

Budget 2017

HEADS UP



Glossary

Act	The Income-tax Act, 1961	ITR	Return of Income
AAR	Authority for Advance Ruling	JDA	Joint Development Agreements
AE	Associated Enterprise	LTCG	Long Term Capital Gains
AO	Assessing Officer	MAP	Mutual Agreement Procedure
APA	Advance Pricing Agreement	MAT	Minimum Alternate Tax
AMT	Alternate Minimum Tax	NPS	National Pension Scheme
AY	Assessment Year	OCI	Other Comprehensive Income
BEPS	Base Erosion and profit shifting	ODI	Off-shore Derivatives Instruments
CBDT	Central Board of Direct Taxes	OECD	Organization for Economic Co-operation and Development
CIT(A)	Commissioner of Income-tax (Appeals)	PE	Permanent Establishment
DTAA	Double Taxation Avoidance Agreement	PGBP	Profits and Gains of Business or Profession
EBIDTA	Earnings before interest, depreciation, taxes and amortization	POS	Point of sales
ECB	External Commercial Borrowings	R&D	Research and Development
FPI	Foreign Portfolio Investors	SC	Supreme Court
FMV	Fair Market Value	SDT	Specified Domestic Transactions
FTC	Foreign Tax Credit	SEBI	Securities and Exchange Board of India
FY	Financial Year	SEZ	Special Economic Zone
HC	High Court	STP	Software Technology Park
HUF	Hindu Undivided Family	STT	Securities Transaction Tax
ITAT	Income-tax Appellate Tribunal	TAN	Tax Deduction and Collection Account Number

Income Tax

Corporate Tax Rates

Particulars	Taxable Income		
	Less than INR 1 Cr	INR 1 - 10 Cr	Above INR 10 Cr
Effective Corporate Tax Rate - Domestic Companies with turnover less than 50 Cr	25.75%	27.55%	28.84%
Effective Corporate Tax Rate - Domestic Companies with turnover more than 50 Cr	30.90%	33.06%	34.61%
Effective Corporate Tax Rate - Foreign Companies	41.20%	42.02%	43.26%
Effective MAT	19.06%	20.39%	21.34%
Effective DDT	20.36%		
Effective Buy-back Tax	23.07%		

Individual Tax Rates

Total Income	Tax Rate
Upto INR 250,000	NIL
INR 250,001 - INR 500,000	5%
INR 500,001 - INR 1,000,000	20%
Above INR 1,000,000	30%

- › Maximum exemption limit for senior citizen is INR 3 Lacs and for very senior citizen is INR 5 Lacs
- › 10% surcharge would be levied, if income exceeds INR 50 Lacs and 15% if income exceeds INR 1 Cr
- › Education cess and Secondary & higher education cess would be levied at 2% and 1% on the aggregate of income tax and surcharge
- › Relief under sec. 87A up to INR 2,500 is available for individuals and senior citizens having income up to INR 3.50 Lacs

Make Over to Digital India (MODI)

Discouraging Cash Payments

- › Presently, any revenue expenditure for which payment in excess of INR 20,000 has been made in a day through a mode other than permitted modes of payment (that is, account payee cheque / draft), is disallowed in computing taxable profits
- › To discourage cash transactions, following amendments are proposed:
 - Reduction of threshold from INR 20,000 to INR 10,000 per day
 - Inclusion of payments made using electronic clearing system through a bank account, in the permitted modes of payment
 - Where any capital expenditure in excess of INR 10,000 is incurred in a day, through a mode other than permitted mode of payments to acquire an asset, then such expenditure shall be excluded in computing its depreciable base
 - Introduction of similar disallowance in case of capital expenditure incurred by a taxpayer eligible for Investment Linked Tax Incentive under sec. 35AD of the Act
 - Deduction under sec. 80G for payments above INR 2,000 shall be available only if they are made through permitted modes of payment

Make Over to Digital India (MODI)

Restriction on cash transactions

- › To discourage cash transactions, it is proposed to insert sec. 269ST in the Act, which provides that no person shall receive an amount of INR 3 lakh or more by way of cash:
 - in aggregate from a person in a day or
 - in respect of a single transaction or
 - in respect of transactions relating to one event or occasion from a person
- › In case of any contravention, penalty equal to value of the said transaction will be imposed
- › If the person proves that there were good and sufficient reasons for such contravention, the penalty shall not be levied

Presumptive Taxation

- › Under sec 44AD of the Act, small business with turnover upto INR 2 Crs are allowed to opt for payment of tax on a presumptive basis where taxable income is reckoned as 8% of their turnover
- › In order to promote electronic payments, it is proposed to reduce the rate of 8% to 6%, to the extent turnover constitutes payments received by way of account payee cheque / draft / electronic clearing system

Taxation of Under-valued Acquisitions

- › Presently, under sec. 56(2)(vii) of the Act, where an individual / HUF acquires any prescribed property (being securities, jewellery, bullion, archaeological collections, and works of art) for NIL / inadequate consideration, difference between its FMV and actual consideration is taxed as income of the recipient

Also, under section 56(2)(viii), where any closely held company / firm receives shares of another closely held company for NIL / inadequate consideration, difference between FMV and actual consideration is taxed as income of the recipient.

- › These provisions are proposed to be combined under sec. 56(2)(x) of the Act, which shall extend to all taxpayers. As a result, even taxpayers other than individual / HUF / firms / closely held companies shall be taxed in respect of under-valued acquisitions of prescribed property

'Clarity' on Indirect Transfer Provisions

- › Finance Act, 2012 inserted clarificatory amendments to sec. 9, whereby, transfer of any share or interest in a company or entity outside India was considered taxable in India, if such share or interest 'derived its value substantially from assets located in India'
- › In relation to the above amendments, questions arose as regards their application in cases of portfolio investors who invested in India through layered structures. Essentially, questions revolved around tax implications:
 - In the hands of ultimate investors in case of sale/ redemption of their interest
 - Structures where ODIs/ multiple feeder funds were involved
 - Cases where schemes were merged at an offshore level
- › In December 2016, the CBDT had issued a clarificatory circular, covering these matters, which had caused considerable concerns to the FPI community
- › To address their concerns, a 'clarificatory' amendment (with retrospective operation) has been made to sec. 9 to provide that indirect transfer provisions shall not apply to non resident investors who hold investments, directly or indirectly, in Category 1 and 2 FPIs registered with SEBI
- › The budget speech also mentioned that a clarification shall be issued shortly - to the effect that indirect transfer provisions shall not apply to redemption of shares or interests outside India as a result of, or arising out of, redemption of investment in India, which are chargeable to tax in India

Transfer Pricing - Secondary Adjustment

- › Sec. 92CE inserted, requiring taxpayer to carry out secondary adjustments (adjustments in books of accounts of the Assessee and its AE to reconcile cash account and actual profit of the Assessee)
- › Secondary adjustments applicable where primary adjustment to transfer price has been:
 - Made *suo moto* by taxpayer in ITR
 - Made by AO and accepted by taxpayer
 - Determined as a result of APA/ MAP
 - Made as per Safe Harbour Rules
- › Secondary adjustment not applicable, if the amount of primary adjustment does not exceed INR 1 crore or pertains to periods prior to AY 2017-18
- › Proposed provisions further provide that where, as a result of primary adjustment, there is an increase in the total income or reduction in the loss of taxpayer, excess money which is available with the AE, if not repatriated to India within prescribed time shall be deemed to be an advance made by the taxpayer to such AE. Interest on such advance shall be treated as income of taxpayer
- › These provisions are in line with OECD transfer pricing guidelines which refer to secondary adjustment in the form of constructive dividend, constructive equity contributions, or constructive loans

Interest to NR AEs - BEPS Action Plan 4

- › Finance Bill proposes to insert sec. 94B to restrict interest deduction for payments made to non-resident AE. These provisions are in line with BEPS Action Plan 4 guidelines
- › The provisions restrict deduction of interest paid to non-resident AE to 30% of EBITDA
- › Debt shall be treated as issued by AE, if it provides an implicit or explicit guarantee to the lender, or the AE deposits a corresponding and matching amount of funds with the lender
- › The provisions shall be applicable only when interest expense exceeds INR 1 Cr. The provisions shall apply to Indian companies or PE of foreign companies, but excludes banks and insurance companies from its ambit
- › Where the interest expenditure cannot be wholly deducted against income under the head PGBP, excess interest shall be carried forward up to eight assessment years immediately succeeding the assessment year for which interest expenditure was first computed
- › However, the total deduction in succeeding years even after considering the carried forward interest shall not exceed the threshold limit of 30% of EBITDA for that year

Transfer Pricing - Specified Domestic Transactions

- › Present provisions require application of arm's length principle, in case where payment has been made to a person referred to in sec. 40A(2)(b) being a related party
- › It resulted in increased compliance on part of taxpayers. Further, benchmarking of certain items provided in sec. 40A(2)(b), such as managerial remuneration, posed practical difficulties as no suitable comparables are ordinarily available
- › It has been proposed to omit transactions with persons referred to in sec. 40A(2)(b) from the ambit of domestic transfer pricing. As a result, the provisions of SDT shall apply only in cases where one of the parties to the transactions is claiming specified deductions / exemptions
- › The amendment shall be applicable from AY 2017-18

Incentivizing Start-ups

Period of Tax Deduction for 100% of Profits

- › Presently, eligible start-ups can avail a 100% profit-linked tax holiday for a period of 3 consecutive years out of initial 5 years from incorporation
- › In view of long gestation period typical to start-ups, the tenure during which such tax holiday can be claimed, has been extended from 5 years to 7 years

Carry Forward of Losses

- › Presently, tax losses are not allowed to be carried forward by a closely held company in case of change in more than 51% of its shareholding carrying voting rights
- › This provision is proposed to be relaxed for eligible start-ups, provided
 - All shareholders who held shares with voting rights on last day of the year in which losses were incurred, also hold such shares on the last day of the year in which the losses are to be set-off; and
 - The loss was incurred during first 7 years from date of incorporation

Rationalization of MAT Calculation with Ind-AS

In addition to the extant MAT adjustments, following additional adjustments are proposed for computing book profits of Ind-AS compliant companies:

- › Fair value adjustments included in OCI (which are never re-classified to P&L account) shall be considered in computing MAT liability in the year of credit (except certain fair value adjustments, which shall be considered only on realization of the underlying asset / liability)
- › Fair value adjustments to OCI which are re-classified to P&L account shall be considered while computing book profit in the year of re-classification
- › Transition date adjustments recorded in reserves and surplus (excluding Capital Reserves and Securities Premium Reserves) which would never be reclassified to P&L account shall be included in computing book profits equally over a period of 5 years from the first year of adoption subject to some exceptions

Capital Gains - Important Changes

Anti-abuse Provision for Transfers of 'Unquoted' Shares

- › A new sec. 50CA is proposed to be introduced to provide that in case of transfer of shares (other than quoted shares) effected at a value below their FMV, capital gains shall be computed based on FMV of such shares (instead of consideration actually received). Manner of computation of FMV shall be prescribed
- › In absence of any criteria, based on which abuse can be established, this provision is likely to create issues, especially where share transfers are effected keeping in view strategic considerations (for example JV formation)

Exemption on Sale of Listed Equity Shares

- › Presently, LTCG from transfer of listed equity shares are exempt from tax under sec. 10(38) of the Act, where such transfer has been subjected to STT. This exemption is available even where the said shares were acquired in an off-market transaction
- › As an anti-abuse measure, it is proposed that where the shares were originally acquired after 1 October 2004 (which is the date on which STT was implemented), the exemption shall be granted only if such acquisition was also chargeable to STT
- › It is proposed to notify rules to safeguard genuine cases, such as bonus or rights issue

Capital Gains - Important Changes

Qualifying Holding Period for Real Estate Assets

- › For land and building, the period of holding for qualifying for beneficial tax treatment for LTCG, has been reduced from 3 years to 2 years

Moving of 1 April 1981 Baseline

- › Per sec. 55, where an asset is acquired by a taxpayer / previous owner prior to 1 April 1981, the cost of acquisition can be taken as the actual cost, or, the FMV as of 1 April 1981, at the option of the taxpayer. Further, cost of improvement is reckoned based on all expenditure incurred after 1 April 1981
- › As a rationalization measure, the base date of 1 April 1981 is now proposed to be moved to 1 April 2001. This should be a big relief in case capital gains arising on transfer of assets which have been held for long periods
- › Amendments have also been proposed to sec. 48, wherein, the baseline for cost of inflation index (for computing indexed cost of acquisition / improvement in case of LTCG) was 1 April 1981, is now proposed to be shifted to 1 April 2001

Capital Gains - Important Changes

Offshore Transfer of Masala Bonds

- › By an amendment to sec. 47, off-shore transfer of rupee denominated bonds issued by Indian companies between 2 non residents shall not be liable to capital gains tax in India

Conversion of Preference Shares to Equity Shares

- › Till date, whether or not conversion of preference shares to equity shares triggers capital gains tax, was a debatable issue, in absence of any explicit provisions in the Act
- › A new clause (xb) is proposed to be added to sec. 47 (which shields certain transactions from capital gains) to provide that conversion of preference shares to equity shares shall not trigger charge to capital gains
- › Consequential amendments have been made to:
 - Sec. 49, to provide that cost of acquisition of resulting equity shares shall be based on the underlying preference shares
 - Sec. 2(42A), to provide that period of holding of resulting equity shares shall be reckoned by including the period for which the underlying equity shares were first held
- › Since the provisions above have prospective effect, there may be avoidable debate on taxability of past conversions

Capital Gains - Important Changes

Forex Movement Protection to Secondary Holder of Masala Bonds

- › Fifth proviso to sec. 48 provided that any gains arising to a non resident on account of appreciation of the Rupee at the time of redemption of Rupee denominated bond subscribed by him, shall be ignored at the time of computing capital gains
- › The proviso above appeared to cover only non resident holders, who acquired the bonds on a primary basis. By an amendment proposed to sec. 48, the benefit of excluding Rupee appreciation for capital gains computation at the time of redemption, shall also be available to secondary holders

Cost of Acquisition in a Demerger of a Foreign Company

- › Under sec. 47(vic), demerger of a foreign company, which results in a transfer of shares of an Indian company held by the demerged foreign company is not exigible to capital gains subject to satisfaction of certain conditions
- › Sec. 49 did not have any prescription as regards determination of cost of acquisition of Indian shares transferred in a demerger referred above. By an amendment, it is now proposed that the cost of acquisition of Indian shares in the hands of the resulting foreign company shall be same as that for the demerged foreign company

Taxation of JDAs

- › Determination of point of taxation and taxable amount in JDAs have been litigative issues. With regard to point of taxation, judicial consensus seems to be that the transaction should be taxed in the year in which possession is handed over to the developer

As regards the taxable amount, there is debate on whether the same should be reckoned based on cost of construction, or, FMV of the share received in return

- › As a simplification measure, an amendment has been proposed to sec. 45 of the Act to provide that in case of individuals and HUFs, who enter into JDAs (which have to be registered), capital gains shall be taxable in the year in which certificate of completion in respect of the whole or part of the project is issued
- › The taxable amount shall be reckoned based on the 'stamp duty value' of share in the developed property received by the taxpayer. In case monetary consideration is paid in addition to share in the developed property, the same shall be added to the stamp duty value
- › Consequential amendment has also been proposed to sec. 49 to provide that in the above circumstances, the cost of acquisition of the share in the developed property received shall be the stamp duty value and cash consideration based on which capital gains tax was computed

Taxation of JDAs

- › However, the above provisions shall not be applicable where the taxpayer transfers his share on or before the issue of certificate of completion. Although the provision is not clearly worded, in such cases, the taxation shall be based on general principles of the Act
- › Whilst specification of point of taxation is a welcome move, the fact that the regime has proposed only for individuals and HUFs is a dampener

Further, reckoning the taxable amount based on stamp duty value of property received may increase tax burden in JDA scenarios

Finally, retracting the treatment even where the share in the developed property is transferred on the date of completion does not seem appropriate

- › For JDAs taxable as per the amendment above, it is also proposed to introduce a new sec. 194-IC to provide that in case any monetary consideration is payable, withholding tax at 10% of the monetary consideration, shall apply at the time of credit / payment

Unsold Real Estate Inventory - Relaxation

- › Amendment proposed for annual value determination of property held as stock in trade
- › Annual value of such property to be taken as NIL provided such property or part thereof, has not been let out during the whole / any part of the year
- › The said provision shall apply for a period of one year from the end of the financial year in which the certificate of completion of construction has been obtained

Denial of Unit Level Deduction for SEZs

- › There has been considerable litigation in past as regards the stage at which deduction to STP units under sec. 10A shall be allowed (sec. 10A is worded similar to sec. 10AA). While taxpayers have argued that such deduction is to be allowed from the total income of eligible unit (that is, while computing gross total income of eligible unit, and before set-off of any losses of ineligible units), the Revenue has maintained that the deduction is to be allowed from total income (ie after set-off of losses of ineligible units). Recently, the Supreme Court, in the case of Yokogawa India Ltd. held the matter in favour of taxpayers
- › While the proposed amendment has not sought to amend the provisions of sec. 10A to over-rule the aforesaid decision, it has clarified that the said decision will not apply to sec. 10AA. As a result, any losses of an ineligible unit will be first adjusted against the profits of SEZ unit, and only the remaining SEZ profits, shall be eligible for tax holiday

Carbon Credits Trading - Simplified Taxation

- › Tax implications of income from trading of carbon credits are not expressly provided for in the Act. The Revenue has been taking a position that the same is business income - a stand that was also reflected in the now-scraped Direct Tax Code. However, there are conflicting decisions by various Tribunals / High Courts, including some that have even held such income as a capital receipt not chargeable to tax
- › In order to bring clarity on the matter, it is proposed to insert sec. 115BBG in the Act, which will tax income from trading of carbon credits at a rate of 10% on a gross basis, i.e. without allowing any expenditure / allowance therefrom

Dividend Tax

- › Under the existing provisions of sec. 115BBDA, income by way of dividend in excess of INR 10 Lacs is chargeable to tax at 10% on gross basis in case of a resident individual, HUF or firm
- › With a view to ensure horizontal equity among all categories of taxpayers deriving income from dividend, it is proposed to amend sec. 115BBDA to provide that the same shall be applicable to all resident taxpayers, except domestic companies and certain exempted funds, trusts, institutions, etc.

Tax Credit for MAT / AMT

- › It has been proposed that the tax credit with respect to MAT under sec 115JB and AMT under sec 115JC shall be allowed to be carried forward for upto 15 years instead of 10 years currently
- › Further, MAT / AMT credit shall not be allowed to be carried forward to the extent such credit relates to the difference between FTC allowed against MAT / AMT and FTC allowable against tax computed under regular provisions of the Act

Rationalization of Tax Regime for Off-shore Funds

- › Sec. 9A of the Act provides that an 'eligible fund' shall not be considered to be a resident in India, nor shall it be deemed to have a business connection in India, merely because an 'eligible fund manager' who undertakes fund management activities on behalf of the fund is situated in India
Essentially, the section provides relief from tax to 'eligible funds' which locate their fund management operations in India
- › Sec. 9A provides qualification criteria for funds to be treated as 'eligible funds'. One criteria is that the monthly average corpus of the fund shall not be less than INR 100 Crs
- › In response to industry representations, an amendment is proposed to sec. 9A to provide that the average monthly corpus requirement shall not apply to a fund which has been wound up in the previous year. The amendment is proposed to be retrospective, with effect from 1 April 2016 (date of sec. 9A becoming effective)

Terms Used in Tax Treaties

- › Revenue and taxpayers have been at loggerheads for some time, on whether terms not defined in DTAA can be interpreted with reference to definitions thereof contained in the Act, or explanations in notification issued by Central Government
- › This prompted two rounds of amendments in sec. 90 of the Act - in 2003 and then again in 2012. Courts have examined this aspect in a catena of decision resulting in various conflicting interpretations
- › It is now proposed to amend sec. 90 (and similarly sec. 90A) of the Act, to provide that:
 - where any term used in a DTAA is defined therein, it shall be assigned the meaning as provided in the DTAA
 - where the said term is not defined in the DTAA, but is defined in the Act, it shall be assigned the meaning as per the Act and any explanation issued by Central Government

Assessment Related Provisions

Time Limit for Completion of Assessment

- › Section 153 is proposed to be amended making changes in time limits for completion of assessment proceedings. Following are the proposed changes in time limits:

Order under section	Existing Provisions	Proposed Provisions
Section 143 or 144	21 months*	18 months* (for AY 2018-19) 12 months* (from AY 2019-20 onwards)
Section 147	9 months**	12 months ** (for notices served on or after 1 April 2019)
Fresh assessment in pursuance of an order under section 254, 263, or 264	9 months***	12 months *** (for order received or passed on or after 1 April 2019)

- › Extension of aforesaid time limit by 12 months shall continue to apply, where a reference to transfer pricing officer has been made

* From the end of the relevant AY

** From the end of FY in which the notice under section 148 was served

*** From the end of the FY in which the order is received / passed

Assessment Related Provisions

Withholding of Refund

- › Presently, processing of return is not necessary within the specified time limit, where a notice under sec. 143(2) has been issued to taxpayer
- › In order to address delays in refund, it is proposed to amend sec. 143(1D) to provide that even in assessment cases, processing of ITR shall be required within the specified time limit
- › However, in order to protect the interest of revenue, sec. 241A is proposed to be inserted, providing power to the Assessing officer (where notice under sec. 143(2) has been issued) to withhold refund upto date of assessment, with prior approval
- › The said amendment will be effective from 1 April 2017

Withholding Taxes

Interest on ECB / Other Debt Instruments from Foreign Sources

- › Sec. 194LC and 194LD provide for deduction of tax a concessional rate of 5% on interest payable by an Indian company on ECB / other debt instruments from a non resident, where the debt has been issued prior to 1 July 2017
- › It is proposed to extend the above timeline to 1 July 2020
- › It is also proposed to grant the same benefit to Masala bonds

Call Centres

- › Sec. 194J of the Act requires that tax shall be deducted at 10% from any fees for professional / technical services paid or payable to a resident payee
- › In order to promote ease of doing business in India, it is proposed to reduce the said rate of 2%, in case of payments to a call centre operator

Withholding Taxes

Interest on Refund due to Deductor

- › It is proposed to grant interest at the rate of one-half per cent for every month or part of month where any amount of refund becomes due to the deductor for the following period
 - Where claim of refund is made - From the date of claim of refund to the date of refund
 - Where any refund arises due to an order of CIT (A), ITAT, HC or SC - From the date of payment of taxes to the date of refund

Withholding Taxes

Rent paid by Individuals / HUFs

- › Presently, only Individuals and HUFs subjected to tax audit, are liable to deduct tax on rental payments beyond a threshold limit
- › In order to ensure correct reporting of rental income by recipients of significant amounts, a new sec. 194-IB is proposed to be inserted
- › Under this section, an individual / HUF (other than those liable for tax audit) shall be required to deduct tax at source at a rate of 5%, if payment of rent to a resident exceeds INR 50,000 per month or part of the month
- › In order to ease compliance, it is proposed that tax shall be deducted at the time of credit of rent, for the last month of the financial year or the last month of tenancy to the account of the payee (if the property is vacated during the year) or actual payment thereof, whichever is earlier. Also, the deductor will not be required to obtain TAN
- › It is also proposed to provide that where the tax is required to be deducted at a higher rate on account of non-availability of PAN, such deduction shall be limited to the amount of rent payable for the last month of the previous year or the last month of the tenancy
- › These amendments will take effect from 1 June 2017

Search and Seizure

- › Presently, sec. 132 of the Act provides that where a prescribed officer has 'reason to believe' as regards tax evasion by a person, a search / seizure can be authorized. Further, where an authorized officer has 'reason to suspect' that documents / valuables representing undisclosed details or income are present in any premises, he can enter and search such premises
- › There has been considerable litigation in past as regards validity of such reasons to believe and / or reason to suspect
- › Citing confidentiality and sensitivity, it is proposed to insert a retrospective explanation to the effect that such 'reason to believe' and 'reason to suspect' shall not be disclosed to any person / authority / tribunal
- › Further, it is proposed to allow provisional attachment of any property belonging to taxpayer for upto 6 months. It is also proposed to authorize an officer to make a reference to Valuation Officer, for estimation of FMV of a property
- › Presently, the provisions governing assessment proceedings pursuant to any search and seizure action, provide that AO can assess the income of 6 years preceding the year in which search was concluded
- › It is now proposed that such power can extend to assessing the income for another 4 preceding years, where search was initiated on / after 1 April 2017 and amount of escaped income for such years is likely to be INR 50 Lacs or more (based upon evidence in his possession)

Ease of Doing Business

Maintenance of Accounts

- › Presently, as per sec. 44AA(2) of the Act, every person carrying on any business / profession is required to maintain books of accounts if its income exceeds INR 1,20,000 or if its turnover exceeds INR 10,00,000, in any one of the 3 preceding years
- › It is now proposed to increase this limit for individual/HUF to INR 2,50,000 and INR 25,00,000, respectively

Advance tax Instalments

- › Sec. 211 of the Act relaxes the requirement to deposit advance tax in 3 instalments in case of small business owners (being resident individuals) covered under the presumptive regime of sec. 44AD of the Act. They are required to deposit their advance tax in a single instalment on or before 15 March in each financial year
- › It is proposed to extend the above relaxation to resident professionals who opt to pay tax under the presumptive regime of sec. 44ADA of the Act

Small Savings

Partial Withdrawal from NPS Trust

- › Budget 2016 had granted certain exemptions, in respect of payments from NPS Trust to employees, upon closure of pension account or on opting out of the scheme. However, the said exemption did not cover partial withdrawals (permitted in certain cases, such as treatment of critical illness, construction / purchase of first house, children's higher education, etc.)
- › It is now proposed to exempt under sec. 10, partial withdrawals from NPS. Such exemption shall be limited to 25% of total contribution made by the employee

Contribution to Pension Scheme of Central Government

- › Sec. 80CCD of the Act allows to all self-employed individuals (as well as salaried employees), a deduction in respect of contribution to Notified Pension Scheme, subject to 10% of their gross income (or 10% of salary in case of salaried employees)
- › It is proposed to increase the above limit from 10% to 20% of gross total income in case of self-employed individuals. No such change is proposed in case of salaried employees

Small Savings

Rajiv Gandhi Savings Scheme - Withdrawn

- › Presently, under sec. 80CCG of the Act, a resident individual shall be allowed a deduction of 50% of amount invested in listed equity shares / units of equity oriented funds (as per notified scheme), for a period of 3 years
- › It is now proposed to abolish this scheme from AY 2018-19. However, taxpayers who first claimed this deduction in AY 2017-18 or before, shall be allowed to claim the same till AY 2019-20

Others

Set off of House Property Losses Against Income Under any Other Head

- › It is proposed that loss under the head income from house property shall not be set off against the income from another head, to the extent it exceeds INR 2,00,000
- › As per the existing provisions, the said loss would be carried forward for a period of 8 years and would be available for set off only against income from house property

Deductions in respect of profits and gains from housing projects

- › For the purpose of claiming deduction under sec. 80-IAB, the time limit for completion of project is proposed to be increased to 5 years (earlier this limit was 3 years)
- › Certain criterias with respect to location and size of such project have been changed

Others

Fees for default in furnishing return of income

- › Sec. 234F is proposed to be inserted to provide for following mandatory fee, in case of delay in filing of ITR
 - Where, ITR is filed after due date but on or before 31 December - INR 5,000
 - Any other case - INR 10,000
- › However, fees shall not exceed INR 1,000 where total income does not exceed INR 5 Lacs
- › Further, sec. 271F has been deleted with effect from 1 April 2018

Amendments to the structure of AAR

- › Finance Bill proposed to merge the AAR for income-tax, central excise, customs duty and service tax
- › It is also proposed to amend the qualifications for appointment of Revenue Member and Chairman of AAR

Others

Power to Survey - Extension

- › Presently, a survey can be conducted only at a place where business or profession is carried on
- › The scope is proposed to be extended to include a place where the activities for charitable purposes are being carried on. Trustees of the trust may also be questioned in the said regards
- › These amendments will take effect from 1 April 2017

Building Legislative Framework for Big Data Analysis

- › The Finance Act, 2016 provided legislative backing to tax authorities for verification of information in their possession and making the outcome thereof available to the AO for necessary action
- › Taking a step forward, it has now been proposed to empower the CBDT to formulate a scheme for the same. It appears that the said amendment is to provide legislative framework for examination of voluminous data generated due to demonetization exercise
- › This amendment will take effect from 1 April 2017

Others

Revision of ITR

- › Stringent deadline are proposed to be introduced in the current budget wherein revision of return is proposed to be allowed only up to the end of relevant assessment year or before the completion of assessment, whichever is earlier

Changes in Relation to Income from Property Held for Charitable or Religious Purposes

- › Under the existing provisions income derived from property held under trust shall be exempt to the extent such income is applied for prescribed purposes in India or set apart for application, up to the limit of 15% of such income
- › An explanation has been proposed to provide that if any amount is credited or paid out of income as per sec. 11(a) and sec. 11(b) of the Act, to any other trust or institution registered under sec. 12AA, with a specific direction that it shall form part of the corpus of that trust, then the same shall not be treated as application of income for the prescribed purposes
- › Further, in case of change in objects of the trust a fresh registration would be required to be obtained in case such changes do not conform to the conditions of original registration
- › Additionally, the income of such trusts would be exempt, only if, return of income has been filed within the due date

Service Tax

Repeal of Research & Development Cess (R&D Cess)

- › Currently, R&D Cess is payable on the import of technology under R&D Cess Act, 1986. Further, the Service Tax legislation (Finance Act, 1994) exempts service tax involving import of technology from so much of service tax as is equivalent to R&D Cess payable.
- › Finance Bill, 2017 proposes to repeal the R&D Cess Act. Accordingly, it proposes to make suitable amendment to withdraw the exemption from service tax available in respect of the R&D Cess payable.

Retrospective Exemptions

- › Service tax exemption granted to upfront amount payable for grant of long-term lease of industrial plots by State Government industrial development corporations/ undertakings to industrial units exempted by Notification 41/2016 ST dated 22 September 2016 is made applicable retrospectively from 1 June 2007 ie the date when services of renting of immovable property became taxable
- › Rule 2A of Service Tax (Determination of Value) Rules, 2006 is amended retrospectively from 1 July 2010 to clarify that value of service portion in execution of works contract involving transfer of goods and land or undivided share of land, as the case may be, shall not include value of property in such land or undivided share of land

New Exemptions

- › The exemption to Indian Institute of Management (IIMs) in respect of two year full time residential Post Graduate Programmes to which admissions are made on the basis of Common Admission is being extended to non-residential programmes too by deleting word “residential” from the entry
- › Exemption being granted in respect of the amount of viability gap funding (VGF) payable to selected airline operators for services of transport of passengers, by air, embarking from or terminating in a Regional Connectivity Scheme (RCS) airport. The said exemption shall be available for a period of one year from the date of commencement of operations of RCS as may be notified by Ministry of Civil Aviation
- › The above budgetary proposals shall be effective from 2 February 2017

Central Excise

Change in Rates - Key Products

Item/ Products	Increase/ Decrease	Existing Rate	New Rate
Catalyst and Resin used in manufacture of cast component of Wind Operated Electricity Generator (Exemption Valid till 30.06.2017)	↓	12.5%	Nil
Membrane sheet and Tricot/Shaper used in manufacture of Reverse Osmosis (RO) membrane for household type. (Concessional Excise Duty will be Valid till 30.06.2017)	↓	12.5%	6%
Solar Tempered Glasses for use in manufacture of (a) Solar Photovoltaic cells or modules, (b) solar power generating equipment or system, (c) flat plate solar collectors, or solar photovoltaic module and panel for water pumping and other applications	↑	NIL	6%

The above amendments will come into effect from 2 February 2017

Change in Rates - Key Products

Item/ Products	Increase/ Decrease	Existing Rate	New Rate
Parts/raw material used in manufacture of Solar Tempered Glasses for use in manufacture of (a) Solar Photovoltaic cells or modules, (b) solar power generating equipment or system, (c) flat plate solar collectors, or solar photovoltaic module and panel for water pumping and other applications	↓	12.5%	6%
Micro ATMs as per standard version 1.5.1, fingerprint reader/scanner, and Iris Scanner (Exemption is valid till 30.06.2017)	↓	12.5%	NIL
Miniaturised POS card reader for mPOS (other than Mobile phone or Tablet Computer) (Exemption is valid till 30.06.2017)	↓	12.5%	NIL

The above amendments will come into effect from 2 February 2017

Other changes

- › Exemption to POS devices and all other goods for manufacture of POS devices extended till 30 June 2017
- › 6% Concessional rate of excise duty available to LED driver and MCPCB used in manufacture of LED extended to all parts used in manufacture of LED
- › Central Excise duty reduced to 6% on instruments, apparatus and appliances, transmission equipment and auxiliary equipment and components for –
 - Initial setting up of fuel cell based system for generation of power or for demonstration purposes; or
 - Balance of systems operating on bio-gas or by-product hydrogen
- › The exemption to the below mentioned products has been extended subject to condition that no credit of inputs or input services or capital goods has been availed by manufacturer of such goods:
 - Waste and scrap of precious metals or metals clad with precious metals, arising in course of manufacture of goods falling in Chapter 71
 - Strips, wires, sheets, plates and foils of silver
 - Articles of silver jewelry, other than those studded with diamond, ruby, emerald or sapphire
 - Silver coins of purity 99.9% above, bearing brand name

The above amendments will come into effect from 2 February 2017

Cenvat Credit

- › In case of transfer of Cenvat credit in case of change in constitution, merger, de-merger etc permission shall be required to be obtained from the jurisdictional Deputy / Assistant Commissioner of Central Excise. The application in this regard to be decided within three months of the receipt of the application. Earlier, no such permission was required to be obtained

The above amendments will come into effect from 2 February 2017

Customs

Key Legislative Amendments

- › Refund specifically allowed to the importer, of the duty paid in excess in respect of import before an order permitting clearance of goods for home consumption is made.
- › The person-in-charge of the conveyance that 'enters India' from a place outside India or any other person as may be notified in this regard –
 - The passenger and crew arrival manifest before arrival in the case of an aircraft or a vessel and upon arrival of an aircraft or vessel and upon in case of a vehicle; and
 - The passenger name record information of arriving passengers
- › The person-in-charge of the conveyance that 'departs from India' to a place outside India or any other person as may be notified in this regard –
 - The passenger and crew departure manifest; and
 - The passenger name record information of departing passengers
- › Bill of Entry in respect of import to be presented before the end of the next day following the day (excluding holiday) on which the aircraft or vessel or vehicle carrying the goods arrives – earlier Bill of Entry was allowed to be presented at any time after the delivery of the import manifest or import report as the case may be

Change in Rates - Key Products

Item/ Products`	Increase/ Decrease	Existing Rate	New Rate
Cashew Nut, roasted, salted or roasted and salted	↑	30%	45%
Liquefied Natural Gas (LNG)		5%	2.5%
Clay 2 Powder (Alumax) for use in ceramic substrate for catalytic convertor			5%
O-Xylene	↓	2.5%	NIL
2-Ethyl Anthraquinone for use in manufacture of Hydrogen Peroxide	↓	7.5%	2.5%
Wattle Extract and Myrobalan fruit extract	↓	7.5%	2.5%
Vinyl Polyethylene Glycol	↓	10%	7.5%
Catalyst and Resin for use in manufacture of Wind Operated Electricity Generator (SAD is also exempted)	↓	7.5%	2.5%

The above amendments will come into effect from 2 February 2017

Change in Rates - Key Products

Item/ Products	Increase/ Decrease	Existing Rate	New Rate
Nylon Monofilament yarn falling under Chapter 54 for use in Monofilament long line systems for tuna fishing	↓	7.5%	5%
Solar tempered glass or solar tempered (anti - reflective coated) glass for manufacture of Solar cell s/panels/modules	↓	5%	NIL
Hot Rolled Coils falling under Chapter 72 for use in the manufacture of welded tubes and pipes	↓	12.5%	10%
Magnesium Oxide (MgO) coated cold rolled steel coils falling under Chapter 72 for use in the manufacture of cold rolled grain oriented steel (CRGO)	↓	10%	5%
Nickel and articles thereof	↓	2.5%	Nil
Reverse Osmosis (RO) membrane element for household type filters falling under Chapter 84 and 85	↑	7.5%	10%

The above amendments will come into effect from 2 February 2017

Change in Rates - Key Products

Item/ Products	Increase/ Decrease	Existing Rate	New Rate
Co-Polymer coated MS tape/stainless steel for manufacture of telecommunication grade optical fibers or optical fiber cables is being withdrawn.	↑	NIL	10%
Nickel and articles thereof	↓	2.5%	Nil
Reverse Osmosis (RO) membrane element for household type filters falling under Chapter 84 and 85	↑	7.5%	10%

The above amendments will come into effect from 2 February 2017

Other key changes in duty

- › CVD exemption on silver medallions and coins having silver content not below 99.9%, other semi-manufactured forms of silver or articles of silver is being withdrawn.
- › SAD exemption on populated PCBs of mobile phones withdrawn and concessional rate of 2% prescribed on the same
- › BCD, CVD and SAD exempted on Micro ATMs as per standard version 1.5.1, fingerprint reader/scanner, and Iris Scanner and parts and components for manufacture of these devices.
- › 5% concessional BCD is being prescribed on all parts for use in the manufactures of LED lights including LED Lamps
- › 5% concessional BCD is being prescribed on imports of inputs used in manufacture of LED driver of MCPCB for LED lights and fixtures or LED Lamps
- › Central Excise duty reduced to 5% on instruments, apparatus and appliances, transmission equipment and auxiliary equipment and components for –
 - Initial setting up of fuel cell based system for generation of power or for demonstration purposes; or
 - Balance of systems operating on bio-gas or by-product hydrogen
- › BCD on Ball Screws, Linear Motion Guides and CNC Systems for use in the manufacture of all types of CNC machine tools reduced to 2.5%

The above amendments will come into effect from 2 February 2017



Gaurav Singhal,
Chartered Accountant



Manish Khurana,
Chartered Accountant



Pawan Kumar Pahwa
Advocate



Siddharth Sehgal
Chartered Accountant

Heads-up: hedzʌp / hedz-uhp / [Business English];

.n. a short statement giving information on how a situation is developing; a piece of advice about something so that you are prepared for it.

.adj. alert; perceptive; resourceful; quick to grasp a situation.