



Key Changes – Direct tax - Budget 2015

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Rate of Taxes

Rate of Taxes :

| Particulars | Domestic Company | Foreign Company | individuals, HUFs, AOPs, BOIs, artificial juridical persons, firms, cooperative societies and local authorities |
|-----------------|--|------------------|---|
| Income Tax Rate | No change in the rate of tax in respect of income assessable in the assessment year 2016-17. | Remain Unchanged | Remain Unchanged |
| Surcharge | <ul style="list-style-type: none"> ▪ Income between 1 crore to INR 10 crores – Surcharge increased to 7% ▪ Income above 10 crores – Surcharge increased to 12% | Remain Unchanged | Where Income exceeds INR 1 crore - Surcharge increased to 12% |
| EC & SHEC | Remain Unchanged | Remain Unchanged | Remain Unchanged |

(Conti..)



Rate of Taxes (Conti..) :

- To levy a surcharge @12% as against current rate of 10% on additional income-tax payable by companies on distribution of dividends and buyback of shares, or by mutual funds and Securitization trusts on distribution of Income.
- **Wealth tax:**
 - a. It is proposed to abolish levy of wealth-tax under Wealth-tax Act, 1957 from FY 2015-16 onwards.
 - b. Information relating to assets which is currently required to be furnished in the wealth tax return shall be captured by suitably modifying income-tax return.



Deductions and Exemptions

Deduction and Exemptions:

| Section | Amendment made |
|--|---|
| Sukanya Samriddhi Scheme [Section 80C] [Section 10 (11A)] | Investment in Sukanya Samriddhi Scheme will be eligible for deduction u/s 80C AND any interest received on such investment will be exempt AND Amount Withdrawn from the scheme shall not be liable to tax. <i>Applicable w.e.f. 01/04/2015</i> |
| Deduction of medical premium [Section 80D] | Medical premium threshold limit increased - For individuals; from 15,000 to 25,000 - For senior citizens; from 20,000 to 30,000 Payment made on account of medical expenditure in respect of a very senior citizen (exceeding 80 years of age), up to 30,000 shall be allowed as deduction |

Deduction and Exemptions (Conti...) :

| Section | Amendment made |
|--|---|
| Medical Treatment of very senior Citizens [Section 80DDB] | Deduction limit u/s 80DDB Payment for Medical treatment of very senior citizens introduced at INR 80,000 <ul style="list-style-type: none"><input type="checkbox"/> Changes made in Conditions of Section 80DDB<input type="checkbox"/> Now prescription to be obtained from specialist doctor instead of certificate from Government Hospital |
| Expenditure incurred for medical treatment [Section 80DD] | Expenditure incurred for medical treatment or payments to LIC / insurer under a scheme for dependent- <ul style="list-style-type: none"><input type="checkbox"/> In case of disability deduction increased – From INR 50,000 to INR 75,000<input type="checkbox"/> In case of Severe Disability, deduction increased – From INR 1,00,000 to INR1,25,000 |



Deduction and Exemptions (Conti...) :

| Section | Amendment made |
|--|--|
| Person suffers from disability [Section 80U] | <input type="checkbox"/> In case of person suffers from disability, deduction increased – From INR 50,000 to INR 75,000 & <input type="checkbox"/> In case of person suffers from Severe disability, deduction increased – From INR 1,00,000 to INR 1,25,000 |
| Contribution to Pension fund [Section 80CCC] | Contribution to Pension Fund (Any annuity plan of LIC or other insurer) From INR1,00,000 to INR 1,50,000 |
| Contribution to Pension Scheme of Central Government [Section 80CCD] | <input type="checkbox"/> New subsection 80CCD(1B) inserted whereby additional deduction up to INR 50,000 over and above deduction u/s 80CCD(1) allowed <input type="checkbox"/> 80CCD(1A) omitted -Threshold limit of INR 1,00,000 removed |



Deduction and Exemptions (Conti...) :

| Section | Amendment made |
|---|--|
| Deduction in respect for additional wages [Section 80JJAA] | <ul style="list-style-type: none"><input type="checkbox"/> Benefit extended to all assesseees having manufacturing units rather than restricting it to corporate assesseees only.<input type="checkbox"/> Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen |
| Payment receivable under Life Insurance Policies | <p>Furnishing of Form 15G / 15H allowed for non-deduction of TDS from payments receivable under Life insurance policies, not covered by section 10(10D)</p> <p>– Applicable w.e.f. 01/06/2015</p> |



Deduction and Exemptions (Conti...) :

| Section | Amendment made |
|---|---|
| More Funds included in 100% brackets for donations [Section 80G] | More funds included in 100% bracket for donations u/s 80G <ul style="list-style-type: none">✓National Fund for Control of Drug Abuse✓Swachh Bharat Kosh - <i>w.r.e.f from 01-04-2015</i>✓Clean Ganga Fund - <i>w.r.e.f from 01-04-2015</i> Deduction NOT available if Donations to Swachh Bharat Kosh & Clean Ganga Fund considered as a part of CSR Activities u/s 135 of Companies Act 2013 |



TDS & TCS Provisions

TDS & TCS Provisions :

TDS on payment of accumulated balance due to Employee:

The trustees of the Employees' Provident Fund Scheme, 1952 are liable to deduct TDS on payment of accumulated balance of provident Fund at the rate of 10% if:

- a. Such income is taxable as provisions of rule 8 of Part A of the Fourth Schedule and
- b. Amount of payment more than INR 30,000/-

In case of Non Furnishing of PAN by Employee TDS would be deducted at MMR.

Amendment in Section 194A

- Expressly proposed that TDS not applicable to interest payment by co-operative society to its members but Applicable to co-operative Banks (**Applicable w.e.f. 01/06/2015**)

Section 194LD

Concessional rate of 5%, on interest to FIIs / QFIs, ex-tended till 30/06/2017. (**Applicable w.e.f. 01/06/2015**)



TDS & TCS Provisions (Conti..) :

TDS Provisions on Transporters REINTRODUCED

- Provisions of Finance (No.2) Bill, 2009 intended to exempt only small transport operators (as defined in section 44AE of the Act) from the purview of TDS, however the said amendment was being used as a tool for avoiding compliance by large transporters as well.
- Accordingly, it is proposed to amend the provisions of the Act to expressly provide that the relaxation under section 194C(6) of the Act from non-deduction of tax shall only be applicable to the payment in the nature of transport charges made to an contractor who is engaged in the business of transport **AND who is eligible to compute income as per the provisions of section 44AE of the Act AND who has also furnished a declaration to this effect along with his PAN.**

Amendment in TCS Provisions

- Revision in TCS statement cannot be made u/s 206C of the Act;
- TCS returns will NOW be processed in the same manner as in case of TDS returns – **(New Section 206CB)**
- Section 234E fee to be levied for delay in filing TCS statement – **(New section 206CB)**

Applicable w.e.f. 01/06/2015



Minimum Alternate Tax (MAT)

Minimum Alternate Tax (MAT) :

- The share of a member of an AOP, in the income of the AOP, on which no income-tax is payable in accordance with the provisions of section 86 of the Act, should be excluded while computing the MAT liability of the member under 115JB of the Act
- The expenditure, if any, debited to the profit & loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also to be added back to the book profit for the purpose of computation of MAT
- The income from transactions in securities (other than short term capital gains arising on transactions on which STT is not chargeable) arising to a Foreign Institutional Investor (FII), shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit
- The expenditure, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also to be added back to the book profit for the purpose of computation of MAT



Alternative Investment Funds (AIF)

Alternative Investment Funds (AIF):

Tax implications from the perspective of the alternative investment fund

- Income from profits and gains from business shall be taxable in the hands of the AIF
- Income, other than income from profits and gains from business, shall be exempt from tax
- Withholding tax in case of distribution of component of income (other than income which is taxable in the hands of the AIF) at 10 per cent to unit holders [**Section 194LBB**]
- If in any year there is a loss (either current loss or the loss which remained to be set off) at the AIF level, it shall not be allowed to be passed through to the unit holders but would be carried forward at fund level to be set off against income of the next year in accordance with the provisions of Chapter VI of the Act
- The total income of the investment fund shall be charged to tax - at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or - at maximum marginal rate in any other case
- The provisions of Chapter XII-D (Dividend Distribution Tax) or Chapter XII-E (Tax on distributed income) shall not apply to the income paid by an investment fund to its unit holders
- The AIF is required to furnish its return of income
- The AIF shall also provide the details of various components of income, etc. to the prescribed income-tax authority and the unit holders



Alternative Investment Funds (AIF) (Conti...)

Tax implications from the perspective of unit holders of AIF

- Any income of a unit holder of an AIF, out of investments made in the investment fund shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person as if the investments made by the AIF have been made directly by him
- Any income in the hands of investor (which is of the same nature as income by way of profits and gain of business at AIF level) shall be exempt from income-tax
- The income paid or credited by the AIF shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as if it had been received by, or had accrued or arisen to the AIF



Non Resident/International Taxation

Non – Resident / International Taxation :

Residency status of companies [Section 6]

- **Under the existing provisions**, a company is said to be resident in India in any previous year, if
 - a. it is an Indian company; **or**
 - b. during that year, the control and management of its affairs is situated wholly in India.

- **The amended provisions** provide that a company shall be said to be resident in India in any previous year, if
 - a. it is an Indian company; or
 - b. its place of effective management, at any time in that year, is in India

Place of effective management means a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made



Non – Resident / International Taxation (Conti..) :

Fund Managers in India not to constitute business connection [Section 9A]

| | |
|--|---|
| No business connection for Fund Managers in India | <p>In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfillment of certain conditions by the fund and the fund manager,-</p> <ul style="list-style-type: none">▪ the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and▪ that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India |
| Levy of penalty under Section 271FAB for non-furnishing or prescribed Information | <ul style="list-style-type: none">▪ Every eligible investment fund shall furnish within ninety days from the end of the financial year, a statement in the prescribed form to the prescribed income-tax authority containing information relating to the fulfillment of the above conditions or any information or document which may be prescribed▪ In case of non-furnishing of the prescribed information or document or statement, a penalty of INR 5 lakh shall be leviable on the fund. |



Non – Resident / International Taxation (Conti..) :

Withholding tax obligation on payment made to a Non-Resident

| | |
|---|---|
| Withholding Tax Obligation on Payment Made to a Non-Resident [Section 195 (6)] | <ul style="list-style-type: none">▪ The existing provisions provide that the person referred to in section 195 (1) shall furnish the information relating to payment of any sum to a non-resident, in such form and manner as may be prescribed by the Board▪ It is proposed to substitute the existing provisions to provide that the person responsible for paying any sum to a non-resident, not being a company, or to a foreign company, whether or not chargeable under the provisions of this Act, shall furnish the Information relating to payment of such sum, in such form and manner, as may be prescribed |
| Penalty under Section 271 – I and Non Levy of penalty u/s 273B] | <ul style="list-style-type: none">▪ Section 271-I has been newly inserted so as to provide that if a person, fails to furnish information under section 195(6); or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.▪ It is also proposed to amend the provisions of section 273B of the Act to provide that no penalty shall be imposable under section 271- I if it is proved that there was reasonable cause for non-furnishing or incorrect furnishing of information under section 195(6) of the Act. |

Non – Resident / International Taxation (Conti..) :

Clarity regarding indirect transfer

The following amendments are proposed in the provisions of section 9 relating to indirect transfer:

- the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-
 - a. exceeds the amount of ten crore rupees; and
 - b. represents at least fifty per cent of the value of all the assets owned by the company or entity
- any income on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis, when all of the underlying assets of such company or entity are not located in India

(Conti.....)



Non – Resident / International Taxation (Conti..) :

Clarity regarding indirect transfer (Conti..)

- However, the said provision will not apply and no income shall be deemed to accrue or arise to the non-resident if the transferor neither holds the right to management or control in relation to such company or entity, nor holds voting power or share capital or interest exceeding 5 percent of the total voting power or total share capital or total interest of such company or entity, directly or indirectly.
- Any capital gain arising from a transfer of share of a foreign company in a scheme of amalgamation or demerger, subject to compliance of certain conditions, shall also not be deemed to accrue or arise in India under the said Explanation

Penalty [Section 271 GA]

- The Indian entity is obligated to furnish information relating to the offshore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of any failure on the part of Indian concern in this regard a penalty shall be leviable. The proposed penalty shall be:
 - a. a sum equal to two percent of the value of the transaction; or
 - b. a sum of five hundred thousand rupees;



Non – Resident / International Taxation (Conti..) :

Taxability of interest received by the non-resident in case of a banking corporation

[Section 9(1)(v)]

- In the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment (PE) in India of such non-resident to the head office or any PE or any other part of such non-resident outside India shall be deemed to accrue or arise in India and shall be chargeable to tax in addition to any income attributable to the PE in India
- The PE in India shall be deemed to be a person separate and independent of the non-resident person of which it is a PE and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery would apply

Foreign Tax Credit – [Section 295 (2)(ha)]

- CBDT has been empowered to prescribe rules to provide the procedure for granting relief or deduction of any income-tax paid in any country or specified territory outside India, against the income-tax payable under the Act – **(Applicable w. e. f 01/06/2015)**



Non – Resident / International Taxation (Conti..) :

Income by way of Royalty and Fees for Technical Services [Section 115A]

- Any sum received by a non-resident by way of Royalty and Fees for technical services shall be taxable @ 10% instead of 25%.

Deferment of GAAR Provisions:

- Deferment of provisions relating to General Anti Avoidance Rule (“GAAR”) (an arrangement entered into by an assessee declared to be an impermissible avoidance arrangement) from financial year 2015-16 to **2017-18** as part of a comprehensive regime to deal with BEPS and aggressive tax avoidance. **Investments made up to 31.03.2017 are proposed to be protected from the applicability of GAAR.**

Definition of GDR [115ACA]:

- Definition of GDR has been amended to allow issue of GDR to Residents Investors by listed Issuing company.



Assessments and Litigations

Assessments and Litigations :

➤ Approval mechanism in case of reopening u/s 148

| | |
|---------------------------------|---|
| Reopening within 4 years | Approval of Joint commissioner of Income Tax is to be obtained |
| Reopening beyond 4 years | Approval of Principal Chief commissioner/ Chief commissioner / Principal commissioner/ commissioner of Income Tax is to be obtained |

(Applicable w.e.f. 01/06/2015)

➤ Raising the income-limit of the cases that may be decided by single member bench of ITAT

Single member bench of ITAT authorized to dispose of cases where total income assessed by AO is not more than INR 15 Lakhs. [Section 255(3)]

(Applicable w.e.f. 01/06/2015)



Assessments and Litigations (Conti...):

➤ Revision of order u/s 263

It is proposed to provide that an order passed by the AO shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner:

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



Other Important Changes

Other Important Changes :

Investment Allowance [Section 32AD]

- New section has been inserted to grant Investment Allowance of 15% of New Plant and machinery installed on or after the 1st day of April, 2015 till 1st day of April, 2020 in any notified backward area , in the State of Andhra Pradesh or in the State of Telangana.
- There is lock in period of 5 years for such plant and machinery.
- If assessee sold/transfers such new plant and machinery with in period of 5 years, amount of investment allowance granted shall be changeable under the head “Profit or gain from Business or profession” in the year in which the same has been sold/transferred.

New assets transferred in the scheme of Amalgamation/Demerger/Re-organization would be eligible for deduction under this section.

Allowance of balance 50% additional depreciation [Section 32]

- As a form of rationalization, the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.



Other Important Changes :

Penalty for concealment of income [Section 271(1)(c)]

- The amendment intends to levy penalty even in cases where tax was payable under Sections 115JB and 115JC after assessment; though the assessed income exceeded returned income.

Measure to curb Black money in Real Estate industry - Amendment in 269SS / 269T

- Money advanced / repayment in relation to transfer of an immovable property now covered u/s 269SS / 269T and accordingly subject to penalty u/s 271D and 271E.

Applicable w.e.f. 01/06/2015

Domestic Transfer Pricing [Section 92BA]

- For a transaction to be treated as 'specified domestic transaction', the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of INR 20 crores instead of 5 crores, previously.



Other Important Changes (Conti..) :

Certain accountants not to give reports/certificates:

- An auditor who is not eligible to be appointed as auditor of a company as per the provisions of sub-section (3) of section 141 of the Companies Act, 2013 shall not be eligible for carrying out any audit or furnishing of any report/certificate under any provisions of the Act in respect of that company.
- The ineligibility for carrying out any audit or furnishing of any report/certificate in respect of an assessee shall not make an accountant ineligible for attending income-tax proceeding referred to in sub-section (1) of section 288 of the Act as authorised representative on behalf of that assessee.
(Applicable from 1st June, 2015)

Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit):

- To provide pass through to the rental income arising to REIT from real estate property.
- Benefit of concessional tax regime of tax @15% on STCG and exemption on LTCG under section 10(38) of the Act shall be available to the sponsor on sale of units received in lieu of shares of SPV.



Other Important Changes (Conti.) :

Cost of acquisition of a capital asset in the hands of resulting company:

- The cost of acquisition of an asset acquired by resulting company shall be the cost for which the demerged company acquired the capital asset as increased by the cost of improvement incurred by the demerged company.

Relaxing the requirement of obtaining TAN for certain deductors:

- The requirement of obtaining and quoting of TAN shall not apply to such persons as many be notified by Government.

Charitable Purpose:

- The definition of charitable purpose is amended to include **YOGA** as charitable activity.

Accumulation of Income :

- As per section 11 (2) (a), earlier accumulation of income which was earlier allowed for 10 years has now been reduced to maximum 5 years .



Thank You

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