

BUDGET 2016 – AN INSIGHT

I. Direct Taxation

- Tax rebate under section 87A increased from Rs 2,000 to Rs 5,000 for resident Individuals with income upto Rs 5 lakh
- Surcharge on income tax for individuals, HUF and AOP/BOI with total income exceeding 1 crore per annum increased from 12 per cent to 15 per cent
- Presumptive income tax @50% on all professionals with income limit of Rs 50 lakhs
- Period of holding for LTCG for unlisted companies reduced from 3 years to 2 years
- Dividend income in excess of Rs 10 lakhs received by Individuals, HUF and Firms is liable to tax @10% (in addition to DDT paid by the company)
- Withdrawal upto 40% of accumulated balance attributable to contributions made on or after the 1st April, 2016 in a recognised provident fund and superannuation fund is exempt from tax
- Excess of 40% of Annuity from superannuation fund (contributions made on or after the 1st April, 2016) is taxable
- Not exceeding 40% of payment from National Pension System Trust on closure or his opting out of scheme is exempt from tax. Whole amount received by the nominee, on death of the assessee is exempt
- Threshold limit for taxing the employer's contribution to an approved superannuation fund as perquisite increased to Rs.150000 from Rs.100000
- Monetary threshold limit for taxing the employer's contribution to recognised provident fund in the hands of employee is introduced @ Rs.150000

- Exemption from capital gains tax for investment in units of specified fund up to Rs. 50 Lakhs u/s.54EE
- Long term capital gains on transfer of a residential property is exempt if invested in eligible start up company subject to conditions under amended section 54GB
- An additional deduction upto Rs.50000 is available in respect of interest on loan taken by Individual for residential house property subject to conditions
- Redemption of Sovereign Gold Bond under the Scheme by an individual exempt from capital gains tax. Also, indexation benefits on redemption of such bonds is available to all other cases of assesseees.
- Capital gains (out of rupee appreciation) on foreign currency investment exempt from capital gains tax
- Consolidation of 'plans' within a 'scheme' of mutual fund not considered as transfer for capital gain tax purposes
- Maximum limit for deduction on rent paid u/s.80GG increased from existing Rs. 2000 p.m. to Rs. 5000 p.m.
- Gold Monetisation Scheme, 2015 deposits exempt from capital gains tax and interest thereon is not taxable
- Shares received by an individual or HUF upon demerger or amalgamation of a company not subject to deemed income provisions of Section 56(2)(vii)
- Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest u/s.24 from 3 years to 5 years
- Simplification and rationalisation of provisions relating to taxation of unrealised rent and arrears of rent
- Stamp duty value on the date of the agreement (where date of registration is at different date) to be taken for the purposes of computing consideration u/s 50C subject to conditions

- Tax neutral status for conversion of a company into Limited Liability Partnership (LLP) subject to additional condition i.e. total assets value
- Lower corporate tax for next financial year for companies upto Rs 5 cr. turnover to 29 per cent for 2015
- Optional levy of Income-tax for a newly setup (setup and registered on or after 1st day of March, 2016) domestic companies @ 25% subject to certain conditions u/s.115BA
- Start Ups: 100% Exemption for consecutive 3 out of 5 years u/s.80IAC
- Equalisation levy (6 %) on consideration (exceeds one lakh rupees in any previous year) for specified services (digital transactions) by a non-resident to be payable by a non-resident having a PE and to be deducted by a resident/ non-resident(having a PE) payer
- Buy back of shares of unlisted company subject to distribution tax u/s. 115QA w.e.f. 1st Jun,2016
- Phasing out of deductions and exemptions:
 - Section 10AA, 35CCD - from previous year 2020-21
 - Section 35AC,80IA, 80IAB, 80IB- from previous year 2017-18
- Phasing out plan of incentives (Accelerated Depreciation/Weighted Deduction) available under the Income Tax Act:
 - Accelerated Depreciation limited to maximum of 40% from previous year 2017-18 and subsequent years.
 - New rate is proposed to be made applicable to all the assets (whether old or new)
 - Weighted deduction of 125-200% on Expenditure on Scientific Research u/s. 35(1)(ii), (iia), (iii), 2AA, 2AB, Specified business u/s.35AD,Agri. extension projects u/s.35CCC be withdrawn either in a phased manner or otherwise from previous year 2017-18
- Income of a foreign company on storage & sale of crude oil in India exempt subject to certain conditions from the assessment year 2016-17

- Foreign Mining Companies (FMC) not taxable for display of uncut and unsorted diamonds in a notified Special Zone from the assessment year 2016-17
- An assessee in the business of transmission of power eligible for additional depreciation @ 20% of actual cost of new machinery or plant u/s.32(1)(iia)
- Royalty income on patent developed and registered in India taxable @ concessional rate of 10% (plus applicable surcharge and cess) u/s. 115BBF
- 100% deduction on profits from developing and building affordable housing projects u/s. 80IBA
- Deduction @ 30% for additional work force u/s.80JJA relaxed
- NBFCs eligible to claim deduction on provision for bad and doubtful debts upto 5% of the total income u/s.36(1)(viiia)
- Time period for Installation to claim Investment Allowance of 15% u/s.32AC relaxed w.r.e.f. Asst. Year 2016-2017
- Non-applicability of Minimum Alternate Tax (MAT) on certain foreign companies retrospectively from the Asst. Year 2001-2002
- Section 43B scope expanded to include payments made to Indian Railways
- No set off of any loss allowable in respect of income under the sections 68,69,69A,69B,69C or 69D (Section 115BBE(2))
- Non-compete fees and exclusivity rights in case of Profession is taxable as in the case of business
- Long-term capital gains on transfer shares of a company not being a company in which the public are substantially interested to be taxed at concessional rate of 10%
- Loss determined as per section 73A (in respect of specified business referred to in section 35AD) of the Act not to be allowed to be carried forward and set off if return is not filed on or before the due date u/s.139(3) w.r.e.f.1 Apr, 2016

- Spectrum fee amortised over the period of use u/s.35ABA
- Levy of additional income-tax (@maximum marginal rate) on Accreted income of charitable institution in case of conversion into, or merger with, any non-charitable form or on transfer of assets of a charitable organisation on its dissolution to a non-charitable institution w.e.f. 1st Jun,2016
- Subsidy or grant received by a trust or institution established by the Central Government or State government not to taxed
- Substituted new tax regime for taxation of securitisation trust and its investors
- Special dispensation and exemption from levy of dividend distribution tax for business trusts (REITs and Invits) and their investors w.e.f. 1st Jun,2016
- Tax Incentives to International Financial Services Centre (w.e.f. Asst Year 2017-2018) such as exemption from tax on capital gains, MAT chargeable at 9%, no tax on distributed profits, No STT /CTT on taxable securities transactions w.e.f. 1st Jun, 2016
- Direct Tax Dispute Resolution Scheme, 2016 introduced to provide for withdrawal of appeal before CIT(A) upon payment of tax, interest upto assessment and minimum penalty in certain cases
- Income Declaration Scheme introduced for a limited period (01 June to 30th Sept 2016) compliance window to declare undisclosed income by paying total tax of 45% with immunity from prosecution
- Limit for Tax Audit u/s.44AB in the case of Professional increased from Rs.25 lakhs to 50 Lakhs on Gross Turnover /Receipts
- Limit for Presumptive taxation for business u/s.44AD increased from Rs.1 Cr to Rs.2 Cr. and certain conditions as to claim of deduction of partners salary and its continued applicability in future years imposed.
- Exemption from requirement of furnishing PAN under section 206AA to certain non-resident w.e.f. 1st Jun,2016

- Time limit of twelve months prescribed for disposing of applications for waiver of Interest / Penalty made by assessee u/s. 220(2A),273A or 273AA w.e.f. 1st Jun, 2016
- Enabling provision for issuance of notices and documents in electronic form
- TDS on payments by the Alternate Investment Funds to its investors (resident and non-resident) rationalised
- Rationalization of tax deduction at Source (TDS) provisions:
 - Increase / decrease in threshold limit of deduction of tax at source (such as Sec 194G,D &H -Rs.15000; 194C-100000)
 - Revision in rates of deduction of tax at source on various payments (say Sec 194 D & G - 5%)
 - Filing of Form 15G/H for rent income allowed
- TCS @ 1% on purchase of luxury cars exceeding INR 1 Cr. and cash purchase of goods (other than bullion and jewellery), or providing of any services exceeding Rs.200,000
- Filing of Return:
 - Time limit of filing belated return reduced from one year from the end of the assessment year to the end of the assessment year
 - Belated return filed u/s. 139(4) may also be revised u/s.139(5)
 - Return not to be treated as defective for non-payment of self-assessment tax together with interest
 - Income exempt u/s.10 (38) to be considered to determine threshold limit for filing return of income
- Processing of return is now mandated under section 143(1) before assessment
- Time Limit for assessment / re-assessment (w.e.f.1st Jun,2016):
 - Completion of assessment under section 143 or section 144 be changed from existing two years to twenty-one months
 - Completion of assessment under section 147 be changed from existing one year to nine months

- 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
- Order u/s. 250 or 254 or 260 or 262 or 263 or 264 or an order of the Settlement Commission under 245D(4) without making a fresh assessment or reassessment to be three months and to be extended by another six months with the approval of Principal Commissioner
- Assessment, reassessment or recomputation made by an order u/s. 250, 254, 260, 262, 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under the Income-tax Act be made on or before the expiry of twelve months
- Assessment on a partner of the firm in consequence of an assessment made on the firm under section 147 to be made on or before the expiry of twelve months
- Rationalisation schedule for advance tax payment (w.e.f.1st Jun,2016):
 - Advance tax schedule of 15th Jun /Sep/Dec & Mar extended to Non-corporate assessees other than those covered u/s.44AD
 - Assesseees covered u/s.44AD required to pay advance tax of the whole amount on or before the 15th March
- Enabling provisions for processing of return u/s.143(1) or re-opening of assessments u/s 147 based on information and documents obtained by the Income Tax Authority u/s.133C (w.e.f. 1st Apr,2016)
- Extended time available to the Transfer Pricing Officer for making an order where assessment proceedings were stayed or reference for exchange of information (w.e.f. 1st Apr,2016)
- Filing of appeal by the Assessing Officer against the order of the DRP before ITAT is done away with (w.e.f.1st Jun,2016)

- Time limit for rectification by ITAT, of any mistake apparent from the record in its order reduced from four years to six months
- Monetary limit for cases to be decided by Single member ITAT bench up from Rs 15 lakh to Rs 50 lakh
- Govt. to pay interest of 9 per cent instead of 6 per cent in case there is a delay in appellate cases beyond 90 days w.e.f.1st Apr,2016
- Rationalisation of penalty provisions :
 - Existing Penalty provision u/s.271 deleted w.e.f. Asst.year 2017-2018
 - New Sections 270A introduced to levy penalty for under reporting and misreporting of income. Rate of penalty@ 50% on under-reported income and @ 200% of tax payable on misreported income
 - Discretion (penalty range of 30%-90%) of Assessing officer in the residuary situation of search cases replaced with a blanket penalty levy of 60%
 - Each default or failure to comply with a notice issued u/s.142(1) or 143(2) or failure to comply with a direction issued u/s.142(2A) liable to penalty of Rs.10000 u/s.272A.
 - Power of granting immunity from imposition of penalty in certain cases introduced in the Income Tax Act (Section 270AA)
- Bank Guarantee in lieu of attachments (w.e.f. 1st Apr,2016):
 - Assessing Officer to revoke provisional attachment of property made u/s. 281B(1) where assessee furnishes a bank guarantee from a scheduled bank for an amount not less than the fair market value of such provisionally attached property or for an amount which is sufficient to protect the interests of the revenue
 - Order revoking the attachment be made by the Assessing Officer within fifteen days of receipt of such guarantee and in a

case where a reference is made to the Valuation Officer, within forty-five days from the date of receipt of such guarantee

- Procedures for invoking / release of the guarantee by the Assessing Officer prescribed
- Modification in the conditions of special taxation regime for off shore funds u/s.9A
- Deferment of the applicability of POEM based residence test by one year and the determination of residence based on POEM to be applicable from 01/04/17
- Special provisions relating to foreign company said to be resident in India under POEM test introduced u/s.115JH
- Specific reporting regime (based on OECD BEPS Action 13 report) in respect of Country-by-Country (CbC) reporting and also the master file documentation introduced under the Income Tax Act
- Security transaction tax on options to be increased from 0.017 per cent to 0.05 per cent from 1st Jun,2016

II. Indirect Taxation

Central Excise

- No change in Basic Excise Duty rates
- Infrastructure Cess @ 4% on manufacture and clearance of goods specified in Eleventh Schedule of the Income-tax Act
- Infrastructure Cess ranging from 1% to 4% depending on engine capacity
- Period for issue of Show Cause Notice extended from one year to two years for recovery of duties
- Validity of A.C/D.C.'s permission for sending semi-finished goods to a job-worker's premises and clearance therefrom extended from one year to three years

- Ready Mix Concrete manufactured at site and used for construction work goes out of excise duty
- Accessories of Mobile phones such as charger, battery etc., brought under duty net @ 2% without CENVAT Credit or normal duty rate with credit
- Routers, Broadband Modems, Set top boxes, CCTV Camera, Lithium-ion batteries brought under duty net@ 4% without CENVAT Credit or normal duty rate with credit
- Jewellery articles except silver brought under excise duty @ 1% without CENVAT Credit or normal duty rate with credit. SSI limit for this category of manufacturers increased from Rs.1.5 Cr. to Rs.6 Cr. per annum
- Time limit for issuing SCN for demanding tax raised from 18 months to 24 months

Service Tax:

- A new levy called “Krishi Kalyan Cess” introduced @ 0.5% on all specified services from 1st June 2016. Credit for the same is available
- Right to use Radio Frequency Spectrum brought under tax net
- No tax is leviable on any services rendered between 1st April 2015 to 29th Feb. 2016 to Quasi Govt. agencies in respect of original works, provided the contract is entered into prior to 1st March 2015
- Services received from Govt. Depts. Subject to tax under Reverse Charge Mechanism
- Exemption from tax withdrawn on services to be rendered to Airport & Port from 1st March 2016 However, if the contract is entered prior to 1st march,2015, exemption will continue to apply
- Exemption from tax withdrawn on services to be rendered to Metro & Mono Rails from 1st March 2016. However, if the contract is entered prior to that date, exemption will continue to apply

- Time limit for demanding tax raised from 18 months to 30 months
- Senior Advocates liable to pay Service tax by themselves
- Transport of goods by rail attracts tax on 30%/40% of the freight value
- Transportation of household articles attracts tax on 40% of the freight
- Foreman Commission on Chit Funds attracts tax on 70% of such income
- Software exempt from tax if excise duty is payable on Retail Sale Price
- Transport of passengers by Tramway, Ropeway or Cable Car subject to tax
- Interest rate for non-payment of tax reduced from 30% to 15% where the tax is not collected and to 24% where tax is collected
- Construction of low cost houses upto 60 Sq. Meter under Govt. Scheme exempt from tax
- Software industry subject to only single levy i.e. either service tax or excise duty
- In addition to regular returns, an Annual returns for the whole year to be filed before 30th Nov. of succeeding year
- Exemption from tax on any services is allowed only when the payment is received & invoice raised before the notified date
- Abatement on various services:

Sl. No.	Particulars of Services	Existing % of abatement	Proposed % of abatement
1	Tour Operator Services	60	70
2	Construction of a complex, building or civil structure	75	70
3	Transportation of household articles	Not Taxable	60
4	Transportation of Goods in container other than Railways	Not Taxable	60

5	Foreman Commission on Chit Funds	Not Taxable	30
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CENVAT Credit Rules:

- All Capital Goods valued upto Rs.10,000/- to be treated as “Inputs” thereby full credit is allowed in the year of purchase
- Credit allowed on inputs and capital goods used for pumping water for captive use in factory even where such capital goods are installed outside the factory
- Office Equipments meant for office use within the factory premises are eligible for CENVAT credit
- Manufacturers can send the inputs directly to the premises of job-workers without bringing them into his premises
- Credit of service tax on radio spectrum to be spread over the period of time for which the rights of spectrum are assigned
- New Rule inserted to provide for distribution of credit to the individual manufacturing units
- FIFO method for utilizing credit done away with
- Rule 6(3) amended to provide for payment of 6% on the value of exempted goods and 7% on the value of exempted services
