



VOXLAW

UNION BUDGET 2016-17

Analysis of Tax Proposals

FOREWORD

This year's Budget comes at a time of extraordinary volatility in the global economic environment. Given this, and India's own priorities of fiscal consolidation and structural reform, the Finance Bill, 2016 contains some far reaching proposals.

On the direct taxes side, significant among these are the special dispensation for SMES and additional tax on dividend. The harshness with which charity trust recognition has been treated and the proposed disclosure scheme will both have far reaching implications. One is also left wondering whether the decision to impose the various taxes on the rich is a precursor to other such legislation to come. The deferral of the introduction of the POEM and GAAR provisions is noteworthy, as is the calibrated advance towards the BEPS Action Plan.

The amendments to indirect taxes are less significant and largely aimed at revenue collection. The introduction of the new cesses and the streamlining of some of the CENVAT credit provisions can be seen as aligning with the anticipated GST.

The schemes for buying peace are at best measures for the short term – there is no alternative to accountability, and the need for justice cannot be met by compromise.

While these measures are specific to tax, from an economic point of view, the Budget aims at a balanced fiscal policy and treads a safe path to achieve targeted growth.

- Publications Team

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TAX RATE

The rate of service tax has been left unchanged at 14% (effective rate 14.5% including Swachh Bharat Cess). With the introduction of the Krishi Kalyan Cess, the effective service tax rate will become 15%.

KRISHI KALYAN CESS

The Finance Bill, 2016 contains an enabling provision, in respect of a cess to be called the Krishi Kalyan Cess, to levy and collect as service tax on all or any of the taxable services 0.5% of the value of such services with the objective of financing and promoting initiatives to improve agriculture or for related purposes. This cess will be levied from **01.06.2016**. **As per the Hon'ble Finance Minister's speech, the cess will be levied on all taxable services, and tax credit of this cess will be available.**

AMENDMENTS TO FINANCE ACT – W.E.F DATE OF ENACTMENT OF THE FINANCE BILL¹

Negative list entry for approved vocational education courses deleted but exemption continued

The negative list entry in section 66D(l) relating to “services by way of education as a part of an approved vocational education course” is proposed to be deleted. The services will however continue to be tax-free under Sr. No. 9 of the Mega Exemption Notification. For this purpose, the definition of ‘educational institution’ will be expanded to include ‘education as a part of an approved vocational education course’. The definition of ‘approved vocational education course’ as it appears u/s 65B(11) will be maintained verbatim in the proposed amendment to the Mega Exemption Notification in clause (ba) of para 2.

Promoting or selling lottery on behalf of State Government

Explanation 2 in section 65B(44) of the Finance Act, 1994 is proposed to be amended to include any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner, of the State Government as per the provisions of the Lotteries (Regulation) Act, 1998 within the levy of service tax.

This amendment seeks to overcome the judgment of the Hon’ble Sikkim High Court in the case of Future Gaming & Hotel Services (Pvt.) Ltd. [2015 (40) S.T.R. 833.] wherein it had been held that the contract between the State Government and the distributors is on principal to principal basis, and therefore there is no provision of service.

In this connection, it has also been clarified in the TRU Circular dt. 29.02.2016 that given the provisions of section 4(c) of the Lotteries (Regulation) Act, 1998, the State Government can sell lottery tickets either itself or through distributors or selling agents, and therefore per these provisions any alternative contractual construct would be contrary to the aforesaid legal provisions, ultra vires the provisions of Indian Contracts Act, 1872, and thus not enforceable.

Negative list entry for transportation of passengers by a stage carriage deleted but exemption continued - w.e.f. 01.06.2016

The negative list entry in section 66D(o)(i) pertaining to service by way of transportation of passengers with or without accompanied belongings, by a stage carriage is proposed to be deleted w.e.f. 01.06.2016. Post this date,

¹ Unless otherwise indicated

transportation services by air-conditioned stage carriages will be taxable on an abated value of 60% on the condition that CENVAT credit on inputs, capital goods and input services is not taken. Transportation service by stage carriages other than air-conditioned stage carriages will continue to be tax-free under Sr. No. 23(bb) of Mega Exemption Notification.

Negative list entry for transportation of goods by an aircraft or vessel from a place outside India to customs station of clearance in India withdrawn - w.e.f.01.06.2016

The negative list entry in section 66D(p)(ii) pertaining to service by way of transportation of goods by an aircraft or vessel from a place outside India to customs station of clearance in India is proposed to be deleted w.e.f. 01.06.2016. Post this date, transportation services rendered by domestic shipping lines registered in India will be liable to pay tax under forward charge and the services rendered by foreign shipping lines to a business entity located India will be liable under reverse charge. Such service tax paid shall be available as CENVAT credit to the importers. It is highlighted that the service tax levied on such service shall not form part of value for customs duty purposes.

Goods transportation services by aircraft will continue to be tax-free under new Sr. No. 53 of Mega Exemption Notification.

Assignment of the right to use radio-frequency spectrum is a declared service

The scope of declared services u/s 66E is proposed to be expanded by inserting clause (j). It has been clarified in the TRU Circular that the assignment of right to use radio-frequency spectrum by the Government and all subsequent transfers of assignment of such rights is a service and will be liable to service tax, and is not a sale of intangible goods.

Date of determination of point of taxation with respect to rate of service tax

A new sub-section (2) to section 67A is proposed to be inserted to grant specific power to the Central Government to make rules regarding the time or point in time with respect to rate of service tax. There has been an ongoing controversy on the question of the statutory power of the Government in this regard.

Normal period of limitation for recovery of service tax increased

The normal period of limitation for recovery of service tax not levied or paid or short levied or short paid or erroneously refunded, in cases not involving fraud, collusion, suppression, etc., u/s 73 is proposed to be increased from 18 months to 30 months.

Higher rate interest would apply where service tax is collected but not deposited

Section 75 relating to interest on delayed payments of service tax is proposed to be amended. A new proviso is sought to be inserted whereby service providers who have collected service tax but failed to deposit the same with the Central Government will be required to pay interest at a separately notified rate which may be higher than the rate applicable to other defaulters. The applicable rate is 24% per Notification No. 13/2016-S.T. (discussed below).

Cessation of penalty proceedings on directors, managers, secretary or officers of the company

In the Union Budget 2015-16 amendments, the penal provisions under sections 76 and 78 were rationalized whereby proceedings u/s 73(1) would stand automatically concluded if the service tax and interest demanded were paid within 30 days of receipt of the show cause notice u/s 73(1). A consequential amendment is now proposed to be made to section 78A whereby proceedings against the directors, managers, secretary or officers of the company will also be deemed to be concluded in such cases.

Threshold limit for prosecution increased

Deliberate failure to pay service tax, availment and utilization of CENVAT credit without actual receipt of excisable goods or taxable service, falsification of accounts and withholding of information, and collecting and not depositing service for amounts exceeding Rs. 50 lakh, are offences inviting imprisonment for a term which may extend from 3-7 years. The aforesaid monetary limit is proposed to be increased to Rs. 2 crore.

Provisions relating to cognizance of offences and power to arrest rationalized

Sections 89 and 90 are proposed to be amended whereby arrest would be limited only to those cases where service providers have collected service tax and not deposited such tax in excess of Rs. 2 crore or more.

Retrospective application of power to grant rebate u/s 93A

Notification No. 41/2012-S.T. dt. 29.06.2012 issued u/s 93A is proposed to be amended with retrospective effect from 01.07.2012 to 02.02.2016 so as to enable grant of rebate of all such service tax which has been denied. An application for the claim of rebate can be made within 1 month from the date of commencement of the Finance Act, 2016.

Retrospective exemption from service tax in respect of taxable services provided to an authority or board or other body set up by an Act of Parliament or a State Legislature or established by the Government to carry out any function entrusted to a municipality under Article 243W of the Constitution

The definition of 'governmental authority' under clause (s) of para 2 to the Mega Exemption Notification was amended w.e.f. 30.01.2014 so as to exempt services provided by way of construction, erection, maintenance, or alteration etc. of canal, dam or other irrigation works provided to entities set up by Government but not necessarily by an Act of Parliament or a State Legislature. However, services provided prior to 30.01.2014 to such bodies remained taxable.

By a retrospective amendment in the Finance Bill, notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period 01.07.2012 to 29.01.2014.

Refund of service tax paid on such services during this period shall also be allowed in accordance with the law subject to the bar of unjust enrichment. Application for refund may be allowed to be filed within a period of six months from the date on which the Finance Bill receives the assent of the President.

Retrospective exemption from service tax in respect of taxable services provided to Government, local authority or Governmental authority

Exemption from service tax on services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of civil structure, other original work predominantly meant predominantly for use other than for commerce, industry or any other business or profession, a structure meant predominantly for use as an educational establishment or a clinical establishment or an art or cultural establishment or a residential complex predominantly meant for self-use or for the use of their employees or other persons specified in Explanation 1 to clause (44) of section 65B of the said Act, had been withdrawn w.e.f. 01.04.2015.

By a retrospective amendment in the Finance Bill, notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period 01.04.2015 to 29.02.2016. A new section 102 is proposed to be inserted providing for non-levy of service tax on services provided to the Government, local authority or Governmental authority, during the period 01.04.2015 to 29.02.2016, wherein the contract for such services was entered into before the 01.03.2015 and on which appropriate stamp duty has been paid before that date.

Refund of service tax paid on the aforesaid services during the period from the 01.04.2015 to 29.02.2016 shall also be allowed in accordance with the law

subject to the bar of unjust enrichment. Application for refund may be allowed to be filed within a period of six months from the date on which the Finance Bill receives the assent of the President.

Retrospective exemption from service tax in respect of taxable services provided in respect of construction of airport or port

Exemption from service tax on services by way of construction, erection, etc. of original works pertaining to an airport, port was withdrawn w.e.f. 01.04.2015.

By a retrospective amendment in the Finance Bill, notwithstanding anything contained in section 66B, no service tax shall be levied or collected during the period 01.04.2015 to 29.02.2016. A new section 103 is proposed to be inserted providing for non-levy of service tax on services provided to the Government, local authority or Governmental authority, during the period 01.04.2015 to 29.02.2016, wherein the contract for such services was entered into before the 01.03.2015 and on which appropriate stamp duty has been paid before that date.

Refund of service tax paid on the aforesaid services during the period from the 01.04.2015 to 29.02.2016 shall also be allowed in accordance with the law subject to the bar of unjust enrichment. Application for refund may be allowed to be filed within a period of six months from the date on which the Finance Bill receives the assent of the President.

AMENDMENTS TO MEGA EXEMPTION NOTIFICATION

Exemption to legal services provided by senior advocates curtailed - w.e.f. 01.04.2016

Sr. No. 6 is proposed to be amended whereby legal services provided by a senior advocate to an advocate or firm of advocates or to a person ordinarily carrying out any activity relating to industry, commerce or any other business or profession will be taxable w.e.f. 01.04.2016. Service tax on such services will **have to be paid on a forward charge basis. The term 'senior advocate' takes its meaning from section 16 of the Advocates Act, 1961.**

Parallely, services provided by a person represented on an arbitral tribunal to an arbitral tribunal are also withdrawn.

Exemption for monorails and metro curtailed - w.e.f. 01.03.2016

The exemption under Sr. No. 14 is proposed to be curtailed to exclude construction erection, commissioning or installation of original works pertaining to monorail and metro. However services provided under a contract which was entered into before 01.03.2016 on which appropriate stamp duty was paid shall continue to be exempt.

Threshold limit for exemption eligibility increased for services provided by an artist by way of performance in folk or classical art forms - w.e.f. 01.04.2016

It is proposed to increase the exemption threshold limit for the consideration charged by artist by way for performance in folk or classical art forms of music, dance, theatre, from Rs. 1 lakh to Rs. 1.5 lakh.

New entries added to the Mega Exemption Notification – w.e.f. 01.03.2016

Sr. No.	Exempted service	Date of effect
9B	Services provided by the Indian Institutes of Management, to their students, by way of the following educational programmes, except Executive Development Programme: (a) two year full time residential Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT), conducted by Indian Institute of Management (b) fellow programme in Management (c) five year integrated programme in Management	01.03.2016
9C	Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development and Entrepreneurship by way of assessments under Skill Development Initiative (SDI) Scheme	01.04.2016
9D	Services provided by training providers (Project implementation agencies) under Deen Dayal Upadhyaya Grameen Kaushalya Yojana under the Ministry of Rural Development by way of offering skill or vocational training courses certified by National Council For Vocational Training	01.04.2016
12A	Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion,	01.03.2016 to 31.03.2020

	<p>fitting out, repair, maintenance, renovation, or alteration of -</p> <p>(a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession</p> <p>(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment</p> <p>(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to section 65B(44) of the said Act</p> <p>under a contract which had been entered into prior to the 01.03.2015 and on which appropriate stamp duty, where applicable, had been paid prior to such date</p>	
13	<p>Construction services by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of -</p> <p>(ba) a civil structure or any other original works pertaining to the 'In-situ rehabilitation of existing slum dwellers using land as a resource through private participation' under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers</p> <p>(bb) a civil structure or any other original works pertaining to the Beneficiary-led individual house construction / enhancement under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana</p>	01.03.2016
14	<p>Services by way of construction, erection, commissioning or installation of original works pertaining to,-</p> <p>(ca) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under:</p> <ol style="list-style-type: none"> the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana any housing scheme of a State Government 	01.04.2016
14A	<p>Services by way of construction, erection, commissioning, or installation of original works pertaining to an airport or port provided under a contract which had been entered into prior to 01.03.2015 (or certified by Ministry of Civil Aviation or the Ministry of Shipping in the Government of India, as the case may be, certifies that the contract had been entered into before the 01.03.2015) and on which</p>	01.03.2016 to 31.03.2020

	appropriate stamp duty, where applicable, had been paid prior to such date	
26(q)	Niramaya” Health Insurance Scheme implemented by Trust constituted under the provisions of the National Trust for the Welfare of Persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities Act, 1999	01.04.2016
26C	Services of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority of India (PFRDA) under the Pension Fund Regulatory And Development Authority Act, 2013	01.03.2016
49	Services provided by Employees Provident Fund Organisation (EPFO) to persons governed under the Employees” Provident Funds and Miscellaneous Provisions Act, 1952	01.03.2016
50	Services provided by Insurance Regulatory and Development Authority of India (IRDA) to insurers under the Insurance Regulatory and Development Authority of India Act, 1999	01.03.2016
51	Services provided by Securities and Exchange Board of India (SEBI) set up under the Securities and Exchange Board of India Act, 1992 by way of protecting the interests of investors in securities and to promote the development of, and to regulate, the securities market	01.03.2016
52	Services provided by National Centre for Cold Chain Development under Ministry of Agriculture, Cooperation and Farmer’s Welfare by way of cold chain knowledge dissemination	01.03.2016

AMENDMENTS TO ABATEMENT NOTIFICATION

Services of transport of goods in containers by rail by any person other than Indian Railways – w.e.f. 01.04.2016

Sr. No. 2A has been inserted to provide for a separate abatement rate of 60% for transport of goods in containers by rail by any person other than Indian Railways – private players will therefore pay a higher rate of service tax. The abatement is subject to the condition that CENVAT credit on inputs and capital goods has not been taken.

Services of transport of passengers, with or without accompanied belongings by rail – w.e.f. 01.04.2016

Abatement for passenger transport services is currently available on the condition that CENVAT credit on inputs, capital goods and input services is not taken. This condition has been relaxed to allow CENVAT credit on input services.

Services of goods transport agency in relation to transportation of used household goods – w.e.f. 01.04.2016

Sr. No. 7A has been inserted to provide for a separate abatement rate of 60% for services of goods transport agency in relation to transportation of used household goods. Under the existing entry, transportation of goods other than used household goods will continue to be taxed at 30%. The abatements are subject to the condition that CENVAT credit on inputs, capital goods, and input services has not been taken.

Services provided by a foreman of chit fund in relation to chit - w.e.f. 01.04.2016

Pursuant to the amendment made in the Finance Act, 2015 to re-introduce the levy of service tax on services provided by a foreman of a chit fund, an abatement of 70% is now being provided for.

Services of transportation of passengers provided by a stage carriage – w.e.f. 01.06.2016

Abatement of 40% is being extended to services of transportation of passengers, with or without accompanied belongings, by a stage carriage.

CENVAT credit of input services for providing services of transportation of goods by vessel – w.e.f. 01.04.2016

Abatement for services of goods transportation in a vessel is currently available on the condition that CENVAT credit on inputs, capital goods and input services is not taken. This condition has been relaxed to allow CENVAT credit on input services.

Services by a tour operator – w.e.f. 01.04.2016

The provisions of abatement relating to a service provider providing tour operator services have been streamlined to provide that for services in relation to, -

- (i) a tour, only for the purpose of arranging or booking accommodation for any person, abatement will be 90%,
- (ii) all tours (including package tours) other than (i) above, abatement will be 70%.
- (iii) **Related, the definition of 'package tour' in clause (b) of paragraph 2 has been deleted.** There is no change to the attendant CENVAT credit conditions.

Service by way of construction of a complex, building, civil structure or a part thereof – w.e.f. 01.04.2016

The provisions of abatement relating to services by way of construction of a complex, building, civil structure or a part thereof service provider providing tour operator services have been streamlined to provide for a standard abatement rate of 70%. There is no change to the attendant CENVAT credit conditions.

Services of renting of motorcab w.e.f. 01.04.2016

An explanation is being inserted to provide that to compute the tax payable, the amount charged shall be the sum total of the amount charged for the service including the fair market value of all goods (including fuel) and services supplied by the recipient(s) in or in relation to the service, whether or not supplied under the same contract or any other contract. It has also been provided that the fair market value of goods and services so supplied may be determined in accordance with the generally accepted accounting principles.

AMENDMENT TO SERVICE TAX RULES AND REVERSE CHARGE MECHANISM

Scope of person liable for paying service tax curtailed to exclude mutual agents or distributors of mutual funds – w.e.f. 01.04.2016

Sub-clauses (EEA) to rule 2(1)(d) of the ST Rules, and corresponding clause (A)(ib) to Paragraph I of Notification No. 30/2012-S.T. inserted w.e.f. 01.04.2015, has been omitted so as to make the services providers i.e. mutual fund agent or distributors as the person liable to pay service tax in respect of services provided to mutual fund or asset management company.

Scope of person liable for paying service tax in relation to lottery amended – w.e.f. 01.04.2016

Clause (A)(ic) to paragraph I of Notification No. 30/2012-S.T. has been streamlined to provide that the activity carried out by a lottery distributor or selling agents of the State Government under the provisions of the Lotteries

(Regulation) Act, 1998 (17 of 1998), is leviable to service tax under reverse charge mechanism.

This amendment follows the amendment proposed to be made to the definition of 'service' in section 65B(44) in the negative list to overcome the judgment of the Hon'ble Sikkim High Court in the case of Future Gaming & Hotel Services (Pvt.) Ltd. [2015 (40) S.T.R. 833.] wherein it had been held that the contract between the State Government and the distributors is on principal to principal basis, and therefore there is no provision of service.

Legal services of senior advocates excluded from reverse charge mechanism – w.e.f. 01.04.2016

Sub-clause (D)(II) to rule 2(1)(d) of the ST Rules relating to 'person liable to pay tax' is amended to exclude legal services provided by senior advocates. Accordingly, service tax in respect of such services will be payable by senior advocates. Per the Mega Exemption Notification, the term 'senior advocate' takes its meaning from section 16 of the Advocates Act, 1961.

Option of quarterly payment of service tax extended to certain one person companies and HUFs – w.e.f. 01.04.2016

The first proviso to rule 6(1) of the ST Rules has been substituted to extend the quarterly periodicity for payment of service tax to one person companies having aggregate value of taxable services not more than Rs. 50 lakh in the previous financial year, and to HUFs.

The third proviso to rule 6(1) of the ST Rules has also been substituted to grant the option of payment of service tax on receipt basis to one person companies having aggregate value of taxable services not more than Rs. 50 lakh in the previous financial year. This facility has, however, not been extended to HUFs.

Technical amendment to rule 6(4) – w.e.f. 01.04.2016

Rule 6(4) of the ST Rules is amended so as to substitute the reference to the Central Excise (No. 2) Rules, 2001, with a reference to the Central Excise Rules, 2002.

Change in specific rate of service tax for single premium annuity policies – w.e.f. 01.04.2016

A new sub-clause (ia) has been inserted to rule 6(7A) of the ST Rules to provide an option for payment of service tax at a specific rate of service tax of 1.4% of the single premium charged in case of single premium annuity policies.

Filing of Annual Return – w.e.f. 01.04.2016

Sub-rule (3A) has been inserted in rule 7 of the ST Rules for filing of an annual return by every assessee and to prescribe the form and manner in which such return may be filed. The prescribed due date for filing such annual return will be 30th November of the succeeding financial year, and may be revised within a period of one month from the date of submission of the said annual return. The late fees for delay in filing such annual return will be Rs. 100 per day, subject to a maximum of Rs. 20,000.

AMENDMENTS TO POINT OF TAXATION RULES, 2011

Proposed powers of section 67A(2) to be extended to POT Rules – w.e.f. date of enactment of Finance Bill

In the opening paragraph to Notification No. 18/2011-S.T. dt. 01.03.2011 which introduced the POT Rules, the power to issue these rules has been linked to newly inserted section 67A(2) to address the perceived disconnect regarding the applicable rate of service tax between the POT Rules and section 67A which came into effect in 2012. This amendment does not, however address the issue for past period.

Determination of point of taxation in case of new levy on services - w.e.f. 01.03.2016

Two Explanations have been inserted under rule 5 of POTR in respect of **“payment of tax in case of new services”**. **By the first Explanation, this rule shall apply in case of a new levy or tax on services, such as the Swachh Bharat Cess or the Krishi Kalyan Cess. It may be recalled that the FAQ issued after the introduction of the Swachh Bharat Cess had first clarified that the applicability of rule 5 thereto, rather than rule 4 which applies in respect of a “change in effective rate of tax”.**

The second Explanation clarifies that the new levy or tax shall be payable on all the cases other than those specified in rule 5.

The implication of these amendments is that new levies, starting with the Krishi Kalyan Cess, will be payable unless payment has been received before its introduction.

OTHER AMENDMENTS

Exemption granted for services in relation to Information Technology Software recorded on a media – w.e.f. 01.03.2016

Service tax has been exempted on Information Technology Software when recorded on media under Chapter 85 of the First Schedule to the Central Excise Tariff Act, 1985, on which the retail sale price is required to be declared under the provisions of the Legal Metrology Act, 2009 or the rules made thereunder or any other law for the time being in force, subject to the condition that appropriate duties of excise and customs, as the case may be, have been paid and the invoice bears a declaration that no amount in excess of the retail sale price declared on such media has been recovered from the customer.

Conversely, information technology software recorded on media, which is not required to bear RSP, is being exempted from so much of the Central Excise duty / CVD as is equivalent to the duty payable on the portion of the value on which service tax is levied. In such cases, manufacturer / importer would therefore be required to pay Central Excise duty / CVD only on that portion of value representing the value of the medium on which it is recorded along with freight and insurance.

Exemption extended to services provided by Bio-incubators – w.e.f. 01.04.2016

The prevailing exemption available to Technology Business Incubator or a Service and Technology Entrepreneurship Park under Notification No. 32/2012-S.T. dt. 20.06.2012 is now also extended to services provided by Biotechnology Industry Research Assistance Council (BIRAC) approved biotechnology incubators.

Change in rate of interest in case of delay in payment or non-payment of taxes collected in excess - w.e.f. date of enactment of Finance Bill

Section 75 of the Finance Act provides for a charge of interest on delayed payments of service tax. The Central Government is empowered to notify the rate of simple of interest between 10% and 36% per annum. The increased rate of interest introduced w.e.f. 01.10.2014 in order to encourage prompt payment of service tax has been done away with, and a higher rate of interest for taxes collected but not paid is proposed as under:

Sr. No.	Situation	Rate of simple interest
1.	Collection of any amount as service tax but failing to pay the amount so collected to the credit of the Central Government on or before the date on which such payment becomes due.	24%

2.	Other than in situations covered above	15%
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Parallely, the rate of interest payable under Notification No. 08/2006-S.T. in respect of non-payment of service tax collected in excess u/s 73B is proposed to be reduced from 18% to 15%.

Date notified for consequential amendments in relation to negative list entry for services by Government or local authority – w.e.f. 01.04.2016

The scope of the negative list entry in section 66D(a) had been proposed to be amended by Finance Act, 2015 w.e.f. a notified date to exclude all services **(rather than the present exclusion to 'support services')** provided by the Government or local authority to a business entity from the negative list. 01.04.2016 was notified in this regard vide Notification No. 07/2016-S.T.

The following consequential amendments also become effective from 01.04.2016:

- The deletion of the definition of 'support service' in section 65B(49).
- The reference to "support services" has been omitted from Notification No. 30/2012-S.T. and ST Rules.

CLARIFICATIONS IN THE TRU CIRCULAR

Incentives received by air travel agents from computer reservation system companies (CCRS)

It has been clarified vide T.R.U. circular D.O.F.No.334/8/2016-TRU dt. 29.02.2016 that

The issue has been prone to litigation with a number of judgments including *Jet Airways (I) Ltd. vs. Commissioner of Service Tax, Mumbai [2014 (36) S.T.R. 290 (Tri. - Mumbai)]*. The clarification appears to have been issued with a view to end such disputes.

incentives received by the Air Travel Agents (ATAs) from the Companies providing Computer Reservation System (CCRS) are for using the software and platform provided by the CCRS like Galileo, Amadeus, etc. The CCRS are providing these incentives either for achieving the targeted booking of air tickets or for loyalty for booking of air tickets using their software system. Thus, the service provided by CCRS is to the Airlines and Air Travel Agent is promoting the service provided by CCRS to Airlines. The service provided by the ATAs to CCRS is neither covered in the negative list (Section 66D of the Finance Act, 1994) nor exempt by a notification. Therefore, service tax is leviable on the same.

Services provided by Container Train Operators (CTOs)

It has been clarified vide T.R.U. circular D.O.F.No.334/8/2016-TRU dt. 29.02.2016 that service provided by the Indian Railways to Container Train Operators (CTOs) of haulage of their container train (rake of wagons with **containers**) is a service of “Transport of Goods by Rail” and is, therefore, eligible for abatement and tax treatment accordingly, that is, for abatement at the rate of 70% with credit of input services.

Services provided by institutes of language management (ILMs)

It has been clarified vide T.R.U. circular D.O.F.No.334/8/2016-TRU dt. 29.02.2016 that the services provided by the ILMs are not covered by Section 66D (I) of the Finance Act, 1994 or Entry 9 of Notification No. 25/2012 - ST as they are not providing pre-school education or education up to higher secondary school (or equivalent) or education for obtaining a qualification recognized by law. It is the schools/colleges/institutions (in which the students take admissions) which provide such education. The ILMs provides services to such educational institutions, which helps such educational institutions in providing services specified in the negative list. Thus, the services provided by the Institutes of Language Management (ILMs) are not eligible for exemption under Section 66D (I) of the Finance Act, 1994 or under Sl. No. 9 of Notification No. 25/2012-ST.

CENVAT Credit Rules, 2004

SUB-INDEX

- AMENDMENTS TO DEFINITIONS AND CENVAT ELIGIBILITY
- AMENDMENTS TO RULE 6 – CREDIT REVERSAL
- AMENDMENTS TO RULE 7 – INPUT SERVICE DISTRIBUTION
- AMENDMENTS TO OTHER RULES
- REFUND OF CENVAT CREDIT

AMENDMENTS TO DEFINITIONS AND CENVAT ELIGIBILITY

Definition of 'capital goods' amended- w.e.f. 01.04.2016

Sub-clause (A) in rule 2(a) defining 'capital goods' has been amended to include wagons of sub-heading 8606 92.

By an amendment to associated condition (1) regarding use of capital goods in the factory of manufacture, equipment and appliances used in an office within the factory are also eligible for CENVAT credit.

By an amendment to associated condition (1A) regarding use of capital goods **located outside the factory, 'capital goods' used for the pumping of water for captive use** within the factory are also eligible for CENVAT credit.

Definition of 'exempted service' amended- w.e.f. 1.03.2016

The exclusion from the **definition of 'exempted service' has been amended** to apply to the service of transportation of goods by a vessel from the customs station of clearance in India to a place outside India, whereby shipping lines can take credit on inputs and input services used in the provision of the goods transportation services.

Definition of 'input' amended- w.e.f. 1.04.2016

By an amendment to sub-clause (iii) in rule 2(k), all goods used for the pumping **of water for captive use are included in the definition of 'input'.**

A new sub-clause (v) has also been inserted whereby all capital goods having a **value of up to Rs. 10,000 per piece will come under the definition of 'inputs'**, whereby an assessee will be eligible to avail 100% of the CENVAT credit on such capital goods in the year of receipt. Consequential amendments have been made to sub-clause (iv) and item (C).

Definition of 'input service distributor' amended- w.e.f. 1.04.2016

The definition of 'input service distributor' has been amended to enable distribution of credit to an outsourced manufacturing unit. This distribution of credit to job-workers has been a vexed issue with the CESTAT holding in a series of cases.

This amendment appears to be a legislative overruling of *Sunbell Alloys Co. of India Ltd. vs. CCE, Belapur 2014 (34) STR 597 (Tri-Mum)* which had disallowed the availment of CENVAT Credit by a job-worker against an ISD invoice issued by the principal manufacturer on the pretext that premises of job workers is a separate and independent legal entity.

Eligibility to CENVAT credit amended- w.e.f. 1.03.2016

The fifth proviso to sub-rule (4) of rule 3 has been amended to provide that CENVAT credit of the National Calamity Contingent (NCC) duty leviable u/s 136 of the Finance Act, 2001 may be utilized towards the payment of such duty.

The eighth proviso to sub-rule (4) of rule 3 has been inserted whereby CENVAT credit shall not be utilized for payment of Infrastructure Cess leviable under sub-clause (1) of clause 159 the Finance Bill 2016.

The explanation to sub-rule (2)(a) has been amended to include an assessee engaged in the manufacture of articles of jewellery other than articles of silver jewellery whose aggregate value of clearances of excisable goods for home consumption on the preceding financial year does not exceed Rupees 12 crore as "eligible" for CENVAT credit in respect of capital goods.

Eligibility to CENVAT credit amended- w.e.f. 01.04.2016

Clause (b) in sub-rule (5) of rule 4 has been substituted to allow a manufacture of final product to take credit on tools falling under

Amendment is in line with the ratio of recent judgment of *Abdos Oil Pvt. Ltd. vs. CCE, Haldia [2016 (1) TMI 920 (CESTAT Kolkata)]*

Chapter 82 of the Central Excise Tariff when intended for use by another manufacturer or by a job-worker, including when these goods are sent directly to such other manufacturer or job-worker.

Three year order permitting direct clearance from the premises of job-worker allowed - w.e.f. 01.04.2016

By an amendment to sub-rule (6) of rule 4, the validity of an order by the jurisdictional Assistant Commissioner/ Deputy Commissioner permitting a manufacturer of final products who has sent inputs or partially processed inputs

to a job-worker to clear final products from the premises of the job-worker has been extended from, one financial year to three financial years.

Deferred eligibility to CENVAT credit in respect of period-based rights - w.e.f. 01.04.2016

CENVAT credit of service tax on charges for the service of assignment by the Government or other person of the right to use any natural resources (e.g. radio frequency spectrum, mines etc.) is to be spread over a period of time for which the right has been assigned, by applying the following formula:

Eligible CENVAT credit in a financial year = Service tax paid on the charges for the assignment of the right to use ÷ number of years for which the rights have been assigned.

Where the manufacture or service provider further assigns such right to another person for consideration, the balance CENVAT credit not exceeding the service tax payable on the consideration charged by him for such further assignment shall be allowed in the financial year of such further assignment. The proviso does not explicitly set out the consequences of the balance CENVAT credit being more than the service tax payable on the further assignment, and the credit eligibility of such "surplus".

However, CENVAT credit of annual/ monthly user charges in respect of the right to use any natural resources shall be allowed in the same financial year in which they are paid. Therefore, the deferred eligibility appears to apply only to situations where the assignment period is longer than one year.

Per the wording of the new provisos, the deferral of eligibility is restricted to service by way of assignment of the right of use natural resources and would not apply to pre-payments or long-term arrangements for the provision of other services beyond one year.

AMENDMENTS TO RULE 6 – CREDIT REVERSAL

Reversal of CENVAT credit in respect of exempt goods and exempted services under rule 6 revamped – w.e.f. 01.04.2016

Rule 6 of the CENVAT credit rules provides for a reversal of credit by a manufacturer or producer of exempt goods and a provider of exempted services. The said rule has been recast with a view to simplify the methodology to be applied and to enable a more robust flow of CENVAT credit, as a step towards the likely credit mechanism under GST. At the same time the established principles of reversal of such credit have also been continued.

Rule 6(1) has been substituted to provide that CENVAT credit shall not be allowed on the quantity of input or input service as is used in or in relation to the manufacture of exempted goods or for the provision of exempted services, and sets out that the credit not allowed shall be calculated and paid in terms of a revised methodology under sub-rules (2) and (3). An Explanation 3 has been inserted to provide that for the purposes of this rule, exempted services as **defined in rule 2(e) shall include an activity which is not a 'service' as defined in section 65B(44)**. An Explanation 4 has been inserted to provide that value of such an activity (specified in Explanation 3) shall be the invoice/ agreement / contract value and that where such value is not available such value shall be determined using reasonable means consistent with the principles of valuation contained in the service tax provision. Aforesaid Explanation 3 and Explanation 4 may have potentially created ground for future litigation where an activity which is not for consideration and therefore falls outside the definition of service will have to be considered as an exempted service, valued appropriately, and a reversal of CENVAT credit effected.

Rule 6(2) has also been substituted and essentially captures the restriction in (current) Explanation (ii) Rule 6(3) that a manufacturer exclusively manufacturing exempted goods for a service provider exclusively providing exempt services shall pay the whole amount of CENVAT credit on input and input services, which is to say that in effect there would be no eligibility for credit.

Substituted rule 6(3) provides that a manufacturer who manufactures two classes of goods namely (i) non-exempted goods removed (defined in Explanation 3 to mean final products other than exempted goods manufactured and cleared) and (ii) exempted goods removed, or a service provider who provides two classes of services namely (i) non-exempted services (defined in Explanation 3 to mean output services other than exempted services) and (ii) exempted services, shall follow either of the following options viz.

1. pay an amount equal to 6% of the value of exempted goods and 7% of the value of exempted services, subject to a maximum of the total credit available at the end of the period to which the payment relates, or
2. pay an amount as determined (under sub-rule (3A)) on the basis of the proportion of exempted goods and services.

Explanation 1 to sub-rule (3) provides that a manufacturer or service provider has to exercise such option for all exempted goods or exempted services, and that such option shall apply for the whole financial year.

This is in line with *Mercedes Benz India Pvt. Ltd. vs. CCE, Pune* 2015 (40) STR 381 (Tri-Mum.) which had held that Revenue can not insist on availment of a particular option under Rule 6 of CENVAT Credit Rules, 2004. Also, it was held that failure to intimate the option will not disentitle the assessee to opt for the exercise of option.

The substituted sub-rule (3A)(a) requires the manufacturer or service provider is required to intimate the Superintendent of Central Excise of the following:

- (i) name, address and registration number;
- (ii) date from which the option under this clause is exercised
- (iii) description of inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services and description of such exempted goods removed and such exempted services provided;
- (iv) description of inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of non-exempted services and description of such non-exempted goods removed and non-exempted services provided;
- (v) CENVAT credit lying in balance as on the date of exercising the option.

Under the revised methodology of sub-rule (3A)(b) the total CENVAT credit taken during the month is to be categorised as:

- Ineligible credit i.e. credit attributable to inputs and input services used exclusively in or in relation to the manufacture of exempted goods removed or for provision of exempted services;
- Eligible credit i.e. the amount of CENVAT credit attributable to inputs and input services used exclusively in or in relation to the manufacture of non-exempted goods removed or for the provision of non-exempted services;

- Common credit i.e. credit left after attribution of ineligible credit and eligible credit out of the total credit, if any. The common credit is to be further classified into ineligible common credit and eligible common credit on the basis of the proportion of exempted goods and services during the preceding financial year to the total goods and services during the preceding financial year. Where no final products were manufactured or output services provide during the preceding financial year, the CENVAT credit attributable to ineligible, credit is assumed to be 50% of the common credit. The remainder of the common credit after deducting ineligible common credit is the eligible common credit.

This amendment is consequent to the observations in *Thyssenkrupp Industries (I) Pvt Ltd vs. Commissioner of Central Excise, Pune* [2014-TIOL-1825-CESTAT-MUM], which had noted that the language in the rules refer to 'total cenvat credit' on input services and not the total CENVAT credit on common input services.

Interestingly, the tariff conference of Commissioners held in Chandigarh on 28.10.2015 and 29.10.2015 had concluded that there is no requirement to make any amendments to the language of the rule.

The amounts determined as ineligible credit and ineligible common credit are to be paid monthly.

At the end of a financial year the aforesaid exercise is to be repeated using the data of the financial year and any difference between the ineligible credit for the year (i.e. annual ineligible credit and annual ineligible common credit) and ineligible credit provisionally determined and paid month-on-month is to be paid on or before 30th June of the succeeding financial year; similarly any excess can be taken credit of. The manufacturer or service provider is to intimate the jurisdictional Superintendent within fifteen days from the date of payment or adjustment of the relevant particulars relating to the amounts determined.

Where a manufacturer or service provider fails to make the monthly payment as required, or the payment by 30th June as described above, he shall be liable to pay interest from the due date till the date of payment at the rate of 15% per annum.

A new sub-rule (3AA) has been inserted to provide that where a manufacturer or service provider fails to exercise the option under sub-rule 3 and fails to follow procedure under sub-rule (3A) the competent officer may allow such manufacturer or service provider to follow such procedure and pay the amount of final reversal to be made for each of the months with interest calculated at 15% per annum from the due date of payment for each month till the date of payment.

This amendment and the cap on payment under 6% or 7% per rule under sub-rule 3 serve the proposition that has been constantly held that the reversal to be made cannot be more than the credit availed or excessive.

The aforesaid revised scheme will not apply for financial year 2015-2016 and assesseees who have opted for proportionate reversal under the existing provisions will continue to be governed thereunder for which purpose they shall be deemed to be in existence till 30.06.2016.

[Separate option for Banking Companies and Financial Institutions under rule 6 – w.e.f. 01.04.2016](#)

Presently a Banking Company and Financial Institution including an NBFC engaged in providing services by way of extending deposits, loans or advances is required to pay 50% of the CENVAT credit availed, and cannot apply the proportionate reversal mechanism in sub-rule (1), (2) and (3) of rule 6. Under revised rule (3B) such companies will be able to exercise the proportionate reversal option like other manufacturers and service providers, while retaining the option of 50% reversal.

Restriction on CENVAT credit pertaining to Capital Goods – w.e.f. 01.04.2016

Rule 6(4) has been substituted whereby no CENVAT credit shall be allowed on **'capital goods' used exclusively in the manufacture of exempted goods or** provision of exempted services for two years from the date of commencement of commercial production or provision of services. This restriction will also apply **where 'capital goods' are** received after the date of commencement of commercial production or provision of services, and the two-year period shall be computed with reference to the date of installation of the goods. The existing relaxation vis-à-vis exemption granted based on the value or quantity of clearances made or service provided shall continue.

This amendment appears to be a legislative overruling of the ratio laid down by Karnataka High Court in *CCE, Bangalore vs. Kailash Auto Builders Ltd.* 2012 (280) ELT 49 (Kar.).

In line with the amendment to the definition of 'exempted service' to exclude transport of goods by vessel from a custom station or clearance in India to place outside India, rule 6(7) has been amended to provide that the reversal methodology of rule 6 will not apply in respect of such services. The TRU Circular notes that the enabling of credit on eligible inputs, input services and capital goods used for providing the said service will serve to provide a level playing field to Indian shipping lines vis-à-vis their foreign counterparts. The credit available may be used by Indian shipping lines to pay service tax on the services of transportation of goods by a vessel from outside India to the customs station of clearance in India which would become taxable w.e.f. 01.06.2016 after enactment of the Finance Bill. These services presently qualify as **non-taxable and therefore are an 'exempted service' per Rule 10 of the POP Rules.**

AMENDMENTS TO RULE 7 – INPUT SERVICE DISTRIBUTION

Distribution of credit on input services by ISD – w.e.f. 01.04.2016

The Input Service Distributor (ISD) mechanism has been liberalised to allow for **distribution to an 'outsourced manufacturing unit' (which term has been defined** to mean a job-worker liable to pay duty under rule 10A of the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 on goods manufactured for the ISD, or a manufacturer who manufactures goods bearing the brand name of the ISD under a contract and who is liable to pay duty on the value determined under Section 4A of the Central Excise Act, 1944.

Credit available with the ISD as on 31.03.2016 cannot be transferred to any outsourced manufacturing unit and must be distributed amongst the units, and

must be distributed amongst the units excluding the outsourced manufacturing units.

Outsourced Manufacturing Units shall maintain separate accounts for the credits received from each of the ISDs and use such credit only for payment of duty on good manufactured for the concerned ISD.

Revised substituted rule 7 also provides that: (i) credit attributable as input service to a particular unit shall be distributed only to that unit; (ii) credit attributable as input service to more than one unit, but not to all units, shall be distributed among such units pro rata on the basis of the turnover of such units during the relevant period to the total turnover of all such units to which the service is attributable; (iii) credit attributable as input service to all units, shall be distributed to all the units pro rata on the basis of the turnover of such units during the relevant period to the total turnover of all the units to which the service is attributable.

The provisions of rule 6 of the CENVAT credit rules apply the units manufacturing goods or providing services and not to the ISD.

Distribution of credit on inputs by warehouse or manufacturer – w.e.f. 01.04.2016

Newly inserted rule 7B provides for a manufacturer having one or more factories to maintain a common warehouse for inputs and to distribute such inputs and the credit thereon under cover of an invoice issued by a common warehouse of the said manufacturer. For this purpose the provisions of the CENVAT credit rules and other rules made under the Central Excise Act, 1944 as applicable to first stage dealers and second stage dealers shall apply to such warehouse.

AMENDMENTS TO OTHER RULES – W.E.F. 01.04.2016

An invoice issued by a service provider for clearance of inputs or capital goods shall also be a valid document for availing CENVAT credit.

Rule 9A has been substituted to provide that a service provider will also be required to file an annual return (as presently required of a manufacturer of final products) for each financial year, by 30th November of the succeeding year in the form specified by a notification by the Board.

Sub- rule (2) of rule 14 inserted in 2015 prescribes a procedure based on the FIFO method for determining whether a particular credit has been utilized. Its introduction posed some practical challenges for account keeping and created a risk of allegation of wrongful utilization of credit. The said sub-rule is being omitted, and going forward, the fact of utilization or non-utilization of credit

shall be ascertained by examining whether the balance of unutilized credit was more than the disputed amount of credit during the period under consideration.

REFUND OF CENVAT CREDIT

Stringent time limit for refund of CENVAT Credit under rule 5 – w.e.f. 01.03.2016

Notification No. 27/2012 – C.E. (N.T.) has been amended to provide for more stringent time limits for filing and application for refund of CENVAT credit under rule 5, in case of service exports, and the application is now required to be filed within 1 year from the date of –

- (a) receipt of payment in convertible foreign exchange, where provision of service has been completed prior to receipt of such payment; or
- (b) the date of issue of invoice, where payment for the service has been received in advance.

Central Excise Duty

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- DUTY RATES
- AMENDMENTS TO CENTRAL EXCISE ACT, 1944
- AMENDMENTS TO CENTRAL EXCISE TARIFF ACT, 1975
- AMENDMENTS TO CENTRAL EXCISE RULES, 2002
- OTHER AMENDMENTS
- CLARIFICATIONS

DUTY RATES

There is no change in the peak rate of Excise Duty of 12.5%. However, amendments are being made to specific tariff rates and rates prescribed by exemption notifications. Unless otherwise stated, all changes in rates of duty is in effect from the midnight of 29.02.2016/01.03.2016.

AMENDMENTS TO CENTRAL EXCISE ACT, 1944 – W.E.F. DATE OF ENACTMENT OF THE FINANCE BILL²

Amendment to Section 5A

Section 5A of the Central Excise Act, 1944 ("Excise Act") is being amended to omit the requirement of publishing and offering for sale any notification issued, by the Directorate of Publicity and Public Relations of the Board. This change has been in light of the decision of the Hon'ble Supreme Court in the case of *In the case of Union of India vs. Param Industries Ltd., 2015 (321) ELT 192 (SC)* wherein it was inter alia held that for a notification to come into effect it has to be published in the Official Gazette and should be offered for sale by the Directorate of Publicity and Public Relations of the Board, New Delhi.

Normal period of limitation being increased from one year to two years

Section 11A of the Excise Act, is being amended to increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, wilful misstatement, etc. In case where the revised return has been filed, the "relevant date" for the purpose of limitation for recovery of duty, if any short paid or not paid, u/s 11A of the Excise Act will be the date of submission of such revised return.

² Unless otherwise specified

Power of Board to instruct Central Excise Officers extended

Section 37B of the Excise Act, which allows the Board to issue such orders, instructions and directions to the Central Excise Officers for the purpose of uniformity in the classification of excisable goods or with respect to levy of duties of excise on such goods, is being amended so as to empower the Board to issue orders, instructions and directions to the Central Excise Officers for implementation of any other provision of the said Act.

Amendment to Third Schedule

The Third Schedule of the Excise Act which specifies goods covered u/s 2(f) (iii) of the Excise Act (deemed manufacture) is being amended to:

- a) Make some editorial changes, consequent to 2017 Harmonized System of Nomenclature.
- b) Following goods are being included:
 - All goods falling under heading 3401 and 3402;
 - Aluminium foils of a thickness not exceeding 0.2 mm;
 - Wrist **wearable devices (commonly known as "smart watches")**; and
 - Accessories of motor vehicle.

The amendment at b) above will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

AMENDMENTS TO CENTRAL EXCISE TARIFF ACT, 1975

Amendments to First Schedule of the Central Excise Tariff Act, 1975

The following amendments involving increase in the duty rates will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

		From	To
	Aerated beverages		
1	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	18%	21%
	Tobacco and Tobacco Products		
2	Cigar and cheroots	12.5% or Rs.3375 per thousand, whichever is higher	12.5% or Rs.3755 per thousand, whichever is higher

3	Cigarillos	12.5% or Rs.3375 per thousand, whichever is higher	12.5% or Rs.3755 per thousand, whichever is higher
4	Cigarettes of tobacco substitutes	Rs.3375 per thousand	Rs.3755 per thousand
5	Cigarillos of tobacco substitutes	12.5% or Rs.3375 per thousand, whichever is higher	12.5% or Rs.3755 per thousand, whichever is higher
6	Others of tobacco substitutes	12.5% or Rs.3375 per thousand, whichever is higher	12.5% or Rs.3755 per thousand, whichever is higher
7	Gutkha, chewing tobacco (including filter khaini) and jarda scented tobacco	70%	81%
8	Unmanufactured tobacco	55%	64%
9	Paper rolled biris [whether handmade or machine made] and other biris [other than handmade biris] However, the effective rate of basic excise duty of Rs.21 per thousand shall remain unchanged.	Rs.30 per thousand	Rs.80 per thousand
10	To: 1) Amend supplementary notes (e) and (f) Chapter 27 so as to change the reference: a) from IS:1460:2000 to IS:1460:2005 for high speed diesel (HSD) and b) from IS:1460 to IS:15770:2008 for light diesel oil (LDO); 2) Substitute Tariff line 5901 39 10 with description "Warp pile fabrics, uncut" in place of tariff line 5801 37 11 [with description Warp pile fabrics "epingle" uncut velvet] and		

	5801 37 19 [with description Warp pile fabrics "epingle" uncut other]; 3) Prescribe separate tariff lines for laboratory created or laboratory grown or manmade or cultured or synthetic diamonds; 4) Delete Tariff line 8525 50 50, relating to Wireless microphone		
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Other proposals involving changes in duty rates

The following amendments involving increase in the duty rates will come into effect from 29.02.2016 / 01.03.2016.

CETH	Description of Goods	From	To
8609 00 00	Refrigerated containers [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	6%
28, 29 or 38	Micronutrients which are covered under Sr. No. 1(f) of Schedule 1 Part (A) of the Fertilizer Control Order, 1985 and are manufactured by the manufacturers which are registered under FCO, 1985 [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	6%
31	Physical mixture of fertilizers manufactured by Co-operative Societies, holding certificate of manufacture for mixture of fertilizers under the Fertiliser Control Order 1985, made out of chemical fertilizers on which duty of excise has been paid and no credit of duty paid on such chemical fertilizers has been taken under rule 3 of the CENVAT Credit Rules, 2004 and which are intended for supply to the members of such Co-operative Societies [Notification No. 12/2016-C.E. dt. 01.03.2016]	1% [without CENVAT credit] Or 6% [with CENVAT credit]	Nil
	To increase Tariff Value of readymade garments and made up articles of textiles [Notification no. 8/2016-C.E. dt. 01.03.2016]	30% of retail sale price	60% of retail sale price
61,	Branded readymade garments and	Nil	2% [without

62 and 63	made up articles of textiles of retail sale price of Rs.1000 or more [Notification Nos. 7/2016-C.E., 9/2016-C.E. and 15/2016-C.E. dt. 01.03.2016]	[without CENVAT credit] or 6%/12.5 % [with CENVAT credit]	CENVAT credit] or 12.5% [with CENVAT credit]
	PSF / PFY, manufactured from plastic scrap or plastic waste including waste PET bottles [Notification No. 12/2016-C.E. dt. 01.03.2016]	2% [without CENVAT credit] or 6% [with CENVAT credit]	2% [without CENVAT credit] or 12.5% [with CENVAT credit]
4008 29 10	Rubber sheets & resin rubber sheets for soles and heels [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	6%
	Increase the abatement from retail sale price (RSP) for the purposes of excise duty assessment for all categories of footwear	25%	30%
	To change excise duty structure on disposable containers made of aluminium foils. [Notification No. 12/2016-C.E. dt. 01.03.2016]	2% [without CENVAT credit] or 6% [with CENVAT Credit]	2% [without CENVAT credit] or 12.5% [with CENVAT credit]
71	Refined gold bars manufactured from gold dore bar, silver dore bar, gold ore or concentrate, silver ore or concentrate, copper ore or concentrate. [Notification No. 12/2016-C.E. dt. 01.03.2016] Prospectively, the excise duty exemption under the existing area based exemptions on refined gold is being withdrawn w.e.f. 01.03.2016[Notification Nos. 5/2016-C.E. and 6/2016-C.E. dt. 01.03.2016]	9%	9.5%
71	Refined silver manufactured from silver ore or concentrate, silver dore bar, or gold dore bar. [Notification No. 12/2016-C.E. dt. 01.03.2016] Prospectively, the excise duty exemption under the existing area	8%	8.5%

	based exemptions on refined silver is being withdrawn w.e.f. 01.03.2016 [Notification No. 5/2016-C.E. and 6/2016-C.E. dt. 01.03.2016]		
71	Articles of Jewellery [excluding silver jewellery, other than studded with diamonds or other precious stones namely, ruby, emerald and sapphire] with a higher threshold exemption upto Rs. 6 crore in a year and eligibility limit of Rs.12 crore of previous financial year, along with simplified compliance procedure. [Notification Nos. 8/2016-C.E. and 12/2016-C.E. dt. 01.03.2016]	Nil	1% [without CENVAT credit] or 12.5% [with CENVAT credit]
7113	Articles of Jewellery covered under CETH 7113 [Notification No. 10/2016-C.E. dt. 01.03.2016]	6%	12.5%
38, 39 or 68	Unsaturated Polyester Resin (polyester based infusion resin and hand layup resin), Hardeners/Hardener for adhesive resin, Vinyl Ester Adhesive (VEA) and Epoxy Resin used for manufacture of rotor blades and intermediates, parts and sub parts of rotor blades for wind operated electricity generators [Notification No. 12/2016-C.E. dt. 01.03.2016]	Nil	6%
6815 10 90	Carbon pultrusion used for manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades for wind operated electricity generators [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	6%
9405 50 40	Solar lamp[Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	Nil
2710 19 20	Aviation Turbine Fuel [ATF], other than for supply to Scheduled Commuter Airlines (SCA) from the Regional Connectivity Scheme airports [Notification No. 12/2016-C.E. dt. 01.03.2016]	8%	14%
88	Tools and tool kits when procured by MROs for maintenance, repair, and overhauling [MRO] of aircraft subject to a certification by the Directorate	Applicable excise duty	Nil

	General of Civil Aviation [Notification No. 12/2016-C.E. dt. 01.03.2016]		
85 or any other chapter	Charger / adapter, battery and wired headsets / speakers for supply to mobile phone manufacturers as original equipment manufacturer [Notification No. 12/2016-C.E. dt. 01.03.2016]	Nil	2% [without CENVAT credit] or 12.5% [with CENVAT credit]
85 or any other chapter	Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phone, subject to actual user condition. [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5% / Nil	Nil
85 or any other chapter	Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets], reception apparatus for television but not designed to incorporate a video display [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	4% [without CENVAT credit] or 12.5% [with CENVAT credit]
85 or any other chapter	Parts and components, subparts for manufacture of Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets], reception apparatus for television but not designed to incorporate a video display [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	Nil
8413 91 or 8501 31 19	Electric motor, shafts, sleeve, chamber, impeller, washer required for the manufacture of centrifugal pump [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	6%
Any chapter	Specified parts of Electric Vehicles and Hybrid Vehicles	6% Upto 31.03.2016	6% Without time limit
Any	Engine for xEV (hybrid electric vehicle)	12.5%	6%

chapter	[Notification No. 12/2016-C.E. dt. 01.03.2016]		
3923 21 00 or 3923 29	Excise duty on sacks and bags of all plastics is being rationalized at 15%.	12.5%/15 %	15%
	Unconditionally exempt improved cook stoves including smokeless chulhas for burning wood, agrowaste, cowdung, briquettes, and coal [Notification No. 12/2016-C.E. dt. 01.03.2016]	Nil	Nil
90 or 84	Disposable sterilized dialyzer and micro barrier of artificial kidney	12.5%	Nil
38	Concrete Mix or Ready-Mix Concrete manufactured at the site of construction for use in construction work at such site [Notification No. 12/2016-C.E. dt. 01.03.2016] [Comment: The uniformity in rates of Concrete mix or Ready-mix Concrete has been brought in light of the decision of the Hon'ble Supreme Court in the case of <i>Larsen & Toubro Ltd & Another vs. Commissioner of Central Excise, Hyderabad</i> [TS-544-SC-2015-EXC], wherein the Hon'ble Supreme Court held that both Concrete Mix and Ready-Mix Concrete are two different things and that only Concrete Mix was entitled for exemption under Notification No. 4/1997 – C.E. dt. 1.03.1997.]	2% [without input tax credit] / 6% [with input tax credit]	Nil
8607 or 8608	Parts of railway or tramway locomotives or rolling stock and railway or tramway track fixtures and fittings, railway safety or traffic control equipment, etc. [Notification No. 12/2016-C.E. dt. 01.03.2016]	12.5%	6%
	Remnant kerosene, presently available for manufacture of Linear alkyl Benzene [LAB] and heavy alkylate [HA] to N-paraffin. At present, exemption is restricted to manufacturers of LAB and HA.	14%	Nil

	Clean Energy Cess / Clean Environment Cess on coal, lignite or peat produced or extracted as per traditional and customary rights enjoyed by local tribals without any license or lease in the State of Nagaland	Rs.200 per tonne	Nil
	To extend Retail Sale Price [RSP] based assessment of excise duty to: a) all goods falling under heading 3401 and 3402 [with abatement rate of 30%], b) aluminium foils of a thickness not exceeding 0.2 mm [with abatement rate of 25%], c) wrist wearable devices (commonly known as 'smart watches') [with abatement rate of 35%], and d) accessories of motor vehicle and certain other specified goods [with abatement rate of 30%].		
7615	Disposable aluminium foil containers [Notification No. 10/2016-C.E. dt. 01.03.2016]	6%	12.5%
2106 90 20	Pan Masala [Notification No. 12/2016-C.E. dt. 01.03.2016]	16%	19%
	Polyester staple fibre or polyester filament yarn, manufactured from plastic and plastic waste including waste polyethylene terephthalate bottles [Notification No. 12/2016-C.E. dt. 01.03.2016]	6%	12.5%
	Capital goods and spares thereof, raw materials, parts, material handling equipment and consumables, for repairs of ocean-going vessels by a ship repair unit.	12.5%	Nil
85	On such portion of the value of Information Technology Software covered under Chapter 85 of the First Schedule of the Central Excise Tariff Act, 1985, where it is not required to declare the retail sale price under the provisions of the Legal Metrology Act, 2009 and rules thereunder, which is exigible to service tax u/s 66B r.w.	Nil	Nil

	section 66E of the Finance Act, 1994. [Notification No. 11/2016-C.E. dt. 01.03.2016]		
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Certain editorial changes in certain chapters have also been incorporated in the First and Second Schedules of the Central Excise Tariff Act, 1975, so as to synchronize with 2017 Harmonized System of Nomenclature (HSN). These changes would however be effective from 01.01.2017.

AMENDMENTS TO CENTRAL EXCISE RULES, 2002

Interest on short payment of duty on goods cleared under provisional assessment – w.e.f. 01.03.2016

Rule 7 (4) of the Central Excise Rules, 2002 ("Excise Rules") is being amended to provide that in case of finalization of provisional assessment, the interest will be chargeable from first date after the original date of payment of duty, whether such amount is paid before or after the issue of order for final assessment. Prior to this amendment, the interest on short payment of duty in case of finalization of provisional assessment was chargeable from the first day of the month succeeding the month for which such amount is determined, till the date of payment thereof.

The provision has been amended to ensure that the Government receives interest even where interest is paid before the final assessment.

Facility of quarterly payment of excise duty also made available to certain category of jewellery manufacturers – w.e.f. 01.03.2016

Explanation I to second proviso to rule 8 of the Excise Rules is being amended to provide the facility of quarterly payment of excise duty also to the assessee who is engaged in the manufacture or production of articles of jewellery (other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire), falling under chapter heading 7113 of the First Schedule of the CETA, whose aggregate value of clearances of all excisable goods for home consumption in the preceding financial year, did not exceed Rs. 12 crore. For all other assessee who are engaged in the manufacture of goods the limit remains Rs. 4 crore instead of Rs. 12 crore.

The amendment appears to be a legislative overruling of the recent Bombay High Court judgment of *Ceat Ltd. vs. CCE, Nashik* [2015 (317) ELT 192].

No need of manual attestation of copy of digitally signed invoice for transporter
– w.e.f. 01.03.2016

Rule 11 (8) of the Excise Rules is being amended to do away with the requirement of manual attestation of copy of invoice, meant for transporter where the invoices are digitally signed.

Number of returns to be filed reduced – w.e.f. 01.04.2016

Clause (a) and clause (b) of rule 12 (2) of the Excise Rules is being amended to replace requirement to file Annual Financial Information Statement with the requirement to file Annual Returns.

Clause (c) is being inserted after clause (b) of rule 12 (2) of the Excise Rules, whereby even a hundred per cent Export-Oriented Unit would also be required to file Annual Return, as specified under clause (a) of the rule 12 (2).

Sub rule 2A is being omitted to do away with the requirement of filing of Annual Installed Capacity whereby the assessee is required to declare the annual production capacity of the factory for the financial year by 30th April of the succeeding financial year.

Sub rule 6 of the rule 12 of the Excise Rules which specified the penalty for late filing of delayed submission of return is being amended to make consequential changes of deleting reference to Annual Financial Information Statement or Annual Installed Capacity Statement.

Revised returns under Central Excise– w.e.f. date to be notified by the Central Government

New provision as sub rule 8 is being inserted to extend the facility for revised return, hitherto available to a service tax assessee only, to manufacturers also. Further, rule 17 of the Excise Rules is being amended to extend the facility of revised return also to hundred percent Export Oriented Unit.

Deemed conclusion of penalty proceedings - w.e.f. 1.03.2016

Rule 26 of the Excise Rules which provides for penalty for certain specified offences, is being amended to provide for deemed conclusion of all proceedings in respect of penalty against other persons where any proceedings in respect of a person liable to pay duty have been concluded u/s 11AC(1)(a) or section 11AC (1)(d) of the Excise Act.

OTHER AMENDMENTS

Interest rate for delayed payment of duty decreased to fifteen percent – w.e.f. 01.04.2016.

The rate of interest on delayed payment of excise duty under Section 11AA of the Excise Act is being decreased from erstwhile 18% per annum to 15% per annum by way of Notification No. 15/2016 - CE (N.T.) dt. 01.03.2016.

Single registration for two or more premises of same factory in close area – w.e.f. 01.03.2016

Currently, separate registration is required in respect of separate premises except in cases where two or more premises are actually part of the same factory (where processes are interlinked), but are segregated by public road, canal or railway-line. Notification No. 36/2001 – C.E. (N.T.) dt. 26.06.2001 is being amended by way of Notification No. 19/2016 – C.E. (N.T.) dt. 01.03.2016, to allow single registration to two or more premises of the same factory located within a close area in the jurisdiction of a Range Superintendent, the manufacturing process undertaken are interlinked, and the units are not operating under any of the area based exemption notifications.

Filing of declaration in relation to rebate of duty on excisable goods used in manufacture/ processing of export goods – w.e.f. 01.03.2016

Procedure in relation to rebate of duty on excisable goods used in manufacture/ processing of export goods as provided under Notification No. 21/2004-C.E. (N.T.), dt. 6-9-2004, has been amended vide Notification No. 21/2016 – C.E. (N.T.) dt. 01.03.2016.

The manufacturer or processor exporting goods was required to file a declaration with the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise having jurisdiction over the factory of manufacturer describing the finished goods proposed to be manufactured or processed along with their rate of duty leviable and manufacturing/processing formula with particular reference to quantity or proportion in which the materials are actually used as well as the quality. The declaration shall also contain the tariff classification, rate of duty paid or payable on the materials so used, both in words and figures, in relation to the finished goods to be exported.

Now, the above declaration has to be accompanied by a Chartered Engineer's certificate in respect of correctness of the ratio of input and output where a copy of the Standard Input Output Norms notified by Director General of Foreign Trade, Ministry of Commerce, if fixed, is made available to the Chartered Engineer before obtaining the certificate, in respect of goods manufactured or processed.

Basis the above declaration accompanied with Chartered Engineer's certificate filed the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise has power to grant permission to the applicant for manufacture or processing and export of finished goods before commencement of export of such goods.

Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2016 – w.e.f. 01.04.2016

The existing Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2001 is being substituted with the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable and Other Goods) Rules, 2016, so as to simplify the procedure for allowing duty exemptions to importer/manufacturer.

Amendment to Notification No. 19/2004 – C.E. (N.T.) dt. 6.09.2004 – w.e.f. 01.03.2016

One of the conditions to be fulfilled for claiming rebate of duty for exports to countries other than Nepal and Bhutan is that the market price of the excisable goods at the time of exportation is not less than the amount of rebate of duty claimed. This condition is being amended to state that the Indian market price of the excisable goods at the time of exportation is not less than the amount of rebate of duty claimed.

The new condition that the market price to be considered would be the Indian market price is being introduced to overcome the judgment of Delhi High Court in *Dr. Reddy's Laboratories vs. Union of India* 2014 (309) ELT 423 (Del.)

Further amendment is being introduced in the procedure to claim rebate wherein the claim of the rebate of duty paid on all excisable goods has to be now lodged with the Deputy / Assistant Commissioner of Central Excise before the expiry of the period specified in section 11B of Excise Act.

Exemption from registration of multiple factories or premises to manufacturer or producers of jewellery opting for centralized registration – w.e.f. 01.03.2016

Option of centralized registration is granted to every manufacturing factory or premises engaged in the manufacture or production of articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with diamond, ruby, emerald or sapphire, falling under chapter heading 7113 of the First Schedule to the Central Excise Tariff Act, 1985. Accordingly, manufacturers having centralised billing or accounting and opting for centralized registration are now being exempted from registering every individual factory or premise.

Consequential amendment is made in Notification No.35/2001-C.E.(N.T) dt. 26.06.2001, which provides for conditions, safeguards and procedures for registration and exemption in specified cases, to exempt aforesaid jewellery manufacturers from the requirement of physical verification of their premises for the purpose of registration

Notification fixing tariff value in respect of articles of jewellery rescinded – w.e.f. 01.03.2016

Tariff value at the rate of 30% of the transaction value as declared in the invoice in respect of articles of jewellery (other than silver jewellery), falling under sub-heading no. 7113 of the First Schedule to the Central Excise Tariff Act, 1985 was fixed by Notification No. 9/2012-C.E.(N.T.) dt. 17.03.2012. This notification has now been rescinded.

Increase in rate of tariff value of articles of apparel, not knitted or crocheted – w.e.f. 01.03.2016

Rate of tariff value of articles of apparel, not knitted or crocheted falling under sub-heading no. 6201 has been increased from 30% of the retail sale price that is declared or required to be declared on the retail packages under the provisions of the Legal Metrology Act, 2009 to 60%.

Technical amendment to replace reference to section 11AB with section 11AA - w.e.f. 01.03.2016

Notification nos. 42/2001-C.E.(N.T.) dt. 26.06.2001 and 31/2007-C.E.(N.T.) dt. 02.08.2007 are being amended so as to substitute the reference to section 11AB, with a reference to section 11AA.

CLARIFICATIONS

- Notification No.10/97-CE dt. 01.03.1997 grants exemption from excise duty to scientific and technical instruments, apparatus, equipment (including computers) and accessories, parts and consumables, supplied to specified institutions, subject to certification by the Head of the Research Institution that the said goods are essential for research purposes and will be used for the stated purpose only, and will not be transferred or sold by the institution for a period of 5 years from the date of installation, and such institutions are registered with Department of Scientific and Industrial Research (DSIR). It has been clarified vide T.R.U. circular D.O.F.No.334/8/2016-TRU dt. 29.02.2016 that the scope of the exemption under notification No.10/97-Central Excise also covers engineering goods also, subject to fulfillment of other conditions prescribed in the said notification.

- It has been clarified vide T.R.U. circular D.O.F.No.334/8/2016-TRU dt. 29.02.2016 that in absence of a provision to the contrary, the area based excise duty exemption presently available to the North Eastern States including Sikkim vide notification No.20/2007-CE dt. 25.04.2007 [for which the sunset clause is 31.03.2017] will be available to an existing unit on second substantial expansion as well, provided that the concerned unit commences commercial production from such expanded capacity not later than 31.03.2017.
- It has been clarified vide T.R.U. circular D.O.F.No.334/8/2016-TRU dt. 29.02.2016 that the exemption from excise duty, under notification No.108/95-CE dt. 28.08.1995 is also available to sub-contractors for manufacture and supply of goods for or on behalf of the main contractor (who has won the contract for the supply of goods to the projects financed by the UN or an international organization and approved by the Government of India) for execution of the said project, subject to compliance of other specified conditions, if any.

Customs Duty

SUB-INDEX

- DUTY RATES
- AMENDMENTS TO CUSTOMS ACT, 1962
- AMENDMENTS TO THE CUSTOMS TARIFF ACT, 1975
- AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975
- AMENDMENTS TO CUSTOMS EXEMPTION NOTIFICATION
- CLARIFICATIONS ISSUED BY TRU CIRCULAR
- PREFERENTIAL TRADE AGREEMENTS

DUTY RATES

There is no change in the peak rate of BCD which is presently 10%. However, amendments are being made to specific tariff rates and rates prescribed by exemption notifications.

AMENDMENTS TO CUSTOMS ACT

Provisions relating to warehousing – w.e.f. date of enactment of the Finance Bill

Provisions in relation to warehousing of goods are being amended to make paradigm shift in the system of control of warehouses. Till now, all the warehouse were under the physical control of the department by virtue of section 62 of the Customs Act. Amendments to the provisions of Customs Act have been made to move from physical control system to record based control system, except for certain specified goods for which the department will continue with physical control system.

Section 2 (43) of the Customs Act is being amended so as to add a new class of warehouses for enabling storage of specific goods under physical control of the department.

Definition of “warehousing station” u/s 2(45) is being omitted. Chapter heading of chapter III of the Customs Act is being amended to omit the word “warehousing station”. **Section 9 of Customs Act which provides for power to declare places to be warehousing stations** is being omitted.

Sections 57 and 58 of the Customs Act are being substituted to provide for licensing by the Principal Commissioner or Commissioner, in place of Deputy/Assistant Commissioner, subject to conditions to be prescribed by the Board.

In line with amendment of section 2(43) of the Customs Act, section 58A of the Customs Act is being inserted to provide for a new class of warehouses which would require continued physical control and will be licensed for storing goods, as may be specified by the Board.

Section 58B of the Customs Act is being inserted so as to regulate the process of cancellation of licences as a necessary concomitant to the above power of licencing under sections 57, 58 and 58A of the Customs Act.

Existing section 59 of Customs Act governing warehousing bonds submitted by importers availing duty deferred warehousing is being substituted so as to fix the bond amount at thrice the duty involved. Security will have to be furnished as prescribed by Board.

Section 60 of the Customs Act is being substituted to define the date of removal of goods from a customs station and deposit of such goods in a warehouse.

Existing section 61 of the Customs Act is being substituted to extend the period of warehousing to all goods used by Export Oriented Undertakings, Units under Electronic Hardware Technology Parks, Software Technology Parks, Ship Building Yards and other units manufacturing under bond. Amendments are also being made in section 61 of the Customs Act to empower Principal Commissioners and Commissioners to extend the warehousing period upto one year at a time.

Section 62 of the Customs Act relating to physical control over warehoused goods is being omitted which provided for physical control over warehoused goods. Such conditions for licensing different categories of warehouses and exercising control over the same are being provided under sections 57, 58 and 58A of the Customs Act. Henceforth, only special warehouse licenced u/s 58A shall continue to remain under physical control of Customs.

Section 63 of the Customs Act relating to payment of rent and warehouse charges is being omitted. The amendment is being made in view of the privatization of services, and free market determination of rates, including those by facilities in the public sector.

Section 64 of **the Customs Act relating to owner's rights to deal with** warehoused goods is being substituted. Such amendment is being made to rationalize the facilities and rights extended under the section. Henceforth, permission or sanction of the proper officer of Customs shall not be required to inspect, sale, sort, take samples etc. of the goods. However, goods warehoused at a special warehouse licenced u/s 58A shall continue to be under physical control of Customs.

Section 65 of the Customs Act is being amended to delete provisions for payment of fees to Customs for supervision of manufacturing facilities under

Bond; and empower Principal Commissioner or Commissioner of Customs to licence such facilities.

Section 68 of the Customs Act is being amended to omit rent and other charges necessitated by omission of section 63 of the Customs Act.

Section 69 of the Customs Act is being amended to omit rent and other charges necessitated by omission of section 63 of the Customs Act. Also, section 69 of the Customs Act is **being amended so as to substitute the word "exportation" with the word "export" to align with definition contained in section 2 (18) of the Customs Act.**

Section 71 of the Customs Act is being amended so as to substitute the word **"re-exportation" with the word "export" to align with definition contained in section 2 (18) of the Customs Act.**

Section 72 of the Customs Act which provides for demand of duty upon improper removal of goods from warehouse is being amended to delete clause (c) relating to instances of improper removal of samples.

Section 73 of the Customs Act which provides for cancellation and return of bond is being amended to include for bond cancellation in case of transfer of ownership of the goods.

Section 73A of the Customs Act is being inserted so as to provide for custody of warehoused goods and responsibilities including the liabilities of warehouse keepers.

Other amendments

Section 25 of Customs Act is being amended so as to omit the requirement of publishing an offering for sale any notification issued, by the Directorate of Publicity and Public Relations of Board.

Following changes are being introduced by way of amendments in section 28, 47, 51 and 156 of the Customs Act:

- Increase the period of limitation from one year to two years in cases not involving fraud, suppression of facts, willful mis-statement, etc. u/s 28 of the Customs Act.
- Provision for deferred payment of customs duties for importers and exporters to certain class of importers u/s 47 of the Customs Act and exporters u/s 51 of the Customs Act. Such classes of importers and exporters to be notified later.
- Section 156 of the Customs Act is being amended to provide power to the Central Government to make rules in relation to due date and the manner of making deferred payment of duties, taxes etc.

Section 53 of Customs Act is being amended so as to enable the Board to frame regulations for allowing transit of certain goods and conveyances without payment of duty.

Rate of Interest – w.e.f. 01.04.2016

Rate of interest on delayed payment of duty is being reduced to 15% from 18%.

AMENDMENTS TO RULES AND NOTIFICATIONS ISSUED UNDER THE CUSTOMS ACT

Baggage Rules, 2016 – w.e.f. 01.04.2016 issued in supersession of earlier Baggage Rules, 1998.

For passengers arriving from countries other than Nepal, Bhutan and Myanmar

- Duty free clearance of bona fide baggage, i.e. used personal effects, travel souvenirs and articles other than those mentioned in Annexure I not exceeding value of INR 50,000 shall be allowed for Indian residents.
- Duty free clearance of bona fide baggage, i.e. used personal effects, travel souvenirs and articles other than those mentioned in Annexure I not exceeding value of INR 15,000 shall be allowed for tourist of foreign origin.
- Duty free clearance of only used personal effects shall be allowed for infants.
- No pooling of allowances allowed.

For passengers arriving from Nepal Bhutan and Myanmar

- Duty free clearance of bona fide baggage, i.e. used personal effects, travel souvenirs and articles other than those mentioned in Annexure I not exceeding value of INR 15,000 shall be allowed for tourist of foreign origin or Indian resident.
- Duty free clearance of only used personal effects shall be allowed for infants and passengers arriving through land.
- No pooling of allowances allowed.

Jewellery

- Passenger residing abroad for more than one year, on return to India, shall be allowed duty free clearance of jewellery in baggage of the following quantities:
- Upto a weight, of twenty grams with a value cap of fifty thousand rupees if brought by a gentleman passenger; or
- Upto a weight, of forty grams with a value cap of one lakh rupees if brought by a lady passenger.

Transfer of residence

In addition to duty free clearance of bona fide baggage, additional baggage shall be allowed on transfer of residence. The allowance shall depend upon the duration of stay of such person.

Miscellaneous

- Import and Export of Currency shall be governed by provisions of Foreign Exchange Management (Export and Import of Currency) Regulations, 2000 and notifications thereunder.
- Provision for import of unaccompanied baggage.
- Rules also to apply to cabin crew engaged in foreign going conveyance. However, such cabin crew would be allowed to bring articles like chocolates, cheese, cosmetics and other petty gift items for their personal or family use which shall not exceed the value of one thousand and five hundred rupees.

Customs Baggage Declaration (Amendment) Regulations, 2016 – w.e.f. 01.04.2016

- Amendments are being made to Customs Baggage Declaration Regulations, 2013.
- Declaration to only be filed by passengers who come to India and have anything to declare or are carrying dutiable or prohibited goods rather than all passengers.
- Drones are being added to the list of goods for which the passenger is needed to report to the red channel.
- Amendments are being made to bring parity with the introduction of Baggage Rules, 2016, discussed above.

AMENDMENTS TO THE CUSTOMS TARIFF ACT, 1975 – W.E.F. CORRESPONDING DATES IN THE NOTIFICATIONS

Various notifications pertaining to Advance Licence and Duty Free Import Authorization Schemes are being amended retrospectively, to correct the **reference to section 8 of the Customs Tariff Act, 1975 ("CTA")** in such notifications to section 8B of CTA so as to clearly provide that exemption from safeguard duty u/s 8B of the Customs Tariff Act, 1975 was/is available under these notifications on imports under Advance Licence and Duty Free Import Authorization Schemes.

AMENDMENTS TO THE CUSTOMS TARIFF ACT, 1975 – W.E.F. DATE OF ENACTMENT OF THE FINANCE BILL

Omission of section 8C

Section 8C of CTA is being omitted. Said section empowered the Central Government to impose transitional product specific safeguard duty on imports from People's Republic of China.

AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975 – W.E.F. 01.03.2016

Amendments affecting rates of duty

	HSN Reference	Old rate	New rate
Articles of rubber			
Natural latex rubber made balloons falling under specified headings	4016 95 90 4016 99 90	10%	20%
Metals			
Primary aluminium	7601, 7603, 7604, 7605, 7606 and 7607	5%	7.5%
Zinc alloys	7901 20	5%	7.5%
Jewellery			
Imitation jewellery	7117	10%	15%
Renewable Energy			
Water heaters (other than instantaneous and domestic type water heaters)	8419 1920	7.5%	10%
Capital goods and parts thereof			
	8402	7.5%	10%
	8404	7.5%	10%
	8406 (except tariff item 8406 1000)	7.5%	10%
	8410	7.5%	10%
	8411 (except tariff items 8411 11 00, 8411 12 00, 8411 21 00, 8411 22 00 and 8411 91 00)	7.5%	10%
	8412 80 19	7.5%	10%

	8412 80 20	7.5%	10%
	8412 80 30	7.5%	10%
	8412 80 90	7.5%	10%
	8419 19 20	7.5%	10%
	8501	7.5%	10%
	8502 (except tariff items 8502 11 00, 8502 20 10 and 8502 40 00)	7.5%	10%
	8503 (except tariff item 8503 00 90)	7.5%	10%
	8504 (except tariff items 8504 31 00, 8504 32 00, 8504 40 10, 8504 40 30, 8504 50 10 and 8504 50 90)	7.5%	10%
	8525 50 50	10 %	omitted
	8535 (except tariff items under sub-headings 8535 40 and 8535 90)	7.5%	10%
	8536(except tariff items 8536 10 10, 8536 41 00, 8536 61 10, 8536 61 90, 8536 69 10, 8536 69 90 and 8536 70 00)	7.5%	10%
	8537	7.5%	10%
	8544(except tariff items 8544 42 91, 8544 42 92, 8544 42 93, 8544 42 99, 8544 70 10 and 8544 70 90)	7.5%	10%
	8546	7.5%	10%
	8547	7.5%	10%
	9028 90 10	7.5%	10%
	9030 31 00	7.5%	10%
	9030 90 10	7.5%	10%
	9032 89 10	7.5%	10%
	9032 89 90	7.5%	10%
	9503 00 90	10%	20%
	9505 10 00	10%	20%

	9505 90 90	10%	20%
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Amendments not affecting rates of duty

Editorial changes in the Harmonized System of Nomenclature (HSN) in certain chapters are being incorporated in the First Schedules. Such changes are to be effective from 01.01.2017.

Supplementary notes (e) and (f) of Chapter 27 are amended to change the reference:

- from IS: 1460:2000 to IS: 1460:2005 for high speed diesel (HSD) and
- from IS: 1460 to IS: 15770:2008 for light diesel oil (LDO);

Tariff line 5801 39 10 is substituted with description "Warp pile fabrics, uncut" in place of tariff line 5801 37 11 with description "Warp pile fabrics 'epingle' uncut velvet" and 5801 37 19 with description "Warp pile fabrics 'epingle' uncut other".

Separate tariff lines have been prescribed for laboratory created or laboratory grown or manmade or cultured or synthetic diamonds.

Tariff line 8525 50 50 relating to Wireless microphone has been deleted.

AMENDMENTS TO CUSTOMS TARIFF EXEMPTION NOTIFICATION- – W.E.F. 01.03.2016

Changes in BCD, CVD, SAD and Export Duty Rates

	HSN Reference	Export Duty Rates	
		Old rate	New rate
Ores and concentrates			
Iron ore fines with Fe content below 58%	2601 11 41 2601 11 42	10%	Nil
Iron ore lumps with Fe content below 58%	2601 11 21 2601 11 22	30%	Nil
Chromium ores and concentrates, all sorts	2610	30%	Nil
Bauxite (natural), not calcined or calcined	2606 00 10/ 2606 00 20	20%	15%
	HSN Reference	BCD rate	
		Old rate	New

			rate
Food Processing			
Cashew nuts in shell	0801 31 00	Nil	5%
Refrigerated containers	8609 00 00	10%	5%
Mineral fuels and Mineral oils			
Coal, whether or not pulverized, but not agglomerated	2701 11 00/ 2701 12 00/ 2701 19		2.5%
Briquettes, ovoids and similar solid fuels manufactured from coal	2701 20/ 2702/ 2703	2.5%/ 10%	2.5%
Lignite, whether or not agglomerated, excluding jet	2702	10%	2.5%
Peat (including peat litter), whether or not agglomerated	2703	10%	2.5%
Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated, retort carbon.	2704	5% / 10%	5%
Coal gas, water gas, producer gas and similar gases, other than petroleum gases and other gaseous hydrocarbons	2705	10%	5%
Tar distilled from coal, from lignite or from peat and other mineral tars, whether or not dehydrated or partially distilled, including reconstituted tars	2706	10%	5%
Oils and other products of the distillation of high temperature coal tar similar products in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents	2707	2.5% / 5% / 10%	2.5%
Pitch and pitch coke, obtained from coal tar or from other mineral tars	2708	5% / 10%	5%

	HSN Reference	BCD/CVD/SAD rate	
		Old rate	New rate
Petroleum exploration and production			
Goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining		Applicable BCD and CVD	BCD - Nil CVD - Nil

Leases (ML) issued or renewed before 01.04.1999			
Chemicals & Petrochemicals			
All acyclic hydrocarbons and all cyclic hydrocarbons [other than para-xylene which attracts Nil BCD and styrene which attracts 2% BCD]	Chapter 29	5% / 2.5%	2.5%
Denatured ethyl alcohol (Ethanol) subject to actual user condition	2207 20 00	5%	2.5%
Electrolysers, membranes and their parts required by caustic soda / potash unit using membrane cell technology	85 or any chapter	2.5%	Nil
Paper, Paperboard and newsprint			
Wood in chips or particles for manufacture of paper, paperboard and news print	4401 21 00, 4401 22 00	5%	Nil
Plans, drawings and designs	4911	Nil	10%
Textiles			
Specified fibres and yarns	Chapter 54 and 55	5%	2.5%
Specified fabrics [for manufacture of textile garments for export] of value equivalent to 1% of FOB value of exports in the preceding financial year subject to the specified conditions. The entitlement for the month of March 2016 shall be one twelfth of one percent of the FOB value of exports in the financial year 2014-15.	Chapter 54 and 55	Applicable BCD	Nil
Electronics / Hardware			
Polypropylene granules/resins for the manufacture of capacitor grade plastic films	Chapter 39	7.5%	Nil
E-Readers	8543	Nil	7.5%
Parts of E-readers	Any chapter	Applicable BCD	5%
Magnetron of capacity of 1 KW to 1.5 KW for use in manufacture of domestic microwave ovens subject to actual user condition	8540	10%	Nil
Machinery, electrical equipment and instrument and parts thereof (except populated PCBs) for semiconductor wafer fabrication / LCD fabrication units	8543	Applicable BCD SAD	Nil BCD Nil SAD
Machinery, electrical equipment and	84, 85 or	Applicable	Nil BCD

instrument and parts thereof (except populated PCBs) imported for assembly, test, marking and packaging of semiconductor chips (ATMP)	90	BCD SAD	Nil SAD
The exemption from basic customs duty, CV duty, SAD on charger / adapter, battery and wired headsets / speakers for manufacture of mobile phone being withdrawn		BCD-Nil CVD - Nil SAD - Nil	Applicable BCD CVD - 12.5% SAD - 4%
Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phones, subject to actual user condition		Applicable BCD, CVD SAD	Nil BCD Nil CVD Nil SAD
Parts and components, subparts for manufacture of Routers, broadband modems, set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets]		Applicable BCD, CVD SAD	Nil BCD Nil CVD Nil SAD
Magnetic - Heads (all types), ceramic/magnetic cartridges and stylus, antennas, EHT cables, level meters/ level indicators/ tuning indicators/ peak level meters/ battery meter/ VC meters/ tape counters, tone arms, electron guns		Nil BCD	Applicable BCD
To exclude specified telecommunication equipment [Soft switches and Voice over Internet Protocol (VoIP) equipment namely VoIP phones, media gateways, gateway controllers and session border controllers, Optical Transport equipment; combination of one / more of Packet Optical Transport Product/Switch(POTP/POTS), Optical Transport Network(OTN) products, and IP Radios, Carrier Ethernet Switch, Packet Transport Node (PTN) products, Multiprotocol Label Switching-Transport Profile (MPLS-TP) products, Multiple Input / Multiple Output (MIMO) and		Nil BCD	10%

Long Term Evolution (LTE) Products on which 10% BCD was imposed in 2014-15 Budget being non-ITA I bound] from the purview of the other exemption.			
Preform of silica for manufacture of telecom grade optical fibre /cables	Chapter 70	Nil	10%
Specified capital goods and inputs for use in manufacture of micro fuses, sub-miniature fuses, resettable fuses, and thermal fuses		Applicable BCD	Nil
Neodymium magnet (before magnetization) and magnet resin (Strontium Ferrite compound/before formed, before magnetization) for manufacture of BLDC motors, subject to actual user condition	8505 11 90	Applicable BCD	2.5%
Metals, glass and ceramics			
Silica sand	2505 10 11	5%	2.5%
Brass scrap	7404 00 22	5%	2.5%
Other aluminium products	Chapter 76	7.5%	10%
Jewellery			
Gold dore bars	71	8% CVD	8.75% CVD
Silver dore.	71	7% CVD	7.75% CVD
Automobiles			
Golf cars	8703	10%	60%
Specified parts of electric and hybrid vehicles		BCD-Nil CVD - 6% Upto 31.03.2016	BCD-Nil CVD - 6% Without time limit
Aluminium Oxide for use in the manufacture of Wash Coat, which is used in the manufacture of catalytic converters, subject to actual user condition		7.5%	5%
Engine for xEV (hybrid electric vehicle)		Applicable BCD and CVD	Nil BCD 6% CVD
Capital Goods			
Specified machinery required for construction of roads		CVD - Nil	CVD - 12.5%

Ship Repair Units			
Capital goods and spare thereof, raw materials, parts, material handling equipment and consumable for repairs of ocean-going vessels by a ship repair unit subject to actual user condition.		Applicable excise duty	Nil
Simplify the procedure for availment of exemption from Basic Customs Duty, CVD and SAD by ship repair units based on records and subject to actual user condition			
Miscellaneous			
Braille paper	4823 90 11	10%	Nil
Disposable sterilized dialyzer and micro barrier of artificial kidney	Chapter 84 or 90	Applicable BCD, CVD, SAD	Nil BCD Nil CVD Nil SAD
Solar tempered glass / solar tempered (anti-reflective coated) glass, subject to actual user condition	Chapter 70	Nil	5%
Medical use Fission Molybdenum-99 imported by Board of Radiation and Isotope Technology (BRIT) for manufacture of radio pharmaceuticals	2844	7.5%	Nil
Pulp of wood for manufacture of sanitary pads, napkins & tampons	4701-4706	5%	2.5%
Super Absorbent Polymer when used for the manufacture of sanitary pads, napkins & tampons	3906 90 90	7.5%	5%
Merge the exemptions from customs duties on specified goods imported for petroleum exploration under various types of licenses or mining leases, pre-NELP contracts, NELP contracts, Marginal Fields Policy and the Coal Bed Methane Policy into a single exemption with a unified list of specified goods and conditions		Nil BCD Nil CVD Nil SAD	Nil BCD Nil CVD Nil SAD
Specified goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 01.04.1999		Applicable BCD, CVD, SAD	Nil BCD Nil CVD Nil SAD
Prescribe actual user condition for the imports of Phosphoric Acid and Anhydrous Ammonia at concessional BCD/CVD for manufacture of Fertilizers			
Prescribe actual user condition for imports of LCD/LED/OLED Panels imported at Nil BCD for manufacture of LCD/LED/OLED TVs			

"Foreign Satellite data" on storage media when imported by National Remote Sensing Centre (NRSC), Hyderabad		Applicable BCD, CVD, SAD	Nil BCD Nil CVD Nil SAD
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	HSN Reference	SAD rate	
		Old rate	New rate
Orthoxylene for the manufacture of phthalic anhydride subject to actual user condition	2902 41 00	SAD – 4%	SAD – 2%
Populated PCBs for manufacture of personal computers (laptop or desktop)	Chapter 85	Nil SAD	4% SAD
Populated PCBs for manufacture of mobile phone/tablet computer	Chapter 85	Nil SAD	2% SAD

Other amendments to Tariff Exemption Notifications - w.e.f. 01.03.2016

- CVD leviable on Information Technology Software is being exempted under, as is equivalent to the CVD payable on the portion of the value of such Information Technology Software recorded on the media, which is leviable to service tax, provided MRP is not required to be notified on such goods. Importer shall have to furnish suitable declarations.
- Exemption to bonafide gifts imported by post or air freight is currently exempted under notification no. 171/93-Cus dt. 16.09.93 to an upper limit of Rs. 10,000. The limit is being enhanced to Rs. 20,000.
- Exemption provided to various goods imported for defence contracts are being withdrawn.
- Exemption of BCD provided on import of raw materials for manufacture of certain specified finished goods under the procedure set out in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 is being extended to import of such raw materials for additional finished goods.
- Various exemptions are being provided to import of goods for MRO activities of aircrafts for exemption of BCD leviable as is in excess of the duty of customs which would be leviable if the value of the said parts were made up of the Standard Exchange Cost, insurance and freight charges.
- Exemption on import of raw materials meant for manufacture under Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 of specified goods is being made limited. Insofar as, exemption will not be available to raw materials imported for

manufacturing charger or adapter, battery, wired headsets and speakers of mobile handsets including cellular phones and solar tempered glass or solar tempered (anti-reflective coated) glass.

- Various types of cold chain projects are being brought under the purview of Project imports. Project import regulations, 1986 is being amended to bring in procedural changes for such other types of cold chains.
- Condition to prove to the satisfaction of the Deputy Commissioner /Assistant Commissioner of Customs, that there is a valid power purchase agreement between the importer and the purchaser is being done away for concessional rate of BCD on import of machinery, apparatus required for setting up power generation projects based on municipal and urban waste.

CLARIFICATIONS ISSUED BY TRU CIRCULAR

- Notification No.51/96-Customs dt. 23.07.1996, grants exemption on specified goods from SAD. Therefore such goods are exempt from CVD as well as SAD. Since the said goods are exempt from SAD, it has been clarified that there would be no question for claim refund of SAD as per notification No.102/2007-Customs dt. 14.09.2007 in cases where VAT is paid on subsequent sale of such goods.
- It has been clarified that projects which are listed in List 32A of S. No. 507 of notification No. 12/2012-Customs, (which exempts goods for listed power projects from BCD and CVD), as a corollary, will also be exempted from excise duty under S. No. 336 of Notification No. 12/2012-CE subject to following conditions:
 - if said project has been awarded based on International Competitive Bidding [ICB]; and
 - the conditions mentioned in S. No. 507 of Notification No 12/2012-Customs are fulfilled, even if such power project is included in List 10 [S. No 337] or List 11 [S. No 338] of notification No. 12/2012-CE.
- With regard to Liquefied Natural Gas (LNG) imported for consumption in the C2-C3 plant of M/s Oil and Natural Gas Corporation Limited located in the Dahej SEZ for the purposes of authorized operations in the SEZ unit, it is clarified that Sr. No.138A of notification No.12/2012-Customs dt. 17.03.2012 seeks to exempt LNG with reference to the consumption of an equivalent quantity for authorized operations in the SEZ unit during any one of the preceding months against which no duty free import has been claimed by the SEZ under the said sr.No.138A and that the expression **"preceding month" shall be construed accordingly.**
- It has been clarified that Positive Thermal Coefficient (relays) classified under tariff no. 8536 49 00 are included in Serial no. 399B of notification No. 12/2012-Customs which prescribes 5% concessional BCD on Over Load

Protector (OLP) and positive thermal coefficient relays for use in the manufacture of refrigerator compressor.

- It has been clarified that aircraft engines and parts thereof are eligible for customs duty exemption under serial No. 448 and 456 of notification No.12/2012-Customs dt. 17.03.2012, subject to fulfillment of conditions mentioned therein.

PREFERENTIAL TRADE AGREEMENTS

The Economic Survey records that since the mid-2000s, **India's FTAs have doubled to above 40 today**. It further notes that the ASEAN FTA has had the **greatest impact, and that the effect of India's FTAs has been negative for India** as imports have increased more than exports – this is likely because India has relatively higher customs duty rates and has had larger tariff reductions than its FTA partners.

It may be recalled that when the Foreign Trade Policy 2015-20 was published last year, it was remarked on the need for examination of the overall effect of **India's FTAs**. **The Economic Survey reiterates this point which is of topical importance** given the FTA being negotiated with the European Union, at a time of mega-regional agreements, i.e. the Trans-Pacific Partnership (TPP) and Trans-Atlantic Trade and Investment Partnership (TTIP).

In considering sourcing alternatives and markets for their goods, businesses **should consider the customs benefits available under India's FTAs**.

Other Indirect Tax Levies

CENTRAL SALES TAX

An Explanation 3 has been inserted in section 3 of the Central Sales Tax Act, 1956 to provide that where the gas sold or purchased and transported through a common carrier pipeline or any other common transport or distribution system 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.

This amendment follows the judgment of the Allahabad High Court in *Reliance Industries Ltd. vs. State of U.P. [2012 (9) ADJ 10]* wherein it was held that the state government does not have jurisdiction to impose VAT on the sale of gas to consumers in the state since, gas was brought into State A from an offshore reservoir and was subsequently transported to units in State B through pipelines owned by the Company, was an inter-state transaction and the Company had been paying central sales tax on the transaction described.

INFRASTRUCTURE CESS

The Finance Bill, 2016 contains an enabling provision in respect of a duty of excise to be called the Infrastructure Cess, to be levied and collected at 4% on **all goods falling under CETH 8703. As per the Hon'ble Finance Minister's speech**, a lower 1% rate will apply to smaller petrol/ LPG/ CNG cars, and 2.5% rate will apply to smaller diesel vehicles. Three wheeler vehicles, electrically operated and other clean fuel vehicles, taxis, ambulance and cars for physically handicapped persons will be exempt from this cess. No credit of this cess will be allowed, and credit of other duties cannot be offset against this cess.

CESS ON CRUDE OIL

Cess on crude oil changed to 20% ad-valorem - w.e.f. date of enactment of Finance Bill

Section 15 of the Oil Industry (Development) Act, 1974 provides for levy of cess on crude oil and natural gas when produced in India and removed to a refinery or factory or transferred by the person by whom such item is produced to another person.

The Schedule to the above act provided for levy of cess at Rs. 4,500 per tonne on crude oil. It has now been proposed to amend the Schedule to provide for levy of cess at 20% ad-valorem.

Indirect Tax Dispute Resolution Scheme, 2016

The Finance Bill, 2016 has introduced a scheme called Indirect Tax Dispute Resolution Scheme, 2016, which will apply in respect of indirect tax disputes pertaining to customs, central excise or service tax, pending before the Commissioner (Appeals) against an impugned order on 01.03.2016.

Under the scheme, which will come into force on 01.06.2016, a person may make a declaration to the designated authority on or before 31.12.2016 in the prescribed form and manner, seeking resolution thereof. The designated authority shall acknowledge the declaration in the prescribed format and manner pursuant to which the declarant shall pay the tax due along with interest at the rate provided in the relevant Act and penalty equivalent to 25% of the penalty imposed in the impugned order within fifteen days from the date of acknowledgement and intimate the designated authority within seven days of making such payment giving details and proof thereof. On receipt of the proof of payment, the designated authority shall within fifteen days pass an order of discharge of dues. Upon the passing of such order the pending appeal shall stand disposed of and the declarant shall get immunity from all proceedings under the relevant act in respect of the dispute. The declaration shall become conclusive upon the issuance of the order and no matter relating thereto shall be reopened thereafter. Any amount paid pursuant to a declaration is not refundable.

The scheme shall not apply in respect of (a) orders in respect of search and seizure proceedings; or (b) where prosecution has been instituted before the 01.06.2016; or (c) the impugned order is in respect of narcotic drugs or other prohibited goods; or (d) the impugned order is in respect of an offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988; or (e) a detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

Goods And Services Tax

The Finance Minister's Budget speech included a solitary reference to GST, limited to the Government's endeavour to ensure passage of the Constitutional Amendment Bill. The 122nd Constitutional Amendment Bill has remained stuck in the Rajya Sabha since last year's Budget Session.

In the course of last year, the only movement on the ground has been the release of four reports of the Joint Committees on GST business processes, and the award of GSTN contract late last year. It is understood that the Government is actively working on a modal legislation draft.

Some of the Indirect Tax amendments announced in the Budget 2016 are directionally preparatory for GST, including the increase in the effective rate of service tax, rationalisation of exemptions under central excise and service tax, and streamlining of the CENVAT credit provisions.

Income Tax

TAX RATES W.E.F. AY 2017-18

There has been no change in income slabs or tax rates. Surcharge on income exceeding Rs.1 crore increased to 15% for individuals, HUFs.

Increase in rebate of income tax u/s 87A for resident individuals with total income not exceeding Rs. 5 lakh to Rs. 5,000.

Relief to small companies

Small companies, with turnover in the financial year 2014-15 not exceeding Rs. 5 crore taxed at a lower corporate tax rate of 29%.

Companies set up on or after 01.03.2016 and which are engaged solely in the business of manufacture or production, taxed at a lower rate of 25% if they do claim any profit or incentive linked benefits under the Income Tax Act.

KEY AMENDMENTS TO INCOME TAX

Taxation of Dividend - w.e.f. AY 2017-18

Dividend income received in excess of Rs. 10 lakh by an individual, Hindu Undivided Family or a firm resident in India taxed at the rate of 10% on a gross basis in their hands in addition to Dividend Distribution Tax paid by the companies.

Securities Transaction Tax on Options - w.e.f. 01.06.2016

Increase STT rate of 0.05% (from 0.017%) on sale of an option in securities where option is not exercised.

Equalisation Levy – w.e.f. date to be notified by Central Government

A new Chapter is proposed to be inserted in the Finance Bill to address the challenges in the new digital economy and the taxations of the transactions therein. An equalisation levy of 6% is proposed to be levied on B2B transactions on the amount of consideration for specified services received or receivable by a non-resident not having a permanent establishment in India. No levy to be made if the aggregate of such consideration for specified services received or

receivable by a non-resident not having a permanent establishment in India is less than Rs. 1 lakh in any previous year.

The Chapter proposes to define certain terms and expressions used in the digital economy and proposes to provide for the procedure to be adopted for collection and recovery of equalisation levy as well as provide exemption u/s 10 for such income arising from the provision of such specified services so as to avoid double taxation. Further, it is proposes a disallowance of expenses incurred by the assessee towards the specified services chargeable in case of failure of the assessee to deduct and deposit the equalisation levy.

Tax Collection at Source - w.e.f. 01.06.2016

With a view to curbing unaccounted money and to bring high value transactions to tax section 206 C of the Act is proposed to be amended to provide that the seller shall collect on the sale of a motor car exceeding Rs. 10 lakh and on sale in cash of any goods (other than bullion and jewellery or providing any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding Rs. 2 lakh, a tax at the rate of 1% of the value.

Buyback of unlisted shares - w.e.f. 01.06.2016

The definition of buyback has been widened to include a buyback of shares in accordance with the new Companies Act, 2013 or any legislation that may be applicable. The amendment is proposed to also address the manner of determination of the amount of consideration where the consideration/ issue price was paid in tranches or non-monetary in nature.

Conversion of a charitable institution to a non-charitable organisation - w.e.f. 01.06.2016

A charitable organization is leviable with additional income tax at maximum marginal rate if it is converted into a non-charitable organization or gets merged with a non-charitable organization or does not transfer the assets to another charitable organization.

Phase out of profit linked / weighted deductions - w.e.f. AY 2017-18

Section	Phase out w.e.f. assessment year
10AA – SEZ	Not available w.e.f. 2021-22
35AC eligible products	Not available w.e.f. 2018-19
35CCD – skill development project	Restricted to 100% w.e.f. 2021-22
80IA; 80IAB; 80IB – Specified businesses	Not available w.e.f. 2018-19

Phase out of accelerated depreciation / weighted deductions w.e.f. AY 2018-19

Section	Phase out w.e.f. assessment year
32 – Accelerated depreciation	Restricted to 40% w.e.f. AY 2018-19 of the relevant block (for both old and new assets).
35(1)(ii) – Contribution to associations for scientific research	Restricted to weighted deduction of 150% for AYs 2018-19 to 2020-21; thereafter restricted to 100%.
35(1)(ia) – Contribution to companies for scientific research	Restricted to 100% w.e.f. AY 2018-19 onwards.
35(1)(iii) – Contribution for statistical research or social sciences	Restricted to 100% w.e.f. AY 2018-19 onwards.
35(2AA) – Contribution for approved scientific research programme	Restricted to weighted deduction of 150% for AYs 2018-19 to 2020-21; thereafter restricted to 100%.
35(2AB) – In-house research and development facility	Restricted to weighted deduction of 150% for AYs 2018-19 to 2020-21; thereafter restricted to 100%.
35AD – Specified businesses	Restricted to 100% w.e.f. AY 2018-19 onwards.
35CCC – Agricultural projects	Restricted to 100% w.e.f. AY 2018-19 onwards.

Income of foreign companies from storage and sale of crude - w.r.e.f. AY 2016-17

Any income, accruing or arising to a foreign company on account of storage of crude oil in a facility in India, or its sale to any person resident in India, is proposed to be exempted from taxation if such storage or sale is consequent to an arrangement with the Central Government and is notified.

Display of uncut diamonds by Foreign Mining Companies - w.r.e.f. AY 2016-17

Display of uncut diamonds by foreign mining companies without any sorting or sale in a SNZ shall not be deemed to a business connection in India.

Accelerated Depreciation extended to the power sector - w.e.f. AY 2017-18

Accelerated depreciation @ 20% to be allowed to assessee engaged in the business of transmission of power.

Income from patents - w.e.f. AY 2017-18

A new section is proposed to be inserted to provide for a concessional rate of 10% on income from royalty (gross basis) in respect of a patent developed and registered in India subject to no expenditure or allowance being claimed in respect of such income.

Incentives for start-ups w.e.f. AY 2017-18

A 100% tax holiday for 3 consecutive years is proposed to incentivise start-ups set-up on or after 01.04.2016 and before 01.04.2019. Further, any long-term capital gains accruing to an individual or HUF on sale of residential property to be exempt provided the proceeds are utilised to subscribe to at least 50% of the shares of an eligible start-up company and the company utilises the amount to purchase new plant and machinery.

As further assistance, the Central Government would create a fund to promote start-up ecosystem. Investments made by any person are proposed to be exempted from long term capital gains tax subject to the proceeds, upto Rs. 50 lakh are invested in the units of the Fund for at least 3 years.

Housing Incentives - w.e.f. AY 2017-18

With a view to provide an impetus to the housing sector a 100% deduction of the profits is proposed to be allowed to an assessee developing and building affordable housing projects if the housing project is approved by the competent authority before 31.03.2019 and subject to certain conditions:

- a. The project is completed within a period of three years from the date of approval;
- b. The project land area measures not less than 1000 square metres where the project is within 25 Km from the municipal limits of four metros and in any other area, and the project land area measures not less than 2000 square metres where the size of the residential unit in the said areas is not more than 30 square metres and 60 square metres, respectively; and
- c. Where residential unit is allotted to an individual, no such unit shall be allotted to him or any other member of his family.

Incentives for Employment generation - w.e.f. AY 2017-18

A deduction u/s 80 JJAA extended to all sectors in respect of cost incurred on any employee whose total emoluments are upto Rs. 25,000 who is employed for at least 240 days with certain exclusions. No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with

Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government

Taxation of Gold Monetization Schemes - w.e.f. AY 2016-17

Gold Monetisation Scheme 2015 to be excluded from the definition of a capital asset Further, interest on the deposit certificates is also proposed to be exempted.

Sovereign Gold Bonds - w.e.f. AY 2017-18

Redemption of Sovereign Gold Bonds by an individual to be exempted from tax on capital gains, while all other assesses may claim indexation benefits on long term capital gains arising on transfer.

Rupee denominated Bond - w.e.f. AY 2017-18

To provide relief to non-resident investor, it is proposed that any capital gains on appreciation of rupee between date of issue and date of redemption of RDBs will be exempt.

Consolidation of mutual fund plans within a scheme - w.e.f. AY 2016-17

Exemption u/s 47 (xviii) extended to transfer of units by a unit holder under a consolidating plan of a mutual fund scheme for units in the consolidated plan of that scheme.

Rationalisation of section 56 - w.e.f. AY 2017-18

Any shares received by an individual or an HUF pursuant to a demerger or amalgamation of a company shall not attract section 56 (2) (vii).

Dividend Distribution Tax on distribution to business trusts – w.e.f. 01.06.2016

Dividend distributed by a SPV to business trusts (REITs/InvITs) to be exempted from the levy of DDT where the business trust holds the entire share capital of the SPV or any part thereof as reduced by any specific requirement of the law. The exemption applies to dividend distributed out of the current income after the date when the business trust acquires the shareholding in the SPV.

Simplified conditions for taxation of offshore funds - w.e.f. AY 2017-18

Eligible investment fund shall now also include a fund established or incorporated or registered outside India in a country or a notified territory in addition to the fund resident in those countries or territories.

Further, the condition of fund not controlling and managing any business in India or from India is proposed to be restricted to the activities undertaken in India only.

Presumptive tax for persons having income from profession - w.e.f. AY 2017-18

Presumptive taxation is proposed as an option to professionals (including lawyers, doctors, engineers, architects, accountants or technical consultants or interior designers or any other profession as is notified by the Board in the Official Gazette) with gross receipts not exceeding Rs. 50 lakh in a year. Deduction will be allowed at 50% of the total gross receipts. The scheme shall be available to individuals, HUFs or partnership firms but not LLPs.

Presumptive tax for persons having income from business - w.e.f. AY 2017-18

Existing threshold turnover limit of Rs. 1 crore increased to Rs. 2 crore for assesses engaged in specified businesses. Further such taxpayers can pay advance tax by 15th March of the previous year.

The assessee however, shall not be eligible to claim presumptive taxation for five successive assessment years subsequent to the previous year in which the profit has not been declared in accordance with the provisions of the presumptive taxation scheme.

Increase in threshold limit for audit for persons having income from profession – w.e.f. A.Y. 2017-18

The threshold limit of total gross receipts specified under Section 44AB of the Income Tax Act for getting accounts audited by a person having income from profession is proposed to be increased from Rupees 25 lakh to Rupees 50 lakh.

Minimum Alternate Tax (MAT) on foreign companies for the period prior to 01.04.2015 – w.r.e.f AY 2001-02

It is proposed to make MAT inapplicable to a foreign company w.r.e.f. 01.04.2001 where the foreign company is a resident of a country with which India has entered into a DTAA and the foreign company does not have a PE in India or the foreign company is a resident of a country with which India has not entered into a DTAA and the foreign company is not required to seek registration under any law for the time being in force relating to foreign companies.

International Financial Centres – w.e.f. 01.06.2016

To enable the growth of the International Financial Centres, the following amendments are proposed:

- Long term capital gains on transactions in foreign currency on recognized stock exchange located in IFSC even when Securities Transaction Tax (STT) is not paid.
- Concessional rate of MAT at 9% on units in IFSC deriving income wholly in convertible foreign exchange.
- No dividend distribution tax payable by units located in IFSC (deriving their income wholly in convertible foreign exchange) in the hands of company paying the dividend as well as in the hands of their shareholders
- Exemption from STT and Commodities Transaction Tax (CTT) on transactions undertaken in foreign currency on recognized stock exchange/recognized association in IFSC.

Income Declaration Scheme, 2016 – w.e.f. 01.06.2016

Voluntary disclosure scheme is proposed for domestic undisclosed income of any year by paying tax at the rate of 30% as increased by a surcharge of 7.5% and a penalty of 7.5% of the undisclosed income.

The scheme is available for declarations to be filed between 01.06.2016 and 30.09.2016.

Direct Tax Dispute Resolution Scheme, 2016 – w.e.f. a date to be notified by Central Government

A new Dispute Resolution Scheme has been introduced. No penalty in respect of cases with disputed tax up to Rs. 10 lakh. Cases with disputed tax exceeding Rs.10 lakh to be subjected to 25% of the minimum of the imposable penalty. Any pending appeal against a penalty order can also be settled by paying 25% of the minimum of the imposable penalty and tax interest on quantum addition.

Providing time limit for disposing applications made by assessee u/s 220(2A), 273A, 273AA – w.e.f. 01.06.2016

Section 220 of the Income Tax Act is proposed to be amended to provide for the time line of 12 months from the end of the month in which application is made, for passing an order accepting or rejecting application in relation to reduction or waiver of interest amount paid or payable u/s 220 (2), by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner.

Similarly, section 273A and section 273AA is proposed to be amended to provide for an order accepting or rejecting the application of an assessee by the Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such application is received.

In respect of applications pending as on 01.06.2016, the time limit for disposing applications under the above mentioned sections is 31.05.2017.

Filing of returns – w.e.f. A.Y. 2017-18

Assessee claiming LTCG exemption will be required to file return of income within due date if their income without considering the LTCG exemption exceeds the maximum amount which is not chargeable to income tax.

Time limit for filing belated return is proposed to be reduced by one year. The belated return will have to be furnished before the end of relevant AY or completion of assessment whichever is earlier.

Similarly, time limit for revise return, whether filed within time or belatedly, is proposed to be reduced by one year. The belated return will have to be furnished before the end of relevant AY or completion of assessment whichever is earlier.

It is also proposed to delete the pre-condition of payment of self-assessment tax prior to filing of return. A return will not be treated as defective merely because self-assessment tax and interest is not paid on or before the date of furnishing of the return.

Processing u/s 143(1) to be mandated before assessment – w.e.f. A.Y. 2017-18

Under section 143(1D), processing of a return is not necessary where a notice has been issued to the assessee u/s 143 (2). It is proposed to amend section 143 (1D) to provide that before making an assessment under 143 (3), a return shall be processed u/s 143(1).

Rationalisation of time limit for assessment, reassessment and recomputation – w.e.f. 01.06.2016

Proceedings	Existing Time Lines	Proposed Time Lines
Section 143(3)/144 - Scrutiny assessment proceedings/best judgment	2 years from end of assessment year	21 months from end of assessment year

Section 147 Reassessment/re-computation proceedings	1 year from end of financial year in which notice u/s 148 is served	9 months from end of financial year in which notice u/s 148 is served
Order giving effect to ITAT/revisonal order of the first appellate authority for fresh assessment in pursuance of order u/s 254/263/264	1 year from the end of financial year in which order u/s 254 is received or order u/s 263/264 is passed by the prescribed authority	9 months from the end of financial year in which order u/s 254 is received or order u/s 263/264 is passed by the prescribed authority
Effect to 'appellate order' or '263/264 order' or 'order of settlement commission' wholly or partly without fresh assessment or reassessment	-	3 months from the end of the month in which order is received or passed by the relevant authority
Assessment in relation to search cases u/s 153A or section 153C	2 years from end of the financial year in which last of the authorizations for search was executed Or 1 year from the end of financial year in which books of account or documents or assets seized or requisitioned are handed over to AO. whichever is later	21 months from end of the financial year in which last of the authorizations for search was executed Or 9 months from the end of financial year in which books of account or documents or assets seized or requisitioned are handed over to the Assessing Officer, whichever is later

Rationalisation of advance tax payment schedule u/s 211 and charging of interest u/s 234C – w.e.f. 01.06.2016

Currently, the advance tax payment schedule is different for corporate and non-corporate assesseees. Section 211 of the Income Tax Act is proposed to be amended to provide the facility of payment of advance tax by all assesseees

(other than an eligible assessee in respect of an eligible business referred to in Section 44AD of the IT Act) in 4 instalments.

[Taxation of Alternative Investment Funds - w.e.f. 01.06.2016](#)

Proposal to extend DTAA benefits by allowing for rate in force being applicable for withholding tax purposes in respect of distribution by Category-I and II Alternate Investment Funds to the non-resident investors. It is also proposed to provide that the investors may seek certificate of lower deduction or nil deduction of tax.

[New taxation regime for securitisation trust and its investors - w.e.f. 01.06.2016](#)

A new pass through taxation regime is being introduced for a securitisation trust set-up in accordance with provisions of the SARFAESI Act. The new regime seeks to tax income received by an investor from securitization trust as if the investor made investment directly in the underlying assets. The exemption for income of the securitization trust as per Section 10(23DA) of the Income Tax Act would continue.

[BEPS Action Plan – Country by Country \(CbC\) Report and Master File – w.e.f. A.Y. 2017-18](#)

Section 92D of the Income Tax Act, requires the maintenance of prescribed information and document in relation to the international transaction and specified domestic transaction entered into by an assessee.

The OECD report on Action 13 of BEPS Action plan provides the revised standards for documentations in relation to transfer pricing and a template for CbC reporting. It is proposed to include the essential elements of CbC reporting and master file through insertion of proviso to section 92D.

These amendments will be effective from 01.04.2017 and will be applicable for the Assessment Year 2017-18 and the subsequent assessment years.

[Section 43B of the Income Tax Act to cover payments made to Indian Railways – w.e.f. A.Y. 2017-18](#)

Section 43B is proposed to be amended to provide that any sums payable to Railways for the use of railway assets shall be allowed to be deducted as business income in a previous year only if the same has been paid on or before the due date of filing of return for the relevant previous year. The proposed amendment is being made to ensure prompt payment of dues to the Railways for use of the Railways assets.

Clarification regarding set off of losses against deemed undisclosed income – w.e.f. A.Y. 2017-18

Section 115BBE of the Income Tax Act is being amended to deny set off of any loss against income under sections 68/ 69/ 69A/ 69B/ 69C/ 69D of the Income Tax Act.

Amortisation of Spectrum Fee – w.e.f. AY 2017-18

A new section is proposed to be introduced for the tax treatment of spectrum fee:

- Capital expenditure incurred and actually paid for acquisition of any right to use spectrum to be equally amortized over the period of right to use of spectrum.
- Where spectrum is transferred, the amount of shortfall/excess shall be treated as expense/income in the year of transfer.
- Unallowed expenses in the case where part of the spectrum has been transferred would be amortized over the remaining period of right retained.
- In case of an amalgamating company transferring spectrum to an Indian amalgamated company under a scheme of amalgamation, these provisions shall apply mutatis mutandis to the amalgamated company.

Grant of stay at first appeal stage

Instruction making will be issued to make it mandatory for the assessing officer to grant stay of demand once the assessee pays 15% of the disputed demand, while the appeal is pending before Commissioner of Income-tax (Appeals). In case of deviation, assessing officer has to get orders of his superiors. The tax payer also has an option to go to superior officer in case he does not agree with conditions of stay order passed by the subordinate officer

Rate of TDS for payments to non-residents not holding PAN – w.e.f. 01.06.2016

Non-residents without PAN are currently subjected to a higher rate of TDS. It is proposed to amend the relevant provision to provide that on furnishing of alternative documents, the higher rate will not apply.

E-assessment

Scrutiny assessment of all assesses in 7 mega cities in the coming years will be scrutinized in e-environment whereby unless the assessee himself wants to be heard or for special reasons to be recorded, the assessing officer wants to hear the party, there will be no face to face contact of IT Department with assessee.

Rationalisation of penal provisions – w.e.f. A.Y. 2017-18

Section 271AAB(1) (c) of the Income Tax Act which provided for penalty of 30% to 90% in cases of the undisclosed income in cases of search proceedings, is being amended to reduce the discretion and to rationalise the rate of penalty which would be flat rate of 60% of undisclosed income.

Section 272A(1) of the Income Tax Act which deals with penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc., is being amended to further include the levy of penalty of 10 thousand rupees for each default or failure to comply with a notice issued u/s 142(1) or section 143(2) or failure to comply with a direction issued under Section 142(2A) of the Income Tax Act.

Provisional attachment to protect revenue in certain case – w.e.f. 01.06.2016

As per section 281B of the Income Tax Act, the Assessing Officer has power to provisionally attach any property of the taxpayer during the pendency of assessment or reassessment proceedings. This section is proposed to be amended to provide that the provisional attachment of property could be substituted with bank guarantee. The Assessing Officer can revoke the attachment of property in cases where the assessee furnishes a bank guarantee from a scheduled bank for an amount not less than the fair market value of such property or for an amount lower than the fair market value of the property which is sufficient to protect the interests of the revenue.

This amendment is proposed in light of the Income Tax Simplification Committee (Easwar Committee) recommendation.

Extension of time limit to Transfer Pricing Officer in certain cases – w.e.f. 01.06.2016

Amendment to section 92CA (3A) of the Income Tax Act is proposed to provide for the extension of time limit to complete the assessment proceedings to the Transfer Pricing Officer in certain cases where assessment proceedings are stayed by any court or where a reference for exchange of information has been made by the competent authority.

Assumption of jurisdiction of Assessing Officer - w.e.f. 01.06.2016

Section 124(3) of the Income Tax Act is being amended to specifically provide that any objection to jurisdiction of the Assessing Officer has to be raised within 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, in cases where search is initiated under Section 132 or books or accounts, other documents or any assets are requisitioned u/s 132A.

Immunity from penalty and prosecution in certain cases by inserting new section 270AA – w.e.f. A.Y. 2017-18

It is proposed to provide that an assessee may make an application to the Assessing Officer (within one month from the end of the month in which the order of assessment or reassessment is received), for grant of immunity from imposition of penalty u/s 270A and initiation of proceedings u/s 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 grant of immunity from penalty and prosecution would be subject to certain conditions prescribed.

Exemption of Central Government subsidy or grant or cash assistance, etc. towards corpus of fund established for specific purposes from the definition of Income – w.e.f. A.Y. 2017-18

The definition of 'income' u/s. 2(24) of the Income Tax Act was amended by Finance Act, 2015 as result of which the grant or cash assistance or subsidy etc. provided by the Central Government for budgetary support of a trust or any other entity formed specifically for operationalizing certain government schemes were taxable in the hands of trust or any other entity. Section 2(24) is proposed to be amended to provide that subsidy or grant by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or State government shall not form part of income.

Rationalisation of scope of tax incentive u/s 32AC – w.e.f. 01.04.2016

Section 32AC(1A) of the Income Tax Act stipulates the condition for claiming the benefit of investment allowance at the rate of 15% on investment made in new assets (plant and machinery) exceeding Rupees 25 crore. It states that the acquisition of the plant and machinery and its installation has to be done in the same previous year for claiming the benefit of investment allowance.

The section is proposed to be amended to provide that where the installation of the new asset is in a year other than the year of acquisition, the deduction shall be allowed in the year in which the new asset is installed.

Payment of interest on refund – w.e.f. 01.06.2016

Section 244A provides for interest on refund out of excess payment of advance tax, tax deducted or collected at source. The provision is being rationalized to provide for interest on refund out of any tax paid under Section 140A of the IT Act (i.e. self-assessment tax).

It is also proposed to grant additional interest of 3% in case of refund arising out of appeal being delayed beyond the time prescribed.

Time limit for carry forward and set off of such loss u/s 73A of the Income Tax Act – w.e.f. 01.04.2016.

Section 73A of the Income Tax Act provides 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 130 (3), shall not be carried forward and set-off under 72(1) or 73(2) or section 74(1) or section 74(3) or sub-section 74A.

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).

Rationalization of tax deduction at Source (TDS) provisions – w.e.f. 01.06.2016

In order to rationalise the rates and base for TDS provisions, the existing threshold limit for deduction of tax at source and the rates of deduction of tax at source are proposed to be revised as mentioned in the tables below:

Increase in threshold limit of deduction of tax at source on various payments mentioned in the relevant sections of the Act			
Section	Nature	Existing Limit (Rs.)	Proposed Limit (Rs.)
192A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winning from horse race	5,000	10,000
194C	Payment to Contractors	75,000	100,000
194LA	Payment of Compensation on acquisition of certain Immovable Property	200,000	250,000
194D	Insurance Commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission on brokerage	5,000	15,000

Revision in rates of deduction of tax at source on various payments mentioned in the relevant sections of the Act			
Section	Income Heads	Existing Rate of TDS (%)	Proposed Rate of TDS (%)
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission	10%	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

Enabling of Filing of Form 15G/15H for rental payments – w.e.f. 01.06.2016

It is proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194-I 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.

Rationalisation of penalty u/s 271(1)(c) of the Income Tax Act for under-reporting or misreporting of income – w.e.f. A.Y. 2017-18

The existing provisions relating to levy of penalty (100 to 300 per cent of tax sought to be evaded) due to concealment of income or furnishing of inaccurate particulars of income by the taxpayer is to be replaced by provisions categorising the defaults into two categories viz. under-reporting of income and misreporting of income.

In order to rationalize and bring objectivity, certainty and clarity in the penalty provisions, it is proposed that section 271 shall not apply to and in relation to any assessment for the assessment year commencing on or after the 1st day of April, 2017 and subsequent assessment years and penalty be levied under the newly inserted section 270A w.e.f. 01.04.2017.

Penalty in the cases of 'under reporting of income' and under reporting of income due to 'misreporting' is to be 50 per cent and 200 per cent respectively of tax payable to be computed as stipulated of under-reported income.

A person shall be considered to have under-reported his/her income if -

Assessed income or deemed total income is greater than income determined in the intimation or basic exemption limit where return is not filed.

Assessed income is greater than income assessed or reassessed previously or has an effect of reducing loss or converting it into income.

The under-reported income to exclude certain situations where taxpayers offer satisfactory explanation with all material facts; assessment on estimate bases where books are accurate and complete; etc.

The cases of misreporting of income are defined to mean misrepresentation or suppression of facts; failure to record investments in the books of accounts; claim of expenditure without any evidence; recording of false entry in the books of accounts; failure to record any receipt in books; and failure to report any international transaction/ deemed international transaction/ specified domestic transaction.

Consequential amendments have been proposed in sections 119, 253, 271A, 271AA, 271AAB, 273A and 279 to provide reference to newly inserted section 270A.

Rationalization of Section 50C in case sale consideration is fixed under agreement executed prior to the date of registration of immovable property – w.e.f. A.Y. 2017-18

Under section 50C of the Income Tax Act, in case of transfer of a capital asset being land or building on both, the value adopted or assessed by the stamp valuation authority for the purpose of payment of stamp duty is taken as the full value of consideration for the purposes of computation of capital gains.

Section 50C is proposed to be amended to provide that where 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. This provision will apply only in a case where the amount of consideration referred to therein, or a part thereof, has been paid by way of an account payee cheque or account payee bank draft or use of electronic clearing system through a bank account, on or before the date of the agreement for the transfer of such immovable property.

Rationalisation of the provisions relating to Appellate Tribunal

Section 253(2A) and (3A) is proposed to be omitted to do away with the option available to the Assessing Officer to file an Appeal against the order of the Dispute Resolution Panel. Therefore, the order of the Dispute Resolution Panel will be binding on the Assessing officer.

Section 254(2) is proposed to be amended to reduce the time period within which the Appellate Tribunal may rectify any mistake apparent on the record to

6 months as compared to the existing time period of 4 years from the end of the month in which the order was passed.

Further, Section 255(3) is proposed to be amended to provide that a single member bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed Rs. 50 lakh as compared to Rs. 15 lakh at present.

Legislative framework to enable and expand the scope of electronic processing of information – w.e.f. 01.06.2016

Section 133C empowers the prescribed income-tax authority to issue notice calling for information and documents for the purpose of verification of information in its possession. In order to expedite verification and analysis of the information and documents so received, section 133C is proposed to be amended 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.

To remove the mismatch between the return and the information available with the Department, it is proposed to expand the scope of adjustments that can be made at the time of processing of returns u/s 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.

Other provisions

- An additional deduction of Rs. 50,000 in respect of interest payable on home loan taken by an individual during the financial year 2016-17. This deduction is available only to a first time owner of a house property and where the cost of house does not exceed Rs. 50 lakh and the loan does not exceed Rs. 35 lakh.
- Increased deduction of Rs. 5000 per month for house rent paid by individuals not receiving House Rent Allowance.
- The period within which the construction or acquisition of a self-occupied house property is to be completed, to claim a deduction of interest on housing loan, increased to 5 years to be reckoned from the year in which the loan is borrowed. The permissible deduction limit continues to be Rs. 2 lakh.
- A deduction at 30 percent of the arrears of rent or unrealized rent received from a tenant shall be deemed to be the income from house property in the year of receipt irrespective of whether the assessee continues to be the owner of the house or not.

- **Employer's contribution to Provident fund** in excess of 12% of the salary of the employee or Rs. 1.5 lakh p.a., whichever is lower, will be subject to tax.
- NBFCs to be allowed a deduction to the extent of 5% of the total income on account of provision for bad and doubtful debts.
- The exemption on withdrawal of accumulated balance from a recognized PF is reduced to 40% to the extent it relates to contributions made by the employee after 01.04.2016. This is not applicable to Excluded employee whose monthly salary does not exceed an amount prescribed for this purpose.
- Applicability of POEM based residence test deferred by one year to 01.04.2017.
- 40% of the amount withdrawn from New Pension Scheme (NPS) and Superannuation funds on retirement will be tax exempt. The amounts received by a nominee from NPS on death of the tax payer would be exempt from tax.
- Section 206AA shall not be applicable to a non-resident (other than a company) or a foreign company in respect of any payments, other than interest on bonds, subject to such conditions as may be prescribed w.e.f. 01.06.2016.
- Taxation of non-compete fees and exclusivity rights in case of profession is proposed to be brought at par with similar income in the case of business.
- Section 112(1)(c)(iii) to be amended to apply the beneficial tax rate to shares of companies in which public are not substantially interested effective from 01.04.2017.
- Value of total assets in the books of company in any of the three preceding years should not exceed Rs. 5 crore for claiming tax neutrality in case of conversion of a company into LLP.

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