



# ANIL AGRAWAL AND COMPANY

Chartered Accountants

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## ***BUDGET 2015 HIGHLIGHTS***

### ***Direct Tax***

#### **Personal Taxation**

- 1) No change in income slabs or tax rates. Additional surcharge at 2% to be levied on individuals having income exceeding Rs 1 crore.
- 2) Exemption for transport allowance to be increased from Rs 800 per month to Rs 1,600 per month as per the Finance Minister's speech.
- 3) Deduction for:
  - a) Health insurance premia increased from Rs15,000 to Rs 25,000 (as per Finance Minister's speech); for senior citizens, deduction enhanced from Rs 20,000 to Rs 30,000.
  - b) Medical expenditure in the case of very senior citizens, up to Rs 30,000 provided no health insurance coverage has been taken.
  - c) Medical treatment of persons with disability increased from Rs 50,000 to Rs 75,000 (from Rs 100,000 to Rs 125,000 in case of persons with severe disability).
  - d) Medical treatment of very senior citizens with specified diseases with specified ailments up to Rs 80,000.
  - e) Payment to notified pension scheme will be available up to Rs 50,000 under section 80CCD (1B).
  - f) Person with disability increased from Rs 50,000 to Rs 75,000 (from Rs 100,000 to Rs 125,000 in the case of a person with severe disability).
- 4) Limit for deduction under section 80CCC increased from Rs 100,000 to Rs 150,000; however overall limit for deduction under section 80C, 80CCC and 80CCD (1) remains at Rs 150,000.
- 5) Contribution to Clean Ganga Fund and Swachh Bharat Kosh (other than CSR contributions by companies) and National Fund for Control of Drug Abuse eligible for 100% deduction under section 80G without the overall 10% cap.

### **Other proposed amendments**

- Rules will be prescribed for determining the period of stay in India of an Indian citizen, being a member of crew of foreign bound ship leaving India.
- Employer will have to obtain documentation, based on rules to be specified, in support of deductions/exemptions such as house rent allowance, interest on self-occupied house property loan, etc.
- Payment of accumulated provident fund balance to suffer tax deduction at 10% provided it is taxable in the individual hands (based on the conditions laid down in Rule 8 of Part A of the Fourth Schedule).
  - No such deduction to be made if the payment is less than Rs 30,000.
  - In the absence of PAN, tax to be deducted at 30%.
- New legislation for unearthing black money located outside India and Benami Transaction Prohibition Bill to be introduced as per Finance Minister's speech.

### **Corporate Taxation**

#### **Reduction of corporate tax rate**

Corporate tax rate of an Indian company will be reduced from 30% to 25% over a period of 4 years. Above reduction to be accompanied by rationalization and removal of various tax exemptions and incentives available to Indian companies. These changes will start from financial year 2016-17.

#### **Amendment to definition of residence of companies**

Definition of 'residence' of 'company' proposed to be amended. A company would now be resident in India if it is an Indian company or its 'place of effective management' (POEM) is situated in India. POEM would mean a place where key management and commercial decisions necessary for conduct of business of an entity as a whole are in substance made.

#### **International tax**

- a) Section 9 to be amended to specify that transfer of an asset (e.g. shares of a foreign company) will be deemed to derive its value from India (and hence taxable in India) if such value exceeds Rs 10 crore and further

represents at least 50% of value of all assets owned by the company owning the Indian assets. Further, such taxable income would be computed on principle of 'proportionality' based on value of assets located in India versus that outside of India.

- b) Section 9 amended to provide that any interest paid by the Indian permanent establishment of a foreign banking company would be income deemed to accrue in India and hence taxable in India.
- c) New provisions introduced to provide that taxability of eligible foreign funds would not be impacted merely by reason of their fund managers being located in India.
- d) TDS rate on royalties and technical service fee payable by Indian concerns to foreign companies reduced from 25% to 10% (plus applicable surcharge and cess).
- e) Enabling provision inserted for CBDT to prescribe mechanism for granting relief or deduction of foreign taxes paid.

### **Abolition of wealth tax**

Wealth Tax not payable from assessment year 2016-17. Loss in revenue to be compensated by increase in surcharge by 2% on all assessees (except foreign companies) including individuals which are currently being subject to levy of surcharge.

### **Certain changes to TDS provisions and related documentation**

Section 195 has been amended to provide that prescribed information on payments to non-residents / foreign companies must be provided whether or not tax has been deducted thereon by the payer.

Concessional rate of tax of 5% applicable to FII and QFI on interest income from rupee bonds of Indian companies and government securities, which was applicable till 31 May 2015 extended to 30 June 2017.

### **MAT provisions under section 115JB rationalised**

MAT provisions have been amended to provide that foreign institutional investors (FIIs) would not be subject to MAT in relation to their capital gains income except where such income qualifies as short term capital gains on which securities transaction tax (STT) is not payable.

### **Incentive for employing new workmen extended**

Provision for deduction (@ 30% of salary cost) available under section 80JJAA from hiring of new workmen amended. The existing requirement to employ minimum 100 regular workmen has now been reduced to 50, thereby extending the incentive to smaller units.

### **Amendment in penalty provisions**

Amendment made under section 271(1)(c) to clarify that penalty would also apply where the provisions of section 115JB and 115JC (MAT and AMT) apply.

### **Revision of assessments**

In the context of revision of assessments under section 263, it has been clarified that an order shall be deemed to be erroneous in so far as it is prejudicial to the interests of revenue if, in the opinion of Principal Commissioner or Commissioner –

- (a) the order is passed without making inquiries or verification which should have been made;
- (b) the order is passed allowing any relief without inquiring into the claim;
- (c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
- (d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

## **Mergers & Acquisitions**

### **GAAR**

GAAR to be applicable from financial year 2017-18; GAAR provisions to be implemented as part of a comprehensive regime to deal with OECD's recommendation on BEPS and aggressive tax avoidance.

As per the Finance Minister's speech, GAAR would apply prospectively to investments made on or after 1 April 2017.

### **Alternative Investment Fund**

As per the existing tax regime, tax pass through was limited to the funds registered as Venture Capital Fund (VCF) under Category I of SEBI (Alternative Investment Fund) Regulations 2012 (AIF Regulations). It is now proposed to extend the pass through status to:

- a) All the Category I AIFs (i.e. AIFs which invest in angel fund, start-up or early stage ventures or social ventures or SMEs or infrastructure); and
- b) Category II AIFs (i.e. private equity funds or debt funds) which neither undertake leverage or borrowing (except for operational purposes) nor employs diverse or complex trading strategies.

### **Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)**

As per the existing tax regime, taxation of capital gains for Sponsor on transfer of shares of Special Purpose Vehicle (SPV) in lieu of units of the business trust was deferred till divestment of units by the Sponsor. The Sponsor was not eligible for preferential capital gains tax regime available to other unit holders (consequential to levy of Securities Transaction Tax (STT)) on divestment of the units. This results in a disadvantageous tax position for a Sponsor vis-à-vis Initial Public Offer (IPO) of the SPV.

It is now proposed to provide for taxation of sponsors at the time of initial offer on listing of units of REIT and InvIT i.e. to be at par with taxation regime applicable at the time of IPO.

Rental income earned by Real Estate Investment Trust (REIT) will be taxed as per provisions applicable to interest income earned by REIT.

**Tax neutrality on merger of similar schemes of Mutual Funds**

- a) Exemption from capital gains tax provided to unit holders of mutual fund schemes on merger of similar schemes.
- b) Cost of acquisition of units of consolidated scheme to be the cost of units held in consolidating scheme.
- c) Period of holding of units of consolidated scheme to be determined from the date of acquisition of units in consolidating scheme.

**Cost of acquisition of capital asset in hands of resulting company on demerger**

- a) Cost of acquisition of capital asset transferred pursuant to demerger by demerged company to resulting company to be the cost (including cost of improvement) of such assets in the hands of demerged company.
- b) Period of holding of such capital asset in hands of resulting company to include the period for which such capital asset was held by demerged company.

**Transfer Pricing**

**Specified domestic transaction threshold is increased**

- a) Under the current provisions, the tax payers having aggregate specified domestic transactions in excess of Rs 5 crore in a previous year would need to comply with transfer pricing provisions.
- b) The threshold limit has now been proposed to be increased to Rs 20 crore with an intention to reduce the compliance burden on small businesses.
- c) The proposed amendment will be applicable for the assessment year 2016-17 and subsequent assessment years

## ***INDIRECT TAX***

### **Goods and Services Tax**

Commitment to introduce nation-wide Goods and Services Tax (GST) from 1 April 2016 re-affirmed.

### **Customs Duty**

Standard ad-valorem rate of Counter Veiling Duty (CVD) proposed to be increased from the existing rate of 12% to 12.5%.

Education cess and Secondary & Higher Education cess to be applicable on Basic Custom Duty (BCD).

### **Central Excise Duty**

- a) Standard ad-valorem rate of excise duty proposed to be increased from the existing effective rate of 12.36% to 12.5%. Education cess and Secondary & Higher Education cess proposed to be subsumed in the ad valorem rate with effect from 1 March 2015.
- b) The rate of excise duty applicable to goods covered by Medicinal and Toilet Preparations Act, 1955 is increased from 12% to 12.5% ad valorem with effect from 1 March 2015.
- c) Direct dispatch of goods to premises of customers of a registered dealer/registered importer without bringing the goods to the registered premises allowed subject to conditions.
- d) Time-limit for availing CENVAT credit on inputs and input services is being extended from six months to one year, from the date of invoice.
- e) Time-limit for return of capital goods from job workers' premises extended from six months to two years.
- f) Reversal of proportionate CENVAT credit extended to a manufacturer of non-excisable goods.



**Service Tax**

- a) Effective rate of Service Tax to be increased from the existing effective rate of 12.36% to 14%.
- b) Education cess and Secondary & Higher Education cess proposed to be subsumed in the said rate from a date to be notified.
- c) Swachh Bharat cess (SB cess) at 2% on value of all or any of the taxable services to be levied from a notified date.
- d) Abatement rate for transport of goods by road, rail and vessel rationalized at 30% on value of services, with effect from 1 April 2015.

**Common changes under Customs Duty/Central Excise Duty/Service Tax**

- a) In case of Customs Duty, Central Excise Duty and Service Tax law, penalty provisions are being rationalized to encourage compliance and early dispute resolution and facility of obtaining advance rulings has been extended to resident firms.
- b) Central Excise and Service Tax registration process simplified by prescribing documents, time limit and procedure for registration. Single premises registration shall be granted within two working days of filing the application.
- c) In case of Central Excise Duty and Service Tax, issuance of digitally signed invoices and maintenance of electronic records permissible.

**Clean Energy cess**

Clean energy cess to be increased from Rs 100 per tonne to Rs 200 per tonne on all goods covered under Tenth Schedule of the Finance Act, 2010.

## **Direct Tax News**

### **Amendment in DTAA between India and South Africa**

CBDT has amended the agreement between the GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE REPUBLIC OF SOUTH AFRICA for the avoidance of Double Taxation and the prevention of Fiscal evasion with respect to taxes on Income, signed at New Delhi on 4<sup>th</sup> December 1996. [**Notification no.10/2015-FT&TR-II [F.NO.500/144/2005-FTD-II], DATED 2-2-2015**]

### **CBDT Clarification wrt disallowance in case of payment of interest etc made to Non Resident without deducting TDS u/s 40(a)(i)**

Central Board of Direct taxes has already issued **Instruction No. 02/2014, dated 26-2-2014 (F.No. 500/33/2013-FTD-I)** regarding deduction of tax at source under sub-section (1) of section 195 read with section 201 of the Act relating to payments made to non-residents in cases where no application is filed by the deductor for determining the sum so chargeable under sub-section (2) of section 195 of the Act. Vide this Instruction, Board has clarified that in cases where tax is not deducted at source under section 195 of the Act, the Assessing Officer shall determine the appropriate portion off the sum chargeable to tax, as mentioned in sub-section (1) of section 195, to ascertain the tax-liability on which the deductor shall be deemed to be an assessee in default under section 201 of the Act. It has been further clarified that such appropriate portion of the said sum will depend on the facts and circumstances of each case taking into account the nature of remittances, income component therein or any other fact relevant to determine such appropriate proportion. [**CIRCULAR NO.3/2015 [F.NO.225/201/2014-ITA.II], DATED 12-2-2015**]

### **CBDT Income-tax (2nd Amendment), Rules, 2015.**

CBDT has made amendment in Rules 10D, 10TA and inserted Rules 10TH, 10THA, 10THB, 10THC, 10THD AND FORM 3CEFB [NOTIFICATION NO. 11/2015 [F.NO.142/7/2014-TPL]/SO 350(E), DATED 4-2-2015] New safe harbor rules notified for specified domestic transactions of government. Electricity companies and application for opting for it in form 3CEFB.

### **No interest payable on self assessment tax already paid**

Self assessment tax paid before due date of ITR is to be reduced from tax payable for calculation of interest for late filing of ITR. [**CBDT Circular 2 of 10-02-2015**].

**Shift of focus from Civil consequences to Criminal consequences in case of tax evasion.**

Income tax department shifts focus from civil consequences i.e. increase in revenues to criminal 628 prosecutions till December 2014 in current year. Press release of 12-02-2015.

**Indirect Tax News**

**Import Export license can be obtained only via online application**

New format of IEC code in e-form for online applications has been notified. Also, now onwards, status of grant or refusal of IEC to be conveyed by sms and email. [Public notice 84 of 10-02-2015].

**Extension of Due date of filing Annual Return under UPVAT**

UPVAT authorities have again extended the last date of UPVAT annual return (Form 52, 52A and 52B) for the year 2013-2014 up to 28-02-2015 from 31-01-2015.

**Miscellaneous**

- Service recipient not liable to pay service tax on free supply of material included in the gross amount. [Ahluwalia Contracts (India) Ltd. vs. Commissioner of Service Tax, CESTAT-DELHI].
- Collector of stamps can impound lease deed and levy penalty up to 10 times of unpaid deficient stamp duty in case of deficient stamping/ non-registration.
- Excise duty rose to 12.50% and service tax to 14%. Online excise and service tax registration in 2 days.
- DVAT department launches special drive for disposal of objections relating to mismatch of 2A/2B cases for 2012-2013. DVAT circular 27 of 27.02.2015.
- Procedure for filing returns under Profession Tax, Luxury Tax & Sugarcane Purchase Tax Act after making payment by GRAS. [MVAT Trade Circular 3T of 20.02.2015].

**Regulatory [ROC & RBI] News**

**ROC**

- Private companies will no longer have to wait for a certificate of commencement to start business operations. Promoters will only have to inform the ROC online.
- Extension of time for filing of notice of appointment of the cost auditor in Form CRA-2, circular No. 42/2014, without any penalty/ late fee is hereby extended up to 31st March, 2015.
- MCA introduces Form GNL-4 for filing addendum for rectification of defects or incompleteness notification dated 24th February, 2015.
- W.e.f F.Y.2015-2016, auditor report to state about existence of adequate internal financial controls system and its operating effectiveness. Optional for F.Y. 2014-2015.
- Apply online for FDI at new website <http://fipb.gov.in>. Submit single copy of application with FIPB secretariat. Press release Ministry of Finance of 17.02.2015.
- RBI increased the amount \$125,000 to \$250,000 that Indians can invest or spend abroad in foreign exchange without seeking its permission.
- Forex remittance limit doubled to 250000 per person p.a. for any purpose except speculation in exchanges etc. or transfer to Bhutan, Nepal, Mauritius and Pakistan.
- RBI has decided to reduce the Statutory Liquidity Ratio (SLR) of Urban Co-operative Banks, State and Central Co-operative Banks from 22.0 per cent of their Net Demand and Time Liabilities (NDTL) to 21.5 per cent with effect from the fortnight beginning February 7, 2015.
- RBI issued circular no. 76/RBI. Dated: February 12, 2015 in regard to Foreign Exchange Management Act, 1999 for making payments, exceeding USD 5,000 or its equivalent towards imports into India must be made in Form A-1.

## About Us

We are a partnership CA firm of repute in New Delhi established in year 2003 with extensive cross functional experience of dealing with both multinational and domestic entities. We provide specialized services relating to International and domestic Taxation, Regulatory (ROC and RBI) and Assurance. The firm has been founded by Mr. Anil Agrawal, FCA who is alumni of Ernst & Young and has more than 12 years of experience in the fields of International Taxation and Regulatory matters. Our client comprises of Subsidiaries of foreign cos, Joint Ventures, Indian Corporates, LLPs, Firms, NGOs & HNI's.

We have dedicated team of Chartered Accountants, Company Secretary, Semi qualified and adequate support staff who are competent people with sharp insight and unique skill set. Our Current area of operation is NCR region comprising of Delhi, Gurgaon, Manesar and Noida. Our present multinational clientele includes clients from Turkey, USA, Australia, Dubai, Japan and Netherland.

### OUR SERVICE AREA

- **Income Tax Assessment & Litigation**
- **Transfer Pricing Audit/Assessment & Documentation**
- **International & Domestic Tax Advisory & Compliance**
- **Assurance/ Auditing Service**
- **Expatriate Tax/ NRI Tax Advisory & Compliance**

### OUR SERVICE AREA

- **Outsourcing of Accounting & Payroll**
- **DVAT/CST Advisory & Compliance**
- **Service Tax Advisory & Compliance**
- **Valuation Services**
- **FEMA/RBI regulations advisory & compliance**
- **Company law Advisory & Compliance**

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