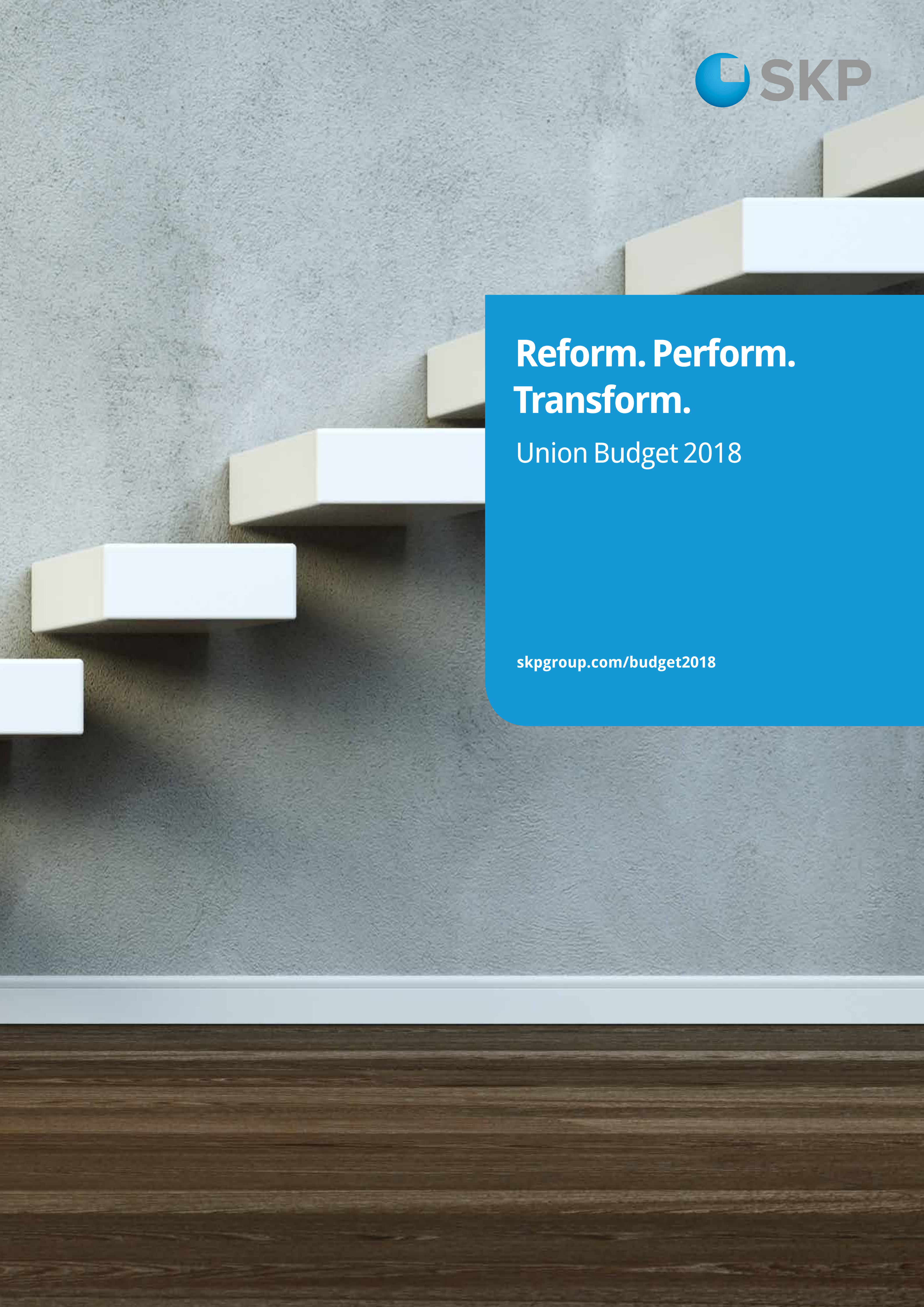

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Union Budget 2018

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FOREWORD

UNION BUDGET 2018

Moving from 'ease of doing business' to 'ease of living'!

Union Budget 2018, being the last Budget of the government in its present term, was expected to be populist with an eye on the general elections to be held next year. In a heartening development in the context of Indian polity, the Finance Minister has refrained from being populist and presented a Budget to boost the rural economy and small and medium enterprises. The Budget is largely focused on poverty alleviation, infrastructure development, job creation, healthcare and education.

The Finance Minister succinctly summarized the Budget proposals when he mentioned that the government is focusing on moving from the 'ease of doing business' to the 'ease of living'. The government has aimed for an economic growth of 7.2% – 7.5% and the fiscal deficit has been pegged at 3.5% of GDP, which while not being entirely attractive, is largely realistic.

The government has made noteworthy proposals to uplift rural India and has aimed at providing relief where it is needed the most. For instance, India is set to launch a government-backed healthcare program covering 500 million people, which, in the Finance Minister's own words, would be the largest government-backed health-care program in the world.

On the tax front, the corporate tax rate has been reduced to 25% for companies with a turnover of up to INR 2,500 million (INR 250 crore) in financial year 2016-17. This will cover all the Micro, Small and Medium Enterprises (MSME) and can enable them to make further investments in business.

India continues to be a thought-leader in dealing with emerging tax issues. The Budget includes provisions to tax the Digital Economy on the basis of significant economic presence in India; operational details of which will evolve in due course.

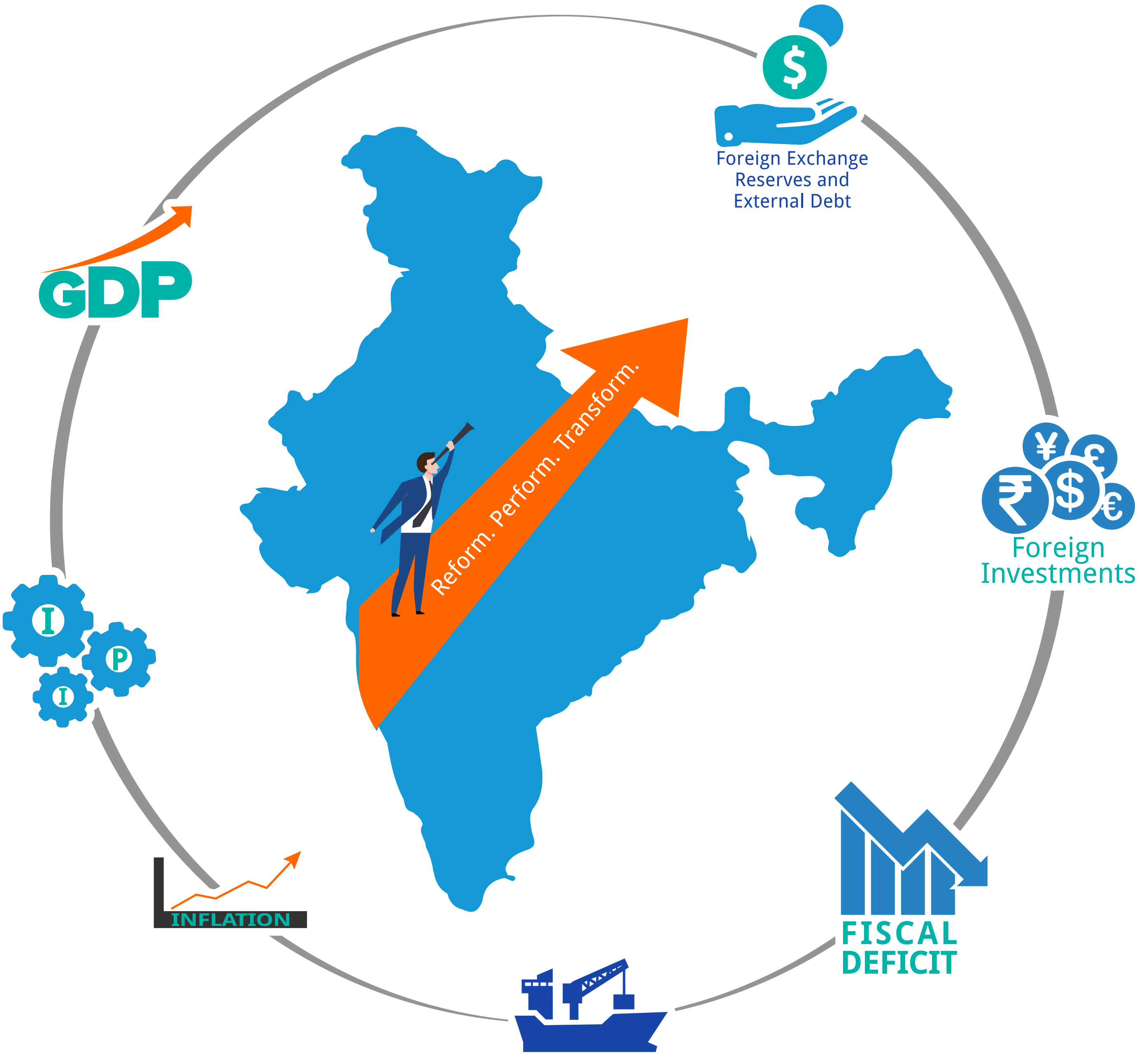
The personal tax regime has been kept largely revenue neutral with certain smaller benefits presented and certain benefits taken away. As expected, a tax of 10% has been levied on long term capital gains on the sale of listed equity shares and equity oriented mutual funds. The rationale for this tax is not only revenue mobilization but also a macro-economic objective of ensuring that surplus funds are invested in real business and not only in financial assets.

On the indirect tax front – the Budget proposals were focused on the Customs legislation since decisions on GST is now in the hands of the GST Council. The Customs rate related proposals were a 'calibrated departure' from the previous Budgets i.e. majority of products saw a hike in duty of up to 1.5/2 times. The legislative proposals under Customs, however, were extraordinary as they sought to introduce the required machinery for facilitation of customs automated systems, reduction of unnecessary litigation and engaging with foreign boundaries for exchange of information.

Overall, the Budget has a socio-economic flair and reflects the focus areas of the government. All in all, we consider the Budget to be a balanced one without any populist adventures. While it may not be practically possible to satisfy the expectations of all stakeholders of the economy, the Finance Minister needs to be applauded for presenting a Budget with that envisions the country's long-term development.

ECONOMIC REVIEW

UNION BUDGET 2018



GDP Growth

- After registering a GDP growth of over 7% for the third year in succession in 2016-17, the economy is expected to have a slightly slower growth rate, estimated at 6.5% in 2017- 18, according to the First Advance Estimates released by the Central Statistics Office (CSO).
- This is mainly due to lower growth in the 'Agriculture and Allied' and 'Industry' sectors which, according to the CSO, are expected to grow at 2.1% and 4.4% respectively. For 2017-18, the Service sector is estimated to grow at 8.3%, as compared to 7.7% in 2016-17.
- Holding a share of 55.2% in India's Gross Value Added (GVA), the Service sector continued to be the key driver of India's economic growth, and is likely to contribute to almost 72.5% of the GVA growth in 2017-18.

Index of Industrial Production (IIP)

- The performance of the industrial sector (based on IIP comprising of mining, manufacturing and electricity) reveals that the sector registered a slower growth of 3.2% during April-November 2017, against the 5.5% during the same period during the previous year.

Inflation

- Headline inflation, measured as per Consumer Price Index – Combined (CPI-C) decreased to 3.3% in April–December 2017 from 4.8% in the corresponding period of the previous year.
- Average inflation, based on Wholesale Price Index (WPI), was observed to be 2.9% for the period April-December 2017 as compared to 0.7% for the same period in 2016.
- CPI-based core inflation (non-food, non-fuel) decelerated to 4.5% in 2017-18 (April-December) from 4.8% in 2016-17.
- WPI based core inflation (non-food manufactured products) reached 2.6% in 2017-18 (April-December) as compared to -0.8% in 2016-17.

Trade

- The value of India's merchandise exports (customs basis) increased by 5.2 % to USD 275.9 billion in 2016-17.
- The cumulative value of exports for the period April-December 2017-18 was USD 223.5 billion as against USD 199.4 billion registering a positive growth of approximately 12% over the same period last year.
- The cumulative value of imports for the period April-December 2017-18 was USD 338.3 billion as against USD 277.9 billion registering a positive growth of 21.7% over the same period last year.

Fiscal Deficit

- The fiscal deficit was higher than expected, aptly reflecting the increase in international oil prices, one of India's macroeconomic vulnerabilities.
- The Finance Minister, Arun Jaitley, stated that the revised fiscal deficit for 2017-18 has been estimated at INR 5.95 trillion (approximately 3.5% of the GDP) and has projected a fiscal deficit of 3.3% of the GDP for financial year 2018-19.
- India's Current Account Deficit (CAD) increased from USD 3.8 billion (0.4% of the GDP) in April-September 2016 (H1 of FY 2016-17) to USD 22.2 billion (1.8% of GDP) over the same period during the subsequent year.

Foreign Investments

- Foreign Portfolio Investment (FPI) increased by 78% from USD 8.2 billion in H1 of FY 2016-17 to USD 14.5 billion in H1 of FY 2017-18, which reflected a strong and positive outlook about the growth potential of the Indian economy.
- In H1 of FY 2017-18, Foreign Direct Investment (FDI) equity inflows registered a growth of 17% to USD 25.34 billion as compared to the same period in FY 2016-17.
- Sectors like telecommunications, computer software and hardware, the services sector and trading have attracted highest FDI equity inflows in H1 of FY 2017-18 so far.

Foreign Exchange Reserves and External Debt

- As on 19 January 2018, foreign exchange reserves reached approximately USD 414 billion.
- India's stock of external debt increased by 5.1% to USD 495.7 billion from the end of March 2017 till the end of September 2017.

KEY DIRECT TAX PROPOSALS

UNION BUDGET 2018

Effective Tax Rates

For individuals

- No change in personal income tax slab rates.
- Cess rate increased from 3% to 4%.
- Long-term capital gain from the transfer of equity shares or equity oriented fund on which Securities Transaction Tax (STT) is paid will be taxable at 10% if the gain exceeds INR 100,000.

For companies

- The tax rate reduced from 30% to 25% for companies with turnover/gross receipts of INR 2,500 million or less in the Financial Year (FY) 2016-17.
- Cess rate increased from 3% to 4%.
- No reduction in the rate of Minimum Alternate Tax (MAT).
- Long-term capital gain from the transfer of equity shares or equity oriented fund on which STT is paid will be taxable at 10% if exceeds INR 100,000.

Others

- Relief of lower tax rate not made available to Limited Liability Partnerships (LLP)s, firms and other taxpayers.
- Cess rate increased from 3% to 4%.

Expanding Tax Base

Scope of 'Business Connection' modified

- Currently, the taxability of business income of non-residents is restricted. It *interalia* includes activities carried out through an agent which can be termed as a Dependent Agent Permanent Establishment.
- Furthermore, such income is taxable only to the extent it is attributable to the operations carried out in India.
- In order to bring this in line with the Action Plans suggested by the Organisation for Economic Co-operation and Development (OECD) and under Base Erosion and Profit Shifting (BEPS), it is proposed to extend this to an agent who not only concludes contracts but also plays a principal role for concluding the contract by the non-resident. For this purpose the contracts should be:
  - In the name of the non-resident; or
  - For the transfer of ownership of or for granting the right to use, property owned by that non-resident or that the non-resident has the right to use; or
  - For the provision of service by that non-resident.
- Keeping in mind the challenges of taxation in a digital economy, it is proposed that the significant economic presence of a non-resident without a physical presence could be in the form of:
  - Provision of download of data or software for specified amounts; and
  - Systematic and continuous soliciting of business or engaging in interaction with specified number of users; is proposed to be considered as constituting a business connection in India.

Taxability of compensation in connection to business and employment

- It is proposed to include any compensation, whether capital or revenue, in connection with the termination or the modification of the terms and conditions of any contract relating to the business as business income.
- It is also proposed that compensation receipts in connection with the termination of employment or the modification of the terms and conditions be taxed as Other Sources. However, at present, the same is taxable as Salary. This being an overlap, it is expected that the final Bill addresses this aspect.

Presumptive income in case of goods carriage

- Currently, the presumptive income scheme is applicable uniformly to all classes of goods carriages. This however, does not seem to be the intention of the legislature.
- Accordingly, in the case of heavy goods vehicle (more than 12,000 kilograms gross vehicle weight), it is proposed that as against INR 7,500 per month, an amount equal to INR 1,000 per ton of the gross vehicle weight or unladen weight, as the case may be, per month or part of the month for each goods vehicle or the amount claimed to be actually earned, whichever is higher, be considered as income.

Restrictions in case of trust/non-profit organization claiming tax eexemption

- Currently, as long as the income of charitable trusts and certain specified entities is applied or accumulated towards their objects or towards certain purposes, the income is treated as exempt from tax. Also, there is no disallowance for expenses incurred in cash or for non-compliance of withholding tax by these entities.
- It is proposed that expenses incurred in cash in excess of INR 10,000 and the expenses which have not been subjected to tax deduction as per the provisions of the law should be disallowed.

Restriction of exemption for investment in notified bonds

- Presently, capital gain arising from the transfer of any long-term capital asset invested in notified bonds redeemable after three years is allowed as a deduction to the tune of INR 5 million.
- It is proposed to restrict this benefit only to long-term capital asset being land and/or building.
- Furthermore, the lock in period is proposed to be increased to five years in respect of bonds issued on or after 1 April 2018.

Withdrawal of capital gains exemption on the transfer of specified long-term assets

- Presently, gains arising from the transfer of long-term assets being equity shares of a listed company or a unit of equity-oriented mutual fund or business trust being capital assets (specified assets) enjoys exemption from capital gains tax.
- It is proposed to withdraw this exemption and tax such long-term capital gains exceeding INR 0.1 million at the rate of 10% without any indexation benefit in case of residents and without the benefit of computation in foreign currency in the case of non-residents. The concessional rate of 10% is applicable subject to satisfaction of specified conditions.
- It also provides for a mechanism to determine the cost of acquisition for the purpose of computing the capital gains for the specified assets acquired prior to 1 February 2018. This has the effect of grandfathering the notional gains made up to 31 January 2018.
- Consequential amendment has also been proposed in the provision dealing with capital gains taxation in case of Foreign Institutional Investors (FII)/Foreign Portfolio Investors (FPI).

Widening of the scope of accumulated profits for the purposes of dividend

It is proposed to widen the scope of the term 'Accumulated Profits' for the purpose of deemed dividend so as to provide that for an amalgamated company. Accumulated profits, whether capitalised or not, or losses as the case may be, is to be increased by the accumulated profits of the amalgamating company, whether capitalized or not, on the date of amalgamation.

Extension of scope of Dividend Distribution Tax to Deemed Dividend

- Presently, deemed dividend, in respect of loans and advances to shareholders or concerns in which they have substantial interest is taxable in the hands of the recipient while for others, the company is liable to dividend distribution tax under section 115O.
- It is proposed to extend the provision of section 115O to cover the above transaction as well.
- The tax on such deemed dividend shall be at the rate of 30% (without grossing up), as increased by applicable surcharge and cess.

Extension of dividend distribution tax on dividend distributed to unit holders in an equity oriented mutual fund

- Presently, equity oriented Mutual Funds are not chargeable to tax on distribution of income to its unit holders.

In view of the new capital gains tax regime for unit holders of equity oriented funds, it is proposed to provide that where any income is distributed by a Mutual Fund, being an equity oriented fund, the mutual fund shall be liable to pay additional income tax at the rate of 10% on such distributed income.

Tax Rationalization Measures

Conversion of stock-in-trade into capital asset

It has been proposed that the fair market value determined in the prescribed manner, on conversion of inventory into a capital asset or its treatment as a capital asset, be charged to tax as business income.

Rationalization of provisions concerning start ups

- Currently, the total income of a new set up domestic company engaged in the manufacture, production, research or distribution is taxed at the rate of 25% subject to the conditions specified.
- It has now been clarified that this rate is restricted only to business income of the above companies. All other incomes will be taxed as per their respective provisions.

(With effect from 1 April 2017 and shall apply from AY 2017-18.)

Amendments concerning notified Income Computation and Disclosure Standards (ICDS)

- It is proposed to incorporate the provisions of ICDS under the relevant provisions of the Act.

(With effect from 1 April 2017 and shall apply from AY 2017-18)

Transfer of immoveable property

- At present, while taxing income from the sale of immovable property, whether stock in trade, capital asset or otherwise, the sale consideration or stamp duty value, whichever is higher is adopted. The difference is taxed as income both in the hands of the purchaser and the seller.
- It is now proposed that no adjustments be made in a cases where the variation between stamp duty value and the sale consideration is not more than 5% of the sale consideration.

Tax neutral transfers

- Currently, transfers between a wholly owned subsidiary and its holding company are excluded from the purview of capital gains.
- It has been proposed to provide a similar benefit under gift tax provisions.

Clarity on the applicability of MAT to certain foreign companies

- It is clarified that MAT is not applicable to foreign companies engaged in the shipping business, business of exploration or extraction of mineral oils, the operation of aircraft, the business of civil construction or erection of plant and machinery approved by the central government.

(Applicable with retrospective effect from 1 April 2001 and shall apply from assessment year (AY) 2001-02.)

Tax holiday allowed only on filing tax return on time

- Presently, deductions under few specified sections are allowed only if the return of income is furnished on or before the prescribed due date.
- It is proposed to extend the said requirement of filing the return of income within the due date for most tax holidays that are available in computing the total income.

Speculative transaction

- As per the existing provisions, an eligible transaction in respect of trading in commodity derivatives carried out in a recognized stock exchange is not deemed to be a speculative transaction, provided that such transaction is subjected Commodity Transaction Tax (CTT).
- It is now proposed that transactions that have not been subjected to CTT would also qualify as a non-speculative transaction.

Tax Incentives

Standard deduction reintroduced

It is proposed to allow a standard deduction of INR 40,000 or the amount of salary, whichever is less while computing the income from salary in lieu of the currently allowed, transport allowance and reimbursement of medical expenditure.

Enhanced deductions for senior citizens

- At present, deduction of INR 30,000 is allowed to an individual or a Hindu Undivided Family (HUF) for payments towards annual premium on health insurance policy or preventive health check-up of a senior citizen or medical expenditure of a very senior citizen. It is proposed to increase this deduction to INR 50,000.
- For medical treatment of specified diseases, currently a deduction of INR 60,000 and INR 80,000 is available for a senior citizen and a very senior citizen respectively. It is now proposed to increase the deduction for both senior citizen as well as very senior citizen to INR 100,000.
- Furthermore, with respect to lump sum payment for health insurance, with a coverage for more than a year, it is proposed to allow the deduction proportionately over the years covered, subject to the limit specified.
- It is proposed to allow a deduction up to INR 50,000 in respect of the interest income from deposits held by senior citizens.
- Withholding provisions have been rationalized.

Measures for start ups

- Presently, 100% deduction of profits is available to an eligible start up if it is incorporated on or after 1 April 2016 but before 1 April 2019. It is proposed to extend this deduction for start ups incorporated before 1 April 2021.
- It is further proposed to enhance this benefit to companies with a turnover not exceeding INR 250 million in previous seven years from the date of incorporation.
- Furthermore, it is also proposed to amend the definition of 'Eligible Business' to mean a business carried out by an eligible start up engaged in innovation, development or improvement of products or processes or services or a scalable business model with a high potential of employment generation or wealth creation.
- (With from 1 April 2018 and shall have effect from AY 2018-19.)

Incentives for promoting employment generation

- Currently, a deduction of an amount equal to 30% of the additional employee cost is allowed in cases where the eligible new employees are employed for at least 240 days during the year, except in the case of apparel manufacturing where the period is 150 days.
- It is proposed to extend the benefit of a reduced number of days to the footwear and leather industry.
- Furthermore, in order to rationalize this deduction, it is proposed to extend the benefits in cases where the new employee is employed for less than the minimum period during the first year but continues to remain employed for the minimum period in the subsequent year.

Deduction for farm producer companies

- At present, 100% deduction is available with respect to a profit of a cooperative society assisting its members engaged in primary agricultural activities.
- It is proposed to introduce a similar beneficial provision for Farm Producer Companies (FPC) having total turnover up to INR 1 billion from the eligible business.

Measures to promote International Financial Services Center

- To promote the development of financial infrastructure in India, it is proposed to exempt the transfer of Specified Bonds or Global Depository Receipts, rupee denominated bonds of an Indian company or derivatives by a non-resident in foreign currency on a recognized stock exchange located in any International Financial Services Center.
- It is proposed to reduce the rate of Alternate Minimum Tax (AMT) from 18.5% to 9% in case of persons (other than a company) located in an International Financial Service Centre (IFSC) who derive income in convertible foreign exchange.

Other tax exemptions

- Currently, payments in the nature of royalty and Fees for Technical Services (FTS) to non-residents are taxable in India. It is proposed that the royalty and FTS paid by National Technical Research Organisation (NTRO) to a non-resident would be exempt from tax in India.
- Currently, the tax exemption on the withdrawal in respect of 40% of total amount payable on the closure of an account under the National Pension Scheme of 40% is available only to an employee. It is proposed to extend the same to all subscribers.

Measures for Companies under Insolvency

Carry forward and set-off of losses in case of certain companies

- According to the existing provisions, carry forward and set-off of losses in a closely held company is allowed only if there is continuity in the beneficial owner of the shares carrying not less than 51% of the voting power on the last day of the year or years in which the loss was incurred.
- It is proposed to relax this provision for companies where a change in the shareholding takes place after a resolution plan approved under the Insolvency and Bankruptcy Code (IBC), 2016.

(With effect from 1 April 2018 and shall apply from AY 2018-19).

Minimum Alternate Tax (MAT)

It is proposed that the aggregate of unabsorbed depreciation and brought forward loss (other than unabsorbed depreciation) be allowed as deduction while computing book profits for companies where application for a corporate insolvency resolution process is admitted by the adjudicating authority.

(With effect from 1 April 2018 and shall apply from AY 2018-19).

Return of income

It is proposed that the return of income for a company under IBC can be signed by the insolvency professional appointed by the relevant authority.

Tax Administration and Procedures

Application for Permanent Account Number (PAN) allotment

- Currently, the law prescribes certain category of persons who are required to apply for allotment of PAN.
- It is now proposed that an entity, other than an individual, which enters into a financial transaction of an amount aggregating to INR 0.25 million or more in a financial year is required to apply for the allotment of PAN. In order to link the financial transactions with natural persons, the managing director, director, partner, trustee, author, founder, karta, Chief Executive Officer (CEO), principal officer or office bearer of such entities also are required to make an application for the allotment of PAN, if not already allotted.

(With effect from 1 April 2018 and shall apply from AY 2018-19.)

Simplification of assessment procedures

- Currently, revenue audits (scrutiny assessments) by tax authorities are conducted by an interface between the tax authorities and the assessees.
- It is now proposed to amend the law to notify a new scheme for making the assessments electronically. The new scheme would be notified in due course.

(With effect from 1 April 2018 and shall apply from AY 2018-19.)

Adjustments at the time of processing the Return of Income

- Currently, while processing the return of income, the total income or loss is computed after making an adjustment for an addition of the differential income appearing in Form 26AS, Form 16 or Form 16A of a taxpayer.
- In order to restrict its scope, it has been now proposed not to make such adjustments for the returns furnished from AY 2018-19 onwards.

Miscellaneous

Penalty for failure to furnish the statement of financial transactions or reportable account

- As per the existing provisions, if the statement of financial transaction or reportable account is not furnished within the time prescribed, a penalty of INR 100 for each day of default is levied. Furthermore, if the income tax authorities call for the same under a notice and the said statements are not furnished within the time specified, therein a penalty of INR 500 for each day of default is levied.
- In order to ensure that the reporting obligations are complied with, it is now proposed to increase the above penalty to INR 500 and to INR 1,000 respectively for each day of continuing default.

(With effect from 1 April 2018 and shall apply from AY 2018-19.)

Transfer Pricing

- In order to align the Indian CbCR regulations with global best practices and considering the representations made by industry and professionals, the time allowed for furnishing CbCR is extended to 12 months from the end of the reporting accounting year.

  For AY 2018-19, the due date for furnishing CbCR would be 31 March 2019.

- No change has been proposed with regards to the due date of furnishing the Master File. The due date for furnishing the Master File continues to remain 30 November.
- A constituent entity resident in India, having a non-resident parent, shall furnish CbCR in case the parent entity outside India does not have an obligation to file the report in its country.
- The definition of agreement has been amended to specifically include agreements for automatic exchange of CbCR.
- Clarity has been provided on the reporting period to be mentioned in CbCR.
  - In cases where the Indian entity is the parent entity or alternate reporting entity,
    the reporting period to be mentioned in CbCR would be April to March of the relevant financial year.
  - In cases where the parent or alternate reporting entity is a non-resident, the Indian entity is obligated to file a CbCR under the following conditions:
    - Parent entity outside India has no obligation to file the report;
    - The country of the parent country with which India does not have an agreement for the exchange of CbCR;
    - There is systemic failure of the country and the said failure has been intimated by the prescribed authority to the constituent entity.

  In the above cases, the reporting period to be mentioned in CbCR would pertain to the accounting period followed by the parent entity or alternate reporting entity at the level where financials are consolidated.

  Where the year end of the parent entity is January-December 2018 , the Indian entity filing CbCR in March 2019 would mention the reporting period as January-December 2018.

KEY INDIRECT TAX HIGHLIGHTS

UNION BUDGET 2018

With Excise and Service tax being subsumed under Goods and Services Tax (GST) and decisions regarding the GST legislation being taken by the GST Council – the Union Budget 2018 proposals for indirect taxes has been limited to Customs and some regulatory aspects on GST under indirect taxes.

Customs Duty

Key changes in Basic Custom Duty (BCD) for certain products

Increase in the Customs Duty aims at boosting the Make in India initiative and incentivizing domestic value addition.

(Effective from 2 February 2018)

S. No.	Tariff description	Old Rate	New Rate
1	Cellular mobile phones	15%	**20%**
2	Specified parts and accessories of cellular mobile phones	7.5%/10%	**15%**
3	Printed circuit board assembly and moulded plastics of charger/adapter of cellular mobile phones	Nil	**10%**
4	LCD/LED/OLED panels and other parts of LCD/LED/OLED TVs	7.5%/10%	**15%**
5	Truck and bus radial tyres	10%	**15%**
6	Specified parts/accessories of motor vehicles, motor cars, motor cycles	7.5%/10%	**15%**
7	Preform of silica for the manufacture of optical fibre/cables for telecommunication*	Nil	**5%**

*Subject to actual user condition

Introduction of Social Welfare Surcharge

(Effective 2 February 2018)

- Social Welfare Surcharge (SWS) has been introduced to provide and finance education, health and social security.
- SWS would be applicable at a rate of 10% of the aggregate of duties of Customs on the import of all goods subject to the following:
  - Motor spirit, gold and silver, which would attract a levy of 3% SWS;
  - Levy of SWS on Integrated Goods and Services Tax (IGST) and GST Compensation Cess has been exempted.
- With the introduction of SWS, Education Cess and Secondary and Higher Education Cess has been discontinued and specified goods which were exempt from Customs Education Cess and Secondary and Higher Education Cess earlier are also exempted from the levy of SWS.

Introduction of Road and Infrastructure Cess

(Effective 2 February 2018)

- A Road and Infrastructure Cess as an additional duty of customs has been introduced on imported motor spirits (commonly known as petrol and high speed diesel).
- The said Cess would be computed at a rate of INR 8 per litre.
- The revenue collected from this Cess would be utilized to Finance Infrastructure Projects.
- Additional duty of customs (Road Cess) applicable at a rate of INR 6 per litre abolished.

Valuation prescribed for the levy of IGST and GST compensation cess on warehoused goods

(Effective from the date of enactment of the Finance Bill, 2018)

Method prescribed for the computation of value for levy of IGST and GST Compensation Cess with respect to goods warehoused under provisions of Customs for the sale to any person before clearance for home consumption or exports:

- In case the whole of the goods are sold, the value is determined as per the Customs Valuation provisions or the transaction value, whichever is higher;
- In case part of the goods are sold, a proportionate value of the goods as determined by the Customs Valuation provisions or the transaction value, whichever is higher;
- In case the goods are sold more than once before clearance for home consumption or export under any of the above, the value to be determined as per transaction value of the last transaction.

Legislative changes

(Effective from the date of enactment of the Finance Bill, 2018)

Rationalization of advance ruling provisions

- The scope for the application for Advance Ruling has been broadened by omitting the definition of 'Activity' and amending definition of 'Advance Ruling' so as to make it broad-based, covering aspects beyond mere determination of duty.
- The definition of the term 'applicant' has been aligned with the Trade Facilitation Agreement to include any person holding a valid Importer Exporter Code Number, exporters, and other people with justifiable cause to the satisfaction of the Authority.
- The time limit to pronounce the Advance Ruling in writing has been reduced to three months (from six months) from the receipt of application.

Extension of scope of The Customs Act, 1962

The scope of the Customs Act has been extended to any offence or contravention thereunder committed outside India by any person.

Extension of limit for Indian Customs Water

The limit of 'Indian Customs Water' into the sea from the existing 'Contiguous zone of India' has been extended to 'Exclusive Economic Zone' (200 nautical miles) as per The Territorial Waters, Continental Shelf, Exclusive Economic Zone And Other Maritime Zones Act, 1976.

Scope of verification under assessment

- The scope of verification by officer broadened to include declarations made in the bill of entry or shipping bill in addition to self-assessment.
- The selection of cases for verification would be primarily based on risk evaluation.

Recovery of duty

- Pre-notice consultation has been introduced in cases not involving collusion, suppression, etc., before the issue of demand notice.
- Officers empowered to issue supplementary notice in certain circumstances which will be treated similar to a 'show cause notice'.
- The regulations for the manner to conduct pre-notice consultation and issuance of supplementary notice would be provided.

Timeframe for adjudication of demand notices

- A definitetime frame for adjudication of demand notices has been provided-six months and one year, depending upon whether the case involves collusion, suppression, etc.
- This timeframe may be extendable by officer senior to adjudicating officer for a further period of six months or one year respectively.
- If the demand notice is not adjudicated within the extended period, it shall be deemed as no demand was issued.

Customs audit

- The Finance Bill seeks to insert a new Chapter XIIA in the Customs Act relating to Audit by authorizing the proper officer to carry out an audit of the assessment of imported goods or export goods in his office or in the premises of the auditee.

Reciprocal arrangement for trade facilitation

- The Finance Bill authorizes the central government to enter into an arrangement with the government of any country outside India or with any competent authority for reciprocal exchange of information for the facilitation of trade, effective risk analysis, prevention, combating and investigation against any offence under the provisions of the said Act.
- The said information received can be utilized in investigations and proceedings under the Customs Act.

Digitalization of custom procedures

- An Electronic Cash Ledger has been introduced to ease the payments of liabilities by providing the facility to importers and exporters to deposit an advance with the government instead of making a transaction-wise payment as it is being done at present.
- Notices and Orders may be issued electronically for clearances and the removal of goods for importation, exportation, deposit in warehouse, home consumption, etc.

The central government empowered to exempt whole or any part of duty of customs leviable on:

- Goods imported for repair, further processing or manufacture;
- Re-imported goods which were exported for the purposes of repair, further processing or manufacture.

To facilitate trade, the Board has been empowered to take measures or prescribe procedures or documentation for a class of importers or exporters or for categories of goods on the basis of modes of transport. This would help to:

- Maintain transparency in the import and export documentation;
- Expedite clearance or release of goods entered for import or export;
- Reduce the transaction cost of clearances;
- Maintain balance between customs control and facilitation of legitimate trade.

Service Tax

Certain retrospective amendments have been introduced under the erstwhile Service Tax Law relating to exemptions.

- Service tax paid during the period from 1 June 2007 to 21 September 2016 may be claimed as refund within a period of six months from the date on which Finance Bill, 2017 receives the assent of the President.

Goods and Services Tax

(Key changes implemented vide 25th GST Council Meet)

The authority to approve amendments in the GST Law being vested with the GST Council, GST was kept outside the purview of the Union Budget. Some key amendments brought in pursuant to the last GST Council meeting are:

- Reduction in the rates of certain goods and services;
- IGST exempted on royalty/Intellectual Property Rights (IPR) payments (on which customs duty was also applicable) to ease the cascading effect of taxes;
- Renting of immovable property by the government or local authority to a registered person to brought under reverse charge;
- Exemption to transportation of goods from India to a place outside India by air and sea up to 30 September 2018 (reversal of Input Tax Credit (ITC) not required in respect of transportation by sea);
- The time limit of one year for cancellation of GST registration (by persons having registered voluntarily under GST) has been removed;
- Extension in the time limit for cancellation of GST registration has been extended to 31 March 2018 (previously 31 December 2018) for those registrants who are not required to be registered under GST under Form REG-29;
- Services provided by senior doctors/consultants/ technicians hired by hospitals, whether employees or not, will be treated as exempted healthcare services for the purpose of GST – this clarity was much needed pursuant to the Tribunal decision in case of Apollo Hospitals, Bombay Hospitals (and other appellants) on the similar issue under Service Tax.

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