic companies now stand at 7% where the total income is between Rs. 1 crore and Rs. 10 crore. Domestic companies with total income exceeding Rs. 10 crores will now be subject to surcharge of 12%.
- ▶ Rates of surcharge for foreign companies remain unchanged at 2% where the total income exceeds INR 1 crore, but does not exceed INR 10 crores and 5% where it exceeds INR 10 crore
- ▶ In the case of Dividend Distribution Tax ('DDT'), the surcharge component stands increased to 12% irrespective of the amount of dividend resulting in an effective rate of 20.92%.

## Key highlights

- ▶ Benefit of unutilised portion of additional depreciation allowed to be carried forward to the next financial year.
- ▶ Clarity on the term 'value derived substantially from Indian assets'.
- ▶ The threshold of transfer pricing compliance on domestic transactions increased to INR 20 crores.

## Additional depreciation for plant & machinery

- ▶ To promote investment in plant & machinery, section 32(1)(ia) has provided for additional depreciation @ 20%. However, if the asset has been put to use for less than 180 days during the year then only 50% of the additional depreciation is available as deduction. As per the existing provisions, the balance 50% expires.
- ▶ Budget 2015 however proposes to make available the balance 50% of additional depreciation in the subsequent financial year.

## Clarity relating to indirect transfer of assets

- ▶ It was through the Finance Act, 2012 that the Government first brought within the tax net the indirect transfer of capital assets situated in India. Explanation 5 to section 9 was inserted post the much publicized 'Vodafone case' to clarify that share or interest in a company even though incorporated outside India shall be treated as situated in India if the share or interest derives value either directly or indirectly its value substantially from assets located in India.
- ▶ The Budget has sought to bring clarity to the phrase, 'derive value substantially from assets located in India'. The shares of a foreign company will be deemed to derive value substantially from Indian assets if:
  - ▶ Value of Indian assets exceed INR 10 crores; and
  - ▶ Value of Indian assets represents at least 50% of value of all assets owned by the company.
- ▶ A reporting obligation has also been thrust upon the Indian concern through which the Indian assets are held by a foreign company. Penalty provisions have also been proposed for any failure to satisfy the reporting obligations.

## Specified domestic transactions – transfer pricing

- ▶ Owing to the existing section 92BA, small businesses faced additional compliance costs on account of certain specified domestic transactions being covered under transfer pricing regulations. A low threshold of INR 5 crores was originally stipulated.
- ▶ With effect from April 1, 2016, i.e., AY 2016-17, the threshold limit has been increased to INR 20 crores to ease the burden on both the assessee and the income tax department.

## Key highlights

- ▶ Deduction under section 80JJAA extended to all assessees engaged in manufacture. Deduction also extended to smaller employers, i.e., those employing more than 50 workers.
- ▶ Exemption from tax withholding under Sec. 194C only for those transporters who have less than 10 vehicles. Declaration and PAN have to be furnished.
- ▶ Rate of TDS on payment of royalty or FTS to non-residents reduced to 10%.
- ▶ Interest on recurring deposit brought within TDS net.

## Deduction for employment of new workmen

- ▶ As per the existing provisions of section 80JJAA, an Indian company employing 100 workmen in manufacturing is eligible to claim a deduction of upto 30% of additional wages paid to new employees for up to 3 assessment years.
- ▶ With a view to encourage employment, this deduction is now extended to all assessees having manufacturing units. Further, the deduction is now proposed to be extended to even smaller units who employ over 50 workmen.

## Amendments to TDS regulations

- ▶ **Section 194C** – under section 194C, payments to contractors are subject to tax deduction @ 1% for individuals and 2% for other assessees subject to specified limits. Transporters were given the benefit of not having to suffer tax deduction if their PAN is furnished to the payer.
- ▶ The proposed amendment which will take effect from June 1, 2015 provides the aforementioned exemption from tax deduction only to those contractors who have not more than 10 goods carriages.
- ▶ The contractors are also required to furnish a declaration to this effect along with their PAN.
- ▶ **Payment of royalty or FTS to non-residents** – Part II of the second schedule provided a rate of 25% TDS on payment of royalty or fees for technical services to non residents. Smaller Indian companies who could not convince their service providers to comply with requirements under the Income Tax Act, 1961 for availing DTAA benefits were saddled with the additional cost of 25% TDS on grossing up basis. Primarily intended to reduce hardships to small entities, the applicable rate of TDS on royalty and FTS payments to non-residents has now been reduced to 10%.
- ▶ **Interest (other than interest on securities)** - Section 194A provides for tax withholding @ 10% on interest payments on time deposits. The definition of time deposits has now been widened to include recurring deposits as well.

## Provisions applicable to charitable trusts

- ▶ Amendments to the definition of charitable purpose – Charitable purpose as defined under section 2(15) inter-alia includes any activity undertaken as advancement of any other object of general public utility. Such activity will not be covered under exemption if it involves carrying out any trade, commerce or business and the aggregate value of such receipts exceeds INR 25 lacs.

## Key highlights

- ▶ Threshold limit under Sec. 2(15) for advancement of general public utility changed from INR 25 lacs to 20% of total receipts.
- ▶ Form 10, furnishing details of amounts accumulated for subsequent years to be furnished on or before the due date for filing return.
- ▶ Advances given / refunded for purchase of land given in excess of INR 20,000 through cash to be subjected to penalty for equal amount.
- ▶ Wealth tax to be abolished with effect from AY 2016-17.

## Provisions applicable to charitable trusts (Contd.)

- ▶ Larger charitable organisations genuinely engaged in the advancement of general public utility were faced with the problem that though the percentage of receipts from trade, commerce or business in terms of their overall receipts was negligible, on an absolute basis it was in excess of INR 25 lacs and were consequently not eligible for exemption under section 11.
- ▶ Budget 2015 seeks to amend the definition of section 2(15) with effect from April 1, 2016 to replace the condition of INR 25 lacs with 'aggregate receipts not exceeding 20% of the total receipts.'
- ▶ **Filing of Form 10** – to claim the benefit of section 11 of the Act, 85% of the income is to be applied for charitable purposes. If the entire 85% is not utilised, the trust or institution can accumulate the balance income for a period not exceeding 5 years. Form 10 is to be filed furnishing these details. Previously, there was ambiguity as to when form 10 was to be filed. Budget 2015 has made it clear that Form 10 is to be filed on or before the due date of filing return to claim the benefit of accumulation.
- ▶ Yoga included as a specific category in the definition of charitable purpose on the same lines as that of education.

## Penalty for giving / repaying advances for purchase of immovable property

- ▶ The Finance Ministry is of the opinion that the real estate industry is one of the largest generators of black money in India. To restrict dealings in cash and to route all payments with respect to immovable property transactions it is proposed to levy a penalty on transactions, i.e., advance or otherwise, made in cash in relation to immovable property in excess of Rs. 20,000. These provisions are also extended to repayment of such sums also.
- ▶ Penalty for such transactions would be equal to the amount taken / repaid as loan, deposit, advance or otherwise.

## Abolition of Wealth Tax

- ▶ Budget 2015 proposes to abolish wealth tax under the Wealth Tax Act, 1957 to reduce the compliance burden on the assesseees and the administrative burden on the department. The loss of revenue to the government on this account would be offset by the increase in rates of surcharge.
- ▶ This amendment is to take effect from April 1, 2016, i.e., AY 2016-17.
- ▶ The information relating to assets which was previously reported in the Wealth Tax Return would not be captured in the Income Tax Return by making suitable modifications.

## Key highlights

- ▶ REITs given the benefit of pass through entity structure and only its investors will be taxed.
- ▶ VCF and AIFs also to be benefitted by pass through taxation structure.
- ▶ GAAR to be deferred by further 2 years.
- ▶ Payments to non-residents to be reported in TDS returns whether or not tax has been deducted.

## Clarity on taxation regime for REIT

- ▶ Real Estate Investment Trusts ('REIT') were introduced in India with much fanfare through Budget 2014. However, a lack of clarity with respect to the taxation structure surrounding REITs stopped it from really taking off in the market.
- ▶ Budget 2015 has sought to provide clarity with respect to the following matters:
  - ▶ Capital gains tax for sponsors scrapped subject to levy of Securities Transaction Tax.
  - ▶ Provide pass through of rental income received by a REIT from real estate holdings to its unit holders.
  - ▶ The real estate income will be taxed in the hands of the unit holders and the REIT will not suffer tax deduction under section 194I on receipt of rental income.

## Change in taxation regime for VCF and AIF

- ▶ Similar to the pass through structure introduced for REITs, Budget 2015 now proposes to extend pass through status to Venture Capital Funds ('VCF') registered under SEBI or under Category I or Category II VCF. Salient features of this tax regime are:
  - ▶ Income, other than income from profits and gains in business is exempt in the hands of the investment fund.
  - ▶ Income of a unit holder in an investment fund will be taxed as if the income (other than income from profits and gains in business of the investment fund) is accruing or arising directly to him.

## Deferment of GAAR

- ▶ The General Anti Avoidance Rules ('GAAR') introduced in 2012 were set to come into effect from April 1, 2016. Given that the systems have not been put in place and also that concerns of various industries have not been addressed as yet, GAAR has been deferred by a further two years and accordingly, investments made up to March 31, 2017 will be protected from its applicability.

## Payments to non-residents – reporting requirements

- ▶ At present, only payments to non-residents which the payer deems as taxable is declared in the quarterly TDS returns filed. Budget 2015 has amended section 195 by inserting a requirement that information on all payments to non-residents, whether chargeable to tax or not would need to be furnished in the TDS returns.
- ▶ It remains to be seen whether the term 'any sum chargeable to tax' would cover within its ambit, even payments for import of goods which would result in an immense administrative burden to assesseees.

## Key highlights

- ▶ Place of Effective Management to be used as criteria for determining residential status of companies aligning the method with international standards.
- ▶ Multiplicity of litigation reduced through amendment to section 158AA enabling revenue to reserve its right to appeal pending decision by SC on same matter

## Conditions for determining residential status of companies

- ▶ A company is said to be resident in India if: a) it is an Indian Company; b) during the year the control and management of its affairs is situated wholly in India. The law presently requires that whole of control should be situated in India and that too, for the whole year. This facilitated creation of shell companies who would hold at least one board meeting outside the country to circumvent this rule.
- ▶ Budget 2015 has sought to align the determination of residential status with other international standards by amending section 6 for determination of residential status for a company as one: a) which is an Indian Company; b) place of effective management, at any time in that year, is in India
- ▶ Since Place Of Effective Management ('POEM') is an internationally well accepted concept, there are well recognised guiding principles for determination of POEM although it is dependent on facts.

## Appeal by revenue when identical question of law is pending before Supreme Court

- ▶ At present, there is no provision for revenue to file appeal for subsequent years where the department is in appeal on the same question of law for an earlier year. As a result, the department was forced to file appeals, year after year on the same question until a final decision is reached by the SC, thereby multiplying litigation.
- ▶ Accordingly, it is now proposed to insert an amendment to section 158AA whereby the Commissioner or the Principal Commissioner is authorized to direct the assessing officer to make an application before the Income Tax Appellate Tribunal stating that it reserves the right to file an appeal once the decision of the SC on the same question of law is decided

# Indirect taxation



## Key highlights

- ▶ Effective rate of excise duty marginally increased to 12.5% from 12.36%.
- ▶ Petrol and diesel prices are to go up with increase in the Road Cess.
- ▶ Electric and hybrid vehicles, pacemakers, LED lights and footwear are some of the products which were rewarded with lower excise duty rates.
- ▶ As was the case in earlier years, excise duty has been further increased for cigarettes.
- ▶ Penalty provisions have been rationalised.
- ▶ Products in the food processing sector saw a switch to computation of excise duty with reference to their retail sale prices.

## Effective rate of duty marginally increased

- ▶ The effective rate of duty was marginally increased from 12.36% to 12.5%. Education cess and Secondary & higher education cess which formed part of the erstwhile rate of 12.36% will no longer be separately levied which is more of a convenience to assessees.

## The impact of Budget 2015 on key sectors are as follows:

### Petroleum

- ▶ Additional duty of excise, more commonly known as Road Cess on petrol and diesel are being increased from Rs. 2 per litre to Rs. 8 per litre and Rs. 2 per litre to Rs. 6 per litre respectively.

### Automobiles

- ▶ A concessional rate of excise duty at 6% on goods used in manufacture of electrically operated vehicles and hybrid vehicles is being extended to March 31, 2016.

### Health

- ▶ As in the earlier years, increases in excise duty rates ranging from 15% to 25% have been proposed for cigarettes.
- ▶ Excise duty on certain raw materials used for manufacture of pacemakers have been fully exempted.

### Electronics

- ▶ Excise duty on certain inputs used for manufacture of integrated circuits, LED lights, fixtures and lamps is being reduced from 12% to 6%.

### Footwear

- ▶ Leather footwear with retail sales price of more than Rs. 1,000 per pair is being reduced from 12% to 6%. Budget 2014, had done the same for reduction of excise duties for those with retail sales price of less than Rs. 1,000 per pair.

### Food processing sector

- ▶ Excise duty will be levied on condensed milk, iced tea, lemonade and other beverages with reference to their Retail Sale Price.
- ▶ Peanut butter will be subject to excise duty of up to 6%.

## Key highlights

- ▶ BCD has been reduced in the case of 22 items.
- ▶ Several items covered under the ITA will be exempted from SAD.
- ▶ Bituminous coal, OLED TVs and sulphuric acid are some of the items on which BCD has been reduced.
- ▶ Increases in BCD were announced on items like transport vehicles and metallurgical coke.

## Reduction in BCD and SAD

- ▶ Basic Customs Duty ('BCD') on certain inputs, raw materials, intermediates and components have been reduced for 22 items.
- ▶ All goods except populated printed circuit boards for use in the manufacture of items covered under the World Trade Organisation's ('WTO') Information Technology Agreement ('ITA') will be exempted from Special Additional Duty of Customs ('SAD').

Increase in BCD		
Category	Existing	Proposed
Transport vehicles	10%	20%
Metallurgical coke	2.5%	5%

Decrease in BCD		
Category	Existing	Proposed
Bituminous coal	55%	10%
OLED TV panels	10%	Nil
Modules used in manufacture of LED TV panels	10%	Nil
Isoprene and liquefied butane	5%	2.5%

- ▶ BCD and Countervailing Duty ('CVD') are being full exempted on artificial heart.
- ▶ Sulphuric acid used in the manufacture of fertilizers will be subject to BCD of 7.5% instead of 5%.
- ▶ SAD on melting scrap of iron & steel is being reduced from 4% to 2%.

## Key highlights

- ▶ Service tax rate has been increased from 12.36% to 14%.
- ▶ A 'Swachh Bharat Cess' of 2% may be collected on certain services in future.
- ▶ Reimbursements claimed by service providers will now be subject to service tax.
- ▶ CENVAT credit can be availed any time within 1 year from the date of invoice instead of the existing 6 months.
- ▶ Changes in reverse charge mechanism have been announced. Manpower supply and security services provided by non corporates will now fall under the full reverse charge mechanism.

## Service tax rate increased

- ▶ The effective service tax rate has been increased from 12.36% to 14% which is the first change in the last three years. Education cess and Secondary & higher education cess will no longer be charged in addition to the service tax rate.
- ▶ The new rate will be effective from a date pending to be notified by the Central Government.

## Swachh Bharat Cess

- ▶ The Prime Minister's Swachh Bharat initiatives will be partly financed through a Swachh Bharat Cess of 2% which will be notified for all or some of the services.

## Reimbursement of expenses to be taxed

- ▶ Budget 2015 seeks to clarify that the value of taxable services includes all reimbursable expenditure or cost incurred and charged by the service provider. This amendment is in view of the recent decision of the Delhi High Court that reimbursement of expenditure claimed by a service provider could not be included in the value of taxable services.

## Availment of CENVAT credit

- ▶ The present CENVAT Credit Rules, 2004 permit a service provider or a manufacturer to avail CENVAT credit only up to six months from the date of the date of the invoice. Budget 2015 has now increased this limit from 6 months to 1 year.

## Reverse charge mechanism

- ▶ The existing provisions cast responsibility on both the service provider and the service recipient to discharge service tax on manpower supply services and security services. Such services provided by a non corporate to a corporate are proposed to be made entirely the responsibility of the service recipient under the full reverse charge mechanism.
- ▶ Service recipients who remit service tax under the partial reverse charge mechanism (renting of vehicles, works contract services, etc.) will be able to avail full credit of service tax remitted by them without linking it to the payment to service provider.
- ▶ Services provided by mutual fund agents or distributors to a mutual fund or asset management company will be subject to service tax under the reverse charge mechanism whereby the mutual fund or asset management company will be responsible for remitting service tax.
- ▶ Similarly, lottery distributors or selling agents will have to remit service tax for services provided to them by selling or marketing agents of lottery tickets.

## Withdrawal of exemptions and introduction of new exemptions

- ▶ The negative list which is the list of services which are exempt from service tax has been pruned further and a few items in the mega exemption notification have also been withdrawn.
- ▶ Some new exemptions have been introduced through Budget 2015.

Services which will now be <u>taxed</u>	Services which are now <u>exempted</u>
Access to amusement parks, bowling alleys, water parks and theme parks	Services of pre-conditioning, pre-cooling, ripening, waxing, retail packing and labeling of fruits & vegetables
Entertainment events, music concerts and award functions whose entrance fees cost more than Rs. 500	All ambulance services
Contract manufacture or job work for production of potable liquor	Admission to museums, zoos, national parks, wild life sanctuaries and tiger reserves
Services provided to the government or a local or governmental authority with respect to construction of a civil structure or a structure for use as an educational, clinical, art or cultural establishment	Goods transport service for road transport of export goods to a Land Customs Station. Road transport of export goods to port, airport or container freight stations were already exempted.
Residential complexes meant for self use or use of government employees or employees of local or governmental authorities	Services of a common effluent treatment plant operator.
Works contract services provided to airports and ports	
Services rendered by agents and distributors to mutual funds or asset management companies and selling and marketing agents providing services to lottery ticket distributors.	
All services by the Government or a local authority to business entities	

## Key highlights

- ▶ While abatements have generally increased. The effective service tax rate has also increased in view of the higher rate of service tax at 14%.
- ▶ Service tax and excise registrations are expected to be further simplified.
- ▶ Cab bookings through online aggregators are set to be more expensive as these will now be subject to service tax.
- ▶ Finally, the authorities will accept digitally signed invoices even in order to avail CENVAT credit.

## Rationalisation of abatements

- ▶ In case of certain services, abatements available on the service tax rate have been amended. Though the abatement levels have generally increased, due to the higher service tax rate, the effective rate of service tax has generally increased. The changes are given in the table below:

Service	Existing	Proposed
Transport of goods and passengers by rail	3.708%	4.2%
Goods transport by road	3.09%	4.2%
Transport by vessels	4.944%	4.2%
Air travel – economy class	4.944%	5.6%
Air travel – higher classes (business class, first class, etc.)	4.944%	8.4%

## Taxing the aggregator or marketplace model

- ▶ Cab aggregators and e-commerce firms providing marketplace services will now be subject to service tax as Budget 2015 has clearly defined the term 'aggregator'. It also goes on to provide that even if the aggregator does not have physical presence or does not have a representative in India, it shall appoint a person who will be responsible for paying service tax.

## Service tax registration

- ▶ The Finance Minister in his speech has promised to further simplify service tax and central excise registration processes so that online registration can be completed in two working days.

## Issue of electronic invoices

- ▶ Electronic invoices while convenient, had created a large number of disputes between assesseees and the authorities. While digitally signed electronic documents are at par with physically signed ones in terms of the Information Technology Act, 2000, frequently service providers were being hauled up for non compliance and service recipients were denied input credit.
- ▶ Budget 2015 now proposes to recognise digitally signed invoices and maintenance of records in electronic form. The conditions and procedures in this regard are expected to be announced shortly.

# Indirect taxation: Common Penalty Provisions

## Rationalisation of penalty provisions

- ▶ Penalty provisions under indirect taxation have been exercised by the authorities in a cavalier manner and have created tremendous difficulties for assesseees. The changes proposed by Budget 2015 is a welcome move to rationalise the provisions and incentivise genuine tax payers.
- ▶ Litigation will also be reduced to a great deal after implementing the proposals.
- ▶ The changes proposed are as follows:

Scenario	In cases <u>not involving fraud, collusion, willful misstatement, suppression of facts</u>	In cases <u>involving fraud, collusion, willful misstatement, suppression of facts</u>
Maximum penalty imposed	Penalty is capped at 10% of the duty determined or Rs. 5,000, whichever is higher	For transactions relating to the period up to enactment of the Finance Bill, 2015, the penalty shall be <u>50% of the duty determined</u> .  For transactions relating to periods after the Finance Bill, 2015 has been enacted, the penalty shall be <u>equal to the duty determined</u> .
Duty and interest paid before issue of show cause notice or within 30 days from issue of show cause notice	No penalty will be levied	15% of the duty demanded
Duty and interest paid within 30 days from adjudication order of the central excise authorities determining duty and interest	25% of the penalty imposed	25% of the duty demanded
Beyond 30 days from adjudication order	Full amount of penalty imposed	Full amount of penalty imposed

- ▶ The above provisions do not affect an assessee's right of appeal. If on appeal, the duty demanded has been reduced, the amount of penalty will also be reduced accordingly.



## Ready Reckoner

- Key TDS rates
- Reverse charge mechanism
- Common deductions available to individual taxpayers

## Key TDS Rates

► In the following table we have provided the key rates applicable for tax withholding.

Section	Nature of payment	Cut-off amount (INR)	Rate % (Individual)	Rate % (Others)
194	Deemed dividend	-	10%	10%
194A	Interest other than interest on security (by bank)	10,000	10%	10%
194A	Interest other than interest on securities (by others)	5,000	10%	10%
194C(1)	Contracts	30,000	1%	2%
194C(2)	Sub contracts / advertisements	30,000	1%	2%
194H	Commission or brokerage	5,000	10%	10%
194I	Rent (Land / building / furniture)	180,000	10%	10%
194I	Rent (plant & machinery / equipment)	180,000	2%	2%
194J	Professional / Technical charges / Royalty / Non-compete fee	30,000	10%	10%
194J(1)(ba)	Any remuneration or commission paid to director of the company (other than those covered under Sec. 192)	-	10%	10%

## Notes

- 194C - Also where the aggregate of the amounts paid/credited or likely to be paid/credited to Contactor or Sub-contractor exceeds INR 75,000 during the financial year, TDS has to be deducted.
- No PAN for the payee – Tax has to be deducted @ 20% if deductee does not furnish PAN.
- No TDS on goods transport - No deduction shall be made from any sum credited or paid to the account of a contractor during the course of business of plying, hiring or leasing goods carriages if he furnishes declaration that he owns not more than 10 goods carriage vehicles and also furnishes his PAN, to the person paying or crediting such sum.

## Reverse Charge Mechanism

- The reverse charge mechanism introduced w.e.f. July 2012 for an extended list of services, placed the onus of paying service tax partly on the service provider and partly on the service recipient. The respective liability for the service provider and service receiver are as follows:

Description of service	% of ST payable by the service provider	% of ST payable by the service recipient
Services provided by an insurance agent to any person carrying on insurance business	Nil	100%
Services provided by a goods transport agency in respect of transportation of goods by road	Nil	100%
Sponsorship	Nil	100%
Services provided by an arbitral tribunal	Nil	100%
Legal Services provided by an individual advocate or a firm of advocates	Nil	100%
Support services provided by Govt / local authority in relation to (1) renting of immovable property (2) other specified services (postal service, transportation of goods or passengers, services in relation to aircrafts or vessels)	Nil	100%
Renting of motor vehicles to carry passengers on abated value basis	50%	50%
Renting of motor vehicle to carry passengers on non-abated value basis	60%	40%
Supply of manpower	Nil	100%
Execution of works contract	50%	50%
Services provided by a person located in a non-taxable territory to a person located in a taxable territory	Nil	100%

- **Compliances for service provider** – The service provider shall issue an invoice with details indicating the name, address and the registration number of the service provider; the name and address of the person receiving taxable service; the description and value of taxable service provided or agreed to be provided; and the service tax payable thereon.
- **Availability of CENVAT Credit** – Typically, the credit of the entire tax paid on the service received by the service receiver would be available to the service recipient. Based on the new regulations, the credit of tax paid by the service provider would be available on the basis of the invoice while the credit of tax paid by the service recipient would be available on the basis of the tax payment challan.

## Common deductions available to individual taxpayers

- ▶ The following tables contain the most beneficial options available to individuals as a deduction from their total income.

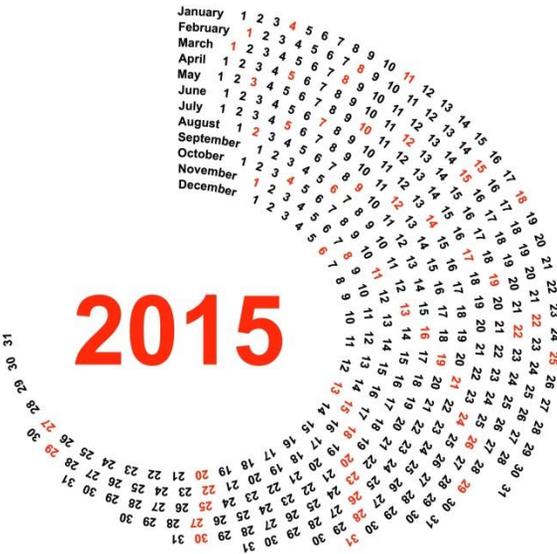
### Section 80C = Rs. 1.5 lacs

- Life Insurance
- Equity Linked Saving Schemes ('ELSS')
- Tuition fees
- Public Provident Fund ('PPF')
- Principal component of housing loan repayment
- 5 year fixed deposits with banks

### Other deductions

- Interest component of housing loan = Rs. 2 lacs
- Health Insurance = Rs.25,000 | 30,000
- Interest on educational loan – on actuals
- 80CCD(1B) = Rs. 50,000

# Compliance Calendar



# Compliance Calendar

Sunday      Monday      Tuesday      Wednesday      Thursday      Friday      Saturday

## April 2015

			1	2	3	4
5	6	7	8	9	10 Excise Return	11
12	13	14	15 KVAT	16	17	18
19	20 EPF	21 ESI	22	23	24	25 ST Return (Oct-Mar'15)
26	27	28	29	30 TDS Payment		

## May 2015

					1	2
3	4	5	6 ST Payment	7 TDS Payment	8	9
10 Excise Return	11	12	13	14	15 KVAT, TDS Return	16
17	18	19	20 EPF	21 ESI	22	23
24	25	26	27	28	29	30

# Compliance Calendar

Sunday      Monday      Tuesday      Wednesday      Thursday      Friday      Saturday

## June 2015

	1	2	3	4	5	6 ST Payment
7 TDS Payment	8	9	10 Excise Return	11	12	13
14	15 Advance Tax, KVAT Return	16	17	18	19	20 EPF
21 ESI	22	23	24	25	26	27
28	29	30				

## July 2015

			1	2	3	4
5	6 ST Payment	7 TDS Payment	8	9	10 Excise Return	11
12	13	14	15 KVAT, TDS Return	16	17	18
19	20 EPF	21 ESI	22	23	24	25
26	27	28	29	30	31 IT Return for AY 2015-16	

# Compliance Calendar

Sunday      Monday      Tuesday      Wednesday      Thursday      Friday      Saturday

## August 2015

						1
2	3	4	5	6 ST Payment	7 TDS Payment	8
9	10 Excise Return	11	12	13	14	15 KVAT
16	17	18	19	20 EPF	21 ESI	22
23	24	25	26	27	28	29
30	31 Professional Tax (Apr-Sep'15)					

## September 2015

		1	2	3	4	5
6 ST Payment	7 TDS Payment	8	9	10 Excise Return	11	12
13	14	15 Advance Tax, KVAT Return	16	17	18	19
20 EPF	21 ESI	22	23	24	25	26
27	28	29	30 IT Return for AY 2015-16			

# Compliance Calendar

Sunday      Monday      Tuesday      Wednesday      Thursday      Friday      Saturday

## October 2015

				1	2	3
4	5	6 <b>ST Payment</b>	7 <b>TDS Payment</b>	8	9	10 <b>Excise Return</b>
11	12	13	14	15 <b>KVAT, TDS Return</b>	16	17
18	19	20 <b>EPF</b>	21 <b>ESI</b>	22	23	24
25 <b>ST Return</b> (Apr-Sep'15)	26	27	28	29	30	31

## November 2015

1	2	3	4	5	6 <b>ST Payment</b>	7 <b>TDS Payment</b>
8	9	10 <b>Excise Return</b>	11	12	13	14
15 <b>KVAT</b>	16	17	18	19	20 <b>EPF</b>	21 <b>ESI</b>
22	23	24	25	26	27	28
29	30 <b>IT Return for</b> <b>AY 2015-16</b>					

# Compliance Calendar

Sunday      Monday      Tuesday      Wednesday      Thursday      Friday      Saturday

## December 2015

		1	2	3	4	5
6 <b>ST Payment</b>	7 <b>TDS Payment</b>	8	9	10 <b>Excise Return</b>	11	12
13	14	15 <b>Advance Tax, KVAT Return</b>	16	17	18	19
20 <b>EPF</b>	21 <b>ESI</b>	22	23	24	25	26
27	28	29	30	31		

## January 2016

					1	2
3	4	5	6 <b>ST Payment</b>	7 <b>TDS Payment</b>	8	9
10 <b>Excise Return</b>	11	12	13	14	15 <b>KVAT,TDS Return</b>	16
17	18	19	20 <b>EPF</b>	21 <b>ESI</b>	22	23
24	25	26	27	28	29	30
31						

# Compliance Calendar

Sunday      Monday      Tuesday      Wednesday      Thursday      Friday      Saturday

## February 2016

	1	2	3	4	5	6 ST Payment
7 TDS Payment	8	9	10 Excise Return	11	12	13
14	15 KVAT	16	17	18	19	20 EPF
21 ESI	22	23	24	25	26	27
28	29 Professional Tax (Apr-Sep'15)					

## March 2016

		1	2	3	4	5
6 ST Payment	7 TDS Payment	8	9	10 Excise Return	11	12
13	14	15 Advance Tax, KVAT Return	16	17	18	19
20 EPF	21 ESI	22	23	24	25	26
27	28	29	30	31 Excise & ST Payment		

# Glossary

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<b>AIF</b>	: Alternate Investment Funds	<b>IT Act</b>	: Income Tax Act, 1961
<b>AY</b>	: Assessment Year	<b>KVAT</b>	: Kerala Value Added Tax
<b>BCD</b>	: Basic Customs Duty	<b>Lacs</b>	: Hundred thousands
<b>BJP</b>	: Bharatiya Janata Party	<b>NDA</b>	: National Democratic Alliance
<b>Budget 2015</b>	: Union Budget for 2015 - 16	<b>PAN</b>	: Permanent Account Number
<b>CENVAT</b>	: Central Value Added Tax	<b>POEM</b>	: Place Of Effective Management
<b>CPI</b>	: Consumer Price Index	<b>PPF</b>	: Public Provident Fund
<b>Crores</b>	: Ten millions	<b>LIC</b>	: Life Insurance Corporation of India Ltd.
<b>CVD</b>	: Countervailing Duty	<b>LLP</b>	: Limited Liability Partnership
<b>DDT</b>	: Dividend Distribution Tax	<b>REIT</b>	: Real Estate Investment Trust
<b>DTAA</b>	: Double Taxation Avoidance Agreement	<b>Road Cess</b>	: Additional duty of excise
<b>ED</b>	: Excise Duty	<b>SAD</b>	: Special Additional Duty
<b>ELSS</b>	: Equity Linked Savings Scheme	<b>SC</b>	: Supreme Court
<b>GJA</b>	: G. Joseph & Associates	<b>SEBI</b>	: Securities Exchange Board of India
<b>FTS</b>	: Fees for Technical Services	<b>SEZ</b>	: Special Economic Zone
<b>GAAR</b>	: General Anti Avoidance Regulations	<b>ST</b>	: Service Tax
<b>GDP</b>	: Gross Domestic Product	<b>TDS</b>	: Tax Deducted at Source
<b>GST</b>	: Goods & Service Tax	<b>USD</b>	: US Dollar
<b>INR /Rs.</b>	: Indian Rupee	<b>VAT</b>	: Value Added Tax
<b>ITA</b>	: Information Technology Agreement	<b>VCF</b>	: Venture Capital Fund
		<b>WTO</b>	: World Trade Organisation

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We have used following sources while preparing this document

1. The Economic Survey of India, 2015
2. The Finance Bill, 2015
3. The Finance Minister's Budget speech presented on February 28, 2015

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