

Gist of main amendments - Budget 2015

A gist of the main amendments proposed under the Finance Bill, 2015 is given below:-

Direct Taxes

2. Rates of tax

2.1 It is proposed that there will be no change in the rate of personal income-tax and the rate of tax for companies in respect of income earned in the financial year 2015-16, assessable in the assessment year 2016-17.

2.2 It is further proposed to levy a surcharge @12% on individuals, HUFs, AOPs, BOIs, artificial juridical persons, firms, cooperative societies and local authorities having income exceeding ` 1 crore. Surcharge in the case of domestic companies having income exceeding ` 1 crore and upto ` 10 crore is proposed to be levied @ 7% and surcharge @ 12% is proposed to be levied on domestic companies having income exceeding ` 10 crore.

2.3 It is further proposed that in the case of foreign companies the surcharge will continue to be levied @2% if the income exceeds ` 1 crore and is upto ` 10 crore, and @5% if the income exceeds ` 10 crore.

2.4 It is also proposed to levy a surcharge @12% as against current rate of 10% on additional income-tax payable by companies on distribution of dividends and buyback of shares, or by mutual funds and securitisation trusts on distribution of income.

2.5 The education cess on income-tax @ 2% for fulfilment of the commitment of the Government to provide and finance universalised quality based education and 1% of additional surcharge called 'Secondary and Higher Education Cess' on tax and surcharge is proposed to be continued for the financial year 2015-16 for all taxpayers.

3. Measures to curb black money

3.1 With a view to curbing the generation of black money in real estate, it is proposed to amend the provisions of section 269SS and 269T of the Income-tax Act so as to prohibit acceptance or re-payment of advance in cash of ` 20,000 or more for any transaction in immovable property. It is also proposed to provide a penalty of an equal amount in case of contravention of such provisions.

3.2 Offence of making false declaration/documents in the transaction of any business relating to Customs (section 132 of the Customs Act) to be predicate offence under PMLA to curb trade based money laundering.

4. Job creation through revival of growth and investment and promotion of domestic 'manufacturing' and 'Make in India'.

4.1 Taking into account the representations received from various stakeholders and international developments in this regard, it is proposed to defer applicability of General Anti Avoidance Rule (GAAR) by 2 years. Accordingly, it is proposed to be applicable for income of the financial year 2017-18 (A.Y. 2018-19) and subsequent years. It is also proposed that the investments made upto 31.03.2017 shall not be subjected to GAAR.

4.2 With a view to streamline the taxation regime of Alternative Investment Funds (AIFs), it is proposed to provide pass through status to all the sub-categories of category-I and also to category-II AIFs governed by the regulations of Securities and Exchange Board of India (SEBI).

4.3 With a view to facilitate relocation of fund managers of offshore funds in India, it is proposed to modify the permanent establishment (PE) norms.

4.4 With a view to give effect to the provisions of section 94 of the Andhra Pradesh Reorganisation Act, 2014, it is proposed to provide an additional investment allowance (@15%) and additional depreciation (@15%) to new manufacturing units set-up during the period 01.04.2015 to 31.03.2020 in notified areas of Andhra Pradesh and Telangana.

4.5 In respect of Real Estate Investment Trusts (REITs) and Infrastructure Investment Trusts (INViTs), it is proposed to provide that the sponsor will be given the same treatment on offloading of units at the time of listing as would have been available to him if he had offloaded his shareholding of special purpose vehicle (SPV) at the stage of direct listing. Further, the rental income arising from real estate assets directly held by the REIT is also proposed to be allowed to pass through and to be taxed in the hands of the unit holders of the REIT.

4.6 It is proposed to amend the provisions of section 194LD of the Income-tax Act so as to extend the period of applicability of reduced rate of tax at 5% in respect of income of foreign investors (FIIs and QFIs) from corporate bonds and government securities, from 31.5.2015 to 30.06.2017.

4.7 With a view to obviate the problems faced by small companies and to facilitate the inflow of technology, it is proposed to amend the provisions of section 115A of the Income-tax Act so as to reduce the rate of tax on royalty and fees for technical services from 25% to 10%.

4.8 With a view to facilitating generation of employment, it is proposed to amend the provisions of section 80JJAA of the Income-tax Act so as to provide that tax benefit under the said section shall be available to a 'person' deriving profits from manufacture of goods in a factory and paying wages to new regular workmen. The eligibility threshold of minimum 100 workmen is proposed to be reduced to fifty.

4.9 Additional depreciation @ 20% is allowed on new plant and machinery installed by a manufacturing unit or a unit engaged in generation and distribution of power. However, if the asset is installed after 30th September of the previous year only 10% of the additional depreciation is allowed. It is proposed to allow the remaining 10% of the additional depreciation in the subsequent previous year.

5. Minimum government and maximum governance to improve the ease of doing business

5.1 Section 9 of the Income-tax Act was amended by Finance Act, 2012 to clarify that if an asset, being a share of, or interest, in a company or an entity derives its value, directly or indirectly, substantially from an asset situated in India, the gain arising from transfer of such share or interest shall be taxable in India. After the clarificatory amendment, a large number of representations were received from various quarters seeking clarification on certain terms used in the amended provisions. An Expert Committee was also constituted to look into the concerns. Taking into account the recommendations made by the Expert Committee and the concerns raised by the various stakeholders, it is proposed to amend the provisions of the Income-tax Act so as to provide that:-

- the share or interest shall be deemed to derive its value substantially from the assets located in India, if on the specified date, the value of such assets represents at least fifty per cent of the fair market value of all the assets owned by the company or entity. However, the indirect transfer provisions would not apply if the value of Indian assets does not exceed ` 10 crore. Further, the principle of proportionality will apply to the taxation of gains arising from indirect transfer of Indian assets.

- the Indian entity shall be obligated to furnish information relating to the offshore transactions having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of non-compliance, a penalty is also proposed.
- the indirect transfer provisions shall not apply in a case where the transferor of share or interest in a foreign entity, along with his associated enterprises, neither holds the right of control or management nor holds voting power or share capital or interest exceeding five percent. of the total voting power or total share capital in the foreign company or entity, directly or indirectly, holding the Indian assets.
- the capital gains shall be exempt in respect of transfer of share of a foreign company deriving its value, directly or indirectly, substantially from the shares of an Indian company, under a scheme of amalgamation or demerger.

5.2 It is proposed to amend the provisions of section 92BA of the Income-tax Act so as to increase the threshold limit for applicability of transfer pricing regulations to specified domestic transactions from `5 crore to `20 crore.

5.3 It is proposed to amend the provisions of section 2(15) of the Income-tax Act so as to include 'yoga' as a specific category of activity in the definition of 'charitable purpose' and also to provide relief for activities in the nature of business undertaken by genuine charitable organizations subject to the condition that aggregate receipts from such activity is less than 20% of the total receipts.

5.4 It is proposed to exempt the income of Core Settlement Guarantee Fund established by Clearing Corporations as per mandate of SEBI.

5.5 It is proposed to amend the provisions of section 255 of the Income-tax Act so as to increase the monetary limit from ` 5 lakh to ` 15 lakh, for a case to be heard by a Single Member Bench of the ITAT.

5.6 It is proposed to amend the provisions of the Income-tax Act so as to provide tax neutrality on transfer of units of a scheme of a Mutual Fund under the process of consolidation of schemes of Mutual Funds as per SEBI Regulations, 1996.

5.7 It is proposed to amend the provisions of the Income-tax Act so as to provide a mechanism to pre-empt the repetitive appeals by the revenue in the same assessee's case on the same question of law year after year.

5.8 It is proposed to empower the Board to prescribe rules for grant of relief in respect of taxes paid in foreign jurisdictions.

5.9 It is proposed to abolish the levy of Wealth-tax with effect from 2016-17 (Assessment Year) for reducing the compliance burden on the tax payers. The revenue loss on account of such abolition is proposed to be compensated by increase in the existing surcharge by 2% in case of domestic companies and all non corporate taxpayers.

5.10 With a view to rationalise the dispute resolution mechanism available to taxpayer in the form of Settlement Commission, it is proposed to provide that while making an application to the Settlement Commission for an assessment year which has been re-opened by the Assessing Officer, the assessee can make an application for other assessment years in which the proceedings could be re-opened provided the return of income for such assessment years has been furnished by the assessee.

6. Improving the quality of life and public health through Swachh Bharat Initiatives

6.1 It is proposed to provide that the donations (other than the CSR contributions made in accordance with section 135 of the Companies Act, 2013) made to Swachh Bharat Kosh (by both resident and non-resident) and Clean Ganga Fund (by resident) shall be eligible for 100% deduction under section 80G of the Income-tax Act.

7. Benefits to middle class taxpayers

With a view to encourage savings and to promote health care among individual taxpayers, a number of measures are proposed to be taken by way of incentives under the Income-tax Act. The same are enumerated below:-

7.1 It is proposed to provide that investment in Sukanya Samriddhi Scheme will be eligible for deduction u/s 80C and any payment from the scheme shall not be liable to tax.

7.2 It is proposed to increase the limit of deduction u/s 80D of the Income-tax Act from ` 15,000 to ` 25,000 on health insurance premium (in case of senior citizen from ` 20,000 to ` 30,000). It is also proposed to allow deduction of expenditure of similar amount in case of a very senior citizen not eligible to take health insurance.

7.3 It is proposed to increase the limit of deduction in case of very senior citizens u/s 80DDB of the Income-tax Act on expenditure on account of specified diseases from ` 60,000 to ` 80,000.

7.4 It is proposed to increase the limit of deduction u/s 80DD of the Income-tax Act in respect of maintenance, including medical treatment of a dependant who is a person with disability, from ` 50,000 to ` 75,000. It is also proposed to increase the limit of deduction from ` 1 lakh to ` 1.25 lakh in case of severe disability.

7.5 It is proposed to increase the limit of deduction u/s 80U of the Income-tax Act in case of a person with disability, from ` 50,000 to ` 75,000. It is also proposed to increase the limit of deduction from ` 1 lakh to ` 1.25 lakh in case of severe disability.

7.6 It is proposed to increase the limit of deduction u/s 80CCC of the Income-tax Act on account of contribution to a pension fund of LIC or IRDA approved insurer from ` 1 lakh to ` 1.5 lakh.

7.7 It is proposed to increase the limit of deduction u/s 80CCD of the Income-tax Act on account of contribution by the employee to National Pension Scheme (NPS) from ` 1 lakh to ` 1.50 lakh. It is also proposed to provide a deduction of upto ` 50,000 over and above the limit of ` 1.50 lakh in respect of contributions made to NPS.

7.8 It is proposed to amend the provisions of section 197A of the Income-tax Act so as to provide the facility of filing self-declaration of non-deduction of tax by the recipients of taxable maturity proceeds of life insurance policy.

7.9 Under the existing provisions of the Income-tax Act, an individual buying an immovable property from a resident is required to deduct tax but is not required to obtain TAN for depositing the tax so deducted. With a view to extend the same facility to an individual or HUF purchasing an immovable property from a non-resident, it is proposed to relax the requirement of obtaining TAN by the individual or HUF who is required to deduct tax on acquisition of immovable property from a non-resident.

7.10 It is proposed to provide that donation made to National Fund for Control of Drug Abuse (NFCDA) shall be eligible for 100% deduction under section 80G of the Income-tax Act.

8. Stand alone proposals to maximise benefits to the economy

8.1 It is proposed to provide for chargeability of interest paid by a permanent establishment (PE) or a branch of foreign bank to its Head Office (HO) and other overseas branches under the source rule of taxation and for treating the PE or branch as a taxable entity for computation of income and for purpose of levy of TDS.

8.2 With a view to providing a uniform method of computation of period of stay in Indian for the purposes of determination of 'resident' status in the case of a India seafarer, whether working on a

Indian-ship or foreign-ship, it is proposed to provide an enabling power to CBDT to prescribe the same in the rules.

8.3 In search cases, it is proposed to allow seized cash to be adjusted towards the assessee's tax liability under his settlement application.

8.4 With a view to ensuring proper deduction of tax on payments made to non-residents, it is proposed to amend the provisions of section 195 of the Income-tax Act so as to provide for enabling power to the CBDT for capturing information about prescribed foreign remittances which are claimed to be not chargeable to tax.

Indirect Taxes

1. Goods & Services Tax (GST)

- State of the art GST regime to be introduced
- GST likely to be introduced from 1st April, 2016
- GST will enable leakage proof tax regime
- No clear cut road map on GST as to how GST will be introduced from 1st April 2016 and preparedness there for.

2. Service Tax

- Rate of Service Tax up from 12.36 percent to 14 percent
- Education cess and secondary & higher education cess subsumed in GST
- A new levy called Swachh Bharat cess levied @ 2 percent of tax value (in nature of Service Tax)
- Effective rate of Service Tax including Swachh Bharat cess will be 16%- a rise of 33.33 percent over 12 percent presently levied.
- Online registration for excise & Service Tax in 2 days.
- Definition of 'Government' provided
- Definition of 'service' amended to include conducting of chit and lottery distribution activities
- Negative list pruned to tax services of access to amusement facilities, admission to entertainment events (with fee of over Rs. 500), job works for manufacture of alcoholic beverages, expanding the scope of support services to cover all services
- Exemptions have been curtailed on certain construction activities, performance by artists, transportation of specified articles, mutual funds agents, selling of lottery tickets etc.
- New exemptions for exhibition of films, specified services for fruits and vegetables, life insurance for senior citizen, ambulance services, admission to zoo / national park, goods transport for export etc.
- No Service Tax on yoga classes
- Value of services to include reimbursement of expenses / costs
- Abatements rationalized for transport services, air travel etc; withdrawn for chit fund services
- Taxation on aggregator services (taxi operations using technology)
- Changes in reverse charge-to cover mutual fund agents / lottery agents
- Manpower supply brought under full reverse charge.

3. Excise / Customs

- Customs duty to be reduced on 22 items
- Reduction in duty on inputs to address problem of duty inversion

- Reduction in basic customs duty to reduce cost of raw materials
- Reduction in SAD to address issue of cenvat credit accumulation
- Excise duty on mobile handsets with Cenvat option doubled from 6% 12.5%
- Excise duty on select goods restructured (on wafers used in integrates circuits; increased on mobile handsets, tablet computes; solar water heaters) etc.
- Time limit for taking Cenvat credit increased from 6 months to one year from invoice date
- Excise duty on rails for track exempted from 17.3.2012 if no Cenvat credit availed
- Reduction in number of excise levies
- Compliance facilitation measures put in place