

BUDGET 2017 – AN INSIGHT

I. Direct Taxation

- Individual tax rate for the first slab between INR 2.50 Lakh and INR 5 Lakh is reduced from 10 % to 5 %.
- Tax rebate u/s.87A available for small tax payers is reduced to INR 2,500 and the threshold limit for eligibility is reduced to INR 3.50 Lakhs.
- Surcharge at the rate of 10% of tax payable by Individuals having taxable income between INR 50 Lakhs and INR 1 Cr.
- Basic Corporate income tax rate (for AY 2018-19) for Companies having turnover less than or equal to INR 50 Cr. in financial year 2015-16 is reduced from 30% to 25%
- In the case of presumptive income assesseees u/s. 44AD having cash less transaction, the presumptive rate of income is reduced from 8% to 6% of the total turnover.
- In case, the whole of the capital expenditure allowed as deduction in respect of specified business is treated as income in the year of non-compliance of provisions of Sec.35AD, cost of such asset is determined by reducing normal depreciation which the assessee is otherwise entitled.
- Limit for cash payments of expenditure u/s. 40A(3) (as per Rule 6DD) is reduced from INR 20,000 per day to INR 10,000 for claiming the same as business deduction.
- Limit for 50% deduction for qualifying cash donations is reduced from INR 10,000 to INR 2,000.
- A new limit of INR 10,000 per day is introduced on cash payments for capital expenditure for purpose of depreciation allowance or deduction under investment-linked incentive deduction. [Sec 43(1)]

- In transfer pricing, the concept of primary adjustment and secondary adjustment as introduced in UK is adopted thereby excess money (i.e. difference between the ALP determined and actual value of international transaction) quantification is prescribed.
- In the case of borrowing by way of issue of debt by an Indian Company or PE of foreign company in India from non-resident Associated Enterprises, interest on such debt is not allowable in excess of 30% of EBITDA or interest paid for the year, whichever is less. The not allowed portion of interest is allowed to carry forward for 8 succeeding assessment years.
- Income from Carbon Credit is subject to concessional tax rate of 10% u/s. 115BBG
- MAT provisions are amended to give effect to IND AS implementation
- For immovable assets (land or building only), the period of holding to qualify as long term capital asset is reduced from 36 months to 24 months.
- Conversion of preference shares of a company into its equity shares is not regarded as taxable transfer. Correspondingly, the cost of preference shares to be taken as cost of converted equity shares and period of holding of preference shares to be included in the period of holding of converted equity shares.
- The base year is shifted from 1 April 1981 to 1 April 2001 for the purpose of applying Cost Inflation Index in Long Term Capital Gain (LTCG) computation.
- LTCG on sale of equity shares acquired on or after 1 October 2004 is exempt only if acquisition of such shares was chargeable to securities transaction tax with certain exceptions to be notified by the Government.
- Foreign Portfolio Investor is exempt from the incidence of indirect transfer of assets u/s. 9 (1) (i)

- In the case of transfer of shares (not quoted on a recognized stock exchange), if the sale consideration is less than Fair Market Value (FMV) (manner of computation to be prescribed), such FMV shall be deemed to be full value of consideration received under new section 50CA.
- In the case of Joint development project, the capital gain is said to accrue only in the year in which certificate of completion for the whole or part of the project is issued; stamp value of the share in the project together with cash consideration, if any received would be taken as consideration for the transfer
- A new dispensation for taxing of gift or transfer of inadequate consideration is introduced u/s.56 replacing the existing one.
- The maximum amount of loss from house property that could be set-off against income from any other source is restricted to INR 2 Lakh. Loss in excess of INR 2 Lakh is allowed to be carried forward for 8 years and set-off from income from house property only.
- In the case of building or land held as stock in trade and is not let during the whole or any part of the year, the annual value upto the period of one year is taken as nil.
- In case of pension contribution by individual taxpayers (non-salaried), the maximum amount that is eligible for deduction is increased from 10 % to 20 % of the gross total income.
- The partial withdrawal (as per the rules governing National Pension System Trust) not exceeding 25 per cent of the contributions made by an employee from the National Pension System is not taxable.
- The benefit provided to individual taxpayers for investment in equity savings scheme u/s.80CCG is withdrawn from tax year 2017-18. However, the benefit for past investments will be available.
- Maximum amount of cash donations allowed as deduction from taxable income u/s. 80G is reduced from INR 10,000 to INR 2,000.

- Corpus donation by a trust registered u/s. 10(23C) to any registered trust u/s.12AA is not eligible for exemption u/s.11
- Enabling provisions for giving effect to Foreign Tax Credit (FTC) inserted by which Tax Authority to rectify the assessment orders or an intimation order and allow credit of taxes in the year in which the taxpayer furnishes the evidence of settlement of dispute and discharge of foreign tax liability.
- Also, provision is inserted to give effect to FTC rules which provides that where the amount of FTC available against MAT/AMT is in excess of FTC available against normal tax, MAT/AMT credit would be reduced to the extent of such excess.
- Individuals and HUFs are not required to keep books of accounts if their turnover is up to INR 25 Lakhs or income is up to INR 2.50 Lakhs.
- Threshold limit for Tax audit in respect of business entities opting for presumptive scheme be increased from INR 1 Cr. to INR 2 Cr.
- Time limit available for revising tax return is reduced from 24 months to 12 months from end of relevant Asst. Year for returns pertaining to Asst. Year 2018-19 and onwards.
- The tax return form for individuals having income less than INR 5 Lakhs and no income from business or profession is simplified into a one page form.
- Refunds can be withheld up to the date of assessment only after recording of reasons and obtaining prior approval of Principal Commissioner/Commissioner.
- Time limit for completion of assessment is reduced in a phased manner from current limit of 33 months from the end of relevant Asst. Year (AY) to 30 months for Asst. Year 2018-19 and 24 months for subsequent Asst. Years.
- Time limit for completion of re-assessment, giving effect to the order of CIT (A) or Tribunal is increased from 9 months to 12 months from

the end of the financial year in which the notice u/s.148 or order of CIT (A) or Tribunal received.

- Individual / HUF is required to deduct taxes at a rate of 5 per cent on rentals paid to a resident landlord, if the monthly rent exceeds INR 50,000 at the time of credit of rent for the last month of the Asst. Year or last month of tenancy, as applicable u/s.194IB
- Disallowance of 30% of expenditure for non-deduction of tax at source as provided in section 40(a)(ia) and applicable for “Profits and Gains from Business or Profession” is extended to income chargeable under “Income from Other Sources” also.
- Interest at the rate of 0.5 per cent a month would be paid on refund on excess deposit of TDS remitted by Deductor.
- TDS @ 10% on cash consideration is to be made at the time of credit or payment, whichever is earlier in the case of Joint development project referred to in section 45(5A).
- Rate of TDS on fees paid to call centre is reduced from 10% to 2% u/s. 194J.
- Period for concessional TDS @ 5% on interest on infrastructure bonds paid to non -resident U/s. 194LC and interest payable to FPI on bonds u/s.194LD extended up to 01-07-2020.
- In the absence of PAN of payer, payee is required collect TCS at a rate of twice the normal TCS rate or 5%, whichever is higher u/s.206CC.
- Certain class of buyers such as Government, foreign embassy/consulate and passenger transport public sector companies are exempt from TCS @ 1% on purchase of motor vehicles of value exceeding INR 10 Lakhs.
- Penalty of INR 5,000 for failure to furnish return before one year from end of relevant tax year is deleted. Instead, failure to furnish tax return within the specified due date shall attract a fee ranging between INR 1,000 and INR 10,000 depending upon the time the return is filed and taxable income u/s. 234F.

- A new Section 269ST is proposed to be introduced, which prohibits receipts of cash in excess of Rs.3,00,000 from a person in a single day or in respect of any single transaction. However, this restriction shall not apply to notified persons. Contravention would result in levy of penalty equivalent to the amount received. Consequentially, TCS provisions in respect of sale of Jewellery has been withdrawn. *[Sections 269ST, 271DA and 206C - Applicable from Assessment Year 2017-18]*
- With effect from 01-04-2017, professionals (i.e. accountant or merchant banker or registered valuer) issuing reports or certificates for tax purposes are liable for penalty of INR 10,000 for furnishing incorrect information in their reports/certificates u/s. 271J.

II. Indirect Taxation

Customs Duty

- No change in the basic duty & its structure
- Basic Duty on Liquefied Natural Gas reduced from 5% to 2.5%.
- Basic Duty on import of solar tempered glass for manufacture of solar panels, cells, etc. reduced from 5% to Nil subject to actual user conditions
- 15% export duty on export of Aluminium Ores from 2nd Feb. 2017.
- Time limit for presentation of Bill of Entry reduced to one day from the date of arrival of vessel; Similarly for payment of Customs Duty reduced from 2 days to 1 day from the date of provisional assessment. Belated payment will attract interest.
- Section 27: Provision relating to “Unjust Enrichment” shall not apply where there is excess payment of duty
 - Which is evident from the bill of entry in case of self-assessed bill of entry

- Duty payable is reflected in the reassessed bill of entry in the case of reassessment
- Definition of “Custom Station” to include Foreign Post Office and International Courier Terminal

Central Excise:

- No change in the basic duty
- Duty on certain type of automobile vehicles reduced from 27% to 12.5% effective 1st Jan. 2017.
- Excise exemption for solar tempered glass used for manufacture of solar cells, solar power equipment, etc. is withdrawn and duty imposed at 6%.
- Duty on parts for manufacture of the above items reduced from 12.5% to 6%.
- Concessional excise duty of 6% for various items required for initial setting up of fuel cell based system for generation of power for demonstration purposes subject to condition.
- Application for remission of excise duty to be disposed of by the A.C/D.C within 3 months from the date of its receipt. (Rule 21 of Central Excise Rules amended)

CENVAT Credit Rules:

- As per Rule 10(3), transfer of credit under certain specified circumstances shall happen without any prior approval of A.C./D.C. Various judicial pronouncements also upheld such a view. Now a sub Rule (4) has been inserted whereby the application for transfer of cenvat credit shall be made by the assessee which the A.C/D.C shall dispose of within 3 months’ thereof.
- Rule 6(3) amended to provide that the term “value” for the purposes of reversal of credit in the case of banks, financial institutions and NBFCs

shall include interest/discount earned on loans and advances. However, existing option of restricting CENVAT Credit to 50% to continue.

Service Tax

- No change in the tax structure and rate
- R & D Cess Act repealed; consequently, exemption of CESS paid on import of technology no longer available.
- Rule 2A of Service Tax (Determination of Value) Rules, 2006 amended so as to exclude value of land in the computation of Service portion in a Works Contract transaction.
- Upfront payment by way of premium or development charge to State Government Industrial Development Corporations for long term lease of industrial plots retrospectively (from 1st June 2006) exempt from Service tax.
