

INDIA BUDGET 2014-15



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FOREWORD

Dear Reader,

The expectations from the Finance Minister were high to contribute a long-term policy leading to prosperity and growth of the nation. With the election ink on your nail hardly drying up, it would be too much to expect the Modi Government to deliver this in the 45 days of the tenure of his Government. However the FM has managed to partially meet the expectations of the nation. The striking difference in the Budget Speech was in the first 15 minutes wherein he clearly pointed out few things like a resolve to create a stable regulatory and tax environment for businesses and investors, retrospective changes only with extreme caution and judiciousness and introduction of GST before the end of the year. The FM proposes to revisit the DTC but a clear timeline was not indicated. With an empty kitty inherited from the previous government, he went on the path of his predecessor to sprinkle some populist and reformist measures. Overall the determination to bring down the fiscal deficit to 4.1% for the current year, 3.6% for 2015-16 and 3% in 2016-17 from an average fiscal deficit of 5.0% in the last three years is commendable.

A striking feature of this Budget is bringing about certain amendments in the tax laws to clarify controversial provisions, allow advance rulings to resident tax payers and “roll-back” of APA provisions which are beneficial to the tax payers and would put an end to prolonged litigation. For the corporates, this Budget offers attractive opportunities for capital intensive projects, manufacturing sector, real estate investments, foreign direct investments in insurance and defence. The bringing about of “Pass through” entities like real estate investment trusts has been the demand from the real estate sector for a long time which will soon see the light of the day. For the common man the Budget has failed to provide any significant tax incentives except the three increases of Rs. 50,000 each viz. increase in the threshold limit, increase in limit of investments under section 80C and increase in deduction of interest for self-occupied house property. Thus a person earning Rs. 6.5 lakhs p.a. can get away with paying zero tax.

On the indirect tax front, Custom duties have been reduced on certain items, excise duty has been exempted on certain items and benefits extended in respect of export duty on few items. The tax base in Service Tax has been widened.

Some of the issues like “tax terrorism”, not repealing retrospective amendments of earlier years, etc. remained unaddressed whereas adverse changes in tax provisions in relation to debt instruments, fixed maturity plans, pre-deposit of 7.5% to 10% of the disputed indirect tax before filing appeal, tax treatment of CSR, etc. have dampened the spirits of the tax payer.

The promised action on new ports, shipbuilding, development of smart cities and national highways will generate enough employment for youth to enhance economic activities and spur growth in the economy. This should eventually lead to a higher GDP of 7 to 8% in the next three years.

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Managing Partner

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The budget proposals are liable to amendment during the passage of the Finance Bill through Parliament. The information given in the Document provides a bird's eye view on the changes proposed and should not be relied for the purpose of economic decisions. Each economic decision would call for specific reference of the relevant status. In consistency with our policy of not recognizing any liability on matters not covered where specific advice is given, we do not accept any responsibility for any decision taken based on information contained herein.

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HIGHLIGHTS FROM FINANCE BILL

DIRECT TAXES

- No change proposed in the tax rates.
- Basic threshold for residents proposed to be increased to Rs. 2.50 lakhs and senior citizens to Rs. 3 lakhs.
- Deduction under section 80C to be increased to Rs. 1.5 lakhs from Rs. 1 lakh.
- Deduction of interest on self occupied property to be increased from Rs. 1.5 lakhs to Rs. 2 lakhs.
- Effective 1st October, 2014, method of dividend distribution tax modified to effectively increase the DDT from 16.995% to 20.248%.
- Unlisted securities and units of a fund (apart from equity oriented fund) to obtain long term asset status only if held for 3 years. Private company shareholders and unit holders of funds such as FMPs to be hit by this provision.
- Long term capital gains on shares of unlisted companies or long term units will now be taxed at 20% with indexation benefits.
- Reinvestment in residential premises to be restricted to 1 house in case of long term gains on assets other than residential premises.
- Income of FIIs to be treated as capital gains. Derivative incomes of FIIs which was earlier treated as non-taxable will now be charged to tax.
- Companies carrying on share trading activity will not be classified as Speculation Business.
- Real Estate Investment Trust (REIT) & Infrastructure Investment Trust (Invit) to be introduced. This will be listed on stock exchanges with a primary motive to invest in Real Estate and Infrastructure respectively in India.
- Salary to be disallowed as expenditure if TDS is not deposited.
- Only 30% of the expenditure to be disallowed in the year if TDS on the same is not deducted or deposited.
- Advance Pricing Arrangements with associated enterprises can be used for earlier 4 years as well. This will reduce litigation to a certain extent.
- Depreciation not to be allowed to a trust where the trust has claimed the benefit of deduction at the time of application of 85% of its income.
- Powers given to cancel registration of trust if operations of a trust is not as per prescribed manner.
- Manufacturing companies to get additional 15% deduction in investment made in plant and machinery in excess of 25 crores upto 31st March, 2017.
- Sun set date to claim tax holiday by power generating, distributing or transmitting companies extended to 31st March, 2017.

- Dividend from foreign companies received by Indian companies to be continued to be taxed at a concessional rate of 15%.
- Expenditure on Corporate Social Responsibility for companies not be allowed as business expenditure.
- Resident companies are now allowed to approach the Authority of Advance Ruling subject to prescribed conditions.

INDIRECT TAXES

- General rates of customs, excise and service tax to remain the same.
- Benefit of advance ruling extended to resident private limited companies.
- Service tax applicable on all advertisement other than print media.
- Service tax on reverse charge to be paid within three months of invoice date even if the invoice is not paid.
- Radio cabs like Meru, Tab Cabs, etc. will charge service tax at an abated rate.
- Interest rates on delay in payment of service tax increased to 18% to 30% based on time of delay in payments.
- In case of litigation, minimum 7.5% to 10% of demand to be paid as pre deposit at the stage of filing appeal.
- Timeline of 6 months prescribed for taking credit of Cenvat in case of input services from the date of invoice.
- Definition of intermediary to now include intermediary dealing in goods.
- Service tax to be paid Electronically by all assessees.



Rate of Tax

- No change in personal and corporate tax rates.
- Threshold limit of taxable income for individuals increased from Rs. 2 lakhs to Rs. 2.5 lakhs. In case of resident individuals in the age between 60 to 80 years, the exemption limit has been increased from Rs. 2.5 lakhs to Rs. 3 lakhs. For very senior citizens, the limit remains unchanged at Rs. 5 lakhs.
- All other rates of taxes, surcharge, cess remain the same as compared to the previous year.
- Rebate of Rs. 2,000 or actual tax payable whichever is less for resident individuals having total income upto Rs. 5 lakhs still applicable.

Personal tax

- **Deductions under Chapter VI A:**
 - The limit of deduction allowed under section 80C has been increased from the existing limit of Rs. 1 lakh to Rs. 1.5 lakhs in order to promote small savings.
- **Interest on housing loan:**
 - Earlier, the deduction available for interest paid on housing loan for a self occupied property was Rs. 1.5 lakhs. The deduction has now been increased to Rs. 2 lakhs.
- **Contribution to NPS:**
 - Employer's contribution to New Pension Scheme by non-Central Government employers eligible for deduction up to ten per cent of salary in a financial year, irrespective of the employees' date of joining of employment and without any limit. The deduction in respect of employee's contribution is restricted to Rs. 1 lakh within the overall limit of Section 80CCE.

Dividend Distribution Tax (DDT)

- DDT is payable by a company while distributing its post tax profits / retained earnings. The method of calculating DDT has been changed resulting in the average rate of DDT to increase from 16.995 % to 20.248%.

Capital Gains transactions

- **Classification of asset as Long Term or Short Term:**
 - Presently, long term capital asset means any asset held for more than 36 months. However, in case of shares held in any company or units of a Mutual Fund the holding period required was more than 12 months to classify it as a long term asset.

- The benefit of an asset being classified as long term if held for more than 12 months is now restricted to only securities listed on a Stock Exchange and units of an Equity oriented mutual fund.

Implications:

- Shares of unlisted companies or units of a fund (apart from an equity oriented mutual fund) will now be classified as long term only if held for more than 36 months.
- Investments made in FMPs for 366 days maturity period which was earlier treated as long term gain will now be treated as a short term gain and the benefit of indexation will not be available. Consequentially, one needs to examine the new investment schemes introduced by Mutual Funds for such investments and compare the post tax returns with Fixed Deposit investments with banks.
- This provision is applicable for A.Y. 2015-16 and capital gain transactions will have to be viewed as per the new provisions.

• Concessional tax rate of 10% on Long Term Capital Asset:

- Presently, the concessional tax rate of 10% is applicable on long term capital gain (LTCG) arising on transfer of listed securities, units of mutual fund and zero coupon bonds on which STT is not suffered.
- Now, the rate of 10% shall be applicable only on LTCG arising from the transfer of listed securities (and not units) and zero coupon bonds.

Accordingly, LTCG on shares of unlisted companies or long term units will now be taxed at 20% with indexation benefits.

• Taxation of advance money received for transfer of capital asset:

- Currently, if any sum of money is received as an advance in the course of negotiations for transfer of a capital asset and such sum is forfeited on failure of the negotiations, the amount of advance received is reduced from the cost of acquisition of the asset.
- It is now proposed to charge this sum to tax under Income from Other Sources in the year of receipt itself and not to be reduced from the cost of acquisition of the said asset.

• Capital gains on Compulsory acquisition of asset

- It is clarified that enhanced or further enhanced compensation received pursuant to an interim order by a court, Tribunal or other authority on compulsory acquisition of a capital asset will be taxed in the year in which the final order of the court, Tribunal or other authority is passed by such authority.

• Capital gains exemption on sale of long term capital asset (other than residential house)

- Currently, such gains are exempt to the tune of the amount invested in a residential house in the ratio of cost of the new house to sale proceeds of the long term asset.

- It is now clarified that the reinvestment made in only 1 residential house will be permitted for deduction.
- Further, this house ought to have been situated in India only.
- **Deductions from capital gains by investing in certain bonds under Section 54EC:**
 - Currently, deduction from capital gains is available upto Rs. 50 lakhs if the amount is invested in prescribed bonds within a period of 6 months from the date of sale in a financial year.
 - The provision lead to a doubt that in case an asset is sold where the period of 6 months ends beyond the end of the financial year, the benefit of this section could be taken in both the financial years by investing a sum upto Rs. 50 lakhs in each year.
 - It is now clarified that the total deduction under this section will be restricted to Rs. 50 lakhs only.
- **Incomes of Foreign Institutional Investors (FIIs):**
 - In order to end the uncertainty whether the income earned by FIIs from transactions in securities is capital gains or business income, it is now proposed to amend the section to provide that security held by FIIs would be treated as capital asset and gains from sales would be capital gains.
 - Currently, FIIs were treating derivative transactions as business income. Since they did not have a Permanent Establishment in India, the entire gains from derivative transactions were exempt in their hands by claiming treaty benefits. With the proposed amendment, the derivative income would fall under capital gains and would therefore be covered under the tax net.
 - Further, fund managers of such FIIs could now be based in India without having adverse tax consequences.

Speculation Business

- **Trading in securities by a broker:**
 - Presently Section 73 provides that loss from any speculation business can be set off only against speculation profits of another business. Any loss not so set off can be carried forward and set off against speculation income of a subsequent year within 4 years.
 - Explanation to Section 73 provides that where any part of the business of a company consists of purchase or sale of shares, such company shall be deemed to be carrying on speculation business.
 - The explanation to Section 73 is proposed to be amended to provide that the explanation shall not apply to a company the principle business of which is the business of trading in shares.
- **Commodity Transaction Tax:**
 - Section 43(5) defines “speculative transaction” and proviso under 43(5) provides exceptions to the definition. Clause (e) of the proviso states that an eligible transaction in respect of trading in commodity derivatives carried out in a recognized association shall not be regarded as a speculative transaction.

- It is proposed to amend clause (e) of the proviso so as to provide that eligible transaction in respect of trading in commodity derivatives carried out in a recognized association and chargeable to commodity transaction tax shall not be considered to be a speculative transaction.
- This is a beneficial provision and shall apply retrospectively w.e.f. A.Y. 2014-15.

Special tax regime for Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (Invit)

- **Background:**

- This concept already exists in developed countries. It is a security that sells like a stock and invests in real estate directly, either through properties or mortgages. REITs receive special tax considerations and typically offer investors high yields, as well as a highly liquid method of investing in real estate and with smaller ticket sizes. It also spreads the risk on investment in one real estate property by an individual as compared to investments in multiple projects. The hassle of paper work, stamp duty, etc. of the investor will be reduced which could be an added advantage.

- **Legal Status:**

- Draft SEBI regulations have been proposed for introducing REITs in India which impose conditions such as REITs can invest in assets only in India. It will be set up as a Trust as per the provisions of the Indian Trust Act, 1882 having trustees, sponsor, manager and principal valuer as its parties.
- Sponsor is the person who sets up the REIT. A REIT may hold real estate investments either directly or through a Special Purpose Vehicles (SPV) or companies. They can raise capital by issuing units like any Mutual Fund which are required to be listed on a Stock Exchange or through debts directly from residents or non-residents.

- **Taxation:**

- REITs have been given a “Pass through” status for the purpose of taxation i.e. no tax is levied on interest income earned by the trust from the SPV. There will be no withholding tax (TDS) on such interest income received by the trust. However, when the trust pays out interest to the lenders, withholding tax @ 10% for residents and 5% for non-residents shall be deducted where external commercial borrowing has been obtained as per conditions mentioned in section 194LC of the Act.
- On payment of dividend by the SPV, dividend distribution tax will be paid by the SPV but no tax shall be charged in the hands of the Trust or unit holders when the Trust pays out the dividend to the unit holders. Similarly any capital gains arising in the hands of the Trust will be taxable in the Trust and no tax shall be payable by unit holders when such Trust distributes the capital gain to the unit holders.
- STT will be levied when units of REITs are traded on the stock exchange. Long term gains (3 years) from REITs will be exempt from tax and short term gains (less than 3 years) will attract tax of 15%.

- Any other income of the trust will be taxed at maximum marginal rates.
- The sponsor could exchange shares of SPV with units of REITs which will be taxed at the time the sponsor sell the units and not at the time the exchange of SPV shares.

Withholding tax provisions (TDS)

- **Disallowance of expenditure for non deduction of TDS:**

- Currently, if TDS is not withheld on Salary, there was no disallowance of the expenditure. Section 40(a)(ia) of the Act has now been amended to include Salary which will imply that incase TDS is not deducted and paid on Salary, the expenditure will be disallowed in the hands of the assessee.
- The benefit of depositing TDS with the revenue authorities for residents was extended until the due date to file the Income-tax return. This benefit is now extended for TDS on non-residents as well.
- Currently, if TDS is not deposited until the due date of filing returns, the entire expenditure was disallowed. This provision is now relaxed and the amount of disallowance will now be restricted to 30% of the amount of expenditure only.
- However, if any expenditure is incurred upto 31st March, 2014 or a provision is made on the said date and if the TDS is not deducted and paid until the date of filing of return, 100% of the amount will be disallowed in the current year. As per the new proposed provision, if the TDS on such expenditure is deposited in the next year, only 30% of the amount could be allowed as a deduction.

Assessee are therefore advised to pay the entire TDS for expenses / provisions upto 31st March, 2014 on or before the due date of filing their Income-tax return for A.Y. 2014-15.

- The existing provisions provide a TDS rate of 5% on interest paid by an Indian company to non-residents if money is borrowed in foreign currency under a loan agreement or through long term infrastructure bonds. Now the benefit is extended to any long term bond and not limited to infrastructure bonds. This benefit is extended for borrowings made upto 1st July, 2017.
- **Time limit for order under Section 201:**
 - Time limit to pass an order deeming a person to be an assessee in default for failure to deduct the whole or any part of tax on payment to a resident has been extended to 7 years from the end of the financial year in which payment is made or credit is given.
- **TDS on amount received on maturity of specified Life insurance policies:**
 - Under the existing provisions of the Act, any sum including bonus received on maturity of policies in respect of which premium payable for any year is more than 10% of the sum assured was chargeable to tax. It is now proposed to introduce TDS @ 2% of the amount received on maturity if the amount exceeds Rs. 1 lakh.

Transfer Pricing (TP)

- Section 92B defines International Transaction. The deeming provisions of Section 92B(2) of the Act are now proposed to be extended to transactions between an enterprise and an independent person where there is a prior arrangement between the independent person and associated enterprise irrespective of whether such independent person is a non-resident or resident.
- Advance Pricing Arrangement (APA) is an agreement between a taxpayer and a taxing authority which will predetermine the Arms Length Price (ALP) or will specify the manner in which the ALP is to be determined in relation to an international transaction to be entered into by the person. It is proposed to provide “roll back” mechanism in the APA scheme for a period of 4 years preceding the 1st year. Therefore, the APA entered into can be applied to international transactions which had already been entered into in a period prior to the period covered in the APA.
- The transfer pricing officer now has the powers to levy penalty of 2% for failure to furnish prescribed information or documentation.
- As per the existing practice one year data is used for comparable analysis with some exception. It is proposed to use multiple year data for comparability analysis.

Taxability of Charitable Trust / Institutions

- **Applicability of registration granted to a trust or institution to earlier years:**
 - Currently, charitable trust or institution can claim exemption under section 11 of the Act only after obtaining registration under section 12A / 12AA of the Act.
 - It is proposed that the benefits of exemption will be available to such trust or institution in respect of its income for any earlier financial year for which assessment proceedings are pending before the Assessing Officer as on the date of registration, provided that objects and activities in such earlier years are the same as those for which the registration has been granted.
 - It is further proposed that no action for reopening of an assessment will be taken by the Assessing Officer for any financial year preceding the financial year for which the registration is obtained merely for the reason that such trust or institution has not obtained registration for the said year.
- **Rationalization of tax regime in case of charitable trusts and institutions:**
 - Currently, charitable trusts / institutions duly registered / approved under section 11 or section 10(23C) of the Act are governed by certain conditions subject to which their incomes are exempt from income tax.
 - It is proposed that so long as such registration / approval is in force, such institution shall not be eligible to claim exemption of their income (other than agriculture income) under section 10 of the Act.
- **Cancellation of registration of trust or institution in certain cases:**
 - Currently, registration of a charitable trust or institution granted under section 12A / 12AA of the Act can be cancelled by the Commissioner if the activities of the trust or institution are not genuine or the activities are not carried out in accordance with its objects.

- It is proposed that the registration may be withdrawn even in those cases where its income is not exempt due to the operation of sub-section (1) of section 13 of the Act i.e.:
 - o where any part of its income does not belong for the benefit of general public, or,
 - o if it is created for the benefit of any particular religious community or caste, or,
 - o where any part of its income belongs or is used or applied for the benefit of specified persons, or,
 - o its funds are invested in prohibited modes.
- **Application of income in case of not for profit institutions:**
 - Currently, charitable trusts / institution registered / approved under section 11 or section 10(23C) of the Act claim investment in depreciable assets as application of their income for charitable purpose.
 - In order to avoid claiming any notional depreciation once again on such depreciable assets, in respect of income when it is applied to acquire a capital asset, it is proposed that, where the acquisition of an asset has been claimed as an application of income in any financial year, then deduction or allowance by way of depreciation in respect of such asset cannot be claimed.
- **Tax computation on receipt of anonymous donations by certain taxpayers:**
 - Currently, tax at 30% is levied on anonymous donations received by charitable trusts institutions registered / approved under section 11 or section 10(23C) of the Act. The anonymous donations to the extent of threshold limit presently escapes taxation even if it is otherwise not exempt under section 11 or section 10(23C) of the Act.
 - To correct this anomaly, it is proposed that the income tax payable by such entities will be the aggregate of the following:
 - o tax payable at 30% on anonymous donations exceeding the threshold limit; and
 - o the amount of income tax which would have been chargeable had the total income been reduced by the aggregate of such donations in excess of the threshold limit.

Other Provisions

- **Investment allowance to manufacturing companies:**
 - Finance Act 2013 had introduced this provision to provide additional deduction of 15% of the cost of new assets installed by a manufacturing company if the value of assets installed between 1st April 2013 and 31st March 2015 is more than 100 crores. The limit of 100 crores has now been reduced to 25 crores and the time is extended upto 31st March, 2017.
- **Power Sector:**
 - Currently, a deduction at 100% of profits is available to an undertaking for a period of 10 consecutive years out of 15 years, if the undertaking begins

to generate power or starts transmission and distribution by laying new transmission or distribution lines or renovates and modernises existing network of transmission by 31st March 2014.

- It is proposed to extend the above terminal date for a further period of 3 year i.e. upto 31 March 2017.

- **Dividend received from foreign companies:**

- A concessional rate of tax at 15% was introduced on dividends received from foreign companies. This benefit was available upto 31st March, 2014. This benefit is now extended without any timeline.

- **Expenditure incurred on Corporate Social Responsibility (CSR):**

- Under the Companies Act, 2013, companies having a turnover of Rs. 1000 crores or having net worth of Rs. 500 crores or more or a net profit of Rs. 5 crores or more in any financial year are required to spend 2% of the average net profits of the company made during the 3 preceding years.
- The finance act has clarified that expenditure incurred for CSR is not for the purpose of business and hence will not be allowed as a deduction under section 37(1) of the Act. However, expenses qualifying for deduction under sections 30 to 36 which form part of CSR expenditure can be claimed as a deduction.

Implications:

- Expenses incurred to carry out CSR activity like salary, travel conveyance, etc. can be claimed as a deduction.
- Further, if a company propose to contribute as a part of their CSR activity to a company or institute which carries out eligible projects such as promoting the social and economic welfare or for the uplift of people and is approved under Section 35AC, such a company can claim weighted deduction as mentioned in the respective section.

- **Presumptive income from the business of plying / hiring or leasing of goods carriages:**

- The amount of presumptive income of such businesses has been rationally increased to Rs. 7,500 for every month or part of the month during which the goods carriage is owned by the taxpayer. The benefit of this provision can be taken if the owner owns not more than 10 goods carriages during the previous year.

- **Estimation of value of assets by valuation officer:**

- Currently, reference may be made to the valuation officer to estimate value of any investment, bullion, jewellery or property, for the purpose of making an assessment or reassessment.
- It is proposed that such reference may be made by the tax officer whether or not he is satisfied about the correctness of the taxpayer's accounts. Further, a time limit of six months has been prescribed for the valuation officer to submit the report. Correspondingly, the aforesaid period of six months will be excluded from the time limit prescribed for completion of assessments and reassessments.

Chapter III

SERVICE TAX

General

- The rates of service tax remain the same.
- GST likely to be introduced by the end of the year.

Exemption withdrawn by amending Negative list & Mega Exemption List

- Service Tax exemption withdrawn on advertisement other than print media. Therefore all other forms of advertisements like online advertisements, social media, theatres, bill boards, ATMs, etc. will now be charged to service tax.
- Transportation of passengers by radio cabs like Meru, Tab Cabs, etc. will now be under the service tax net at an abated rate.
- Exemption to clinical research on human participants is being withdrawn.
- Exemption to air-conditioned contract carriages like buses is being withdrawn. Accordingly, air conditioned buses will now charge service tax at an abated rate.
- At present, various services provided to educational institutions providing educational services recognised by law were not chargeable to tax. The amendment proposes to limit the exemption to:
 - o transportation of students, faculty and staff
 - o catering including mid-day meal scheme
 - o security, cleaning and housekeeping services performed within premises of such institution.
 - o services relating to admission to or conduct of exams by such institution.

Implications: Outsourced services provided to institutes apart from the above will charge service tax to the institutes. Further, renting of immovable property to an educational institution is now liable to service tax.

- Services provided by hotel, inn, guest house etc. having declared tariff value of Rs. 1000 per day or less are exempt from service tax. This includes dharamshalas, ashrams and such other entities as well.
- The following services will now be exempt from Service Tax:
 - o Life micro insurance schemes for the poor subject to certain limits
 - o Transport of organic manure by vessel, rail or road by Goods Transport Agency (GTA)
 - o Loading, unloading, packing, storage or warehousing, transport by vessel, rail or road by GTA of cotton, ginned or baled.
 - o Common bio-medical waste treatment facility operators to clinical establishments.

- o Specialized financial services received by RBI from global financial institutions in the course of management of foreign exchange reserves.
- o Services provided by Indian tour operators to foreign tourists in relation to a tour conducted out of India.
- o Services provided by ESIC
- **Interest rates on delayed payment of service tax are increased as follows:**

Delay upto 6 months:	18%
Delay between 6 to 12 months:	24%
Delay beyond 12 months:	30%

Other key amendments (effective 11th July, 2014)

- Time limit for completion of adjudication prescribed
- It has been proposed to amend Section 80 to remove the power to waive the 50% penalty imposable in cases of default of payment of Service Tax on account of suppression of facts or willful misstatement etc., by deleting reference to first proviso to Section 78(1).

First proviso to Section 78(1) deals with applying reduced penalties in cases where true and complete details of transactions are available.

The above penalty, earlier, could have been waived by invoking Section 80 where the assessee demonstrated reasonable cause for default in payment of Service Tax.

- **Stay applications are now redundant. Mandatory pre-deposit of duty demanded prescribed @ 7.5% at the first stage and @10% at the second stage of litigation.**

This could cause serious hardship to tax payers.
- Reverse charge mechanism to apply on the following services:
 - Services by director to a body corporate. Earlier, services by director to a company only were covered. Now, services of independent directors to a body corporate will also attract RCM e.g. on RBI.
 - Services of a recovery agent to a bank, financial institution and NBFC.
- Advance ruling options available to resident private limited companies.
- Rules for determining the foreign exchange rate to be prescribed.

Other key amendments (effective 1st October, 2014)

- Amendments in Place of Provision of Service Rules, 2012:
 - The definition of intermediary has been modified to include intermediaries engaged in supply of goods. Therefore, services provided in India as an intermediary for supply of goods will be charged to service tax.

Implications: Brokers who facilitate import of goods will now be under the service tax net. Stock brokers providing brokerage services to FIIs or foreign institutional investors or any non residents will now charge service tax on their brokerage.

- Rule regarding place of performance of service shall not apply to goods imported for repair which are exported after repair without being put to any use other than that which is required for such repair.
- Earlier, an exclusion by way of a proviso to Rule 4 of the PPSR was provided in respect of goods that were temporarily imported into India for repairs on fulfillment of specified conditions. However, no conditions were provided under the said rule.

The said proviso has been substituted to indicate that for the purpose of exclusion of repair services in such cases, it would be sufficient if the goods imported for repair are exported after repair without being put to any use other than that which is required for such repair. The above exclusion is however not applicable to goods which are imported in the usual course of business and are subjected to repair while such goods are in India.

- **Amendment to Point of Taxation Rules**

- In case of Reverse charge mechanism (RCM), for invoices issued after 1st October, 2014, point of taxation will be either the actual date of payment or the day after 3 months from the date of issue of invoice, whichever is earlier.

Implications : In case an assessee receives an invoice on which RCM is applicable, the tax will have to be paid latest by 3 months from the date of receipt of invoice irrespective whether the principal amount of invoice is paid or not.

- **Every assessee to pay Service Tax electronically only.**

Cenvat Credit

- Cenvat Credit can be taken within 6 months from the date of invoice only. Earlier there was no time frame to take Cenvat credit. This provision will cause serious hardships for assessees who have huge amounts of Cenvat credit balance but credit for which has not been taken in the Service Tax Return and Cenvat Register maintained by them. Such entities will suffer on account of loss of credit even though the tax has been paid by them.

Cenvat credit of prior years written off to the profit and loss account due to this provision in the current year might not be allowed as a deduction under Income Tax Act since the expenditure pertains to previous years.

A strong representation needs to be made to the government to rationalize this amendment.

- In view of amendment of Point of Taxation Rules for RCM, Cenvat credit on RCM can be availed and the condition to pay the invoice value to the service provider is now omitted.
- Cenvat reversed on account of non receipt of export proceeds within specified period will be subject to re-credit if payment received within extended period.
- While availing abatement on Goods Transport Agency services by service recipient, service recipient not required to establish non availment of Cenvat credit by service provider.
- Rent a cab and tour operator cenvat credit allowed on subcontractor services to avoid cascading effect.

- Cenvat credit through input service distributor (ISD) rationalized. Now credit can be distributed to all units whether common services used in all units or not.
- **Service tax on Works Contract:**
 - The service portion of a works contract entered into for maintenance or repair or servicing any goods, finishing services such as plastering, floor and wall tiling, installation of electrical fittings, etc. service tax shall be payable on 70% of the total amount charged for works contract.



Chapter IV
RATE OF TAX

TABLE 1

Particulars	Threshold limit for Surcharge (₹)	Tax Rates	
		Without Surcharge	With Surcharge
Every Individual, HUF, AOP & BOI			
Up to Rs. 2,50,000		Nil	N.A.
Rs. 2,50,001 to Rs. 5,00,000		10.30%	N.A.
Rs. 5,00,001 to Rs. 10,00,000		20.60%	N.A.
Rs. 10,00,001 onwards	1,00,00,000	30.90%	33.99%
Every Resident Individual (60 yrs or more but less than 80 yrs)			
Up to Rs. 3,00,000		Nil	N.A.
Rs. 3,00,001 to Rs. 5,00,000		10.30%	N.A.
Rs. 5,00,001 to Rs. 10,00,000		20.60%	N.A.
Rs. 10,00,001 onwards	1,00,00,000	30.90%	33.99%
Every Resident Individual (more than 80 yrs)			
Up to Rs. 5,00,000		Nil	N.A.
Rs. 5,00,001 to Rs. 10,00,000		20.60%	N.A.
Rs. 10,00,001 onwards	1,00,00,000	30.90%	33.99%
Co-operative Society			
Up to Rs. 10,000		10.30%	N.A.
Rs. 10,001 to Rs. 20,000		20.60%	N.A.
Rs. 20,001 onwards	1,00,00,000	30.90%	33.99%
Partnership Firm	1,00,00,000	30.90%	33.99%
Local Authority	1,00,00,000	30.90%	33.99%
Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	30.90%	32.445%
Rs. 10,00,00,001 onwards	10,00,00,000	30.90%	33.99%
Company other than Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	41.20%	42.024%
Rs. 10,00,00,001 onwards	10,00,00,000	41.20%	43.26%

Particulars	Threshold limit for Surcharge (₹)	Tax Rates	
		Without Surcharge	With Surcharge
Minimum Alternate Tax			
Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	19.055%	20.008%
Rs. 10,00,00,001 onwards	10,00,00,000	19.055%	20.961%
Company other than Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	19.055%	19.436%
Rs. 10,00,00,001 onwards	10,00,00,000	19.055%	20.008%
Alternate Minimum Tax			
LLP, Firms	1,00,00,000	19.055%	20.961%
Individual, HUF, AOP & BOI having income more than Rs. 20,00,000	1,00,00,000	19.055%	20.961%
STCG on assets other than listed securities			
Individual, HUF, AOP & BOI	1,00,00,000	As per slab	As per slab
Partnership Firm	1,00,00,000	30.90%	33.99%
Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	30.90%	32.445%
Rs. 10,00,00,001 onwards	10,00,00,000	30.90%	33.99%
Company other than Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	41.20%	42.024%
Rs. 10,00,00,001 onwards	10,00,00,000	41.20%	43.26%
LTCG on assets other than Listed Securities			
Individual, HUF, AOP & BOI	1,00,00,000	20.60%	22.66%
Partnership Firm	1,00,00,000	20.60%	22.66%
Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	20.60%	21.630%
Rs. 10,00,00,001 onwards	10,00,00,000	20.60%	22.66%
Company other than Domestic Company			
Up to Rs. 10,00,00,000	1,00,00,000	20.60%	21.012%
Rs. 10,00,00,001 onwards	10,00,00,000	20.60%	21.63%

TABLE 2

<i>Particulars</i>	<i>Tax Rates</i>
Dividend Distribution Tax	20.47%
Securities Transaction Tax	
Delivery based purchase of an Equity Share in a Company	0.100%
Delivery based purchase of an units of an Equity Oriented Fund	NIL
Delivery based Sale of an Equity Share in a Company on Stock Exchange	0.100%
Delivery based Sale of an units of an Equity Oriented Fund on Stock Exchange	0.001%
Sale of a Futures in securities	0.01%
Sale of unit of an Equity Oriented Fund to the Mutual Fund	0.001%
Sale of unlisted equity shares under an offer for sale to public	0.20%
Commodity Transaction Tax	
Sale of a Commodity Derivative	0.01%

<i>Wealth Tax</i>	<i>Threshold limit</i>	<i>Tax Rate</i>
For every individual, HUF and Company	30,00,000	1%

Chapter V

TDS & TCS CHART

TABLE 3

TDS RATE FOR THE ASSESSMENT YEAR 2015-16

Section	Nature of Payment	Threshold limit (in Rs.)	Individual / HUF (%)	Firm / BOI / AOP(%)	Co-operative Society/ Local Authority (%)	Domestic Company (%) ²
192	Salary	As per slab	Normal Rate*	N.A	N.A	N.A
193	Interest on Securities					
1	Interest on Debentures or Securities issued by or on behalf any local authority or corporation established by central, state or provincial act	5000*	10.00	10.00	10.00	10.00
2	Any debentures issued by a company where such debentures are listed on a recognised stock exchange	5000*	10.00	10.00	10.00	10.00
3	Any security of the Central or State Government being Interest on 8% Saving (Taxable) Bonds, 2003	10000	10.00	10.00	10.00	10.00
194	Dividend other than Dividend covered by section 115 -O	2500 ^s	10.00	10.00	10.00	10.00
194A	Interest other than Interest on Securities (other than below) Where payer is	5000	10.00	10.00	10.00	10.00
	(1) Banking Company	10000	10.00	10.00	10.00	10.00
	(2) Co-operative Society engaged in banking business	10000	10.00	10.00	10.00	10.00
	(3) Post Office (deposit scheme framed by Central Govt.)	10000	10.00	10.00	10.00	10.00
194B	Winning from Lotteries, crossword puzzles, card games and other games of any sort	10000	30.00	30.00	30.00	30.00

TDS RATE FOR THE ASSESSMENT YEAR 2015-16

Section	Nature of Payment	Threshold limit (in Rs.)	Individual / HUF (%)	Firm / BOI / AOP(%)	Co-operative Society/ Local Authority (%)	Domestic Company (%) ²
194BB 194C	Winning from Horse Races Payments to Contractors (1) In case of contract/ Sub-Contract/ Advertising - Single Transaction - Aggregate of Transactions During the F. Y. (2) Contractor/ Sub- Contractor in Transport Business - Single Transaction - Aggregate of Transactions During the F. Y.	5000 30000 75000 30000 75000	30.00 1.00 1.00 NIL ¹ NIL ¹	30.00 2.00 2.00 NIL ¹ NIL ¹	30.00 2.00 2.00 NIL ¹ NIL ¹	30.00 2.00 2.00 NIL ¹ NIL ¹
194D 194DA	Insurance Commission Any sum paid under Life Insurance Policy not exempt u/s 10(10D)	20000 100000	10.00 2.00	10.00 2.00	10.00 2.00	10.00 2.00
194E	Non-Resident Sportsman(incl.athlete)/ Entertainer*/sports Association/sports institution	NIL	20.60	20.60	20.60	N.A
194G	Commission on Sale of Lottery tickets to :- (a) Resident (b) Non-Resident	1000 1000	10.00 10.30	10.00 10.30	10.00 10.30	10.00 10.30
194H 194I	Commission or Brokerage to Resident Rent to Residents (a) Rent for Machinery/Plant/ Equipment (b) Rent for other than in (a)	5000 180000 180000	10.00 2.00 10.00	10.00 2.00 10.00	10.00 2.00 10.00	10.00 2.00 10.00
194IA **	Payment to Resident on transfer of Immovable Property (Other than Agricultural Land) - not covered U/s 194LA	5000000	1.00	1.00	1.00	1.00
194J	Fees for Professional/Technical Services to Resident/ Remuneration or Fees or Commission to a Director of a company (other than liable to be deducted u/s 192)	30000	10.00	10.00	10.00	10.00

TDS RATE FOR THE ASSESSMENT YEAR 2014-15

Section	Nature of Payment	Threshold limit (in Rs.)	Individual / HUF (%)	Firm / BOI / AOP(%)	Co-operative Society/ Local Authority (%)	Domestic Company (%) ²
194LA	Compensation to Resident on acquisition of Immovable Property on account of compulsory acquisition under any law	200000	10.00	10.00	10.00	10.00
194LB	Interest paid to Non Resident and to Foreign Company by Infrastructure Debt Fund	NIL	5.15	5.15	5.15	5.15
194LBA	Any income distributed by a business trust referred to in section 115UA, of the nature referred to in clause 10(23FC), payable to:					
	(a) Resident	NIL	10.00	10.00	10.00	10.00
	(b) Non - Resident	NIL	5.00	5.00	5.00	5.00
194LC	Interest paid to Non Resident and to Foreign Company by Specified Company	NIL	5.15	5.15	5.15	5.15
196B	Income from Units (Including Long term Capital Gain on transfer of such units) to an offshore fund	NIL	N.A.	N.A.	N.A.	10.30
196C	Income from foreign currency bonds or GDR of Indian Company	NIL	N.A.	N.A.	N.A.	10.30
196D	Income of FII from Securities not being Dividend, long term & short term capital gains	NIL	N.A.	N.A.	N.A.	20.60

* Normal Rate of tax shall be increased by surcharge @10% of such normal tax in case of a person having a total income exceeding Rs.1 Crore

In case of Resident (Individual & HUF)

\$ In case of Resident Individual

1 The NIL rate will be applicable if the Transporter quotes his PAN. If PAN is not quoted the rate will be 20%. (Transporter means person engaged in plying, hiring and leasing and leasing of Goods Carriages)

2 "In case of payment to Foreign company if total payment

a) exceeds Rs.1 Crore, but does not exceed Rs.10 Crore, 2% Surcharge will be applicable

b) exceeds Rs.10 Crore, 5% Surcharge will be applicable"

Chapter V

TDS & TCS CHART

TABLE 4
TCS RATE FOR THE ASSESSMENT YEAR 2015-16

Section	Nature of Payment	Threshold limit (Rs.)	Individual /HUF (%)	Firm / BOI/ AOP (%)	Co-operative Society/ Local Authority (%)	Company (%)
206C	Alcohol Liquor for human consumption and indian made Foreign Liquor	NIL	1.00	1.00	1.00	1.00
206C	Tendu Leaves	NIL	5.00	5.00	5.00	5.00
206C	Timber obtained by any mode and other Forest Products	NIL	2.50	2.50	2.50	2.50
206C	Scrap	NIL	1.00	1.00	1.00	1.00
206C	Parking lot / Toll Plaza / mining and quarring	NIL	2.00	2.00	2.00	2.00
206C	Minerals, being coal or lignite or iron ore	NIL	1.00	1.00	1.00	1.00
206(1D)	Sale of Bullion or Jewellery in Cash	200000	1.00	1.00	1.00	1.00

HIGHLIGHTS OF COMPANIES ACT, 2013

The New Companies Act, 2013 was planned to be a more compact and simpler version of its old counterpart. The new Act with only 470 sections has by no means achieved its objectives as it has a host of Rules providing detailed compliances and clarifications that even go beyond the section. There are 24 sets of Rules provided for various activities which have already been amended 8 times in the last 3 months. Apart from this one has to cope with the 27 Circulars and a few other Notifications to interpret the new legislation. All in all Private Limited companies have to share a larger burden of compliances rather than an easier regime that was anticipated. Penalties for any defaults or non-compliances have been increased multi-fold ranging from Rs. 25,000 to a crore! This is surely not an attempt to scare directors of companies but to put them on alert that one can no longer afford to go easy on compliances and regularize it with a few hundred rupees of penalty.

New Concepts

- The concept of a One Person Company, Small Company and Dormant Company introduced. Certain rules and compliances to be relaxed for such companies.
- Every company to have its Company Incorporation Number, website, fax, email ID, etc. number as additional requirements on its letter heads.
- The Act defines CEO, CFO, Key Managerial Personnel in line with the new business trends. Such persons to be held responsible for various acts of the Companies.
- The process of Company incorporation made cumbersome. Nationalized banks to verify KYC details at the time of incorporation. The process to take longer as compared to in the past.
- Company cannot provide for “Other Objects” in the Memorandum.
- To commence business, Private and Public Companies need to file declarations that share capital has been paid up as per Memorandum and the registered office has been verified by a prescribed person which includes a Chartered Accountant.
- A Company including a private company to issue shares within 60 days of receipt of share application money. This includes application money received prior to 31st March, 2014 as well.
- Rules of Acceptance of Deposits made more stringent. Now, a Company cannot accept a loan / deposit from their members not being directors without complying with the prescribed procedure and only within certain limits.
- Inter corporate deposits allowed. However, if 2 companies have common directors or if the director of a company giving the loan are interested either directly or indirectly in another company, then it is prohibited to give loans to such companies.
- Annual Returns and other filings with the ROC are made more exhaustive to include additional details.

- Secretarial standards to be followed by companies while preparing minutes of Board and general meeting.
- Accounts of a company can be kept in electronic form but needs to be accessible from India at all times.
- Cash flow statement made compulsory for all companies. Earlier, it was mandatory only for listed companies to prepare CFS.
- Associated Enterprise now defined in the new Act which includes a company having significant influence over another company and includes a Joint Venture company. Significant influence means controlling atleast 20% share capital or controlling of business decisions. – **Wide implications.**
- Consolidation of accounts made mandatory for all Companies. Accounts of subsidiary companies and associated enterprise to be consolidated with opening balances.
- Every company with net worth of Rs. 500 crores or more, or turnover of Rs. 1000 crores or more, or net profit of Rs. 5 crores or more in any financial year needs to form a Corporate Social Responsibility Committee. The company to contribute towards CSR activities @ 2% of average net profit of last 3 years.
- Every company shall appoint at the Annual General Meeting, an auditor for a period of 5 years. The appointment to be ratified in every AGM.
- Companies other than private companies to rotate their auditors being individuals in every 5 years and for firms every 10 years. A transition period of 3 years given to comply with this requirement.
- The Act provides for certain disqualifications for auditors. Further, the roles and responsibilities and liability of an auditor increased substantially.
- Auditor to comply with Auditing Standards.
- Every company to have atleast 1 director who is a resident of India in the previous year.
- Concept of women director made compulsory for certain class of companies.
- Atleast one third of the board of a listed company to consist of independent directors. The meaning of independent director is made stringent to cover only certain class of persons. Further, the duty, roles and responsibilities of an independent director are extremely wide.
- No person should be a director of more than 20 companies of which only 10 can be listed companies.
- Every director of a company including a private company to disclose to the company in a statement, his interest whether directly or through a relative in other entities and the company to file such a declaration with the ROC.
- Video conferencing to be permitted for board meeting subject to certain conditions prescribed. However, approval of accounts and AGM cannot be held via video conference.
- Small shareholders can appoint their representative to the Board of Directors.
- Related Party now defined in the new Act having a wide definition. Restriction prescribed and disclosures widened to transact with related parties.

- Secretarial audit to be made compulsory for bigger companies.
- The definition of foreign company means any Body Corporate incorporated outside India having a place of business in India whether by itself or through its agent, physically or through electronic mode and conducts any business activity in India in any other manner. – ***Wide implications for foreign companies to comply with Company Act formalities in India. Companies doing business in India through websites need to analyse their status in India.***
- Provision of merger and amalgamation modernized. An Indian Company is now allowed to merge with a foreign company subject to FEMA conditions to be prescribed which are not currently permitted.

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