LET'S CONNECT

BUDGET 2016

Compiled by:

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UNION BUDGET ANALYSIS
2016-2017

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S B Gabhawalla & Co. is a professional services firm practicing in the entire field of taxation with a specialization in Indirect Taxes. The firm has a distinct research orientation towards Service Tax & VAT related matters.

The basic philosophy of the firm revolves around the principles of integrity, knowledge & speed. Ever since its' incorporation in 1997, the firm has created a niche for itself in the field of consultancy and evolved new paradigms in quality service to clients. Indeed, the firm serves a wide arena of clientele ranging across the spectrum of various industries.

The firm is headed by Sunil Gabhawalla who is a chartered accountant in practice with 3rd rank at the All-India Level. He is also a cost accountant. He also obtained the 9th position at All India Level in CA Intermediate and the 7th position at All India Level at ICWA Intermediate Examinations.

Sunil is a visiting faculty at various forums and regularly trains industry, Department Officers, student and fellow professionals. He has authored books on topics relating to service tax, NRI Taxation & computers. His treatise on service tax is a popular book containing detailed commentary on the provisions of service tax law and runs in its' eighteenth edition.

Sunil is the Hon. Secretary of the Bombay Chartered Accountants Society. He is also a member of the Regional Advisory Committee of the Mumbai Commissionerate for Central Excise and Service Tax. He has been nominated by the Maharashtra State Government on the advisory panel for implementation of GST.

The firm is assisted by a team of 18 young and energetic human resources. Prakash, being the senior-most in the team, brings to the organization more than 30 years of experience in sales tax at the field level. He ably guides the entire organization towards increasing service levels. CA Keval, a guest lecturer at the Indo German Chamber of Commerce, leaves no stone unturned to provide

quality experiences for all client interactions. Being professionally qualified chartered accountants, Yash, Parth, Khyati, Darshan, Aman and Himanshu are all equipped with appropriate knowledge to handle client queries and assist them on a day to day basis. Other resources assist these managers in administrative and procedural compliance.

The firm is headquartered at a prime business area in Andheri, Mumbai and has adequate infrastructure in terms of library resources, office ambience, research software, internet connectivity, web and e-mail support, etc. The office is less than 10 minutes drive from the domestic/international airports.

The firm is geared to render diverse nature of services which include consultancy, retainership, compliance, litigation, training, audit, etc. It also undertakes detailed audit/investigation services to identify transaction inefficiencies and suggest due diligence.

The firm believes in an optimum mix of theory and practice and finds both of them complimentary to each other. Indeed, each practical advise further strengthens the theory related thereto. The firm encapsulates these practical advises into case studies and builds up a progressive knowledge base which helps in providing speedy solutions to future clients.

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SERVICE TAX

1. Rate of Tax

1.1. There has been no change in the basic rate of service tax which was increased to 14% w.e.f. 01.06.2015.

1.2. Effective from 15.11.2015, Swachh Bharat Cess was introduced @ 0.5% of the value of all taxable services. AT that point of time it was clarified that the cess will not be available as CENVAT Credit.

1.3. Krishi Kalyan Cess is imposed on all taxable services at the rate of 0.5% on the value of taxable services with the objective of financing and promoting initiatives to improve agriculture. This Cess shall come into force on 01.06.2016. It is clarified that this KKC shall be available as CENVAT Credit.

1.4. On a comparison of the provisions of SBC and KKC, it can be noticed that they are identical, therefore on the point of availability of credit, there appears to be a conflict between the clarifications issued at the time of introduction of SBC and the current clarification. In view of the Karnataka High Court decision in the case of CCE VS Shree Renuka Sugars Limited 2014 (302) E.L.T. 33 (Kar) we believe that the current clarification represents a correct interpretation of law.

1.5. The following table summarizes the recent changes in the tax rates:

Period	Calculation	Effective Rate
Upto 31.05.2015	12% ST + 0.24% EC + 0.12% SHEC	12.36%
01.06.2015 to 14.11.2015	14% ST	14.00%
15.11.2015 to 31.05.2016	14% ST + 0.5% SBC	14.50%
01.06.2016 onwards	14% ST + 0.5% SBC + 0.5% KKC	15.00%

1.6. The above effective rates are applicable for normal services. There have been changes in the abatement rates as well which have been explained in the analysis of the respective sectors.

2. Impact of change in rate

2.1. The Point of Taxation Rules, 2011 were introduced w.e.f. 01.04.2011. to prescribe the point of time when the tax should be paid and also deal with certain situation of rate changes

2.2. It was realized that the said rules did not have statutory backing and therefore, amendments have been made in section 67A to empower the Central Government to notify rules in this regard. Notification 10/2016 – ST dated 01.03.2016 provides that the said amendments are effective from 01.03.2016. However, this would result in a possible interpretation to say that since prior to 01.03.2016, there was no specific provision enacting the Point of Taxation Rules, 2011, the constitutional validity of such rules is challengeable.

2.3. During the last year there was a subsumation of EC and SHEC into the basic service tax rate and also an introduction of SBC in addition to the basic service tax rate. It was felt that the point of taxation rules were inadequate to cover the above made changes. Though the FAQ issued at the time of introduction of SBC clarified that Rule 5 of POTR, 2011 would be applicable, the legal validity of the said view was not free from doubt.

2.4. To overcome the above concerns, two Explanations have been added to Rule 5 of Point of Taxation Rules, 2011, wherein it is clarified that the said rule applies also in cases of new levy. The second explanation provides that unless the transaction satisfies the conditions provided in Rule 5, the same shall be taxable. The conditions provided in Rule 5 as reproduced below:

Where a service is taxed for the first time, then, -

(a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;

(b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within fourteen days of the date when the service is taxed for the first time.

2.5. The above explanation raises a fundamental question as to whether a service which has already been provided prior to introduction of levy could be taxed on raising of invoice or receiving payment subsequently. One needs to distinguish between the taxable event (event deciding taxability) vis-à-vis a payment event (event deciding timing of payment). Further, in the case of Collector of C.Ex Hyderabad Vs Vazir Sultan Tobacco Co Ltd 1996 (83) E.L.T. 3 (SC), it has been held that manufacturing is a taxable event whereas payment of excise duty is at the time of the removal of goods, therefore in a case where goods have been manufactured at the time when they were not excisable, there cannot be a duty liability at the time of removal of such goods.

2.6. Applying similar ratio in case of service tax, the Finance Act, 1994 levies a tax on provision of service i.e. essentially the levy is on provision of service. However, the payment of tax has been shifted at the time of raising of invoice or receipt of consideration by virtue of Point of Taxation Rules, 2011. Based, on the above discussion, it may be important to see whether a rule can impose a tax/new levy in cases where the service is already provided.

2.7. Specific challenges would arise since there have been multiple amendments as highlighted above. A service provider may have raised an invoice on 01.05.2015, when the applicable service tax rate was 12% with EC & SHEC. He would have paid this service tax of 12.36% to the Government treasury irrespective of him receiving the money. If the said consideration is realised after 01.06.2016, the issue of interpreting the above provisions can be challenging.

3. Amendments in Rate of Interest

3.1. Effective from 01.10.2014, the rate of interest under service tax law were increased drastically and went all the way upto 30% p.a. Based on various protests and representations against such exorbitant interest rates, the current budget proposes a reduction in rate as under:

	Current Interest Rate		**Rate effective from date of assent of Finance Bill**		
	Simple interest rate per annum (Normal Cases)	Simple interest rate per annum (Small Service Providers)	Case where tax is collected and not paid	Normal Cases	Excess collection u/s 73A
Rate of Interest	18%	15%	24%	15%	15%
	24%	21%			
	30%	27%			

3.2. It may be noted that the interest rate on refunds has not been changed. While the reduction in interest rate is welcome, having a differential rate based on collection of tax can result in interpretation and administrative difficulties. The interpretation issue is whether tax collected refers to merely charging of tax in the invoice or actual reaslisation of tax from the customer. In our view, it has to be the actual realization of the tax from the customer

3.3. Based on the said interpretation there could an administrative challenge in the actual computation of interest. For e.g. If an invoice is raised on 01.05.2016 and the money is realized on 07.09.2016 and the payment of service tax is made on 30.10.2016, interest would be payable at the rate of 15% p.a. from 06.06.2016 to 07.09.2016 and at the rate of 24% from 08.09.2016 to 30.10.2016

3.4. When the above exercise is understood from the perspective of volume of operations, possibility of open payments not appropriated against specific services and four revisions in the rate of service tax, it is evident that doing business in India is not easy.

3.5. The interesting aspect to note is that a service provider liable to pay tax collecting and not paying service tax is required to pay interest of 24% p.a. whereas a service provider who is not liable to pay tax but collects tax and delays its payment is liable to pay interest at only 15% p.a.

4. Government Support Service

4.1. Currently only support services provided by the Government are liable for payment of service tax. The Finance Act, 2015 had proposed to tax all services provided by Government, however did not notify the date from which the said amendments are effective. Notification 06/2016-ST dated 18.02.2016 was issued to notify 01.04.2016 as the relevant date from when any service by Government shall be liable for payment of service tax.

4.2. Further Notifications have been issued to make corresponding impact on providing the above taxability on Reverse Charge basis. Also the definition of support service as provided earlier has been proposed to be deleted from 01.04.2016.

4.3. Through Notification 07/2016-ST an exemption has been provided for services rendered by the Government to business entities with turnover below Rs. 10 lakhs.

4.4. These amendment brings to prominence the importance of the concept of “service” in contradistinction to the performance of a statutory function. Any function which is a statutory function required to be performed by the Government cannot be considered as a rendition of service. In fact, it is the necessary requirement of the Government to perform that function and the requirement of the citizen to obtain that function

4.5. Therefore the liability of service tax on transactions with Government can be tabulated as under:

Transaction	Implication of Service Tax
Statutory function carried out the Government	Not liable for service tax as it does not constitute a service
Specified Services mentioned in sub-clauses (i), (ii) & (iii) of clause (a) of Section 66D of the Finance Act, 1994	Liable for service tax under Forward Charge i.e. the Government Department will register, collect and pay the service tax.
Other Services to business entities as listed in clause (a) of Section 66D of the Finance Act, 1994	Liable for service tax under Reverse Charge Mechanism except for Renting of Immovable property where the tax has to be discharged by the Government
Other Services to non-business entities	Excluded from payment of service tax in terms of Negative List entry
Other Services to business entities below turnover of Rs. 10 lakhs	Exempted vide Notification No 07/2016 – ST

4.6. From the above table, it is also evident that the applicability of service tax for other services provided by Government depends on whether the person receiving such services is a business entity or otherwise. As per section 65B(17) "business entity" is defined to mean any person ordinarily carrying out any activity relating to industry, commerce or any other business'. If person receiving services is not a business entity, there shall be no liability to pay service tax. Further, it must be noted that the business entities would even include individual, proprietary concern; partnership firms etc., if they carry out any kind of activity in the nature of business.

4.7. While the interpretation of a transaction as a statutory function vs a rendition of service by the Government is still to attain finality, the current budget speech also highlights the possibility of interpreting auction of certain rights and licenses granted by the Government as sale. To apprehend such fears the Finance Bill, 2016 also proposes to declare the assignment of radio-frequency spectrum as a service. The said amendment will be effective from a date of enactment of the Finance Bill, 2016.

4.8. The CENVAT Credit Rule, 2004 are also amended to permit CENVAT Credit of the above service tax. CENVAT Credit on service tax paid on the charges paid or payable for right to use any natural resource shall be taken over the period for which the right to use is assigned. Full cenvat credit on service tax paid on annual or monthly charges shall be allowed in the same financial year. A proviso giving effect to such provision is inserted in Rule 4(7).

4.9. In the above case, in case the person holding the right to use sells such right to another person for a consideration, then balance CENVAT Credit will be allowed in the same financial year, subject to the condition that such balance credit should not exceed the service tax payable on the consideration charged

5. Procedural Amendments

5.1. One Person Companies will be treated at par with Individual and Proprietary concerns for the purposes of payment of service tax under Rule 6 including receipt basis taxation for small assessees. This is a welcome step.

5.2. However, the provisions of Notification 30/2012 prescribing Reverse Charge Mechanism have not been amended and therefore, for the said purpose One Person Companies will be treated as Body Corporate.

5.3. The Service Tax Rules, 1994 have been amended to prescribe for an annual return to be filed by 30th November each year. The said return can be revised within a period of one month from the date of submission of the original return. It may be noted that unlike regular returns the annual return can be revised only if the original return was filed in time

5.4. The Rules also prescribe for late filing fees extended upto Rs. 20,000/- for delayed filing of annual return. It may also be noted that the relevant date for the purposes of section 73 of the Finance Act, 1994 continues to be the date of periodic returns and not the annual return.

5.5. The normal period of limitation for issuance of SCN is increased from 18 months to 30 months. It is not clear whether the said amendment will grant a fresh lease of life to the department for a period which is already beyond 18 months but within 30 months. Of course, in general the department invokes the extended period of 5 years alleging suppression of facts. The said provision has not been amended.

5.6. In the last Budget, the Customs, Central Excise and Service Tax laws were amended to provide for closure of proceedings where the assessee pays duty/tax due, interest and specified penalty. Further amendments are being made to Service Tax law so as to provide for closure of proceedings against co noticees, once the proceedings against the main noticee have been closed.

5.7. The power to arrest in Service Tax is being restricted only to situations where the tax payer has collected the tax but not deposited it to the exchequer, and that too above a threshold of

₹ 2 crore. The monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax evasion

5.8. Notification No. 41/2012- ST, dated the 29th June, 2012 was amended by notification No.1/2016-ST dated 3rd February, 2016 so as to, inter alia, allow refund of Service Tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of the said goods. This amendment is being made effective from the date of application of the parent notification (i.e. 1st July 2012)

6. CENVAT Credit Amendments

6.1. Eligibility

6.1.1. The provisions of Rule 2(a) have been amended to include capital goods used outside the factory of the manufacturer of the final products for pumping of water for captive use within the factory. Consequently, Rule 2(k) is amended to include goods used for pumping of water within the definition of inputs as well.

6.1.2. The provisions of Rule 2(a) have been further amended to include wagons falling under sub-heading 860692 of the Central Excise Tariff Act, 1985 in the definition of capital goods. Thus, enabling cenvat credit on wagons.

6.1.3. The provisions of Rule 2(k) have been amended to consider capital goods having a value upto Rs. 10,000 per piece, as inputs. Hence, full cenvat credit can be availed in year of purchase on such capital goods.

6.1.4. The provisions of Rule 6(4) have been amended to restrict the availability of cenvat credit on capital goods used for manufacture of exempt and non-exempt goods or provision of exempt and non-exempt service. Hereafter, cenvat credit shall not be allowed on capital goods used exclusively in the manufacturing of exempt goods or in providing exempt service for a period of two years from the date of commencement of the commercial production or provision of service. Two years will be calculated from the date of installation of such capital goods.

6.2. Interpretation of Output Service

6.2.1. Rule 2(e) is amended w.e.f. 01.03.2016 to exclude services by way of transportation of goods by a vessel from customs station of clearance in India to a place outside India from the definition of exempted services. With this amendment, therefore, though this service is now included in exemption list for levy of tax, reversal of cenvat credit under Rule 6(3) will not be required.

6.3. Utilization of CENVAT Credit

6.3.1. Rule 3(4) of Cenvat Credit Rules is amended w.e.f 01.03.2016 to prohibit utilization of cenvat credit of any duty for payment of National Calamity Contingent duty, except for the National Calamity Contingent duty itself.

6.3.2. Rule 4(5) is amended to restrict cenvat credit to a manufacturer in respect of jigs, fixtures, moulds and dies or tools sent by manufacturer to another manufacturer or a job worker for production of goods on his behalf. However, cenvat credit will be allowed even if the jigs, moulds and dies or tools are directly sent to the premises of the other manufacturer or the job-worker without bringing these to his own premises.

6.3.3. The order of Deputy Commissioner or Assistant Commissioner of Central Excise allowing clearance of goods from the premises of job-worker will be valid for a period of three financial years. Earlier the order used to be valid for a period one financial year.

6.4. Composite Output

6.4.1. A new explanation to Rule 6(1) is added to consider any activity which is not a service defined in Section 65B(44) of the Finance Act, 1994 as exempt service.

6.4.2. Rule 6(2) is replaced completely. Now, as per Rule 6(2) a manufacturer who exclusively manufactures exempted goods or a service provider who exclusively provides exempted service shall not be eligible for credit of any inputs and input services. Hence, reversal of credit on the basis of separate books of accounts is done away with.

6.4.3. The provisions of Rule 6(3) and 6(3A) have been amended for calculation of CENVAT credit reversal in relation to exempt goods removed or provision of exempt services.

6.4.4. As per the amendment, amount of reversal will be determined as under:

Particulars	**Amount**
Total Cenvat Credit	T
Cenvat exclusively attributable to exempt goods removed or provision of exempt service	A
Cenvat exclusively attributable to non-exempt goods removed or provision of non-exempt service	B
Common Cenvat Credit (C)	T- (A+B)

Particulars	Amount
Value of exempt goods removed and exempt service provided in preceding financial year	E
Value of total goods removed and total services provided in preceding financial year	F
Reversal of Cenvat Credit	C * E/ F

6.4.5. Where preceding year figures are not available for calculation of E and F, cenvat credit attributable to ineligible common credit shall be deemed to be fifty percent of the common credit.

6.4.6. Thereafter after the year end, the calculation for reversal amount is to be done based on the actual figures of turnover and any shortage if identified is to be paid on or before 30th June of the succeeding financial year. Delay in making the payment will attract interest at the rate of 15% interest. Earlier 24% interest was payable.

6.4.7. Calculation of reversal amount based on Rule 6(2), 6(3) and 6(3A) is extended to banking companies and financial institutions as well. Henceforth, banks can either reverse 50% of the total cenvat credit or can follow the procedure as mentioned above for reversal of cenvat credit attributable to exempt service.

6.5. Important Impact areas of the amended provisions of Rule 6

6.5.1. Under the amended provisions of Rule 6, the term exempted service is defined to include an activity which is not a service under section 65B (44). This can have widespread ramifications in terms of reversal of credit

6.5.2. The amended Rule 6 permits the slicing of credits into three baskets i.e. taxable, exempted and common credit. The ratio of reversal would apply only to common credit. This effectively reverses the decision of Mumbai Tribunal in the case of Thyssenkrupp Industries (I) Private Limited Vs CCE Pune 2014 (310) E.L.T. 317 (Tri – Mum). The amended provisions would provide substantial relief and clarity on the claim of CENVAT Credit

6.5.3. The amended provisions also state that if the option of 6%/7% is chosen, the amount payable shall not exceed the credit available. This again is a welcome step and would reduce substantial litigation.

6.5.4. Under the amended rules, reference to taxable services has been done away and substituted by the phrase “non-exempted” service.

6.6. Input Service Distributor

6.6.1. Rule 7 pertaining to input service distributor is amended to accommodate an outsourced manufacturing unit for distribution of cenvat credit. The amendments are as under:

6.6.2. The definition of input service distributor is amended to enable the distribution of credit to an outsourced manufacturing unit besides manufacturer, producer or provider.

6.6.3. Outsourced manufacturing unit means a job-worker who is liable to pay duty on the value determined under rule 10A of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 on the goods manufactured for the input service distributor or a manufacturer who manufactures goods for the input service distributor under a contract, bearing the brand name of such input service distributor and is liable to pay duty on the value determined under section 4A of the Excise Act.

6.6.4. Credit is to be distributed pro rata only amongst such units to which the input service is attributable. Credit need not be allocated to units where input service is not attributable.

6.6.5. Credit can be distributed to outsourced manufacturing unit. The outsourced manufacturing unit is required to maintain separate books of accounts for such credits received and can utilize the credit for payment of duty on goods manufactured for the concerned input service distributor.

6.6.6. Provisions of Rule 6 pertaining to cenvat credit reversals do not apply to input service distributors but applies to the receiving unit.

6.7. Other Provisions

6.7.1. Rule 7B is inserted to allow manufacturers to take credit on inputs received under the cover of an invoice issued by a warehouse of the said manufacturer and the provisions of Excise Act apply to such warehouse also.

6.7.2. Rule 9A is amended to replace the current process of monthly returns of receipt and consumption of each principal units by an annual return and the provisions of Rule 12 of the Central Excise Rules, 2002 apply to such annual return.

6.7.3. Rule 14(2) has been deleted and therefore the priority of utilization of CENVAT Credit is left to the discretion of the assessees.

6.8. Refund

6.8.1. Notification 27/2012-CE(NT) has been amended vide Notification 14/2016-CE(NT) so as to prescribe the time limit for filing the refund claim under Rule 5 of the CENVAT Credit Rules, 2004 in case of export of services. Below is the time limit:

6.8.2. In case of manufacturer, before the expiry of the period specified in section 11B of the Central Excise Act, 1944.

6.8.3. In case of service provider, before the expiry of one year from the date of :

(a) Receipt of payment in convertible foreign exchange, where provision of service had been completed prior to receipt of such payment; or

(b) Issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice.

7. Indirect Tax Dispute Resolution Scheme, 2016

7.1. The dispute resolution scheme aims to reduce the pending litigations before the first appellate authority (Commissioner Appeals). The said scheme is applicable in respect of dispute with respect to Customs Act, 1962, Central Excise Act, 1944 & Finance Act, 1994.

7.2. The said scheme aims at disposing of the pending appeals and the declarant shall get immunity from all the proceedings under the Act, in respect of indirect tax dispute.

7.3. The said scheme shall come into force w.e.f. 01.06.2016 and the person desirous of applying under the said scheme shall apply by 31.12.2016. The said scheme can be applied only in cases where the impugned order is in challenge and is pending before the Commissioner (Appeal) as an appeal as on 31.03.2016.

7.4. Upon receipt of the declaration, the designated authority shall acknowledge the declaration in such manner as may be prescribed.

7.5. The declarant thereafter shall pay tax due alongwith the interest and penalty equivalent to 25% of the penalty imposed in the impugned order within 15 days of the receipt of acknowledgment. The declarant shall intimate the payment details within 7 seven days of making the payment alongwith the proof of payment.

7.6. The designated authority upon receipt of intimation payment shall pass an order of discharge of dues in such form as may be prescribed. Once the order is passed by the designated authority, the appeal pending before the Commissioner (Appeal) shall stand disposed and the declarant shall get immunity from all proceedings under respective Act.

7.7. The order so passed by the designated authority shall result in conclusion of proceedings and no matter relating to such order can be reopened thereafter before any authority or court. Further, the issue shall not be deemed to be decided on merits and does not have any binding effect.

7.8. Moreover, the amount paid under such declaration shall not be allowed to be refunded. However, the said scheme cannot be availed by the following assessee's:

7.8.1. If the impugned order is in respect of search and seizure proceedings

7.8.2. If the impugned order is in respect of prosecution instituted before 01.06.2016 for any offence punishable under the Act

7.8.3. If the impugned order is in respect of narcotic drugs or other prohibited goods

7.8.4. If the impugned order is in respect of any offence punishable under the Indian Penal Code, the Narcotics Drugs and Psychotropic Substances Act, 1985 of the Prevention of Corruption Act, 1988

7.8.5. any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

8. Sectoral Changes in Budget 2016

8.1. Construction

8.1.1. Over the last few years various exemptions provided to contractors for construction services rendered to Government agencies and infrastructure projects were withdrawn

8.1.2. Consequent to the withdrawal of such exemptions, the contractors faced challenges in paying the service tax especially in case of ongoing contracts, since the tax was not factored in at the time of bidding. The contractors therefore invoked subsequent legislation clauses against such government agencies.

8.1.3. The above resulted in blockage of funds and unnecessary litigation. Therefore, the current budget proposes a series of

measures to grant an exemption for such ongoing contracts. The Budget also proposes to grant retrospective exemption in such case with consequential refund which needs to be claimed within a period of six months. The following services are granted this benefit

Entry No of Not 25/2012	Nature of Service	Contract Date before	Exemption upto
12A	Construction provided to the Government, a local authority or a governmental authority, in respect of construction of govt. schools, hospitals etc.	01.03.2015	01.04.2020
14A	Construction of ports, airports,	01.03.2015	01.04.2020

8.1.4. Similarly, exemption on construction, erection, commissioning or installation of original works pertaining to monorail or metro, in respect of contracts entered into on or after 1st March 2016, is being withdrawn with effect from 1st March, 2016.

8.1.5. It may be noted that in all the above cases, fresh contracts entered after the dates mentioned above will become taxable. Also in the case of ongoing contracts, if sub contracts are issued after the dates mentioned above, they would also be liable for service tax.

8.1.6. Services provided by way of construction, maintenance etc. of canal, dam or other irrigation works provided to bodies set up by Government but not necessarily by an Act of Parliament or a State Legislature, during the period from the 1st July, 2012 to 29th January, 2014, are being exempted from Service Tax with consequential refunds, subject to the principle of unjust enrichment

8.1.7. Services by way of construction of low cost houses up to a carpet area of 60 square metres in a housing project under approved housing schemes are being exempted from Service Tax with effect from 1st March, 2016.

8.1.8. 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).

8.2. Legal Services

8.2.1. The levy of service tax on legal services has always been a subject matter of resistance from the legal fraternity. Currently, legal services rendered to business entities are liable for service tax under RCM and those rendered to non-business entities are exempted from payment of service tax. Also services rendered by advocates to other advocates and law firms are exempted from service tax

8.2.2. It is proposed that the exemption provided to services rendered 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, be withdrawn with effect from 1st April, 2016 and Service Tax is being levied under forward charge.

8.2.3. The above amendment presents issues relating to blockage of credit since the services rendered by law firm would be governed by RCM.

8.3. Transport & Logistics

8.3.1. The shipping industry has seen an a disproportionate share of litigation vis-à-vis service tax. While international transportation of goods was always sought to be exempted, the identification of various charges levied by a shipping line as being towards transportation or towards handling was challenged by the department. Further complications arose in claim of credits of taxes charged by ports and other agencies.

8.3.2. The freight forwarders faced a different set of challenges, though they acted on a principal basis, the department treated them as agents and effectively demanded service tax on the freight margins.

8.3.3. In the above background, the current budget proposes to impose service tax on international transportation of goods destined to India (Import Goods). It is felt that the shipping line can recover the service tax from the importer and claim the credits of taxes charged by the port and other agencies. Similarly if the importer is a manufacturer he can claim the credit of service tax charged by the shipping line.

8.3.4. In case of importers directly dealing with foreign shipping lines, it is expected that they would discharge service tax under RCM with corresponding CENVAT Credit.

8.3.5. It is accordingly felt that the amendment would ease the flow of credits. However, it may be noted that the industry operates on

the principles of freight consolidation and the issue of whether a freight forwarder is an agent or a principal is not addressed by the budget. The proposed amendment while attempting to provide a level playing field to the domestic shipping lines, in fact results in discrimination between shipping lines and airlines since international air freight continues to remain outside the purview of service tax.

8.3.6. It may also be noted that in many cases the freight is paid by the foreign exporter to a foreign shipping line. In such cases naturally there would not be any service tax. However, since the value of the freight would be added in the cost of goods imported the same would be subject to Customs duty.

8.3.7. If an Indian Shipping line collects freight from a foreign exporter, service tax would be payable on the same in view of Rule 10 of Place of Provision of Service Rules, 2012 resulting in a disadvantage to an Indian shipping line as compared to a foreign shipping line.

8.3.8. Interestingly, under the Customs Valuation Rules, freight is treated as the part of the value of imported goods. With the imposition of service tax on such freight, there would be an overlap between customs duty and service tax. The TRU clarification suggests that service tax component shall not be a part of Customs Valuation. However, there is no amendment in the Customs Valuation Rules. Also recently the Mumbai Tribunal had held that once the freight is a part of customs valuation, service tax cannot be demanded on the same. As such the dual impact of customs duty and service tax will result in substantial litigation.

8.3.9. As far as Export of Goods is concerned, in view of Rule 10 of Place of Provision of Service Rule, 2012, the same is exempted from service tax. Further due to an amendment in CENVAT Credit Rules, 2004 a corresponding credit will be available.

8.3.10. The abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized at the rate of 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).

8.3.11. 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%. Credit of input services is being allowed on transport of goods in containers by rail at a reduced abatement rate of 60%.

8.3.12. Credit of input services is being allowed on transport of goods by vessel at the existing rate of abatement of 70%.

8.3.13. The following table summarizes various situations and applicability of service tax in the field of transportation:

Nature of transportation	Types of goods	Nature of payer	Nature of service provider	Tax Implication	Availability of credits
International sea	Import	Indian	Indian	Taxable at full rate	Yes
International sea	Import	Foreign	Indian	Taxable at full rate	Yes
International sea	Import	Indian	Foreign	Taxable under full rate under RCM	Not Applicable
International sea	Import	Foreign	Foreign	Exempt under Notification 25/2012	No
International sea	Exports	Any	Any	Exempt under rule 10 of PPSR.	Yes
International air	Import	Any	Any	Exempt under Notification 25/2012.	No
International air	Exports	Any	Any	Exempt under rule 10 of PPSR.	No
Coastal transportation	Non-essential commodities	Any	Any	Taxable on abated value of 30%	Yes
Coastal transportation	Essential commodities	Any	Any	Exempted under Notification 25/2012	No
Rail transportation	Essential commodities	Any	Any	Exempted under Notification 25/2012	No

Nature of transportation	Types of goods	Nature of payer	Nature of service provider	Tax Implication	Availability of credits
Rail transportation	Containerized	Any	Other than indian railways	Taxable on abated value of 40%	Yes
Rail transportation	Non-essential	Any	Indian railways	Taxable on abated value of 30%	Yes
Goods transportation agency	Essential commodities	Any	Any	Exempted under Notification 25/2012	No
Goods transportation agency	Household commodities	Any	Any	Taxable on abated value of 40%	No
Goods transportation agency	Other than Household commodities	Any	Any	Taxable on abated of 30%	No
Inland waterways	Any	Any	Any	Covered under negative list	No
Courier	Any	Any	Any	Taxable at full rate	Yes

8.4. Software

8.4.1. The classification of software as product or service has seen its fair share of litigation. This results in overlaps not only between VAT and service tax but also between Excise Duty and Service Tax. The Budget tries to address this issue of overlaps between Excise Duty and Service tax and has made both the levies mutually exclusive of each other.

8.5. Travel & Tourism

8.5.1. The Negative List entry that covers 'service of transportation of passengers, with or without accompanied belongings, by a stage carriage is being omitted with effect from 1st June, 2016.

8.5.2. Service Tax is being levied on transportation of passengers by air conditioned stage carriage with effect from 1st June, 2016, at the same level of abatement as applicable to the transportation of passengers by a contract carriage, that is, 60% without credit of inputs, input services and capital goods

8.5.3. Exemption on the services of transport of passengers, with or without accompanied belongings, by ropeway, cable car or aerial tramway is being withdrawn with effect from 1st April, 2016.

8.5.4. 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%.

8.6. Banking & Financial Service

8.6.1. 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

8.6.2. Services provided by Insurance Regulatory and Development Authority (IRDA) of India are being exempted from Service Tax with effect from 1st April, 2016

8.6.3. The regulatory services provided by Securities and Exchange Board of India (SEBI) are being exempted from Service Tax with effect from 1st April, 2016

8.6.4. The rate of Service Tax on single premium annuity (insurance) policies is being reduced from 3.5% to 1.4% of the premium, 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.

8.6.5. 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

8.6.6. 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

8.6.7. The services provided by mutual fund agent/distributor to a mutual fund or asset management company, are being made taxable under forward charge with effect from 1st April, 2016, so as to enable the small sub-agents down the distribution chain to avail small scale exemption having threshold turnover of ₹ 10 lakh per year, subject to fulfillment of other conditions prescribed

8.6.8. Calculation of reversal amount based on Rule 6(2), 6(3) and 6(3A) is extended to banking companies and financial institutions as well. Henceforth, banks can either reverse 50% of the total cenvat credit or can follow the procedure as mentioned above for reversal of cenvat credit attributable to exempt service

8.7. Other Sectors

8.7.1. Services provided by Employees' Provident Fund Organisation (EPFO) to employees are being exempted from Service Tax with effect from 1st April, 2016

8.7.2. 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.

8.7.3. 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

8.7.4. 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.

8.7.5. 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

8.7.6. 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

8.7.7. 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

EXCISE DUTY

1. Substantive Changes

1.1. Section 11A is being amended so as to increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement, etc.

2.0 Industry Specific Changes

2.1. Branded Readymade garments

2.1.1. Excise duty is being introduced on branded readymade garments made up articles of textiles. The same is applicable if all the conditions are satisfied:

a) The Retail Sale Price (RSP) is ₹ 1,000/- or above

b) The goods bear a brand name or are sold under a brand name

c) The goods are covered by Chapter Entries 61,62 & 63 except 6309 & 6310

2.1.2. The Excise duty is imposed @ 2% on a tariff value of 60% of the RSP (without CENVAT Credit). However, if CENVAT Credit is to be claimed, the rate of Excise duty will be 12.5%.

2.1.3. The levy shall not apply to retail tailoring establishments that stitch garments in a customized manner.

2.1.4. In case of brand owner, who gets the goods manufactured from the job-worker, the liability to pay excise duty shall be of the brand owner. However, the brand owner will be given the option to authorize his job-worker to pay the duty and if such authorization is given then the job-worker is liable to pay the duty.

2.1.5. In case where the brand owner gets goods bearing its brand manufactured from other manufacturers without providing raw material or inputs, and if RSP is not affixed, then excise duty would be payable by the brand owner as and when the brand owner labels the goods with RSP of ₹ 1000 or above.

2.1.6. The SSI exemption for the month of March, 2016 will be 12.5 lakhs subject to fulfilment of other conditions. The eligibility for availing of the SSI exemption in 2015-16 is that the value of clearances for home consumption from one or more manufacturer/ unit should not have exceeded ₹ 4 crore in the F.Y. 2014-15. Value for computing would be tariff value of the goods.

2.1.7. Excisable goods which are produced on or before 29.02.2016 but lying in stock as on 29.02.2016 shall attract excise duty upon clearance.

2.1.8. Full exemption from Central Excise duty will be available to duty paid goods returned to manufacturer during a financial year up to an aggregate ceiling not exceeding 10% of the value of clearances for home consumption made in the preceding Financial Year.

2.2. Articles of Jewellery

2.2.1. Excise duty is being introduced on articles of jewellery. The rate of duties have been separately mentioned.

2.2.2. Manufacturer will be eligible for SSI exemption from excise duty on first clearances upto Rs. 6 crore during the financial year. However, the jewellery manufacturer having aggregate domestic value of clearance in a preceding financial year exceeding Rs. 12 crore will not be eligible for this exemption.

2.2.3. The SSI exemption for the month of March, 2016 for jewellery manufacturer will be Rs. 50 Lakhs subject to the condition that value of clearance during F.Y. 2014-15 should not be more than Rs. 12 crore.

2.2.4. Excisable goods which are produced on or before 29.02.2016 but lying in stock as on 29.02.2016 shall attract excise duty upon clearance.

2.2.5. 100% CENVAT Credit on capital goods will be eligible as against 50% in normal case provided value of clearance in the preceding financial year does not exceed 12 crore.

2.2.6. Notification 05/2016-CE (NT) provides an optional centralized central excise registration. The manufacturer can opt for registering only the factory or premise or office from where such centralized accounting or billing is done. However, manufacturer needs to give details of all premises from where such goods are removed.

2.2.7. In case of jewellery manufacturer, requirement of post registration physical verification is done away with vide Notification No. 6/2016 – CE(NT).

3. Infrastructure Cess

3.1. An Infrastructure Cess is being levied on goods under heading 8703 (Motor Cars and other motor vehicle principally designed for the transport of persons including station wagons and racing cars). The rate of cess are as under:

Description	Rate
Petrol/LPG/CNG driven motor vehicles 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	2.5%
Other higher engine capacity motor vehicles and SUVs and bigger sedans	4%

3.2. Infrastructure Cess shall not be levied on three wheeled vehicles, electrically operated vehicles, hybrid vehicle, hydrogen vehicles based on fuel cell technology, motor vehicle which after clearance have been registered for solely as taxi, cars for physically handicapped person and Motor vehicles cleared as ambulances or registered for use solely as ambulance.

3.3. Infrastructure Cess is required to be paid by cash only. Also, no credit of such Cess shall be available.

3.4. The levy will come into effect immediately owing to declaration under the Provisional Collection of Taxes Act, 1931.

4. Changes in Rates of Duty:

4.1. There is no change in the general rate of excise duty i.e. 12.5%. The following table highlights the changes in the rate of Excise Duty in case of various excisable goods:

Item	Old rate	New rate
Ready garments		
Increase in tariff value of readymade garments and made up articles of textiles	30% of retail price	60% of retail price
Branded readymade garments and made up articles of textiles of retail sale price of ₹ 1000 or more	Without CENVAT Credit – NIL	Without CENVAT Credit – 2%
	With CENVAT Credit - 6%/12.5%	With CENVAT Credit - 12.5%
In case of garments/ articles of cotton not containing any other textile material of retail sale price of ₹ 1000 or less	Without CENVAT Credit – NIL	Without CENVAT Credit – NIL
	With CENVAT Credit - 6%	With CENVAT Credit – 6%

Item	Old rate	New rate
In case of garments/ articles of other composition of retail sale price of ₹ 1000 or less	Without CENVAT Credit – NIL	Without CENVAT Credit –NIL
	With CENVAT Credit - 12.5%	With CENVAT Credit – 12.5%
Jewellery		
Articles of Jewellery [excluding silver jewellery, other than studded with diamonds 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 from silver ore or concentrate, silver dore bar, or gold dore bar.	8%	8.5%
Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	18%	12%
Gutkha, chewing tobacco (including filter khaini) and jarda scented tobacco	70%	81%
Unmanufactured tobacco	55%	64%
Paper rolled biris [whether handmade or machine made] and other biris [other than handmade biris]	₹ 30per thousand	₹ 80 per thousand
Refrigerated containers	12.5%	6%
Solar lamp	12.5%	NIL
Electric motor, shafts, sleeve, chamber, impeller, washer required for the manufacture of centrifugal pump	12.5%	6%

Item	Old rate	New rate
Parts of railway or tramway locomotives or rolling stock and railway or tramway track fixtures and fittings, railway safety or traffic control equipment, 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 Court	Nil

5. Other procedural changes:

5.1. The Central Excise Rules, 2002 are being amended so as to:

5.1.1. Like, service tax, the facility of revision of return is also extended to manufacturer. The revised return shall be submitted by the end of the calendar month in which the original return is filed.

5.1.2. Apart from monthly returns, annual returns have also been introduced. Annual return can be revised within one month from the date of submission of said original annual return. The revised annual return can be filed only if the original return is filed within time.

5.1.3. Proceedings in respect of penalty imposed under Rule 26 of the Excise Rules shall deemed to be concluded in case where proceeding for person liable to pay duty under Section 11AC are concluded.

5.2. The rate of interest for delay in payment of duty w.e.f. 01.04.2016 have been reduced to 15% from 18%.

5.3. Notification 11/2016-CE seeks to exempt central excise duty on media with recorder information technology software on so much value as is equivalent to the value of the information technology software recorded on the said media which is leviable to service tax under Finance Act, 1994. The manufacturer shall make a declaration in the format specified in the said Notification.

5.4. The Central Excise Rules have been amended to permit a single registration if there are multiple units which are interdependent on each other and located within the same jurisdiction of the range superintendent.

5.5. Excise Invoices (transporter copy) can now be digitally signed and need not be manually signed.

6. Central Excise (Removal of Goods are Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016.

6.1. Notification No. 20/2016-CE(NT) seek to notify new Central Excise (Removal of Goods are Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016.

6.2. The rules shall apply to manufacturer who intends to avail benefit of a notification issued under sub-section (1) of section 5A of the Central Excise Act.

6.3. The said benefit has also been extended to the un-registered manufacturer including manufacturer of exempted goods or non-excisable goods after taking registration under Rule 9 of the Excise Rules. .

6.4. As per the said rule in order to claim exemption, requisite information are required to be given by the manufacturer who receives the goods(applicant manufacturer). Below are the information required to be given:

6.4.1. An application in Form – I to the jurisdictional AC/DC.

6.4.2. The applicant manufacture shall number the information filed in each financial year.

6.4.3. Information shall be provided either separately for each supplier or provide combined information for multiple supplier manufacturer.

6.4.4. The applicant manufacturer shall be execute a general bond with surety or security. In case, a manufacturer against whom no show cause notices has been issued, can provide letter of undertaking.

6.4.5. The copy of application shall be forwarded to the supplier manufacture duly singed by the authorised signatory.

6.4.6. Applicant manufacturer are required to submit quarterly returns.

6.5. Also, the manufacturer who intends to supply excisable goods(supplier manufacturer) are required to follow the certain procedures. Below are the procedures:

6.5.1. The supplier manufacturer shall maintain record of information received on the basis of which goods are removed which requisites details are mentioned.

6.6. If goods are not used for intended purpose then the applicant manufacture shall be liable to pay the duty as stated in the said Rules.

CST & CUSTOMS DUTY

1. AMENDMENT IN CENTRAL SALES TAX ACT, 1956:

1.1. Where the gas sold or purchased and transported through a common carrier pipeline or any other common transport distribution systems becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one state and is taken out from the pipeline in another state, such sale or purchase of gas shall be deemed to be a movement of goods from one state to another.

2. AMENDMENT TO CUSTOMS ACT, 1962:

2.1. Section 2 (43) amended to as to add new class of warehouses for enabling storage of specific goods under physical control of the department.

2.2. In section 47 proviso inserted permitting certain class of importer and exporter to make deferred payment of custom duties as provided by rules

2.3. Section 61 substituted to extend the period of warehousing to all goods used by EOU, units under EHTP,STP,SBY and other units manufacturing under bond; empower Principal Commissioners and Commissioner to extend the warehousing period up to one year at a time.

2.4. There have been amendments in the Basic Custom Duty and SAD rates in certain important goods.

2.5. Baggage Rules have also been rationalized.

2.6. Customs (Import of Goods at Concessional rate of Duty for Manufacture of Excisable Goods) Rule, 1996 apply to an importer, being a manufacturer who intends to avail the benefit of an exemption upon the use of imported goods. These rules have been amended by Notification No. 32/2016 – Customs (N.T.) and will be called as Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 which shall come into force on first day of April, 2016.

2.7. Rule 3 provided for Registration of manufacturer intending to avail the exemption notification. The said Rule has been removed whereby a manufacturer who intends to avail the benefit of exemption notification and has not been registered shall obtain

registration under rule 9 of Central Excise Rules, 2002 and provide said particulars to Deputy Commissioner of Central Excise or, as the case may be, Assistant Commissioner of Central Excise.

2.8. The manufacturer obtaining the benefit under these rules may re-export the unutilized or defective imported goods, with the permission of Deputy Commissioner. The period of obtaining permission has been reduced from six months to three months from date of import.

INCOME TAX

1. Rates of Income-Tax

1.1. Personal Taxation

1.1.1. The tax slabs and the rates of basic tax and cess continues to be same. However, surcharge has been increased from 12% to 15% in certain cases. The following table gives comparative analysis of the income liable for tax for AY. 2017-18 vis-à-vis AY. 2016-17

Income (₹)	Tax Rate (in %)					
	Individual/HUF/ AOP/BOI/AJP		Senior Citizen (Age 60 years but below 80 years)		Very Senior Citizen (Age 80 years & above)	
AY	2017-18	2016-17	2017-18	2016-17	2017-18	2016-17
0-2,50,000	-	-	-	-	-	-
2,50,001-3,00,000	10.30	10.30	-	-		-
3,00,001-5,00,000	10.30	10.30	10.30	10.30	-	-
5,00,001-10,00,000	20.60	20.60	20.60	20.60	20.60	20.60
10,00,001-1,00,00,000	30.90	30.90	30.90	30.90	30.90	30.90
Above 1,00,00,000	35.535	34.608	35.535	34.608	35.535	34.608

1.1.2. The above amounts are inclusive of Surcharge, Education Cess and SHE Cess. In all the cases, marginal relief is provided.

1.2. Corporate Taxation

1.2.1. The corporate tax rate has been reduced to 29% for the companies having total turnover or the gross receipts below Rs. 5 crore. For the companies having turnover of above Rs. 5 crores, the rate of tax remains 30%.

1.2.2. In order to provide relief to the newly set-up domestic company engaged in the business of manufacture or production it is proposed to insert a new section 115BA thereby levying tax at the rate of 25% (at the option of the company); provided the following conditions are satisfied:

1.2.2.1. The company has been set-up and registered on or after 1st March, 2016;

1.2.2.2. The company is engaged in the business of manufacture or production of any article or thing;

1.2.2.3. the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA; and

1.2.2.4. the option is exercised in the prescribed manner before the due date of furnishing of income.

1.2.3. The above amendment shall take effect from AY. 2017-18.

1.2.4. The rates of corporate tax as per income slabs is as under:

Income Levels (₹)	**Tax Rate (in %)**					
	Domestic Companies		**Foreign Companies**		**Firms**	
AY	**2017-18**	**2016-17**	**2017-18**	**2016-17**	**2017-18**	**2016-17**
0-1,00,00,000	30.90	30.90	41.20	41.20	30.90	30.90
1,00,00,001-10,00,00,000	33.063	33.063	42.024	42.024	34.608	34.608
Above 10,00,00,000	34.608	34.608	43.26	43.26	34.608	34.608

1.2.5. The above amounts are inclusive of Surcharge, Education Cess and SHE Cess. In all cases marginal relief is provided.

2. Additional Resource Mobilisation

2.1. Taxation on Dividend Income

2.1.1. Resident Individuals, HUF and Firms earning Dividend income in excess of Rs. 10,00,000/- shall be liable to pay tax at the rate 10%. The taxation of dividend income shall be on gross basis.

2.1.2. This will have consequential impact on non-applicability of the provisions of Section 14A in such cases where the dividend is treated as taxable income.

2.1.3. The above amendment shall take effect from AY. 2017-18.

2.2. Change In Rate Of Securities Transaction Tax In Case Where Option Is Not Exercised

2.2.1. Section 98 of the Finance Act, 2002 is being proposed to change the rate of STT on unexercised options from 0.017% of the option premium to 0.05% of the option premium.

2.2.2. This amendment shall be w.e.f 01.06.2016

2.3. Equalization Levy

2.3.1. With the expansion of information and communication technology across the globe, the digital economy is growing significantly faster than the rest of the economy. These new digital domain business models have created new tax challenges of characterisation of income and location of the tax payer

2.3.2. To curtail these difficulties, the Finance Bill, 2016 has proposed to impose a new levy, to be called equalization levy on certain specified services. Specified services proposed to cover include online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf.

2.3.3. Equalization levy is intended to address a disparity in tax treatment between domestic corporations and foreign corporations that are able to earn without being subject to income tax on those profits, neither in the state from where the premiums are collected nor in state of residence.

2.3.4. It is proposed to be charged on B2B transactions at the rate of 6% of the gross amount of consideration received or receivable by a non-resident not having permanent establishment in India for any specified services from:-

2.3.4.1. A person resident in India and carrying on business or profession; or

2.3.4.2. A non-resident having a permanent establishment in India (assessee).

2.3.5. It is proposed that the equalization levy shall not be charged in the following cases:

2.3.5.1. The non-resident providing the specified service having a permanent establishment in India and the specified service being effectively connected with such permanent establishment;

2.3.5.2. The aggregate amount of consideration for specified service received or receivable in a previous year by the non-resident from assessee, does not exceed one lakh rupees; or

2.3.5.3. he payment for the specified service by the person resident in India, or the permanent establishment in India is not for the purposes of carrying out business or profession.

2.3.6. Further, in order to avoid double taxation, it is proposed that any income arising from any specified service provided on which equalization levy is chargeable shall be excluded from the total income of the assessee.

2.3.7. The collection and recovery procedure

Sr. no.	Collection and recovery procedure	
1	Every assessee shall collect by way of deduction from the amount paid or payable to a non-resident	If the aggregate amount of consideration exceeds ₹ 1,00,000/-
2	The equalisation levy so deducted during any calendar month	Shall be paid to the credit of Central Government by 7th of immediately following calendar month
3	Every assessee shall within the prescribed time after the end of each financial year prepare and deliver to Assessing Officer a statement in respect of all specified services.	The said time will be prescribed by rules to be made under this chapter by Central Government.
4	where the equalisation levy collected is not credited to the account of the Central Government within the period specified	1% simple interest for every month or part of a month thereof
5	**Penalties**	
	In case where assessee fails to deduct whole or part amount	Penalty would be sum equal to equalisation levy,
	In case where assessee deducted the amount but fails to pay	Penalty equal to ₹ 1,000/- for every day during which the failure continues. However penalty shall not exceed amount of equalisation levy.
	In case fails to furnish the statement within the time prescribed,	Penalty of ₹ 100/- for every day during which the failure continues.
	In case assessee proves to the satisfaction of Assessing Officer that he had reasonable cause for such failure.	No penalty

Sr. no.	Collection and recovery procedure	
6	No order imposing a penalty shall be made	Unless the assessee has been given a reasonable opportunity of being heard.
7	An assessee aggrieved by an order imposing penalty	May appeal to the Commissioner of Income-tax (Appeals) within a period of 30 days from date of receipt of order of Assessing Officer.
8	An assessee aggrieved by an order made by the Commissioner of Income-tax (Appeals)	May appeal to the Appellate Tribunal against such order within 60 days from date on which order sought to be appeal is received.
9	If a person makes a false statement in any verification under this Chapter or any rule made thereunder, or delivers an account or statement, which is false, and which he either knows or believes to be false, or does not believe to be true	He shall be punishable with imprisonment for a term which may extend to three years and with fine.

2.3.8. In order to ensure compliance with the provisions this Chapter, Section 40 (a) is further proposed to provide that the expenses incurred by the assessee towards specified services chargeable under this Chapter shall not be allowed as deduction in case of failure of the assessee to deduct and deposit the equalisation levy to the credit of Central government.

3. Widening of Tax Base and Anti Abuse Measures

3.1. Tax Collection at Source(TCS) on sale of Vehicles, Goods or Services

3.1.1. With a view to reduce quantum of cash transaction in sale of any goods and services and for curbing the flow of unaccounted money in the trading system, it is proposed to amend section 206 to provide that the seller shall collect the tax at the rate of 1 per cent. on the sale of motor vehicle of the value exceeding ₹ 10 lakh and sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding ₹ 2 Lakh.

3.1.2. It is also proposed to provide that the section 206(1D) relating to TCS in relation to sale of any goods (other than bullion and jewellery) or services shall not apply to certain class of buyers who fulfil such conditions as may be prescribed.

3.1.3. This amendment will take effect from 1st June, 2016.

3.2. Tax on Distributed Income to Shareholder

3.2.1. Provisions of Section 115QA have been proposed to be amended to provide clarification w.r.t applicability of the said provisions on buyback of shares may be in accordance with any law for the time being in force and not restricted to Section 77A of the Companies Act, 1956.

3.2.2. Further, the said section is being amended to provide that the distribution income shall be the consideration paid by the company on buy back of shares as reduced by the amount received by the company for the issuance of shares as determined in the prescribed manner.

3.2.3. This amendment will take effect from 01.06.2016.

3.3. Levy of tax Where the Charitable Institution Ceases to Exist or converts into a Non-Charitable Organization

3.3.1. Chapter XII-EB is proposed to be inserted w.e.f 01.04.2017. The said chapter is to deal with provisions relating to taxation of income of certain trusts and institutions registered u/s 12AA in the event the said trust or institution:

3.3.1.1. Has been converted into any form which is not eligible for grant of registration u/s 12AA (including cancellation of registration u/s 12AA and non-application for fresh registration in case of change in object of the trust or rejection of the said application)

3.3.1.2. Merged with any entity other than an entity having objects similar to it and registered u/s 12AA

3.3.1.3. Failed to transfer upon its dissolution all its assets to any other trust or institution registered u/s 12AA or any fund or institution or trust or university or educational institution or hospital or medical institution referred to in sub-clause (iv) or (v) or (vi) or (via) of clause (23C) of section 10, within a period of twelve months from the end of the month in which the dissolution takes place

3.3.2. In case any of the above event takes place, under the proposed section, the accreted income of the trust or the institution as on the specified date, i.e., the date on which the event took place shall be charged to tax and such trust or institution shall be made

liable to pay additional tax at the maximum marginal rate on the accreted income. Accreted income is the amount of aggregate of total assets as reduced by the liability as on specified date as further reduced by the total assets (net of liability) transferred to other trust.

3.3.3. It is further proposed that no deduction under any other provisions of the Act shall be granted on the accreted income on which tax is payable by the said trust or institution.

3.3.4. The tax has to be discharged within 14 days from the receipt of the order of cancellation of registration u/s 12AA, or the end of the previous year in which it has adopted or undertaken modification of its objects which do not conform to the conditions and it has not applied for fresh registration, date of merger or twelve months in case of dissolution of trust.

4. Measures to phase out deductions

4.1. Various amendments have been proposed which aim to reduce the benefits available to various businesses. The same have been tabulated below:

Section	Proposed Amendment	Amendment effective from
32AC	Deduction to be allowed only up to 31.03.2017 as against no sunset clause	
35 (1)	Reduction of deduction from 1.75 times to 1.50 times, introduction of sunset clause for payments made on or after 01.04.2021	01.04.2018
35(2AA)	Reduction of deduction from 2.00 times to 1.50 times, introduction of sunset clause for payments made on or after 01.04.2021	01.04.2018
35(2AB)	Reduction of deduction from 2.00 times to 1.50 times, extension of sunset clause from 31.03.2017 to 31.03.2021	01.04.2018
35AC	AY 2016-17 shall be the last year of deduction under this section.	01.04.2018
35AD (1A)	Deletion of additional deduction allowed for certain specified businesses	01.04.2018
35CCC	Reduction of deduction from 1.50 times to 1.00 times	01.04.2018
35CCD	Insertion of sunset clause for expenditure incurred on or after 01.04.2021	01.04.2017

Section	Proposed Amendment	Amendment effective from
80IAB	No deduction shall be allowed where the development of SEZ begins on or after 01.04.2017	01.04.2017
80IB	Sunset clause proposed to be inserted for claim of deduction for undertakings engaged in activities as mentioned in clauses (ii), (iv) and (v) of subsection (9) as 31.03.2017	01.04.2017
10AA	Exemption shall be allowed only to those units which start manufacture/ production of articles/ provision of service by 31.3.2021	01.04.2017

5. Measures to promote socio economic growth

5.1. Exemption Of Income Of Foreign Company From Storage And Sale Of Crude Oil Stored As Part Of Strategic Reserves

5.1.1. A new section 10(48A) is being proposed to be inserted to provide exemption to a foreign company for income accruing or arising on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India.

5.1.2. The condition for the claim of the exemption is that the activities undertaken by the foreign company are pursuant to an agreement entered into or approved by the Central Government and notified to be in national interest.

5.1.3. This amendment shall be w.e.f. 01.04.2017

5.2. Exemption in respect of certain activity related to diamond trading in Special Notified Zone

5.2.1. Section 9(1) is proposed to be amended to provide that no income shall accrue or arise in India for foreign companies engaged in diamond mining if the income is from an activity confined to the display of uncut and unassorted diamonds in any special zone to be notified by the Central Government. This amendment shall be effective from 01.04.2016

5.3. Extending the benefit of initial additional depreciation u/s. 32(1)(1ia) for Power sector

5.3.1. Power companies engaged in the business of generation or generation and distribution of power are eligible to claim depreciation as per straight line method as per Section 32 (1)

(i). The said provision is proposed to be amended to provide the option to claim depreciation on straight line method to a company engaged in the business of generation, distribution or transmission. The said proposed amendment is important since earlier, a company was required to be engaged in generation activity to claim depreciation as per SLM. However, with the proposed amendment, even if the company is engaged in only distribution or transmission activity, depreciation as per SLM shall be allowed.

5.4. Taxation of income from Patents

5.4.1. A new section 115BBF has been proposed to be inserted to incentivize resident Indians, who is the true and first inventor of the invention and whose name has been entered on the patent register as the patentee, in accordance with the Patents Act by levying a tax on the gross royalty received on such patents at a reduced rate of 10%. No expenditure or allowance in respect of such royalty income shall be allowed as deduction under the Act.

5.4.2. The said amendment shall be w.e.f 01.04.2017.

5.5. Tax Incentives for Start-ups

5.5.1. A new section 80IAC is proposed to be inserted w.e.f 01.04.2017. As per the said section, startups engaged in eligible businesses shall be allowed a deduction of an amount equal to 100% of the profits and gains derived from such business for three consecutive assessment years.

5.5.2. The essential conditions for claiming the deduction are as under:

5.5.2.1. The startup should be an eligible startup, i.e., it should satisfy certain conditions, such as it should be incorporated on or after 01.04.2016 but before 31.03.2019, its turnover should not exceed Rs. 25 crores during the first 5 years and it should hold a certificate of eligible business from the Inter-Ministerial Board of Certification as notified in the Official Gazette by the Central Government.

5.5.2.2. The deduction has to be claimed in 3 consecutive assessment years

5.5.2.3. The deduction has to be claimed within 5 years of commencing the operations.

5.5.2.4. The startups should not be formed by splitting up or reconstruction of a business already in existence

5.5.2.5. The startup should not be formed by transfer of machinery or plant previously used for any purpose in India. No deduction on account of depreciation should have been allowed in computing the total income of any person for any period prior to the date of installation of the machinery or plant by the assessee. In case depreciation has been allowed but the value of such assets is not more than 20% of the value of total assets put to use, the condition shall be deemed to have been satisfied.

5.5.2.6. The startup satisfies other conditions as prescribed under Section 80IA, such as method for computation of profits and gains from the eligible business, audit of accounts by an accountant, etc.

5.6. Incentives for promoting housing for all

5.6.1. It is proposed to incentivise first-home buyers availing home loans, by providing deduction amounting to Rs. 50,000/- in respect of interest on loan taken for residential property. The deduction shall be subject to the following conditions:

5.6.1.1. The value of house property should not exceed Rs. 50 lakhs;

5.6.1.2. The amount of loan should not exceed Rs. 30 lakhs;

5.6.1.3. The loan should be sanctioned between 01.04.2016 to 31.03.2017.

5.6.2. The deduction proposed above is over and above the limit of Rs. 2,00,000.00 provided for self-occupied property u/s 24 of the Act and also the benefit is proposed to be extended till the repayment of loan continues.

5.6.3. The above amendment shall take effect from AY 2017-18.

5.7. Tax Incentives for employment generation

5.7.1. Section 80JJAA which was introduced vide Finance Bill 2015, provided deduction of an amount equal to 30% of additional wages paid by an Indian company deriving profits and gains from the manufacture of goods in a factory.

5.7.2. The said section has been proposed to be substituted w.e.f 01.04.2017. The following table summarizes the provisions under the existing and the proposed Section 80JJAA:

Condition	Existing	Proposed
Who is eligible	An Indian company involved in manufacturing of goods in a factory	An assessee to whom section 44AB applies

Condition	Existing	Proposed
Quantum of deduction	30% of additional wages	30% of additional employee cost, i.e., total emoluments paid or payable to additional employees during the previous year

6. Relief and welfare measures

6.1. Provision for tax benefits to Sovereign Gold Bond Scheme, 2015 and Rupee denominated bonds

6.1.1. Section 47 has been proposed to be amended to exclude transfer of sovereign gold bonds issued under the said scheme from the purview of capital gains. The said amendment shall be effective from 01.04.2017. Further, it has been proposed that the benefit of indexation for such bonds shall not be allowed.

6.2. Consolidation of 'plans' within a 'scheme' of mutual funds

6.2.1. It is proposed to extend the tax exemption available on merger or consolidation of mutual fund schemes, to the merger or consolidation of different plans in a mutual fund scheme. For this purpose section 47 will be amended to provide that any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund shall not be considered as transfer for capital gain tax purposes.

6.2.2. The above amendment shall take effect from AY. 2017-18.

6.3. Rationalisation of limit of deduction allowable in respect of rents paid under 80GG

6.3.1. Section 80GG provides deduction of any expenditure incurred by an individual in excess of 10% of his total income towards payment of rent in respect of any furnished or unfurnished accommodation occupied by him for his own residence and also he is not granted any HRA by his employer. The deduction is restricted to ₹ 2,000/- per month or 25% per cent of his total income, whichever is less.

6.3.2. The above deduction limit is proposed to be increased to ₹ 5,000/- per month.

6.3.3. This amendment is proposed to take effect from AY. 2017-18.

6.4. Rationalisation of Section 56 of the Income Tax Act

6.4.1. It is proposed to amend the Act so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract provision of clause (vii) of sub-section (2) of Section 56.

6.4.2. This amendment is proposed to take effect from AY. 2017-18.

6.5. Rationalisation of limit of rebate in Income Tax allowable u/s. 87A

6.5.1. Resident individuals having total income lesser than Rs. 5 lakhs were eligible for tax rebate upto Rs. 2,000/-. The said limit is proposed to be increased to Rs. 5,000/-

6.5.2. The amendment is proposed to take effect from AY. 2017-18.

6.6. Increase in time period for acquisition or construction of self-occupied house property for claiming deduction of interest

6.6.1. Conditions for claiming deduction u/s. 24(b) of the Act for a self-occupied property:

Existing	**Proposed**
1. Capital is borrowed on or after April 1, 1999 for acquiring or constructing such property	1. Capital is borrowed on or after April 1, 1999 for acquiring or constructing such property
2. The acquisition or construction shall be completed within **3 years** from the end of FY in which the capital was borrowed	2. The acquisition or construction shall be completed within **5 years** from the end of FY in which the capital was borrowed

6.6.2. In view of the fact that housing projects often take longer time for completion, the said amendment is proposed to be effective from AY. 2017-18.

6.7. Simplification and Rationalisation of provisions relating to unrealised rent and arrears of rent

6.7.1. In order to simplify the provisions of unrealised rent and arrears of rent it is proposed to provide that the amount of rent received in arrears or the amount of unrealised rent realised subsequently by an assessee shall be charged to income-tax in the financial year in which such rent is received or realised, whether the assessee is the owner of the property or not in that financial year

6.7.2. It is also proposed that thirty per cent of the arrears of rent or the unrealised rent realised subsequently by the assessee shall be allowed as deduction.

6.7.3. The amendment shall take effect from AY. 2017-18

7. Ease of doing business/ dispute resolution

7.1. Exemption from DDT on distribution made by an SPV to Business trust-

7.1.1. Exemptions provided u/s 10 (23FC) to business trusts on income received from special purpose vehicle, which was restricted to interest received/ receivable has been proposed to be extended to dividends referred to in sub-section (7) of Section 115-O which is proposed to be amended.

7.2. Modification in conditions of special taxation regime for offshore funds u/s. 9A

7.2.1. The benefits of section 9A were available only to those investment funds who were a tax resident of a country with whom India had not entered into an agreement referred to in subsection (1) of section 90 or sub-section (1) of section 90A. However, the same is now being extended to a country or territory to be notified by the Central Government.

7.2.2. The condition regarding the fund not carrying on or controlling or managing, whether directly or indirectly any business in India or from India has been restricted only in the context of activities in India.

7.3. Enabling provision for implementation of various provisions of the act in case of a foreign company held to be resident in India

7.3.1. The applicability of amendment to Section 6(3) has been extended by one year from 01.04.2016 to 01.04.2017.

7.3.2. A new Chapter XII-BC is proposed to be inserted w.e.f 01.04.2017. The said provisions provide for provide a transition mechanism for a company which is incorporated outside India and has not earlier been assessed to tax in India.

7.4. Introduction of Presumptive taxation scheme for professionals

7.4.1. Section 44ADA is proposed to be inserted in the Act to provide for estimating the income of an assesee who is engaged in any profession such as legal, medical, engineering, etc as notified by

the board in official gazette at a sum equal to 50% of the total gross receipts, provided total gross receipts does not exceed ₹ 50 lakhs during previous year.

7.4.2. The said amendment shall take effect from AY. 2017-18.

7.5. Increase in threshold limit for Tax Audit

7.5.1. The threshold limit of tax audit for professionals is increased from ₹ 25 lakhs to ₹ 50 lakhs.

7.5.2. It is proposed that the expenditure in the nature of salary, remuneration, interest, etc. paid to the partner as per Section 40(b) shall not be deductible while computing the income u/s. 44AD.

7.5.3. If the assesse does not opt for provision of Sections 44AD, then he shall be barred from taking benefit of section 44AD for period of 5 years commencing from the previous year in which he has not opted for 44AD.

7.6. Deduction in respect of provision for bad and doubtful debt in the case of NBFCs

7.6.1. Section 36(1)(viia) has been proposed to be amended to allow NBFCs deduction in respect of any provision for bad and doubtful debts upto 5% of the total income. The said amendment shall be effective from 01.04.2017.

7.7. Rationalisation of scope of tax incentives u/s. 32AC

7.7.1. Sub-section (1) of Section 32AC allowed additional depreciation of 15% to a manufacturer on acquisition and installation of new assets of a value of more than Rs. 25 crores in a year. However, the dual condition requirement, i.e., acquisition as well as installation in the same year resulted in genuine hardship for the cases where the acquisition and installation could not be done in the same year. To remove the same, sub-section (1) is proposed to be amended by removing the requirement of satisfaction of dual condition, i.e., acquisition as well as installation. It has also been clarified that the deduction shall be allowed in the year of installation and not acquisition.

7.8. Exemption from requirement of furnishing PAN u/s. 206AA to certain non-residents

7.8.1. It has been proposed that the provisions of Section 206AA shall not be applicable to payments made to non-residents, not being a company or to a foreign company u/s 194LC and any other payments subject to such conditions as may be prescribed.

7.9. Applicability of MAT on foreign companies for the period prior to 01.04.2015

7.9.1. Explanation 4 has been proposed to be inserted to Section 115JB with retrospective effect 01.04.2001 to clarify on the non-applicability of the provisions of the said Section to foreign company if the said foreign company is a resident of a country or a specified territory with which India has entered into an agreement/ adopted an agreement u/s 90(1)/ 90A (1) and the assessee does not have a permanent establishment in India.

7.9.2. Further, the said exemption is extended to those companies, which are tax residents of those countries or territories with whom India has not entered into any agreement and such companies are not required to seek registration under any law for the time being in force.

7.10. Tax incentives to International Financial Services Centre

7.10.1. Section 115JB has been amended to provide that company located in International Financial Services Centre and deriving its income solely in convertible foreign exchange, the Minimum Alternate Tax shall be chargeable at the rate of nine per cent

7.10.2. Further, it is proposed to amend section 115-O so as to provide that no tax on distributed profits shall be chargeable in respect of the total income of a company being a unit located in International Financial Services Centre, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017 out of its current income, either in the hands of the company or the person receiving such dividend. These amendments will take effect from 1st April, 2017.

7.11. The Income Declaration Scheme, 2016

7.11.1. A declaration can be made by an assessee, who has failed to file return of income, or disclose income in the return of income filed, or whose income has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise

7.11.2. The scheme requires the declarant to pay tax at the rate of 30%, to be increased by Krishi Kalyan cess of 7.50% and penalty of 7.50%. In all, the declarant shall be required to pay 45% of the declared income as tax, surcharge and penalty.

7.11.3. It is proposed that following cases shall not be eligible for the scheme:

7.11.3.1. where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or

7.11.3.2. where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or

7.11.3.3. where information is received under an agreement with foreign countries regarding such income,

7.11.3.4. cases covered under the Black Money Act, 2015, or

7.11.3.5. persons notified under Special Court Act, 1992, or

7.11.3.6. cases covered under Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985, the Unlawful Activities (Prevention) Act, 1967, the Prevention of Corruption Act, 1988

7.12. The Direct Tax Dispute Resolution Scheme, 2016

7.12.1. A Direct Tax Dispute Resolution Scheme is proposed to be introduced for tax assessee who have disputed tax liabilities as determined by the Assessing Officers. The benefit of this scheme can be availed in cases of disputed taxes, i.e., taxes disputed under the Income Tax and Wealth Tax and specified taxes, i.e., taxes in consequence of or validated by an amendment made to the Act with retrospective effect and relates to a period prior to the date on which the Act amending the Income Tax Act or Wealth Tax Act received the assent of the President.

7.12.2. Any assessee, who opts to take the benefit of this scheme, will be considered as a declarant and will be required to submit a verified declaration to the prescribed designated authority in such form and manner.

7.12.3. If the declarant has filed an appeal for disputed taxes before the Commissioner of Income Tax (Appeals), the same shall be deemed to be withdrawn. However, it has to be noted that no process has been prescribed in the specified tax is currently pending adjudication before ITAT or any higher forum.

7.12.4. In case of appeal filed for specified taxes before any authority, i.e., Commissioner Appeals, ITAT, High Court or Supreme Court, the same shall be required to be withdrawn with the leave of the court and furnish proof of such withdrawal along with declaration referred to in subsection (1). Similarly, in case the declarant has initiated any proceeding for arbitration, conciliation or mediation,

he shall withdraw such notice or the claim if any in such proceedings prior to making the declaration and furnish proof there along with the declaration.

7.12.5. The declarant under the scheme shall be required to pay tax at the applicable rate plus interest up to the date of assessment. However, in case of disputed tax exceeding Rs. 10 lacs, 25% of the minimum penalty leviable shall also be required to be paid.

7.12.6. The designated authority shall determine the tax payable by the declarant and issue a certificate within 60 days of the application and pass an order in this effect. The declarant shall be required to pay the tax determined within 30 days of receipt of the certificate and submit the payment particulars to the designated authority. Upon receipt of the payment proof, the prescribed authority shall thereupon pass an order stating that the declared amount has been paid. Such order shall be conclusive for the matters covered therein.

7.12.7. It is proposed that where the declarant violates any of the conditions referred to in the scheme or any material particular furnished in the declaration is found to be false at any stage, it shall be presumed as if the declaration was never made under this Scheme and all the consequences under the Income-tax Act or Wealth-tax Act under which the proceedings against declarant were or are pending, shall be deemed to have been revived.

7.12.8. A declaration cannot be made by the following people:

7.12.8.1. Cases where prosecution has been initiated before 29.02.2016.

7.12.8.2. Search or survey cases where the declaration is in respect of tax arrears.

7.12.8.3. Cases relating to undisclosed foreign income and assets.

7.12.8.4. Cases based on information received under Double Taxation Avoidance Agreement under section 90 or 90A of the Income-tax Act where the declaration is in respect of tax arrears.

7.12.8.5. Person notified under Special Courts Act, 1992.

7.12.8.6. Cases covered under Narcotic Drugs and Psychotropic Substances Act, Indian Penal Code, Prevention of Corruption Act or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

8. Rationalisation Measures

8.1. Rationalisation of TDS provisions relating to payments by Category-I & Category-II alternate investment funds to its investors

8.1.1. Under the existing TDS regime of section 194LBB, the non-resident investor is not able to claim benefit of lower or NIL rate of taxation which is available to him under the relevant DTAA, and deduction of tax @10% is to be undertaken mandatorily even if under DTAA, the income is not taxable in India. There is no facility for any investor to approach the Assessing Officer for seeking certificate for TDS at a lower or NIL rate in respect of deductions made under section 194LBB.

8.1.2. In order to rationalise the TDS regime in respect of payments made by the investment funds to its investors, it is proposed to amend section 194LBB to provide that the person responsible for making the payment to the investor shall deduct income-tax under section 194LBB at the rate of 10% where the payee is a resident and at the rates in force where the payee is a non-resident (not being a company) or a foreign company. Further, it is proposed to amend section 197 to include section 194LBB in the list of sections for which a certificate for deduction of tax at lower rate or no deduction of tax can be obtained. Consequential changes are also proposed to be made to the definition of "rates in force" so as to include section 194LBB in it.

8.1.3. These amendments will take effect from 1st June, 2016

8.2. New taxation regime for Securitisation trust and its investors

8.2.1. It has been proposed that the distribution of income by a securitization trust shall be excluded from the purview of Section 115TA.

8.2.2. A person holding security receipts is proposed to be considered as investor for the purpose of Chapter XII-EA by amendment proposed in Section 115TC.

8.2.3. The scope of securitization trust has been extended to include trust set-up by a securitization company or a reconstruction company formed, for the purposes of the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002, or in pursuance of any guidelines or directions issued for the said purposes by the Reserve Bank of India. Accordingly, the corresponding amendments to Section 10(23DA) has also been proposed w.e.f 01.04.2016.

8.2.4. The above amendments shall be w.e.f 01.06.2016.

8.2.5. Further, currently, the income distributed by the trusts to its members is exempted from tax. However, a new Section 115TCA has been proposed to be inserted w.e.f 01.04.2017, which removes the said exemption granted to the receiver of income and makes the said income taxable. Subsequent to the proposed amendment, the tax applicable on the distribution of income is proposed to be removed w.e.f 01.06.2016.

8.2.6. Further, a new Section 194LBC is proposed to be inserted which provides for deduction of tax on income distributed by a securitization trusts to its' members. The rate at which the tax is to be deducted is same as the rate of tax applicable on distribution of income, i.e., 25% on income distributed to individual/ HUF and 30% on income distributed to any other person. In case the income is to be distributed to non-residents, the tax shall be deducted at the rates in force. The said amendment shall be w.e.f 01.06.2016.

8.3. BEPS Action Plan

8.3.1. Section 92D has been amended w.e.f 01.04.2017 requiring any person who is a constituent entity of an international group to keep and maintain such information and document as prescribed in respect of the international group of which it is a constituent.

8.3.2. Section 286 (1) has been proposed to be inserted in pursuance to the above amendment. The proposed requires the constituent entity resident in India, whose parent entity is not resident in India, to notify the prescribed authority in the prescribed form and manner as to whether it is the alternate reporting entity of the international group and/or the alternate reporting entity of the international group and the country or territory of which the said entities are resident. Every resident parent entity or the alternate reporting entity shall furnish in respect of the international group of which it is a constituent, on or before the due date of furnishing of return of income specified in Section 139(1), a report containing the following particulars:

8.3.2.1. Aggregate information in respect of amount of revenue, profit or loss before income tax, income tax paid, income tax accrued, stated capital, accumulated earnings, number of employees and tangible assets not being cash or cash equivalents with regard to each country in which the group operates

8.3.2.2. Details of the constituent entity of the group including the country or territory in which such constituent entity is incorporated or

organized or established and the country or territory where it is resident

8.3.2.3. Nature and details of main business activity or activities of each constituent entity

8.3.2.4. Any other information as may be prescribed

8.3.3. If the parent entity is a resident of a country or territory with whom India has an agreement for exchange of the said report and such a report is required to be furnished under the law for the time being in force in the said country or territory, no such report shall be required to be furnished. However, if that is not the case, then section 286 requires the entity to furnish the above specified reports. Further, if the international group has multiple entities resident in India, in such case, any one entity may be designated by the international group to submit the required information on behalf of all other entities resident in India.

8.3.4. Section 271GB has been inserted w.e.f 01.04.2017 which provides for the levy of penalty for failure to comply with the provisions of proposed Section 286 as under:

Nature of default	Delay	Penalty
Failure to furnish report	Upto one month	₹ 5,000.00 per day
Failure to furnish report	Beyond one month	₹ 15,000.00 per day
Failure to furnish information requisitioned by the prescribed authority		₹ 5,000.00 per day from the day on which details were to be submitted
Failure to comply with provisions after an order has been served on the entity		₹ 50,000.00 per day from the day of furnishing the order.
Providing inaccurate information in the report		₹ 5,00,000.00

8.4. Exemption of Central Government subsidy or grant or cash assistance, etc towards corpus of fund established for specific purposes from the definition of Income

8.4.1. Subsidy or grant received from the Central Government for the purpose of corpus of a trust or institution established by the Central Governmetn or the State Government shall not be treated as income u/s 2(24).

8.5. Extension of scope of section 43B to include payments made to Railways

8.5.1. The existing provisions of section 43B of the Act, inter alia, provide that any sum payable by the assessee by way of tax, cess, duty or fee, employer contribution to Provident Fund, etc., is allowable as deduction of the previous year in which the liability to pay such sum was incurred (relevant previous year) if the same is actually paid on or before the due date of furnishing of the return of income irrespective of method of accounting followed by a person.

8.5.2. With a view to ensure the prompt payment of dues to Railways for use of the Railway assets, it is proposed to amend section 43B so as to expand its scope to include payments made to Indian Railways for use of Railway assets within its ambit.

8.5.3. The said amendment is to take effect from AY. 2017-18.

8.6. Clarification regarding set-off loses against deemed undisclosed income

8.6.1. Section 115BBE, which deals with the taxation of income covered u/s 68, 69, 69A, 69B, 69C or 69D has been proposed to amend to exclude apart from expenditures and allowances, setoff of losses against the said income. The said amendment shall be effective w.e.f 01.04.2017.

8.7. Taxation of Non-compete fees in case of Profession

8.7.1. The Non-compete fee received/receivable (which are recurring in nature) in relation to not carrying out any profession are proposed to be covered within the scope of Section 28 of the Act i.e. the charging section of profits and gains of business and profession.

8.7.2. The said amendment will take effect from AY. 2017-18.

8.8. Clarification regarding the definition of the term 'Unlisted Securities' for the purpose of Section 112(1)(c)

8.8.1. Existing provisions of clause (c) of sub-section (1) of section 112 provide tax rate of ten per cent for long-term capital gain arising from transfer of securities, whether listed or unlisted. The expression "securities" for the purpose of the said provision has the same meaning as in clause (h) of section 2 of the Securities Contracts (Regulations) Act, 1956 (32 of 1956)('SCRA'). A view has been taken by the courts that shares of a private company are not "securities".

8.8.2. With a view to clarify the position so far as taxability is concerned, it is proposed to amend the provisions of clause (c) of sub-section (1) of section 112 of the Income- tax Act, so as to provide that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent.

8.8.3. The amendment is proposed to take effect from AY. 2017-18.

8.9. Time limit for carry forward and set-off of such loss u/s. 73A of IT Act

8.9.1. The existing provisions of section 73A of the Act provide that any loss, computed in respect of any specified business referred to in section 35AD shall not be set off except against profits and gains, if any, of any other specified business. Further, section 80 of the Act inter-alia provides that a loss which has not been determined in pursuance of return filed in accordance with the provisions of section 130(3), shall not be carried forward and set-off under section 72(1) or section 73(2) or section 74(1) or section 74(3) or sub-section 74A.

8.9.2. In accordance with the scheme of the Act, this loss is to be allowed if the return is filed within the specified time i.e. by the due date of filing of the return of the income as provided in section 80 for other losses determined under the Act.

8.9.3. Accordingly, it is proposed to amend section 80 so as to provide that the loss determined as per section 73A of the Act shall not be allowed to be carried forward and set off if such loss has not been determined in pursuance of a return filed in accordance with the provisions of section 139(3).

8.9.4. It is also proposed to amend the said section 139(3) so as to give reference of section 73A(2) in the said sub-section.

8.9.5. These amendments will take effect retrospectively from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

8.10. Amortisation of spectrum fee for purchase of spectrum

8.10.1. Section 35ABA is proposed to be inserted to allow deduction in respect of any capital expenditure incurred for acquiring right to use spectrum for telecommunication services. The deduction shall be allowed in equal installments over the period for which the right to use spectrum remains in force. The said section shall be effective w.e.f 01.04.2017.

8.11. Rationalisation of TDS provisions

Present Section	Particulars	Existing Threshold limit (₹)	Proposed Threshold limit (₹)
192A	Premature Withdrawal from EPF A/c	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	75,000 (Aggregate p.a.)	1,00,000 (Aggregate p.a.)
194LA	Compulsory Acquisition of Immovable Property	2,00,000	2,50,000
194D	Insurance Commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or Brokerage	5,000	15,000

Present Section	Particulars	Existing Rates of TDS	Proposed Rates of TDS
194DA	Payment of Life Insurance Maturity not exempt u/s 10(10D)	2%	1%
194EE	Payments out of deposits under NSS	20%	10%
194D	Insurance Commission	10%	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or Brokerage	10%	5%

8.12. Enabling of filing of Form 15G/15H for Rental payments

8.12.1. It is proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194-I (rental payments) also eligible for filing self-declaration in Form no 15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

8.12.2. This amendment will take effect from 1st June, 2016.

8.13. Rationalisation of Section 50C in case where sale consideration is fixed under agreement executed prior to the date of registration of immovable property

8.13.1. When the date of the agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, the stamp duty value on the date of the agreement may be taken for the purposes of computing the full value of consideration.

8.13.2. This provision shall apply only if the consideration, full or part, has been paid by way of account payee cheque/ bank draft or electronic clearing system through bank account before the date of agreement.

8.14. Rationalization of conversion of a company into LLP

8.14.1. As per existing provisions of section 47(xiiib), Conversion of a private limited or unlisted public company into LLP shall not be regarded as transfer, if certain conditions are fulfilled, which, inter alia, include a condition that the company's gross receipts, turnover or total sales in any of the preceding three years did not exceed Rs.60 lakh.

8.14.2. It is proposed to amend the said section so as to provide that, for availing tax-neutral conversion, in addition to the existing conditions, the value of the total assets in the books of accounts of the company in any of the three previous years preceding the previous year in which the conversion takes place, should not exceed five crore rupees.

8.14.3. These amendments are proposed to be made effective from the 1st day of April, 2017 and shall accordingly apply in relation to assessment year 2017-18 and subsequent years.

8.15. Rationalization of tax treatment of RPF, Pension Funds & NPS

8.15.1. Section 10(12) currently provides that the accumulated balance due and becoming payable to an employee participating in a recognized provident fund shall not form part of total income. The same is being proposed to be amended to provide that only 40% of the amount payable out of contributions made on or after 01.04.2016 shall not form part of total income.

8.15.2. Similarly, section 10(12A) is proposed to be introduced which provides that payment from National Pension Trust to an employee on closure of account/ opting out of scheme shall not form part of total income to the extent of 40% of the amount payable to him.

8.15.3. Payments from approved super-annuation funds to an employee in lieu of or in commutation of an annuity at the time of retirement or on reaching of a specified age or on being incapacitated prior to retirement shall not form part of total income to the extent of 40% of the amount payable.

8.15.4. Any amount due to an employee transferred from an approved super annuation fund to a Central Government notified pension scheme referred to in Section 80CCD is proposed to be excluded from total income.

8.15.5. The employer's contribution to recognised Provident Fund will be exempted from tax only to the extent of Rs. 1,50,000/- and the excess contribution will be treated as perquisites and be liable for payment of income tax.

8.15.6. Section 80CCD is proposed to be amended w.e.f 01.04.2017 to provide that any amount received by the nominee on account of closure or opting out of the pension scheme on the death of the assessee shall not be deemed to be the income of the nominee.

8.16. Filing of Return of Income

8.16.1. It is proposed to amend the sixth proviso to section 139(1) to include that if a person during the previous year earns income which is exempt under section 10(38) and income of such person without giving effect to the said clause of section 10 exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date (31st July).

8.16.2. Existing provision of section 139(4) provides that a person who has not furnished a return within the time allowed to him under section 139(1), or within the time allowed under a notice issued under section 142(1), may furnish the return for any previous year at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

8.16.3. It is also proposed to substitute section 139(4) to provide that any person who has not furnished a return within the time allowed to him under section 139(1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier.

8.16.4. Existing Clause (aa) of Explanation to section 139(1) provides that a return of income shall be regarded as defective unless the self-assessment tax together with interest, if any, payable in accordance with the provisions of section 140A, has been paid on or before the date of furnishing of return.

8.16.5. It is also proposed to omit clause (aa) of the Explanation to section 139(1) to provide that a return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.

8.16.6. These amendments are proposed to be made effective from the 1st day of April, 2017 and shall accordingly apply in relation to assessment year 2017-18 and subsequent years.

8.17. Processing of ITR under section 143(1) be mandated before assessment

8.17.1. Under the existing provision of section 143(1D), processing of a return is not necessary where a notice has been issued to the assessee under section 143(2).

8.17.2. It is proposed to amend section 143(1D) to provide that before making an assessment under section 143(3), a return shall be processed under section 143(1).

8.17.3. These amendments are proposed to be made effective from the 1st day of April, 2017 and shall accordingly apply in relation to assessment year 2017-18 and subsequent years.

8.18. Rationalization of time limits

8.18.1. Changes in time limit for completion of assessment:

<table>
<tr><th>Assessment under</th><th>Existing time limit</th><th>Proposed time limit</th></tr>
<tr><td>Section 143 or 144</td><td>2 years</td><td>21 months</td></tr>
<tr><td></td><td colspan="2">From the end of the assessment year in which the income was first assessable.</td></tr>
<tr><td rowspan="2">Section 147</td><td>1 year</td><td>9 months</td></tr>
<tr><td colspan="2">From the end of the financial year in which the notice under section 148 was served.</td></tr>
<tr><td rowspan="2">Fresh assessment in pursuance to order under sections 254, 263 or 264.</td><td>1 year</td><td>9 months</td></tr>
<tr><td colspan="2">From the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner, or the order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner</td></tr>
</table>

To give effect of Order under section	Without Fresh Assessment / assessment, reassessment or re-computation	Existing time limit	Proposed time limit
sections 250 or 254 or 260 or 262 or 263 or 264, 245D(4)	Without making a fresh assessment or reassessment	None	3 months (extension for reasons beyond control can be sought for additional period upto 6 months)
under section 250, 254, 260, 262, 263, or section 264	assessment, reassessment or recomputation	Any time	12 months from the end of the month in which such order is received by Commissioner or Principal Commissioner.

Assessment under	Existing time limit	Proposed time limit
153A	2 years	21 months
	From the end of the financial year in which the last of the authorizations for search was executed.	
153C	2 years	21 months
	From the end of the financial year in which the last of the authorization for search was executed.	
153C	1 year	9 months
	From the end of the financial year in which the books of account or documents or assets seized or requisition are handed over.	

8.18.2. It is also proposed that where an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, such assessment be made on or before the expiry of twelve months from the end of the month in which the assessment order in the case of the firm is passed.

8.18.3. However, for cases pending as on 1.6.2016, the time limit for taking requisite action is proposed to be 31.3.2017 or 12 months from the end of the month in which order in case of firm is passed, whichever is later.

8.18.4. The provisions of section 153 as they stood immediately before their amendment by the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016. The amendment will take effect from 1st day of June, 2016.

8.18.5. Changes in time limit provided under section 153B for completion of assessment in search cases:

8.18.6. The provisions of section 153B as they stood immediately before their amendment by the Finance Act, 2016, shall apply to and in relation to any order of assessment, reassessment or recomputation made before the 1st day of June, 2016. The amendment will take effect from 1st day of June, 2016.

8.19. New Advance tax payment schedule for All assessees

Installment	Due Date	% of Estimated Tax Liability
1st Installment	15th June	15%
2nd Installment	15th September	45%
3rd Installment	15th December	75%
4th Installment	15th March	100%

8.19.1. It is also proposed that an eligible assessee in respect of eligible business referred to in section 44AD opting for computation of profits or gains of business on presumptive basis, shall be required to pay advance tax of the whole amount in one instalment on or before the 15th March of the financial year.

8.19.2. Consequential amendments are also proposed to be made to section 234C which provides for chargeability of interest for deferment of advance tax.

8.19.3. It is also proposed that interest under section 234C shall not be chargeable in case of an assessee having income under the head “Profits and gains of business or profession” for the first time, subject to conditions specified.

8.19.4. These amendments will take effect from 1st day of June, 2016.

8.20. Payment of Interest on Refund

8.20.1. 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.

8.20.2. It is further proposed to provide that 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. The prepaid taxes i.e. the TDS, TCS and advance tax shall be adjusted first for the order of adjustment of payments received against the taxes due.

8.20.3. It is also proposed to provide that where a refund arises out of appeal effect being delayed beyond the time prescribed under section 153(5), the assessee shall be entitled to receive, in addition to the interest payable under section 244A(1), an additional interest on such refund amount calculated at the rate of 3% per annum, for the period beginning from the date following the date of expiry of the time allowed under section 153(5) to the date on which the refund is granted.

8.20.4. These amendments will take effect from 1st day of June, 2016

8.21. Rationalisation of provisions relating to Appellate Tribunal

8.21.1. Since there are no extra-judicial or administrative duties or difference in the pay scale attached with the post of Senior Vice-president in the Tribunal, it is proposed to omit the reference of "Senior Vice-President".

8.21.2. It is proposed to omit the section 253(2A) and 253(3A) to do away with the filing of appeal by the Assessing Officer against the order of the Dispute Resolution Panel (DRP). Consequent amendments are proposed to be made to section 253(3A) and 253(4) also.

8.21.3. These amendments will take effect from 1st day of June, 2016.

8.21.4. It is also proposed to provide that in cases where Department is already in appeal against the directions of DRP under section 253(2A) (as it stood before the amendment of the Finance Act, 2016), no fee shall be payable.

8.21.5. This amendment will take effect retrospectively from 1st July, 2012

8.21.6. It is proposed to amend section 254(2) to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within six months (previously 4 years) from the end of the month in which the order was passed.

8.21.7. It is proposed to amend the said section 255(3) so as to provide that a single member bench of ITAT may dispose of a case where the total income as computed by the Assessing Officer does not exceed Rs. 50 Lakh (previously Rs. 15 lakh)

8.21.8. These amendments will take effect from 1st day of June, 2016.

8.22. Rationalisation of Penalty provisions

8.22.1. In order to rationalise and bring objectivity, certainty and clarity in the penalty provisions, it is proposed that Section 271 should not apply in relation to any Assessment Year commencing from AY. 2017-18. The new section 270A provides for levy of penalty in cases of under reporting and misreporting of income.

8.22.2. Rates of Penalty:

Existing	Proposed
Anything ranging between 100-300% of the tax payable	50% of Tax payable on under-reported income
200% of Tax payable on misreported income	

8.22.3. Under-reported Income v/s. Misreported Income

Under-reported Income	Misreported Income
The income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143	Misrepresentation or suppression of facts
The income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished	Non-recording of investments in books of account
The income reassessed is greater than the income assessed or reassessed immediately before such re-assessment	Claiming of expenditure not substantiated by evidence
The amount of deemed total income assessed or reassessed as per the provisions of section 115JB or 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub section (1) of section 143	Recording of false entry in books of account

Under-reported Income	Misreported Income
The amount of deemed total income assessed as per the provisions of section 115JB or 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed	Failure to record any receipt in books of account having a bearing on total income
The income assessed or reassessed has the effect of reducing the loss or converting such loss into income	Failure to report any international transaction or deemed international transaction under Chapter X.

8.22.4. It is also proposed that in case of a company, firm or local authority, the tax payable on under reported income shall be calculated as if the under-reported income is the total income. In any other case the tax payable shall be 30% of the under-reported income.

8.22.5. The proposed amendments are to take effect from AY. 2017-18.

8.23. Penalty where search has been initiated u/s. 271AAB

Existing	Proposed
Anything ranging between 30-90% of the undisclosed income	Flat 60% of the undisclosed income

8.24. Penalty for failure to answer questions, sign statements, furnish information or statements, allow inspections, etc u/s. 272B

8.24.1. Existing provision of Sub-section (1) provides for levy of penalty of ten thousand rupees for each failure or default to answer the questions raised by an income-tax authority under the Income-tax Act, refusal to sign any statement legally required during the proceedings under the Income-tax Act or failure to attend to give evidence or produce books or documents as required under sub-section (1) of section 131 of the Income-tax Act.

8.24.2. It is proposed to amend sub-section (1) of section 272A to further include levy of penalty of ten thousand rupees for each default or failure to comply with a notice issued under sub-section (1) of section 142 or sub-section (2) of section 143 or failure to comply with a direction issued under sub-section (2A) of section 142.

8.24.3. These amendments will take effect from AY. 2017-18.

8.25. Provision for Bank Guarantee under Section 281B

8.25.1. Section 281B allows the Assessing Officer to provisionally attach any property of the assesse subject to fulfilment of various conditions during the pendency of assessment proceedings.

8.25.2. However, it is hereby recommended that provisional attachment of property could be substituted by a bank guarantee subject to fulfilment of various conditions

8.25.3. This amendment will take effect from 1st June, 2016.

8.26. Extension of time limit for Transfer Pricing Officer (TPO)

8.26.1. As per the existing provisions, the TPO has to pass his order 60 days prior to the date on which the limitation for making assessment expires. It is noted that at times seeking information from foreign jurisdictions becomes necessary for determination of arm's length price by the TPO and at times proceedings before the TPO may also be stayed by a court order.

8.26.2. It is proposed to amend section 92CA(3A) to provide that where assessment proceedings are stayed by any court or where a reference for exchange of information has been made by the competent authority, the time available to the Transfer Pricing Officer for making an order after excluding the time for which assessment proceedings were stayed or the time taken for receipt of information, as the case may be, is less than 60 days, then such remaining period shall be extended to 60 days.

8.26.3. These amendments will take effect from 1st day of June, 2016.

8.27. Jurisdiction of Assessing Officer widened

8.27.1. Instances have come to notice wherein the jurisdiction of an Assessing Officer in many cases have been called into question at the appellate stages, despite the fact that order passed under section 153A or 153C is read with section 143(3) of the Act.

8.27.2. In order to remove any ambiguity, it is proposed to amend sub-section (3) of section 124 to specifically provide that cases where search is initiated under section 132 or books of accounts, other documents or any assets are requisitioned under section 132A, no person shall be entitled to call into question the jurisdiction of an Assessing Officer after the expiry of one month from the date on which he was served with a notice under section 153A(1) or section 153C(2) or after the completion of the assessment, whichever is earlier.

8.27.3. These amendments will take effect from 1st day of June, 2016.

8.28. Expanding the scope of electronic processing of information.

8.28.1. In order to expedite verification and analysis of the information and documents so received, it is proposed to amend section 133C to provide adequate legislative backing for processing of information and documents so obtained and making the outcome thereof available to the Assessing Officer for necessary action, if any.

8.28.2. It is also proposed to amend Explanation 2 to section 147 to provide for reopening of cases by the AO on the basis of the information so received.

8.28.3. It is proposed to expand the scope of adjustments that can be made at the time of processing of returns under section 143(1). It is proposed that such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A. However, before making any such adjustments, in the interest of natural justice, an intimation shall be given to the assessee either in writing or through electronic mode requiring him to respond to such adjustments. If no response is received within thirty days of issue of such intimation, the processing shall be carried out incorporating the adjustments.

8.28.4. These amendments will take effect from 1st day of June, 2016.

8.29. Immunity from penalty and prosecution in certain cases

8.29.1. It is proposed to provide that an assessee may make an application to the Assessing Officer for grant of immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C, provided he pays the tax and interest payable as per the order of assessment or reassessment within the period specified in such notice of demand and does not prefer an appeal against such assessment order. The assessee can make such application within one month from the end of the month in which the order of assessment or reassessment is received in the form and manner, as may be prescribed.

8.29.2. It is proposed that the Assessing Officer shall, on fulfilment of the above conditions and after the expiry of period of filing appeal as specified in sub-section (2) of section 249, grant immunity from initiation of penalty and proceeding under section 276C if the penalty proceedings under section 270A has not been initiated on account of the conditions mentioned in Misreported income.

8.29.3. It is proposed that the Assessing Officer shall pass an order accepting or rejecting such application within a period of one month from the end of the month in which such application is received. However, in the interest of natural justice, no order rejecting the application shall be passed by the Assessing Officer unless the assessee has been given an opportunity of being heard. It is proposed that order of Assessing Officer under the said section shall be final.

8.29.4. The said amendment shall take effect from AY. 2017-18.

8.30. Providing Time limit for disposing applications made by assesse u/s 220(2A), 273A, 273AA

8.30.1. Under the existing provisions no time limit has been provided regarding the passing of orders either under section 220(2A) [reduce or waive the amount of interest paid or payable under section 220(2)] or sections 273A [reduce or waive the amount of any penalty payable by the assessee or stay or compound any proceeding for recovery] or 273AA [granting immunity from penalty, if penalty proceedings have been initiated in case of a person who has made application for settlement before the settlement commission].

8.30.2. It is proposed to amend section 220 to provide that an order accepting or rejecting application of an assessee shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.

8.30.3. It is further proposed to amend section 273A and section 273AA to provide that an order accepting or rejecting the application of an assessee shall be passed by the Principal Commissioner or Commissioner within a period of twelve months from the end of the month in which such application is received.

8.30.4. It is also proposed to provide that no order rejecting the application of the assessee under section 220 or 273A, 273AA shall be passed without giving the assessee an opportunity of being heard.

8.30.5. In respect of applications pending as on 1st day of June, 2016, the order under said sections shall be passed on or before 31st May, 2017. These amendments will take effect from 1st June, 2016.

8.31. Legal framework for automation and paperless assessment

8.31.1. It is proposed to amend section 282A(1) so as to provide that notices and documents required to be issued by income-tax authority under the Act shall be issued by such authority either in paper form or in electronic form in accordance with such procedure as may be prescribed.

8.31.2. In order to ensure timely service of notice issued under section 143(2), it is proposed to amend section 143(2) to provide that notice under the said sub-section may be served on the assessee by the Assessing Officer or the prescribed income-tax authority, either to attend the office of the Assessing Officer or to produce, or cause to be produced before the Assessing Officer any evidence on which the assessee may rely in support of the return.

8.31.3. New Definition: 'Hearing'

New clause (23C) inserted in section 2 to define the term "hearing" to include communication of data and documents through electronic mode.

8.31.4. These amendments will take effect from 1st June, 2016.

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