

HIGHLIGHTS OF UNION BUDGET

An insight into the fine print by CA VINOD JAIN

2016-17



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About INMACS

INMACS Management Services Limited (INMACS, India) is a member of "INMACS Global, Hong Kong" an international network of Chartered Accountants, Company Secretaries, Lawyers and Management Consultants. INMACS Management Services Ltd. (INMACS) was started by a Group of highly qualified and experienced professionals in April, 1984, to offer a full range of services that embrace in its ambit management consulting, corporate finance, audit:- statutory, management, internal, taxation and legal advisory services, risk management, re-engineering. Each step in its corporate association has taken it a step closer to the fulfillment of its goal. In the last 31 years, INMACS' capabilities and performances have won the utmost trust and confidence of a richly varied and strong client base ranging through small & medium enterprises and big league corporate and multinational Business Houses, both in India and abroad. INMACS team members, while sharing a common vision, belong to diverse technical, business and legal backgrounds. We deploy specialized and multidisciplinary teams to serve assignments requiring specific skills. This enables us to work proactively and closely with clients and respond effectively to their needs in a highly focused manner, which in today's fast changing business environment is quite crucial to a client's success.

Our Team

INMACS team members, selected by Mr. Jain, while sharing a common vision, belong to diverse technical, business and legal backgrounds. The company, in the direction of Mr. Jain, deploys specialized and multidisciplinary teams to serve assignments requiring specific skills. This enables it to work proactively and closely with clients and respond effectively to their needs in a highly focused manner, which in today's fast changing business environment is quite crucial to a client's success.

INMACS has a dedicated team of 100+ professionals which includes Chartered Accountants, Company Secretaries, Lawyers, Cost Accountants and Bankers to provide comprehensive services to its Clients.

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Direct Taxes



TAX RATES

a. CORPORATE TAX RATE

- The tax rate shall be 29% of the total income, if turnover or gross receipts for the FY 2014-15 do not exceed 5 crores. The tax rate shall continue to be 30% of the total income for other assesses.
- The new manufacturing companies incorporated on or after 1 March, 2016 has been given an option to be taxed at the rate of 25% plus cess and surcharge provided they do not claim any profit linked or investment linked deductions and do not avail of investment allowance and accelerated depreciation.

b. No Change has been made in Slab Rates of Income tax for Individuals, HUF, AOP, BOI and firms.

c. Surcharge has been amended for Individuals, HUF, AOP, BOI and AJP - in case total income exceeds Rs. 1 Crore, surcharge increased from 12% to 15%

SECTION 6 PLACE OF EFFECTIVE MANAGEMENT

Amendment in Section 6 Residential Status on the basis of Place of Effective Management (POEM) has been deferred by 1 year.

RATIONALISATION OF TAX TREATMENT OF RECOGNISED PROVIDENT FUNDS, PENSION FUNDS AND NATIONAL PENSION SCHEME

a. CONTRIBUTION: The lower of employer's contribution to Provident fund in excess of 12% of the salary of the employee or ` 150,000 p.a. will be subject to tax.

b. Exemption limit for employer's contribution to Approved superannuation has been enhanced from ` 100,000 to ` 150,000 p.a.

WITHDRAWAL:

- The exemption on withdrawal of accumulated balance from a recognized PF is reduced from 100% to 40% to the extent it relates to contributions made by the employee (other than excluded employee) after 1 April 2016. Excluded employee is an employee whose monthly salary does not exceed an amount prescribed for this purpose.
- 40% of the amount withdrawn from New Pension Scheme (NPS) on retirement will be tax exempt. Currently the entire withdrawal is being taxed. In order to bring parity between NPS and Superannuation funds, the exemption available on withdrawal from superannuation funds would be restricted to 40%. However, the amounts received by a nominee from NPS on death of the tax payer would be exempt from tax.

DISALLOWANCE UNDER SECTION 14A

Rationalization of the formula in Rule 8D governing quantification of disallowance of expenditure relatable to exempt income in terms of Section 14A of the Income tax Act. The said Rule is being amended to provide that disallowance will be limited to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed.

SECTION 24: INCOME FROM HOUSE PROPERTY

- The period for completion of construction has been increased from 3 years to 5 years from the end of financial year in which such capital is borrowed in case of self - occupied property Or where the owner has to reside at other place due to his employment or business/profession. (w.e.f. AY 2017-18)
- Deduction of 30% of the arrears of rent received or unrealised rent received shall be allowed. (w.e.f. AY 2017-18)

PHASING OUT WEIGHTED DEDUCTION

Section	Nature	Quantum of Deduction	Revised Quantum of deduction
Section 32	Accelerated Depreciation	Accelerated depreciation is provided to certain Industrial sectors in order to give impetus for investment. The depreciation under the Income-tax Act is available up to 100% in respect of certain block of assets	Maximum accelerated depreciation of 40% allowed w.e.f. AY 2018-19
Section 35(1)(ii)	Payment to notified/approved research association/university/college or other institution to be used for such scientific research	175% of the sum paid.	150% of the sum paid Sum paid w.e.f. 1 April, 2021
Section 35(1)(ia)	Scientific Research : Payment to an approved company registered in India, with the object of scientific research and development	125% of the sum paid	100% of the sum paid

Section 35(1)(iii)	Statistical or social Science Research : Payment made to a research association having its object of undertaking research in social science or statistical research or to any university, college, or other institution to be used for research in social science or statistical research	125% of the sum paid	100% of the sum paid
Section 35CCC	Expenditure incurred on notified agricultural extension projects	150% of expenditure incurred	Expenditure incurred

PHASING OUT OF PROFIT LINKED DEDUCTIONS/WEIGHTED DEDUCTIONS

Section	Proposed Phase- out plan with effect from Assessment year
10AA- SEZ	2021-22
35AC - Expenditure on Eligible projects	2018-19
35CCD - Skill development projects	2021-22
80IA;80IAB;80IB Specified business Deduction in respect of profits derive from a) development, operation and maintenance of an infrastructure facility (80-IA) (b) development of special economic zone (80-IAB) © production of mineral oil and natural	2018-19

- Deduction under Section 36 shall be allowed with respect of any provision made for bad and doubtful debts by a NBFC of an amount, not exceeding 5% total income computed before any deductions under Chapter VI-A. (w.e.f. 01.04.2017)

TAXATION OF NON-COMPETE FEES IN CASE OF PROFESSIONION

- Non-compete fee received/receivable (which are recurring in nature) in relation to not carrying out of any Profession, shall also be taxable as profits and gains of business or profession. However, receipts for transfer of right to carry on any Profession, which are chargeable to tax under the head "Capital gains", would not be taxable as profits and gains of business or profession. Earlier these clauses were applicable to "business" only. (w.e.f. 01st April 2017). Further, receipts from transfer of Goodwill of profession shall also be under the tax regime.
- Tax Audit limit for professionals under Section 44AB has been increased from 25 lakh to fifty lakh w.e.f. 1 April, 2017.

PRESUMPTIVE TAXATION

Section 44AD:

- The existing limit of presumptive income under Section 44 AD has been increased from 1 crores to 2 crores to bring big relief to a large number of assesses in the MSME sector.
- If an assessee does not opt to avail of presumptive taxation u/s 44AD for any particular year, then it cannot avail of presumptive taxation for next 5 years.
- It is also proposed that eligible assessee shall be required to pay 100% advance tax by 15th March of the financial year.

PROFESSIONALS U/S 44ADA

professionals. Professionals having gross receipts less than 50 lakh rupees can make use of this section and disclose income equivalent to 50% of the Gross receipts. The scheme will apply to individuals, HUF and Partnership firm but not Limited liability partnership. No further deduction allowed u/s 30 to 38 shall be allowed from the presumptive income (50%). These deductions will be deemed to have been already adjusted. No deduction for partner's salary and interest u/s 40(b)

SECTION 50C :

- Where the date of agreement fixing the value of consideration for the transfer of asset is different from the date of registration of the transfer of asset are not same, the stamp duty value on the date of agreement may be taken for the purposes of computing the full value of consideration. The said provision shall apply only in case where the amount of consideration or part thereof has been received through banking channels on or before the date of the agreement for transfer.

CAPITAL GAINS

- Introduction of new section 54EE to provide exemption from capital gains tax if the long term capital gains proceeds are invested by an assessee in units of such specified fund, as may be notified by the Central Government in this behalf, subject to the condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the specified fund shall be allowed up to Rs. 50 lakh.
- The period of getting benefit of long term capital gain regime in case of unlisted companies is proposed to be reduced from 3 years to 2 years.
- With a view to clarify capital gain on unlisted securities, the provisions of Section 112(1)(c) has been amended to provide long term capital gain arising from the transfer of capital asset being shares of a company in which public is not substantially interested shall be chargeable to tax @ 10% w.e.f. 1 April, 2017.
- Deposit certificates issued under 'Gold Monetization Scheme 2015' will not be considered as capital assets. The interest thereon would also be exempt from tax.
- Gains from redemption of gold bonds issued by the Reserve Bank of India under 'Sovereign Gold Bonds Scheme 2015' shall not be subject to capital gains tax in the hands of the individual.

SECTION 80EE:

- The existing provisions of section 80EE provide a deduction of up to 1 lakh rupees in respect of interest paid on loan by an individual for acquisition of a residential house property. This benefit is available for the two assessment years beginning on the 1st day of April 2014 and on the 1st day of April 2015.
- Additional deduction in respect of interest on loan taken for residential house property from
 - any financial institution up to Rs. 50,000 if:
 - the loan is upto 35 lakh sanctioned during 2016-17
 - Value of residential house property does not exceed 50 lakh
 - The Assessee does not own any residential house property

INCENTIVE FOR HOUSING PROJECTS:

- 100% tax deduction of the profits on account of developing and building affordable group housing projects if:
 - It is approved by the competent authority before 31 March, 2019 and after 1 June, 2016.
 - Project is completed within 3 years from the date of approval
 - The project is on a plot of land measuring not less than 1000 sq. metres where the project is within 25 km from the municipal limits of four metros namely

- namely Delhi, Mumbai, Chennai & Kolkata and in any other area, it is measuring not less than 2000 sq. metres where the size of the residential unit in the said areas is not more than thirty sq. metres and sixty sq. metres, respectively
- where residential unit is allotted to an individual, no such unit shall be allotted to him or any member of his family, etc.

SECTION 80GG:

- Increase in the Limit of deduction of rent paid under section 80GG from INR 24,000 per annum to INR 60,000 to provide relief to those who live in rented houses.

SECTION 80JJA: DEDUCTION IN RESPECT OF EMPLOYMENT OF NEW WORKMEN

- It has been extended to all sectors and deduction will be available in respect of cost incurred on any employee whose total emoluments are less than or equal to Rs. 25,000 per month. Relaxation also provided for minimum number of days from 300 days to 240 days.

SECTION 87A:

- Rebate from Income tax under Section 87A increased to Rs. 5,000 from Rs. 2,000 for individuals having income upto Rs. 500,000 p.a.

BEPS ACTION PLAN - COUNTRY-BY-COUNTRY REPORT AND MASTER FILE

- Under provision of section 92D, there is requirement for maintenance of prescribed information and document relating to the international transaction and specified domestic transaction.
- The OECD report on Action 13 of BEPS Action plan provides for revised standards for transfer pricing documentation and a template for country-by-country reporting of income, earnings, taxes paid and certain measure of economic activity.
- India has been one of the active members of BEPS initiative and part of international consensus. It is recommended in the BEPS report that the countries should adopt a standardised approach to transfer pricing documentation.
- A three-tiered structure has been mandated consisting of:-
 - (i) a master file containing standardised information relevant for all multinational enterprises (MNE) group members;
 - (ii) a local file referring specifically to material transactions of the local taxpayer; and
 - (iii) a country-by-country report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

EXEMPTION FROM DIVIDEND DISTRIBUTION TAX (DDT) ON DIVIDENDS TO BUSINESS TRUSTS

- It is proposed to provide exemption from DDT in respect of distributions made to the Business trust by SPV in which the trust holds 100% of the share capital, subject to certain exceptions. Dividend shall continue to be exempt from tax in the hands of business trust and its investors.

TAX WITHHOLDING ON PAYMENTS MADE BY AIF TO ITS INVESTORS

- Currently, tax is withheld at 10% on the payments made by Category-I and Category-II AIFs to its investors. It is proposed that for non-resident payee, tax should be withheld at the rate in force.

SECURITISATION TRUST AND ITS INVESTORS

- As per the existing tax regime, the income distributed by securitization trust is subject to distribution tax and no tax is levied on distributed income in the hands of investor.
- New taxation regime introduced by extending the tax pass through status to certain specified SPVs.
- Further, income of trust to continue to be exempt and income received by Investor from the trust shall be taxable in the hands of investor in the same manner if the investor would have invested directly.

SIMPLIFIED CONDITIONS FOR TAXATION OF OFF SHORE FUNDS

- Eligible investment fund shall now also include a fund established or incorporated or registered outside India in a country or a notified territory in addition to the fund residing in those countries or territories.
- It has been proposed to restrict the condition of fund not controlling and managing any business in India or from India to only the activities undertaken in India for allowing more flexibility to the operations of funds.

TAX RATES ON DIVIDEND INCOME RATIONALIZED

- Currently, dividend income is exempt in the hands of the shareholder. It is proposed to levy an additional income tax of 10% in the hands of shareholders, being an individual, Hindu undivided family (HUF) or a firm, being resident in India, in case amount of dividend received exceeds `10 lakhs on gross basis.

START UPS

- In order to promote start-ups and assist them in their initial years, following benefits are introduced:
 - 100% tax holiday for 3 consecutive years for business set-up on or after 1 April 2016 and before 1 April 2019

- Any long-term capital gains accruing to an individual or HUF on sale of residential property to be exempt provided the proceeds are utilised to subscribe to the shares of an eligible start-up as per the conditions provided in that section
- A specified fund to be created by Central Government to promote start-up ecosystem.
- Any person can claim an exemption of long term capital gains tax provided the proceeds (not exceeding ` 50 lakhs) are invested in the units of the Fund for at least 3 years.

BUYBACK OF SHARES

- Currently, a 20% tax is levied on a company making distribution to its shareholders pursuant to buyback undertaken as per section 77A of the Companies Act, 1956. The tax is levied on the difference between the consideration paid for buyback less any amount received by the Company.
- It is proposed that the aforesaid tax should be levied on buyback being undertaken by a company in any manner not restricted to only section 77A of the Companies Act, 1956.
- It is also proposed that the method to determine the amount received by the Company would be prescribed separately. Consequently, any tax arbitrage opportunity by scaling up the cost through tax neutral reorganization will be avoided.

EXTENSION OF LIMITATION PERIOD FOR TRANSFER PRICING AUDITS

- The time limit for TP assessment is proposed to be extended beyond the limitation period to allow the TPO at least 60 days for passing the TP order after excluding the period for which:
 - --The assessment proceedings before the TPO are stayed by any court; or
 - --The information is sought from any other country under the exchange of Information provisions
- The provision is applicable from 1 June 2016.

CONCESSIONAL TAX REGIME ON ROYALTY INCOME FROM PATENTS

- It is proposed to introduce patent box regime in India to provide tax @ 10% on gross income arising from royalty in respect of a patent developed and registered in India by a person resident in India.

APPLICABILITY OF MINIMUM ALTERNATE TAX (MAT) ON FOREIGN COMPANIES FOR THE PERIOD PRIOR TO 1 APRIL 2015

- It is proposed to make MAT not applicable to a foreign company with effect from 1 April 2001 in the following case:
- foreign company is a resident of a country with which India has entered into a DTAA and the foreign company does not have a PE in India.

- foreign company is a resident of a country with which India has not entered into a DTAA and the foreign company is not required to seek registration under any law for the time being in force relating to foreign companies.

FILING OF RETURN OF INCOME

- It is proposed that every person whose income, without giving effect to income exempt under section 10(38), exceeds maximum amount not chargeable tax shall furnish return of income for the relevant assessment year within the due dates.
- It is proposed that time limit to file the belated return has been curtailed from one year from the end of relevant assessment year to the end of the relevant assessment year.
- It is proposed that that belated tax return can now be revised on or before expiry of one year from the end of relevant assessment year or before the completion of assessment, whichever is earlier.
- It is further proposed to provide that return of income would not be regarded as defective merely because self-assessment tax and associated interests have not been paid within the statutory time limits.

AMENDED TIMELINES FOR ASSESSMENT, REASSESSMENT AND RECOMPUTATION

Section	Existing Time Limit	Proposed Time Limit
Section 143(3)/144	2 years from end of assessment year	21 months from end of assessment year
Section 147	1 year from end of financial year in which notice u/s 148 is served	9 months from end of financial year in which notice u/s 148 is served
Fresh assessment in pursuance of order u/s 254/263/264	1 year from the end of financial year in which order u/s 254 is received or order u/s 263/264 is passed by the prescribed authority	9 months from the end of financial year in which order u/s 254 is received or order u/s 263/264 is passed by the prescribed authority.
Effect to 'appellate order' or '263/264 order' or 'order of settlement commission' wholly or partly without fresh assessment or reassessment*	No timelines at present	3 months from the end of the month in which order is received or passed by the relevant authority

If proposed timelines cannot be met by the AO for reason beyond control, AO may apply, in writing, to PCIT or CIT to allow additional time of 6 month. For cases pending as on 1 June 2016, time limit to be extended to 31 March 2017.

Effect to 'appellate order' or '263/264 order' or 'order of any court' requiring assessment, reassessment or recomputation#	No timelines at present	12 months from the end of the month in which order is received by the relevant authority
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For cases pending as on 1 June 2016, proposed time limit to be 31 March 2017 or 12 months from the end of the month in which such order is received, whichever is later. Applicable to all aforesaid orders to be passed on or after 1 June 2016. Similar changes have been made to time limits for assessment in search cases.

RATIONALIZATION OF PENALTY PROVISIONS

- Section 271(1)(c) has been substituted with Section 270A with effect from AY 2017-18.
- Section 270A prescribes certain scenarios wherein penalty could be imposed for under reporting and misreporting of income respectively. Penalty @ 50% of tax payable is applicable in case of under reporting and @ 200% in case of misreporting.
- Specified situations proposed where adjustment to taxable income will not be regarded as occasioned due to under reporting of income.

IMMUNITY FROM PENALTY AND PROSECUTION IN CERTAIN CASES

- Section 270AA is proposed to be introduced under the Act which shall contain provisions providing for immunity from penalty and prosecution. To be eligible to avail the same, assessee is required to timely deposit the tax and interest into the Government treasury and should not litigate the matter in appeal. Such immunity is not available in cases of misreporting.
- Application for immunity to be made within one month from the end of the month in which assessment order is received. AO shall decide the application on merits and his order shall be final.

RATIONALIZATION OF WITHHOLDING TAX PROVISIONS

Section No.	Nature	Existing Limit	Revised Limit
Section 192A	Payment of accumulated balance due to an employee in EPF	30,000	50,000
Section 194BB	Winning from Horse Races	5,000	10,000
Section 194C	Payment to Contractor	75,000 Aggregate Annual limit	100,000 Aggregate Annual limit
Section 194LA	Payment for compensation on acquisition of certain immovable properties	200,000	250,000
Section 194D	Insurance Commission	20,000	15,000 Rate of TDS changed from 10% to 5%.
Section 194G	Commission on sale of Lottery Tickets	1,000	15,000
Section 194H	Commission or Brokerage	5,000	15,000 Rate of TDS changed from 10% to 5%.
Section 194DA	Payment in respect of Life Insurance Policy	Rate of TDS changed from 2% to 1%.	
Section 194EE	Payments in respect of NSS deposit	Rate of TDS changed from 20% to 10%	
Section 194L	Payment of compensation on acquisition of capital asset	Will be omitted w.e.f. 01.04.2016	

- The said amendments will take effect from June 1, 2016

EXEMPTIONS FROM REQUIREMENT OF FURNISHING PAN UNDER SECTION 206AA TO CERTAIN NON-RESIDENT.

- The existing provision of section 206AA, inter alia, provides that any person who is entitled to receive any sum or income or amount on which tax is deductible under Chapter XVIIIB of the Act shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the rate mentioned in the relevant provisions of the Act or at the rate in force or at the rate of twenty per cent., whichever is higher. The provisions of section 206AA also apply to non-residents with an exception in respect of payment of interest on long-term bonds as referred to in section 194LC.
- In order to reduce compliance burden, it is proposed to amend the said section 206AA so as to provide that the provisions of this section shall also not apply to a non-resident, not being a company, or to a foreign company, in respect of any other payment, other than interest on bonds, subject to such conditions as may be prescribed. This amendment will take effect from 1st June, 2016.

"EQUALISATION LEVY" - CHAPTER VIII OF THE FINANCE ACT, 2016

- Proposed to impose an "equalisation levy" @ 6% of consideration received or receivable for specified services by a non-resident from a resident and carrying on business or profession or from a non-resident having a PE in India, if the aggregate consideration exceeds Rs. 1 Lakh in any P.Y.
- Equalisation levy shall not be charged if:
 - i) non-resident service provider has a PE in India and income from such specified services are effectively connected to such PE.
 - ii) Where the consideration is not for the purpose of carrying out business or profession.
- Equalisation levy so deducted by the payer has to be paid to the Government by 7 day of the month following the month in which the equalisation levy is collected and in case of delay an interest @ of 1% for every month or part of a month shall be charged.

THE INCOME DECLARATION SCHEME 2016

- Immunity has been granted from further scrutiny under the income tax Act in cases where the tax payer declares domestic undisclosed income and pays 45% thereof (tax of 30%, surcharge of 7.5% and penalty of 7.5%). A window is available between 1 June 2016 and 30 September 2016 for such declaration.

LEGAL FRAMEWORK FOR AUTOMATION OF PAPERLESS ASSESSMENT AND OTHER PROCESSES

- In order to put in a place a framework of automated paperless assessments and related procedures, amendment made to provide that notices and documents can be issued either in paper form or electronic form. It has been proposed to define the term 'hearing' to include communication of data and documents through electronic mode.

LEVY OF TAX WHERE THE CHARITABLE INSTITUTION CEASES TO EXIST OR CONVERTS INTO A NON-CHARITABLE ORGANIZATION

- It is proposed to introduce a new Chapter XII-EB to provide that accreted income of the trust or institution shall be taxable @ MMR on conversion of trust or institution into a form not eligible for registration u/s 12 AA or on merger into an entity not having similar objects and registered u/s 12AA
- or on non-distribution of assets on dissolution to any charitable institution registered u/s 12AA or approved u/s 10(23C) within a period twelve months from dissolution. No credit can be taken for such tax and payable even the trust does not have
- any other taxable income.
- "**Accreted income**" shall be amount of aggregate of total assets as reduced by the liability as on the specified date. The method of valuation is proposed to be prescribed in rules. The asset and the liability of the charitable organisation which have been transferred to another charitable organisation within specified time will be excluded while calculating accreted income. It is also provided that in case of failure to pay tax within the time provided, an interest @ 1% for every month and part thereof of such failure shall be payable and the principal officer or the trustee and the trust or the institution shall be deemed to be an assessee in default.

TAX TREATMENT OF SPECTRUM FEE

- It seeks to provide that:-
- any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services will be allowed as a deduction in equal installments over the period for which the right to use spectrum.
- where the spectrum is transferred and proceeds of the transfer are less than the expenditure remaining unallowed, a deduction equal to the expenditure remaining unallowed as reduced by the proceeds of transfer, shall be allowed in the previous year in which the spectrum has been transferred.
- if the spectrum is transferred and proceeds of the transfer exceed the amount of expenditure remaining unallowed, the excess amount shall be chargeable to tax as profits and gains of business in the previous year in which the spectrum has been transferred.
- unallowed expenses in a case where a part of the spectrum is transferred would be amortised.

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- under the scheme of amalgamation, if the amalgamating company sells or transfer the spectrum to an amalgamated company, being an Indian company, then the provisions of this section will apply to amalgamated company as they would have applied to amalgamating company if later has not transferred the spectrum. (w.e.f. 01.04.2017)
- Equalisation levy so deducted by the payer has to be paid to the Government by 7 day of the month following the month in which the equalisation levy is collected and in case of delay an interest @ of 1% for every month or part of a month shall be charged.

DIRECT TAX DISPUTE RESOLUTION SCHEME 2016

- A new Direct Tax Dispute Resolution Scheme, 2016 is being introduced in relation to tax arrears and specified tax. The salient features of the proposed scheme are as under:
 - The scheme will be applicable to tax arrears (including amount of tax, interest or penalty) determined under the Income-tax Act or the Wealth-tax Act in respect of which appeal is pending before the CIT (A) or the CWT(A) as on the 29th February, 2016.
 -
 - The pending appeal could be against an assessment order or a penalty order.
 - The declarant under the scheme will be required to pay tax at the applicable rate plus interest upto the date of assessment. (in case of disputed tax exceeding Rs. 10,00,000/- , 25% of the minimum penalty shall also be paid).
 -
 - In case of pending appeal against a Penalty Order, 25% of minimum penalty shall be payable alongwith the tax and interest payable on account of assessment or reassessment.
 -
 - Consequent to such declaration, appeal in respect of the disputed income and

MISCELLANEOUS

- STT on sale of an option in securities where option is not exercised is increase to 0.05% from 0.017% of the option premium.
-
- TCS @ 1% applicable in case of sale of motor vehicle of the value exceeding ` 10 lakhs and sale in cash of any goods (other than bullion and jewellery) or providing any services other than payments on which TDS applies exceeding ` 2 lakhs. Amendment proposed to be effective from 1 June 2016.

- Presently, TDS under section 194I is deducted even in cases where the recipient's total income (including rental income) is Nil. Section 197A provides for no TDS (in certain cases) if recipient furnishes a declaration (in Form 15G/15H) to payer declaring Nil taxability. Benefit of section 197A to be extended to recipients earning rental income.
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- Presently advance tax payment schedule is different for company and non-company assessees. It is proposed to provide one advance tax payment schedule for all assessee other than an eligible assessee in respect of eligible business referred to in section 44AD who shall be required to pay entire advance tax in one instalment on or before the 15th March of the financial year. The amendment is effective from 1 June 2016.
- In order to ensure filing of return within the due date it is proposed to amend section 244A to provide that in cases where the return is filed after the due date, the period for grant of interest on refund may begin from the date of filing of return.
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- An assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted.
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- When a refund arises out of appeal effect being delayed beyond the time prescribed u/s 153(5), the assessee shall be entitled to receive an additional interest on such refund amount calculated at the rate of 3% p.a. in addition to the interest payable under section 244A (1) i.e. 6%, for the period beginning from next day of expiry of the time allowed under section 153(5) to the date on which the refund is granted.
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- To avail the benefit of investment allowance of 15%, on the acquisition of the plant & machinery exceeding Rs. 25 crores made in the previous year should be installed by 31.03.2017. It is further proposed to provide that where the installation of the new asset takes place in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed.



Indirect Taxes





SERVICE TAX:

- Right to use the Radio-frequency spectrum and subsequent transfer thereof by the Government has been covered under service tax as declared service and not sale of intangible goods.
- The limitation period for making Recovery of service tax have been extended to 30 Months from the relevant date from the existing time period of 18 Months from the relevant date.
- The monetary limits for imprisonment for the offences and penalties committed under service tax laws have been increased to Rs. 2 crores from the existing limits of Rs. 50 Lakhs.
- The pending proceedings against the co-notices shall also be deemed to concluded, once the proceeding against the main notice is concluded under the service tax laws.
- The power to arrest by central excise officer is restricted only in the situation where the person collects service tax but fails to deposit the same beyond the period of 6 months.
- The Services by way of transportation of goods by an aircraft or a Vessel from outside India to Custom Station in India have been brought to service tax and deleted from negative list.
- The notification No. 41/2012 issued for granting rebate of service tax paid on the taxable services received by an exporter of goods shall stands amended retrospectively wef 1st July, 2012.
- The rate of interest on delayed payment of service tax/ central excise duty/custom duty shall be charged at the rate of 15% p.a. except in case of service tax collected but not deposited, in which case the rate of interest will be 24% from the date on which the service tax payment became due.
- New Cess shall be levied and collected in the name of Krishi Kalyan Cess at the rate of 0.50% on the value of all or any taxable services provided wef 1st June, 2016. It is also clarified that CENVAT credit shall be available of the said cess.
- The benefit of quarterly payment of Service Tax and is being extended to 'One Person Company' (OPC) and HUF and the facility of payment of Service Tax on receipt basis is being extended to 'One Person Company' (OPC) with effect from 1st April, 2016.
- Indirect tax Dispute Resolution Scheme, 2016 is introduced, in respect of cases pending before Commissioner (Appeals), where the assessee can file a declaration after paying the duty, interest and penalty equivalent to 25% of duty.



- Cost of fuel shall also be included in the consideration value for availing abatement on the services of Renting of Motor Cab wef 1st April, 2016.
- Time limit for filling application for refund of CENVAT credits in case of export of services is 1 year from the date of receipt of payment in foreign exchange or issue of Invoice, if payment is received in advance.
- The rules for apportionment of CENVAT credit between exempted and non-exempted are simplified. The concepts of common warehouse for multiple manufacturing units have been introduced.
- Amendment is being made for reversal of CENVAT Credit of inputs/input services which have been commonly used in providing taxable output service and an activity which is not a 'Service'.
- Banks and other financial institutions are allowed to reverse the credit in respect of exempted services on actual basis in addition to the option of 50% reversal.
- The gist of rates of service tax applicable for specified services as amended by the budget 2016 are:

Particulars	Existing	Proposed
Exemption on services provided by - A senior advocate to an advocate or partnership firm of advocates providing legal service; and A person represented on an arbitral tribunal to an arbitral tribunal, is deleted wef 1st April, 2016	Nil	14%
Exemption on construction, erection, commissioning or installation of original works pertaining to monorail or metro, is deleted wef 1st March, 2016	Nil	5.6%
Exemption on the services of transport of passengers, by ropeway, cable car or aerial tramway is deleted wef 1st April 2016	Nil	14%
Service of transportation of passengers by a stage carriage' is deleted with effect from 1st June, 2016.	Nil	5.6%

Particulars	Existing	Proposed
<p>Services by way of construction etc. in respect of-</p> <p>(i) housing projects under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY);</p> <p>(ii) low cost houses up to a carpet area of 60 square metres in a housing project under “Affordable housing in Partnership” component of PMAY,</p> <p>(iii) (iii) low cost houses up to a carpet area of 60 square metres in a housing project under any housing scheme of the State Government,</p> <p>Are being exempted from Service Tax with effect from 1st</p>	5.6%	Nil
March, 2016.		
The service of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority (PFRDA) of India is being exempted from Service Tax with effect from 1st April, 2016.	3.5%	Nil
Services provided by Employees' Provident Fund Organisation (EPFO) to employees are being exempted from Service Tax with effect from 1st April, 2016	14%	Nil
Services provided IRDA of India are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
The regulatory services provided by SEBI are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
The rate of Service Tax on single premium annuity (insurance) policies in cases where the amount allocated for investment, or savings on behalf of policy holder is not intimated to the policy holder at the time of providing of service, with effect from 1st April, 2016.	3.5%	1.4%

Particulars	Existing	Proposed
The services of general insurance business provided under 'Niramaya' Health Insurance scheme launched by National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disability in collaboration with private/public insurance companies are being exempted from Service Tax with effect from 1st April, 2016	14%	Nil
Services provided by National Centre for Cold Chain Development under Department of Agriculture, Cooperation and Farmer's Welfare, Government of India, by way of knowledge dissemination are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
Services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators to incubatees are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
Services provided by way of skill/vocational training by training partners under Deen Dayal Upadhyay Grameen Kaushalya Yojana are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship are being exempted from Service Tax with effect from 1st April, 2016.	14%	Nil
The threshold exemption to services provided by a performing artist in folk or classical art forms of music, dance or theatre is being enhanced from Rs 1 lakh to Rs 1.5 lakh charged per event with effect from 1st April, 2016.	14%	Nil
7 Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), Integrated Programme in Management and Fellowship Programme in Management (FPM) are being exempted from Service Tax with effect from 1st March, 2016.	14%	Nil
Credit of input services is being allowed on transport of passengers by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit

Particulars	Existing	Proposed
Credit of input services is being allowed on transport of goods, other than in containers, by rail at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60%.	4.2% Without credit	4.2% With input service credit
Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70%.	4.2% Without credit	4.2% With input service credit
The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats).	3.5%/ 4.2%	4.2%
The abatement rate in respect of services by a tour operator in relation to packaged tour (defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being rationalized at 70%.	3.5%/ 5.6% of amount charged	4.2% of amount charged
The abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of	4.2%	5.6%
60%, without CENVAT credit on inputs, input services and capital goods. (The existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged).		
The abatement rate on services of a foreman to a chit fund is being rationalised at the rate of 30%, without CENVAT credit on inputs, input services and capital goods. [The above changes will come into effect from 1st April, 2016.]	14%	9.8%

Particulars	Existing	Proposed
Service tax on the services of Information Technology Software on media bearing RSP is being exempted from Service Tax with effect from 1st March, 2016 provided Central Excise duty is paid on RSP in accordance with Section 4A of the Central Excise Act.	Nil	Nil
Mutual exclusiveness of levy of excise duty and Service Tax on Information Technology Software in respect of software recorded on media "NOT FOR RETAIL SALE" is being ensured by exempting from excise duty only that portion of the transaction value on which Service Tax is paid.	14%	14%

B. EXCISE:

- There is no change in the rates of excise duty of 12.50%. The gist of rates changed for specific excisable goods are :

New Cess shall be levied and collected in the name of Infrastructure Cess on the Goods specified in tariff heading 87 03 being Motor Car and Other Motor Vehicles:

Petrol/LPG/CNG driven motor Vehicle of length not exceeding 4m and engine capacity not exceeding 1200cc	1%
Diesel driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1500cc 14%	2.50%
Other higher engine capacity motor vehicles and SUVs and bigger sedans	4%

- "Clean energy cess" is renamed as "Clean Environment Cess" and is being increased to Rs. 400 per tonne from Rs. 200 per tonne.
- Now facility for revision of returns is also extended for the manufacturers.
- To reduce compliance cost, lesser number of Central excise returns is now required to be filed with the department.
- Interest will be chargeable from the original date of payment of duty for finalization of provisional assessment.
- The limitation period for making Recovery of Excise Duties u/s 11(A) paid have been extended to 2 years from the relevant date from the existing time period of 1 year from the relevant date.

B. EXCISE:

- Central Excise (Removal of goods at concessional rate of duty for manufacture of Excisable and Other Goods) Rules, 2016 have been introduced to simplify and rationalize the rules.
- The prosecution of cases involving duty less than Rs. 5 Lakhs and pending for more than 15 years shall be withdrawn by filling applications to courts.
- Manual attestation of hard copy of invoice meant for transporter, when the invoices are digitally signed, is done away with.
- The rate of excise duty is remained unchanged at the rate of 12.50%. The gist of Amendments involving changes in rate of Central excise duty in case of specified goods are:

Particulars	Existing Rate	Old Rate
Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	18%	21%
Tobacco and Tobacco Products 1.Cigar and cheroots 2.Cigarillos 3. Other Tobacco substitutes 3.Cigarattes of Tobacco substitutes	12.50% or Rs. 3375 per thousand, whichever is higher Rs 3375 per thousand	12.50% or Rs. 3755 per thousand, whichever is higher Rs 3755 per thousand
Gutkha, chewing tobacco (including filter khaini) and jarda scented tobacco	70%	81%
Unmanufactured Tobacco	55%	64%
Paper rolled biris and other biris [other than handmade biris] packaged tour is being rationalized at 70%.	Rs.30 per thousand	Rs.80 per thousand
Food processing Refrigerated containers	12.5%	6%
Readymade Garments Increase in tariff value of readymade	30% of Retails to	

Particulars	Existing	Proposed
Footwear Rubber sheets & resin rubber sheets for soles and heels	12.5%	6%
Increase the abatement from retail sale price (RSP) for the purposes of excise duty assessment for all categories of footwear	25%	30%
garments and made up of articles of Textiles	price	60% of Retail Price
Branded readymade garments and made up articles of textiles of Retail sale price of RS 1000 or more	Without CENVAT Credit CREDIT-NIL	Without CENVAT Credit CREDIT- 2%
In case of garments/articles of cotton not containing any other textile material of retail sale price of RS 1000 or less	Without CENVAT Credit CREDIT-NIL	Without CENVAT Credit CREDIT-NIL
In case of Garment/articles of other composition of retail sale price of RS 1000 or less	Without CENVAT Credit CREDIT-NIL	Without CENVAT Credit CREDIT-NIL
	With CENVAT Credit- 12.5%	With CENVAT Credit- 12.5%
Jewellery Articles of Jewellery (Excluding silver jewellery, other than studded with diamond or other precious stones namely, ruby, emerald and sapphire)	Nil	without CENVAT credit- 1%
		With CENVAT Credit- 12.5%
Refined gold bars manufactured from gold dore bar, silver dore bar, gold ore or concentrate, silver ore or concentrate, copper ore or concentrate	9%	9.5%
Refined Silver manufactured form silver ore or concentrate, silver dore bar, or gold dore bar	8%	8.5%
Solar lamp	12.5%	Nil

Particulars	Existing	Proposed
Electronic Motor, shafts, sleeve, chamber, impeller, washer required for the manufactured of centrifugal pump	12.5%	6%
Parts of Railway or tramway locomotive or rolling stock and railway or tramway track fixtures and fittings, railway safety or traffic control equipment's, etc.	12.5%	6%
Ready mix concrete manufactured at the site of construction for use in construction work at such site	Debated, ultimately held to be ineligible for exemption by the supreme	Nil

C. CUSTOMS:

- A new class of warehouses for enabling storage of specific goods under physical control of the department is introduced and correspondingly new section 57, 58A and 58B is being inserted.
- The limitation period for Recovery of Custom duties have been extended to 2 years from the relevant date from the existing time period of 1 year for cases not involving Fraud.
- Certain class of importers are permitted to make deferred payment of duties/charges for goods permitted for clearance for home consumption.
- The period of warehousing to all goods used by Export Oriented Undertakings, Units under Electronic Hardware Technology Parks, Software Technology Parks, Ship Building Yards and other units manufacturing under bond could be extended by commissioners for a period up to one year at a time.
- Section 63 relating to payment of rent and warehouse charges is being omitted in view of the privatization of services, and free market determination of rates, including those by facilities in the public sector.
- New section 73A is being inserted so as to provide for custody of warehoused goods and responsibilities including the liabilities of warehouse keepers.
- New Baggage rules, 2016 have been introduced so as to simplify and rationalise duty free allowance for various categories of passengers.
- CBEC is empowered to allow transit of certain goods and conveyances without payment of duty.
- There have been amendments in Basic Custom Duty and SAD rates in case of certain important goods.



FCRA 2010



FOREIGN CONTRIBUTION REGULATION ACT, 2010 (FCRA)

- The Finance Bill 2016 has proposed radical changes to the Foreign Contribution (Regulation) Act, 2010. It has amended section 2(1)(j)(vi) to exclude Indian Companies with foreign shareholding in excess of 50%. It may be noted that prior to this amendment all Indian Companies with more than 50% shareholding by foreigners were treated as foreign source and FCRA law was applicable.
- FCRA law will not apply even if the nominal value of share capital of a company held by foreigners exceeds 50 per cent at the time of making contributions provided the foreign investment is within the limit specified under the Foreign Exchange Management Act, 1999 or the rules or regulations made there under.
- Therefore, Indian Companies where more than 50 percent of shareholding is by a foreign source will be exempted from definition of "Foreign Source" as all Indian Companies have to comply with the limits set by FEMA for foreign investment
- The amended law shall be applicable with retrospective effect from 26th September, 2010. In other words, all donations/grant given by such companies since 26th September, 2010 in violation of FCRA will be condoned. There were many companies who had violated the FCRA Law by providing grant to various Indian Organizations without FCRA registration or prior permission. This amendment will provide a great relief to such companies as well as NGOs
- The statutory definition of 'foreign source' as per section 2(1)(j) of FCRA, 2010 after incorporating the amended proviso is as follows :
 - (j) "foreign source" includes, —
 - (i) the Government of any foreign country or territory and any agency of such Government;
 - (ii) any international agency, not being the United Nations or any of its specialised agencies, the World Bank, International Monetary Fund or such other agency as the Central Government may, by notification, specify in this behalf;
 - (iii) a foreign company;
 - (iv) a corporation, not being a foreign company, incorporated in a foreign country or territory;
 - (v) a multi-national corporation referred to in sub-clause (iv) of clause (g);
 - (vi) a company within the meaning of the Companies Act, 1956, and more than one-half of the nominal value of its share capital is held, either singly or in the aggregate, by one or more of the following, namely:—

FOREIGN CONTRIBUTION REGULATION ACT, 2010 (FCRA)

- (A) the Government of a foreign country or territory;
- (B) the citizens of a foreign country or territory;
- (C) corporations incorporated in a foreign country or territory;
- (D) trusts, societies or other associations of individuals (whether incorporated or not), formed or registered in a foreign country or territory;
- (E) foreign company;
- "Provided that where the nominal value of share capital is within the limits specified for foreign investment under the Foreign Exchange Management Act, 1999, or the rules or regulations made there under, then, notwithstanding the nominal value of share capital of a company being more than one-half of such value at the time of making the contribution, such company shall not be a foreign source;"
- (vii) a trade union in any foreign country or territory, whether or not registered in such foreign country or territory;
- (viii) a foreign trust or a foreign foundation, by whatever name called, or such trust or foundation mainly financed by a foreign country or territory;
- (ix) a society, club or other association of individuals formed or registered outside India;
- (x) a citizen of a foreign country."



CA Vinod Jain - Our Chairman

B.Com (Hons.), LL.B., FCA, FCS, FICWA, DISA (ICAI)



Mr. VINOD JAIN is a commerce graduate from Shri Ram College of Commerce, has qualified with merit as a Chartered Accountant (1979), Company Secretary (1979), Cost Accountant (1983) and a Law Graduate (1979), has been a sitting elected member of Central Council (National Board) of The Institute of Chartered Accountants of India for 12 years till Feb 2013.

He is Senior Partner of **Vinod Kumar & Associates, Chartered Accountants** a member of INMACS GLOBAL, Hong Kong. Mr. Vinod Jain is Chairman of **INMACS Management Services Limited**, a leading Project & Financial consultant and Provider of Business set up and support services.

Mr. Jain is a leading expert on, International Taxation, Corporate Laws, FEMA, Fund raising and strategic planning / structuring. Most complex issues are handled by him professionally re regulatory compliance, Project planning, project structuring, infrastructure development, Financial modeling, business agreements and techno-economic feasibility study of more than 500 projects including infrastructure projects and legal drafting/vetting is another expertise of Mr. Jain. Estate planning with balancing of Love-money-control is a special expertise of CA Vinod Jain. National and international tax laws are considered while framing wealth management and trust structures in and outside India.

He was also elected as a Member, **National Council, Confederation of Indian Industry (CII)** during 1997-99. He has served on several committees of Securities and Exchange Board of India (SEBI), Central Board of Direct Taxes (CBDT) and Ministry of Corporate Affairs (MCA).

Mr. Jain has been nominated as a **member** by Department of Revenue, Ministry of Finance, Government on the **Expert Committee for Tax Simplification**. Mr. Jain has been appointed as a Director on **Coal India Limited (CIL)** on behalf of Government of India.

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