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Union Budget 2017

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FOREWORD

UNION BUDGET 2017

Departing from the tradition of presenting the Union Budget on the last working day of February, the Indian Finance Minister presented the Budget on 1 February so that the legislative approval for annual spending plans and tax proposals could be completed before the beginning of the new financial year on 1 April.

Against the backdrop of global uncertainty with major economic and political developments in advanced economies (Brexit and the US presidential elections) as well as momentous reforms in domestic policy (demonetisation and the transition to the Goods and Services Tax (GST) regime in the near future), the Budget focused on India's long-term growth and development, reflecting the government's approach to solve systemic inefficiencies while also keeping in mind the need for economic reforms, increased investments and holistic growth.

Despite the short-term downfall on account of demonetisation, international institutions such as the World Bank and the International Monetary Fund (IMF) expect India to be amongst the fastest growing major economies in financial year 2017-18. The Economic Survey has estimated India's Gross Domestic Product (GDP) growth at 6.75-7.5% for financial year 2017-18.

The Budget theme of Transform, Energise and Clean India (TEC) aims to address issues with several core areas such as rural growth, poverty alleviation, infrastructure development and corruption while showing the government's commitment towards prudent fiscal management and tax administration. The Finance Minister has done an exceptional job in maintaining the fiscal deficit at 3.2% of the GDP despite increased spending on the rural economy and infrastructure developments to spur economic growth in the backdrop of demonetisation.

Several measures have also been announced towards the ease of doing business in India and dissolving the Foreign Investment Promotion Board (FIPB), which is an important step towards this objective.

The tax reforms announced were primarily aimed at stimulating growth and promoting digitisation and transparency, while simultaneously simplifying tax administration.

In line with the earlier promise made by the Finance Minister of reducing the effective tax rate for corporate India, the tax rate for corporate Micro, Small and Medium Enterprises (MSMEs) has been reduced from 30% to 25% which is a crucial move as 96% of companies in India fall within this ambit. Also, in a move to provide relief to the middle class, the effective tax rate for individual taxpayers earning income between INR 250,000 and INR 500,000 has been lowered from 10% to 5%.

Besides reforms to the tax rate, numerous measures were announced to combat issues caused by the dependence on cash and black money, with cleaning up political funding being the primary component.

From an indirect tax perspective, the government has broadly aligned the customs and excise duty rates to correct the problem of inverted duty structures while reiterating the commitment towards implementing GST at the earliest.

Overall, the Budget looks positive with the government balancing fiscal discipline, infrastructural development and rural upliftment while setting India on the path towards holistic growth.

ECONOMIC REVIEW

UNION BUDGET 2017

GDP Growth

- Real Gross Domestic Product (GDP) growth in the first half of the financial year (FY) 2016-17 is 7.2% and is expected to be slightly lower in the second half due to the effect of demonetisation.
- Agricultural sector grew by 4.1% as compared to 1.2% in 2015-16 on account of the normal monsoon and other government initiatives and incentives.*
- Industrial growth dropped to 5.2% as compared to 7.4% in 2015-16.*
- There was only a minor change in the growth of the services sector, being at 8.8% this year compared to 8.9% in 2015-16. It continues to be the key growth driver of the Indian market.*

Index of Industrial Production (IIP)

- During April-November 2016, a modest growth of 0.4% has been observed in the IIP.

Inflation

- Consumer Price Index (CPI), a key feature of inflation, averaged 4.9% during April-December 2016 but declined to 3.4% by the end of December due to abundant agricultural production.
- There has been a reversal of Wholesale Price Index (WPI) inflation from (-)2.5% in FY 2015-16 to 2.9% in the current FY till December 2016 due to the rise in global commodity prices.
- Core inflation has been stable, fluctuating between 4.5-5% thus far.

Trade

- The value of imports declined by 7.4% to USD 275.4 billion in April-December 2016 compared to the corresponding period in the previous year due to a decline in crude oil prices. Gold and silver imports also declined by 35.9%.
- The value of exports grew by 0.7% to USD 198.8 billion in April-September 2016 compared to the corresponding period in the previous year. The United States (US), United Arab Emirates (UAE) and Hong Kong were the top export destinations.

Fiscal Deficit

- Trends in the fiscal sector in the first half have been unexceptional and the central government is committed to achieving its fiscal deficit target of 3.5% of GDP in FY 2016-17.
- The fiscal deficit target for FY 2017-18 has been pegged at 3% of the GDP.
- Current Account Deficit (CAD) is about 0.3% of the GDP in the first half of 2016-17 on account of a sharp contraction in the trade deficit.

Foreign Investments

- Net Foreign Portfolio Investments (FPI) turned negative for the first time since 2008, resulting in a net outflow of INR 230.79 billion in 2016.
- Foreign Direct Investment (FDI) grew by 36% in the first half of FY 2016-17 as compared to the first half of FY 2015-16 despite a 5% reduction in global FDI inflows.
- Sectors like services sector, construction development, computer software & hardware and telecommunications have attracted highest FDI equity inflows.

Foreign Exchange Reserves and External Debt

- Foreign exchange reserves are at an all time high an have reached approximately USD 350 billion.
- At the end of September 2016, India's external debt stock stood at USD 484.3 billion, recording a decline of USD 0.8 billion over March 2016.

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* First advance estimates by the Central Statistics Office (CSO)

BUDGET HIGHLIGHTS

UNION BUDGET 2017

Introduction

- The government has continued on the path of fiscal consolidation, without compromising public investment.
- The IMF forecasts India to be one of the fastest growing economies in 2017-18.
- The war against black money had been launched.
- Inflation has been brought under control. Consumer Price Index (CPI) based inflation declined to 3.4% in December 2016.

Challenges in 2017-18

- The world economy faces uncertainty due to major economic and political developments.
- The US intends to increase policy rates in 2017, which may lead to lower capital inflows and higher outflows from emerging economies.
- Uncertainty around commodity prices.
- There are signs of retreat from globalisation as pressure for protectionism builds up.

Transformational reforms in the last year

- Constitution Amendment Bill for GST was passed.
- Demonetisation of high denomination notes was carried out.
- Insolvency and Bankruptcy Code was enacted.
- Amendment to the RBI Act for inflation targeting.
- Enactment of the Aadhar Bill for disbursement of financial subsidies and benefits.
- Budget Presentation was preponed to enable operationalisation of all activities from the commencement of the financial year.
- The Railway Budget was merged with the General Budget.
- The removal of plan and non-plan classification of expenditure to facilitate a holistic view of allocations for all sectors.

Demonitisation

- A decisive measure to curb tax evasion and the parallel economy.
- Shows the government's resolve to eliminate corruption, black money, counterfeit currency and terror funding.
- Drop in economic activity, if any, will be temporary.
- Long-term benefits include reduced corruption, digitisation, increased flow of financial savings and formalisation of the economy.
- Remonetisation will soon reach comfortable levels.
- The surplus liquidity in the system will lower borrowing costs and increase credit availability.

Roadmap and priorities

- The agenda for 2017-18 is 'Transform, Energise and Clean India' (TEC India)
- TEC India seeks to:
  - Transform the quality of life and governance;
  - Energise various sections of society, especially the youth and the vulnerable.
  - Clean the country from the evils of corruption, black money and non-transparent political funding.
- Ten distinct themes to foster this broad agenda
  - Farmers
  - Youth
  - Rural population
  - The poor and the underprivileged
  - Digital economy
  - Infrastructure
  - Prudent fiscal management
  - Financial sector
  - Public service

Farmers

- Target for agricultural credit has been fixed at INR 10,000 billion.
- 60 days interest waiver provided for farmers.
- The long-term Irrigation Fund to be augmented by 100%, bringing it to INR 400 billion.
- Micro Irrigation Fund set up with an initial corpus of INR 50 billion.
- Coverage of National Agricultural Market (e-NAM) to be expanded to 585 Agricultural Produce Market Committees. Assistance of up to INR 7.5 million for every e-NAM.

Youth

- SWAYAM platform to be launched with at least 350 online IT courses.
- Pradhan Mantri Kaushal Kendras to be extended to over 600 districts across the country.
- SANKALP program to be launched and will provide training to 35 million youth.

Rural population

- Aim to make 10 million households and 50,000 Gram Panchayats poverty-free by 2019.
- Mahatma Gandhi National Rural Employment Act (MGNREGA) allocation is at INR 480 billion.
- The rate of construction of roads under Pradhan Mantri Gram Sadak Yojana (PMGSY) accelerated to 133 km roads per day in 2016-17.
- Allocation for Pradhan Mantri Awas Yojana (PMAY) increased to INR 230 billion with a target to complete 10 million houses by 2019.
- To achieve 100% village electrification by 1 May 2018.
- Total allocation for rural, agriculture and allied sectors is INR 1872.23 billion.

The poor and the underprivileged

- Affordable housing to be given infrastructure status.
- National Housing Bank will refinance individual housing loans of about INR 200 billion.
- All India Institutes of Medical Sciences to be set up in Jharkhand and Gujarat.
- To foster a conducive labour environment, legislative reforms will be undertaken to simplify, rationalise and amalgamate the existing labour laws.
- For senior citizens, Aadhar based smart cards containing their health details will be introduced.

Digital economy

- 125,000 people have adopted the Bharat Interface for Money (BHIM) app. The government will launch two new schemes to promote the usage of BHIM.
- A merchant version of Aadhar Enabled Payment System will be launched.
- A target of 25 billion digital transactions for 2017-18.
- Mandate for all government receipts through digital means beyond a prescribed limit.
- A proposal to create a Payments Regulatory Board in the Reserve Bank of India.

Infrastructure

- INR 2,413.87 billion was provided for the transportation sector.
- Total expenditure for railways provided at INR 1,310 billion.
- A Rashtriya Rail Sanraksha Kosh will be created for passenger safety with a corpus of INR 1,000 billion.
- 3,500 kms of railway lines will be commissioned in 2017-18.
- A new Metro Rail Policy will be announced with a focus on innovative models of implementation and financing.
- The Metro Rail Act will be enacted for greater private participation and investment.
- Provision for highways increased to INR 649 billion.
- Total length of roads built from 2014-15 till the current year is about 140,000 kms.
- Select airports in Tier 2 cities will be taken up for operation and maintenance in the PPP mode.
- High speed broadband connectivity for over 150,000 gram panchayats, under BharatNet.
- A DigiGaon initiative to provide tele-medicine, education and skills through digital technology was proposed.
- Proposal to set up strategic crude oil reserves to increase capacity to 15.33 million metric tonnes.
- Second phase of solar park development proposed for additional 20,000 MW capacity.

Prudent fiscal management

- Total resources transferred to the states and the union territories with legislatures is INR 4,110 billion.
- A consolidated Outcome Budget is being laid down for the first time.
- Fiscal deficit for 2017-18 is targeted at 3.2% of the GDP with a goal to achieve 3% in the following year.
- Net market borrowing of the government has been restricted to INR 3,480 billion.
- Revenue deficit of 2.3% in 2016-17 stands reduced to 2.1% in the revised estimates.

Financial sector

- Foreign Investment Promotion Board (FIPB) to be abolished in 2017-18.
- Further liberalisation of FDI policy is under consideration.
- An expert committee will be constituted to promote the creation of an operational and legal framework to integrate the spot market and derivatives market in the agricultural sector.
- A mechanism to streamline institutional arrangements for the resolution of disputes in infrastructure related construction contracts, Public-Private Partnerships (PPPs) and public utility contracts will be introduced.
- The government will introduce a revised mechanism to ensure time bound listing of identified Central Public Sector Enterprises (CPSEs) on stock exchanges.
- Proposal to create an integrated public sector oil company.
- INR 100 billion for recapitalisation of banks provided.
- Lending target under Pradhan Mantri Mudra Yojana set at INR 2,440 billion.

Public service

- The government e-market place is now functional for the procurement of goods and services.
- Utilisation of the Head Post Offices as front offices for rendering passport services was proposed.
- A Centralised Defence Travel System has been developed through which tickets can be booked online by our soldiers and officers.
- Web based interactive Pension Disbursement System for defence pensioners.
- Proposal to rationalise the number of Tribunals and merge Tribunals.
- Commemorate Champaran and Khordha revolts appropriately.

KEY DIRECT TAX PROPOSALS

UNION BUDGET 2017

Effective Tax Rates

For individuals

- The tax rate has been reduced from 10% to 5% for those with an income between INR 0.25 million to INR 0.5 million.
  - Similar reduction for senior citizens earning income between INR 300,000 to INR 500,000.
  - In line with the reduction in tax rates from 10% to 5% for individuals in the slab INR 250,000 to INR 500,000, the rebate amount has been restricted to INR 2,500.
- A 10% surcharge introduced for taxable income between INR 5 million and INR 10 million has been introduced.
  - A surcharge of 15% for incomes above INR 10 million continues to exist.

For companies

- The tax rate reduced from 30% to 25% for companies with a turnover/gross receipts of INR 500 million or less in financial year (FY) 2015-16.
  - No relief of lower tax rate for Limited Liability Partnerships (LLPs), firms and other taxpayers has been provided.
- There has been no reduction in the rate of Minimum Alternate Tax (MAT).
- Income from the transfer of carbon credits to be taxed at 10%.

Rationalisation of provisions relating to tax credit for MAT and Alternate Minimum Tax (AMT)

(Effective from 1 April 2018 and shall apply from assessing year (AY) 2018-19)

- It is proposed that MAT credit and AMT credit would be allowed to be carried forward for 15 years instead of 10 years as provided earlier.
- If the Foreign Tax Credit (FTC) is more than the normal tax payable under the Income tax Act, 1961 (Act), then MAT credit and AMT credit would be restricted to the difference between MAT/AMT payable and FTC.

Rationalisation of the provisions of Section 115JB in line with Indian Accounting Standard (Ind AS)

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

- The central government has notified Ind AS which would be applicable to companies subject to certain condition. The objective of Ind AS is to a provide true and fair view of financials which may include recording certain assets at fair value amongst other things.
- In order to align MAT provisions with financial statements prepared under Ind AS, a new section has been introduced to rationalise the provisions. A separate set of provisions have been provided for companies adopting Ind AS for the first time and for companies already compliant with Ind AS.

Relief measures and enhancement of tax incentives

Clarity on indirect transfer provisions

(Applicable retrospectively with effect from 1 April 2012 and shall apply from AY 2012-13)

- The Finance Act, 2012, had added an explanation to Section 9 of the Act to cover cases of indirect transfer of Indian assets. The explanation clarified that an asset or capital asset being any share or interest in a company/ entity registered or incorporated outside India shall be deemed to be situated in India if it derives its value, directly or indirectly, substantially from assets located in India.
- Recently, the Central Board of Direct Taxes (CBDT) had issued a circular clarifying the indirect transfer provisions. The stakeholders had presented their concerns stating that the circular does not address the issue of possible multiple taxation of the same income and hence, the circular was stayed.
- Now, it has been clarified that the indirect transfer provision shall not apply to category 1 or category 2 of Foreign Portfolio Investors (FPIs).

Extension of the period for concessional tax rate on interest in the case of External Commercial Borrowing (ECB) and extension to Rupee Denominated Bonds (RDB)

(Effective from 1 April 2016)

- Presently, interest on borrowings in foreign currency under a loan agreement or by way of issue of long-term bonds from sources outside India is eligible for a concessional rate of withholding at 5% if the borrowing is made before 1 July 2017.
- It is proposed to extend the concessional rate of 5% in respect of borrowings made up to 1 July 2020.
- It is further proposed to extend the concessional rate of withholding of 5% to RDB issued outside India before 1 July 2020.

Extension of eligible period of concessional tax rate on certain bonds and government securities

- Presently, the interest payable anytime on or after 1 July 2013 but before 1 July 2017 to Foreign Institutional Investors (FIIs) and Qualified Foreign Investors (QFIs) on their investments in government securities and RDBs is eligible for a concessional rate of withholding at 5%.
- It is proposed to extend the concessional rate of 5% on interest payable till 1 July 2010.

Tax incentives for housing projects

- To promote the development and building of affordable housing projects Section 80-IBA is proposed to be amended as follows:

Conditions	Existing Provisions	Proposed Amendment
Time limit for completion	Three years	Five years
Size of residential unit*	To be measured in built-up area	To be measured in carpet area
Location of housing project located in the vicinity (25 kilometres) of metropolitan cities	Provisions applicable as if located within metropolitan cities	Provisions applicable as if located in non-metropolitan cities

* At present, the Finance Bill, 2017 incorrectly refers to clause (c) and (f) of Sub-section (2) instead of Clause (c) and (e) of Sub-section (2). This typo is expected to be corrected in the final Act that will be passed.

Extension of the period for availing of deduction for start-ups

- At present, start-ups are eligible to claim deduction of 100% of profit for any period of three consecutive years out of a period of five years starting from the year of incorporation.
- Considering the fact that the start-ups may take time to derive profits, it is proposed to extend the five-year bracket to seven years starting from the year of incorporation.

Carry forward and set-off of loss for start-ups

- The current provisions relating to carry forward and set-off of losses in the case of a closely held company require continuance of 51% of shareholders who beneficially held the voting power on the last date of the year or years in which the loss was incurred.
- In order to facilitate the ease of doing business and promote start-ups in India, it is proposed to rationalise this provision for start-ups.
- The only requirement is that such a shareholder should continue holding those shares without any cap on the percentage of his/her holding. This relaxation is applicable in respect of a loss incurred in the first seven years of incorporation.

Reduction in presumptive taxation rate for certain businesses in specified cases

(Applicable from AY 2017-18 onwards)

- The existing presumptive income scheme is applicable in the case of eligible assesses carrying out eligible businesses having a total turnover or gross receipts not exceeding INR 20 million in the previous year.
- In order to promote digital transactions and to encourage small unorganised businesses to accept digital payments, it is proposed to reduce the existing rate of 8% to 6% in respect of the amount of such total turnover or gross receipts received by an account payee cheque or account payee bank draft or the use of an electronic clearing system through a bank account during the financial year or before the due date specified for filing income tax returns applicable for that year.
- However, the existing rate of 8% shall continue to apply in respect of the total turnover or gross receipts received in any other mode.

Notional income for developers holding property as stock-in-trade

(Applicable from AY 2018-19)

- Currently, the taxability of vacant property held by developers as stock-in-trade is a litigation issue.
- To bring finality to the litigation, it is proposed to amend the law to provide that where the property is not let out for the entire year or part of the year, the annual value up to one year from the end of the financial year in which the certificate of completion of construction of the property is obtained would be NIL (i.e. the developer would not be liable to pay taxes on notional income for one year).

Deduction under section 80CCD for self-employed individuals

- According to the existing provisions, the eligibility of deduction under this section for employed individuals stands at an aggregate 20% of salary income. (10% self-contribution and 10% employer's contribution). However, for other individuals, the deduction was capped at 10% of the gross total income (as there is no employer contribution).
- To provide parity in the eligibility of deduction, it has been proposed to allow a deduction of 20% of the gross total income for other individuals with effect from AY 2018-19.

Tax-exemption on partial withdrawal from the National Pension System (NPS)

- Currently, payment from the NPS trust to an employee on the closure of his account or opting out is taxable up to 60% of the total amount payable to employees.
- It has been proposed to provide relief to employees by exempting partial withdrawal not exceeding 25% of the contribution made by an employee in accordance with the terms and conditions specified under the Pension Fund Regulatory and Development Authority Act, 2013 and the regulation made thereunder.

Increase in the limit of deduction for bad and doubtful debts

- Currently, the deduction of 7.5% of the total income is allowed as provision for bad and doubtful debts for a scheduled bank, non-scheduled bank and specified cooperative banks.
- It is proposed to increase the available deduction by enhancing the present limit of 7.5% to 8.5% of the total income.

Other exemptions

- The Government of Andhra Pradesh has an arrangement ('Land Pooling Scheme') whereby compensation in the form of reconstituted plot or land is provided to landowners in lieu of acquisition of land. It is proposed that capital gains arising in the hands of individuals and Hindu Undivided Families (HUFs) who have transferred land under the scheme shall not be chargeable to tax (provided the asset is a 'Specified Capital Asset').
- The income accruing or arising to a foreign company on account of the sale of leftover stock of crude oil from a facility in India is proposed to be exempted even after the expiry of the agreement or an arrangement subject to conditions notified by central government.

Tax rationalisation measures

Fee for delayed filing of return of income

Particulars		Fees (INR)
Income above INR 0.5 million	Return of income filed before 31 December of the relevant AY	5,000
	Return of income filed after 31 December of the relevant AY	10,000
Income below INR 0.5 million		1,000

- The above fees are applicable from AY 2018-19. Accordingly, penal provisions for non-filing of return of income stands deleted from AY 2018-19.
- The above fee becomes payable along with self-assessment taxes and interest, if any, and would be taken into account while processing return of income by way of intimation to determine refund/tax demand, if any.

Clarification on computation of undertaking in Special Economic Zones (SEZ), claiming deduction

- Many courts (including the Supreme Court) have taken a view that the deduction for SEZ undertaking (under Section 10A) is to be allowed from the total income of the undertaking and not from the total income of the taxpayer.
- The above rulings have now been overturned and it has been proposed that deduction be allowed from the total income before considering this deduction. It is further proposed that the deduction in no case shall exceed the total income.

Reduction in threshold limit for cash expenditure

- Presently, payments made in cash to a person in a single day in excess of INR 20,000 are not tax deductible. As a measure to discourage cash transactions, it is proposed to reduce this limit from INR 20,000 to INR 10,000.
- Also, it is proposed to include electronic modes of payment through a bank account, as an accepted mode of payment.
- Furthermore, it is proposed that the benefit of deduction of capital expenditure for specified businesses shall not be available for capital expenditure in excess of INR 10,000 paid in cash.
- In addition, it is proposed to exclude any expenditure above INR 10,000 which is paid in cash from the definition of actual cost of an asset.

Penalty regarding cash receipts

- It is proposed to levy a 100% penalty for receipt of cash of INR 300,000 or more
  - From a single person in a day; or
  - For a single transaction; or
  - For one event/occasion.

  Exceptions would be provided in certain cases.

Rationalisation of taxation of income by way of dividend

(Applicable with effect from 1 April 2018, apply from AY 2018-19)

- The Finance Act, 2016 had introduced Section 115BBDA which provided for taxing dividend in the hands of an individual, HUF and firm earned from a domestic company in excess of INR 1 million at the rate of 10% on a gross basis.
- It is now proposed to apply the said section to all residents except a domestic company, a fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred in Sub-clause (iv) or Sub-clause (v) or Sub-clause (vi) or Sub-clause (via) of Section 10(23C), trust or institution registered under Section 12AA.

Clarification with regard to the interpretation of 'terms' used in an agreement entered into under Section 90 and 90A

- It is clarified that where a particular 'term' is defined under the Double Tax Avoidance Agreement (DTAA), the term shall have the same meaning as mentioned in the DTAA. However, only in cases where the 'term' is not defined under a DTAA, it shall have the meaning as assigned under the Act and any explanation given to it by the central government.

Enabling a claim of credit for foreign tax paid in cases of dispute

(Applicable with effect from 1 April 2018, apply from AY 2018-19)

- It is proposed to insert Sub-section (14A) in Section 155 to enable the Tax Authorities to grant credit of foreign tax in a dispute which was disallowed earlier during the course of assessment or processing of income tax return.
- The taxpayer is required to file evidence of settlement of dispute within six months from the end of the month in which the dispute is settled along with proof of payment of taxes and undertaking that no credit on such an amount is claimed directly or indirectly.
- This would be subject to timelines prescribed under Section 154 for rectification.

Limit for inter-head adjustment of loss under the head 'income from house property'

- It is proposed to restrict the set-off of loss under the head 'income from house property' against any other head of income of that year to INR 200,000.
- However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years for set-off only against income from house property.

Reduction in cash donations

- It is proposed to reduce the limit of cash donations allowable under section 80G from INR 10,000 to INR 2,000 with effect from AY 2018-19.

Long-term capital gains exemption on the equity share of company

- Currently, the income arising from a transfer of long-term capital assets, being equity share of a company or a unit of an equity oriented fund, is exempt from tax if the transaction of sale is undertaken on or after 1 October 2004 and is chargeable to Security Transaction Tax (STT).
- It is proposed that the exemption for long-term capital gains on the sale of equity share or a unit of equity oriented funds will be available only if the shares acquired have been subjected to STT. It is also proposed that the said restriction would not apply to certain notified acquisitions (like Initial Public Offering (IPO), Follow-on Public Offer (FPO), bonus or right issue by a listed company acquisition by non-resident in accordance with the FDI policy of the government, etc.).

Single instalment of advance tax for presumptive taxpayers and relief from penal interest

- Akin to the benefit given to businesses under the presumptive taxation regime, even professionals opting for presumptive taxation (i.e. whose gross receipts do not exceed INR 2.5 million) can pay advance tax in a single instalment on or before 15 March.
- The consequential relief from payment of interest due to the delay in an advance tax payment is also granted.
- Relief from interest due on delayed payment of advance tax is also extended to shortfall on account of the underestimation or failure to estimate income from dividend.

Increase in the threshold limit for maintaining books of accounts

- Currently, taxpayers carrying on business or profession are required to maintain specified books and documents if their income from business or profession exceeds INR 120,000 or if their turnover exceeds INR 1 million.
- It is now proposed to increase these limits to INR 250,000 and INR 25 million respectively.

Increase in threshold limit for auditing persons with income from profession

(Effective from AY 2017-18 onwards)

- Presently, a taxpayer carrying on a business is required to get his books audited if his turnover during the year exceeds INR 10 million. It is now proposed to increase the limit to INR 20 million to align the limit according to the presumptive taxation scheme for business.

Charitable trust or institution

- It is proposed to insert a new explanation stating that any amount paid or credited, out of donations received, to the corpus of other charitable trust or institution will not be considered as an application of income for the former charitable trust or institution.
- It is also proposed that in order to claim the deduction under Section 11 or 12, the charitable trust or institution will be required to file its tax return within the time frame prescribed. A delay in filing the tax return would make them ineligible to claim exemptions under Section 11 or 12.
- It is further proposed that the trust or institution granted registration under Section 12AA shall be required to obtain a fresh registration by making an application within a period of thirty days from the date of such modifications of the objects in the prescribed form and manner. In case such an application is not made, the trust or institution would not be eligible to claim exemptions under Section 11 or 12.

Political party

- Currently, political parties receiving donations above INR 20,000 from a particular person are expected to provide such donor's details to the Election Commission. However, there is no restriction on the receipt of donation in cash by a political party. In order to bring transparency in the source of funding to political parties and to discourage cash transactions, it is proposed that political parties would not be allowed to obtain donations above INR 2,000 in cash.
- Furthermore, in order to claim the exemption, political parties would be required to file tax returns within the time limit prescribed.
- Also, it is proposed that electoral bonds would be issued according to the guidelines of the Reserve Bank of India, which can be used as an instrument for receiving donations. The political party is not required to disclose details of donors who have donated the funds though such electoral bonds.

Modification in the conditions of the special taxation regime for offshore funds under Section 9A

(Applicable retrospectively with effect from 1 April 2016 and shall apply from AY 2016-17)

- The Finance Act, 2015 had introduced Section 9A which provided that in case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such a fund shall not constitute business connection in India subject to fulfilment of certain conditions.
- One of the conditions provided was that the monthly average corpus of the fund shall not be less than INR 1 billion. However, a representation to that effect was made in a case where the fund was being wound up, it was not possible to maintain the monthly average of the corpus of the fund.
- In order to rationalise the provision, it is now proposed that the said clause shall not apply to a fund which is wound up in the previous year.

Extension of deduction of interest payable to cooperative banks

- Presently, a deduction for the interest on loans from scheduled banks is allowed as a deduction only if the amount is paid before the due date of filing the return. It is proposed to extend the applicability of this provision to the interest payable on any loan or advance from specified cooperative banks as well.

Phasing out of deduction under Section 80CCG

- The deduction available to new individual retail investors for investments in listed equity shares or listed units of an equity oriented fund with effect from AY 2018-19 is proposed to be withdrawn.
- It is however clarified that such individuals who have already made investments before the phasing out of the provision shall continue to be eligible for the deduction under this section.

Merger of Authority in Advance Ruling

- To promote the ease of doing business, the government has proposed to merge the Authority of Advance Ruling for direct and indirect taxes. In this regard, relevant changes have been made to the provisions of Advance Ruling by amending the definition of applicant to include applicants of other laws i.e. customs duty, excise and service tax.

Tax Procedures

Time limit for revision of return of income

(Applicable with effect from 1 April 2018 and shall apply from AY 2018-19)

- It is proposed to reduce the time limit available to the taxpayer for filing a revised return from the existing two-year limit from the end of the relevant financial year to one year.

Power to withhold refund is reintroduced

- When a case is selected for a Revenue Audit and when the refund becomes due based on the summary assessment, the tax officer can withhold the refund if he is of the view that granting the refund may adversely affect the revenue recovery. However, this can be done only after submitting the reason for it and with prior approval from the Principal Commissioner or Commissioner.

Interest on refund due to deductor

- Akin to the taxpayer, it is now proposed that the tax deductor is also entitled to interest at the rate of 0.5%, on any refund of taxes deducted at source, from the date on which the claim for the refund is made, up to the date it is granted. However, the period of delay attributable to the deductor will not be eligible for interest.

Time limits for assessment, re-assessment and re-computation (including assessment in search case)

- The Finance Act, 2016 had reduced the time limit for the completion of assessment from two years to 21 months. It is now proposed to further reduce the time limit to 18 months from the end of the relevant AY for AY 2018-19.
- Furthermore, it also proposed to further reduce the time limit for the assessments to 12 months from the end of the relevant AY from AY 2019-20.
- It is proposed to increase the time limit for completing re-assessment of notices issued on or after 1 April 2019 to 12 months from the end of the FY in which the notice is served for reassessment as against the existing time limit of 9 months from the end of the FY in which the notice is served for reassessment.
- It has been proposed to increase the time limit for the issuance of the assessment order initiated pursuant to an order passed by the Tribunal in appellate proceedings or by the Principal Commissioner or Commissioner in revision proceedings to 12 months from the end of the FY in which the order is received from the existing 9month limit.
- It is also proposed to provide for a time limit of 12 months for passing an effect order in cases where the verification or opportunity of being heard is required pursuant to an order of the appellate authorities or courts. The time limit of 12 months shall apply from the end of the FY in which such an order from the appellate authorities or courts is received.

Search and seizure

- Section 132 (search and seizure that Indian Tax Authorities are not required has now been clarified and discloses reasons recorded for a search to any person or any authority or the Appellate Tribunal. A similar amendment is also proposed under Section 132A (Powers to Requisition Books of Accounts).

Provisional attachment of property for search cases

(Applicable with effect from 1 April 2018 and shall apply from AY 2017-18)

- It is proposed to introduce Sub-section (9B), (9C) and 9(D) to Section 132 to empower Indian Tax Authorities to provisionally attach any property belonging to the taxpayer after obtaining an approval during the course of search or seizure or within 60 days from the date of execution of the search to protect the interest of revenue.
- Such attachment shall cease to have effect after six months from its date of order.
- The tax officer can make a reference to the valuation officer for the purpose of estimation of the fair market value of any property during the course of search and seizure or within 60 days from the date of execution.

Power of survey

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

- Section 133A of the Act has been amended to empower the tax authorities to conduct a survey at any place at which activities for charitable purposes are carried out.

Withholding tax and Tax Collection at Source

Strengthening Permanent Account Number (PAN) quoting mechanism for Tax Collection at Source (TCS)

(Proposed to be effective from 1 April 2017)

- As a PAN acts as a common thread for linking information, it is proposed that in case of transactions subject to TCS, a PAN should be provided by the person paying any sum to the person responsible for collecting such a tax. In order to strengthen the PAN quoting mechanism, the following actions are proposed:
  i. TCS rate to be double the rate in the relevant provision or 5%, whichever is higher, if the person paying any sum on which TCS is collectible fails to furnish PAN to the person responsible for collecting TCS.
  ii. TCS is not collectible in certain cases if the person paying the sum furnishes a declaration to the collector. It is proposed that the declaration provided shall not be valid unless the person filing the declaration furnishes his PAN in such a declaration. In such a situation, the TCS will be collectible at higher rates.
  iii. Certificate for collection of tax at a lower rate shall not be granted unless the application made contains the applicant's PAN details.
  iv. The collectee shall furnish his PAN to the collector and both shall indicate it in all the correspondences, bills and vouchers sent to each other.
  v. In cases where the PAN provided by the collectee is invalid or does not belong to the collectee, it shall be deemed that the PAN is not furnished to the collector. In such a situation, the TCS will be collectible at higher rates.
  vi. The above provisions will not be applicable to non-residents who do not have a permanent establishment in India.

'Person responsible for paying' defined in case of payment by resident to non-resident

- It is proposed to clarify the meaning of the term 'person responsible for paying' with regard to the furnishing of information relating to payments by residents to mean the payer himself, or, if the payer is a company, the company itself including the principal officer thereof.

Self-declaration forms for an insurance commission

(Proposed to be effective from 1 June 2017)

- Presently, tax is required to be withheld at the rate of 5% for payments in the nature of insurance commission beyond a threshold limit of INR 15,000 per financial year.
- It is proposed to extend the benefit of non-deduction of tax on the insurance commission made by individuals and HUFs based on self-declaration in Form 15G/15H.

Capital Gains

Capital gains in case of immoveable property

This amendment shall take effect from AY 2018-19.

- It is proposed to reduce the holding period of an immovable property from 36 months to 24 months for it to be considered as a long-term capital asset.

Special provisions in case of joint development agreements

(Proposed to be effective from 1 April 2017).

- Capital gains arising to an individual or HUF on the transfer of land or building or both, pursuant to a specified agreement for the development of a project, will be chargeable to income tax in the year in which the certificate of completion for the whole or any part is received.
- It is proposed that any person paying monetary consideration to a resident under a joint development agreement will have to withhold tax at the rate of 10% of the sum.

Capital gains exemption to RDBs

- It is proposed that the transfer of RDBs of an Indian company by a non-resident to another non-resident would not be regarded as a transfer.

Capital gains exemption on conversion of preference shares into equity

(Effective from AY 2018–19)

- It is proposed to provide tax neutrality on the conversion of preference shares of a company into equity shares.
- A consequential amendment is also proposed for determining the cost and period of holding on the sale of such converted equity shares.

Cost of acqusition in some cases

(Effective from 1 April 2018, applicable for AY 2018-19 onwards)

- To bring tax neutrality to the transfer of units in a consolidating plan of units, it is proposed to amend the law to consider the cost of acquisition of the units in the consolidated plan of mutual fund to be the cost of units in the consolidating plan of a mutual fund scheme.
- It is proposed to provide that where capital gains arises from transfer of asset held by certain trusts, the cost of acquisition for these assets shall be deemed to be the FMV of such asset as on the specified date.
- It is proposed to provide that cost of acquisition of the shares of Indian company in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company.
- In respect of Land Pooling Scheme where land is transferred after two years, it is proposed that the cost of acquisition shall be deemed to be the stamp duty value as on the last day of the second financial year after the end of financial year in which such possession was handed over to.

Others

- In order to rationalise the base year, it is proposed to shift the same from 1 April 1981 to 1 April 2001.

Consequent changes are proposed to be made under cost of improvement.

- In order to rationalise the provisions in relation to deemed considerations under capital gains, a new section is proposed to be inserted to consider the FMV of the unquoted shares where the actual consideration is less than the FMV of such shares.

This amendment shall take effect from AY 2018–19.

- It is proposed to widen the scope of exemption available under Section 54EC to investment in any bond redeemable after three years as notified by the central government.

Income from other sources

Scope of tax enhanced for property received for inadequate consideration

(Effective from 1 April 2017)

- It is proposed to enhance the taxation of receipts of money and property without consideration or with inadequate consideration, to all persons as against the restricted applicability to few persons.

Disallowance on account of non-deduction of tax from payment to resident

- The present provision for computation of income under the head 'income from other sources' specifies certain amounts which are not deductible while computing the income under the said head. These include disallowances which are not allowable under the head 'income from business or profession'. However, this did not include disallowance on account of non-deduction of tax.
- With a view to improve compliance with withholding tax provisions, it is proposed to include disallowance on account of non-deduction of tax and bring it at par with the provisions for computation of income under the head 'income from business or profession'.

Transfer Pricing

Scope of specified domestic transactions excludes payment to related parties

- In order to remove the compliance hardships faced by taxpayers and to make the applicability of specified domestic provisions (SDT) more practical, it is proposed to exclude the payment made to a related party from the ambit of SDT. The said amendment shall apply for AY 2017-18 and subsequent AYs.
- Thus, transfer pricing provisions cease to apply in tax neutral scenarios.

Secondary adjustment

(Applicable for AY 2018-19 onwards)

- In continuance with the efforts of the Indian government to align the transfer pricing provisions with Organisation for Economic Cooperation and Development's (OECD's) transfer pricing guidelines and international best practices, it is proposed to carry out secondary adjustment where the primary adjustment has been made in the taxpayer's case:
  - By the taxpayer himself, suo-moto;
  - By the tax officer which has been accepted by the taxpayer;
  - Based on an Advance Pricing Agreement (APA) entered into by the taxpayer;
  - Based on safe harbour declaration done by the taxpayer; or
  - Based on a Mutual Agreement Procedure (MAP) resolution under the tax treaty.
- Secondary adjustment actually implies that the taxpayer and the associated enterprise (AE) would not only have to pay taxes on the primary adjustment/additions to taxable income but also have to record the same in the books of accounts.
- In cases where such secondary adjustment is not done to the books of accounts, then such an amount is treated as an advance lying with the AE and the Indian taxpayer has to pay taxes on the notional interest component in respect of such notional advance. The mode of computation, the rate of interest, etc. will be prescribed in due course.
- Provisions related to secondary adjustment shall not apply if:
  - The amount of primary adjustment in any previous year does not exceed INR 10 million; and
  - The primary adjustment is made up to AY 2016-17.

Limitation of interest deductions in certain cases

(Applicable for AY 2018-19 onwards)

- The payment of interest to an AE would be restricted to 30% of its earnings before interest, taxes, depreciation and amortisation (EBITDA) with a view of alignment with recommendations of the OECD's Base Erosion and Profit Shifting (BEPS) Action Plan 4.
- The debt to be considered while computing the 30% interest expense deduction limit shall include the debt directly issued by the AE and the debt issued by a third party, where the AE has provided an explicit or implicit guarantee or extended indirect funding.
- In cases where the whole interest expenditure cannot be claimed in the relevant AY, it shall be carried forward for eight years.
- These provisions shall not apply:
  - To an Indian company or a permanent establishment of a foreign company which is engaged in the business of banking or insurance.
  - In cases where the payment to AE doesn't exceed INR 10 million.

KEY INDIRECT TAX HIGHLIGHTS

UNION BUDGET 2017

Customs Duty

The effective rate of customs duty remains unchanged at 29.44%.

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

The changes introduced in customs duty rates aim at boosting the Make in India initiative and rationalising the inverted duty structure.

(Effective from 2 February 2017)

S. No.	Tariff description	Old Rate	New Rate	Impact
1	Parts for manufacture of LED lights or fixtures*	Applicable BCD	5%	↓
2	Micro ATMs, miniaturised Point of Sale (POS) devices, etc.	Applicable BCD	Nil	↓
3	Parts and components to manufacture micro ATMs*	Applicable BCD	Nil	↓
4	Vinyl Polyethylene Glycol*	10%	7.5%	↓
5	Liquefied Natural Gas (LNG)	5%	2.5%	↓
6	2-Ethyl Anthraquinone for use in the manufacture of hydrogen peroxide*	7.5%	2.5%	↓

*Subject to actual user condition

Legislative changes

(Effective from the date of enactment of the Finance Bill, 2017 unless otherwise specified)

- Time limit for filing the Bill of Entry:
  - The Bill of Entry to be filed by the next day following the day (excluding holidays) of arrival of carrier of goods at a customs station.
  - Earlier, the Bill of Entry was allowed to be filed any time after the delivery of the import manifest or import report.
  - Charges may be imposed for late presentation of the Bill of Entry as may be separately prescribed at a later date.
- Payment of import duty:
  - In the case of self-assessment, import duty is to be paid on the date of presentation of the Bill of Entry.
  - Interest is payable by the importer in case of failure to pay import duty on the date of presentation of the Bill of Entry.
  - Earlier, the import duty was to be paid within two days (excluding holidays) from the date on which the Bill of Entry was returned to the importer for payment of duty.
- 'Beneficial Owner' has been defined to mean any person on whose behalf the goods are being imported/exported or who exercises effective control over such goods to enable such beneficial owner to file the Bill of Entry.
- Authority for Advance Rulings (AAR)
  - AAR has been merged with AAR under the Income Tax Act, 1961.
  - Pending applications and proceedings under the erstwhile AAR are to be transferred to the proposed AAR under the Income Tax Act, 1961 at the stage they stand on the date the Finance Bill, 2017 receives the assent of the President.

- – The time limit of 90 days prescribed earlier for the disposal of cases by the AAR has been increased to six months.
- – The above amendment in relation to AAR has been introduced in service tax and central excise provisions as well.

- Imported goods which cannot be cleared/removed within a reasonable time:
  - – In case of imported goods entered for warehousing, a facility has been provided for temporary storage in a public warehouse.
  - – In case of imported goods entered for home consumption, a facility for temporary storage is restricted to a public warehouse only (earlier, storage in a private warehouse was also permitted).

Central Excise Duty

The effective rate of Excise Duty (ED) remains unchanged at 12.5%.

Key changes in ED for certain products

(Effective from 2 February 2017)

S. No.	Tariff Description	Old Rate	New Rate	Impact
1	Solar tempered glass used in the manufacture of*- – Solar photovoltaic cells or modules – Solar power generating equipment or systems – Flat plate solar collectors – Solar photovoltaic module and panel for water pumping and other applications	0%	6%	↓
2	Parts/raw material used in the manufacture of*- – Solar photovoltaic cells or modules – Solar power generating equipment or systems – Flat plate solar collectors Solar photovoltaic module and panel for water pumping and other applications	12.5%	6%	↓
3	– Micro ATMs – Fingerprint reader/scanner – Iris scanner – Miniaturised POS card reader for mPOS (other than mobile phones or tablet computers) – Parts and components used in the manufacture of the goods mentioned above*	Applicable ED	0%	↓
4	– Parts used in the manufacture of LED lights, LED lamps or fixtures*	Applicable ED	6%	↓

*Subject to actual user condition

Other changes in exemptions

(Effective from 2 February 2017)

- Exemption to POS devices and all goods used for the manufacture of POS devices valid till 31 March 2017 has been extended to 30 June 2017

Other areas

- Clarification has been issued that explanation to Section 5A of Central Excise Act, 1944 is applicable only with respect to the removal of goods from Export Oriented Units (EOUs) to Domestic Tariff Area (DTA)
  - – Exemption for procurement by EOU is available

Service Tax

Effective rate of service tax remains unchanged at 15%.

Exemptions introduced

(Effective from the enactment of Finance Bill, 2017)

- One time upfront amount paid from 1 June 2007 to 21 September 2016 on the grant of long-term lease of industrial plots (30 years or more) by state government industrial development corporations/undertaking to industrial units (Effective retrospectively from 1 June 2007 to 21 September 2016).
  - 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.

Changes in Service Tax (Determination of Value) Rules, 2006

(Effective from enactment of Finance Bill, 2017)

- With effect from 1 July 2010, the value of land or undivided share of land is to be excluded from the total contract value in case of works contract involving the transfer of goods, service and land:
  - Where the actual property value is not ascertainable, a different percentage has been prescribed for determining the works contract service value.

Changes in statutory provisions

(Effective from the enactment of Finance Bill, 2017)

- Services by way of carrying out any process amounting to manufacture or production of goods excluding alcoholic liquor for human consumption are excluded from the negative list and included in the mega exemption list.

Others

(Effective from the enactment of Finance Bill, 2017)

- Research and Development Cess Act, 1986 is repealed and consequently, the service tax notification granting service tax exemption to the extent of Research and Development Cess paid is also withdrawn.
  - Tax would be payable on the full value of service imported and a corresponding change in eligibility of available CENVAT credit.

Central Value Added Tax (CENVAT)

Changes in CENVAT Credit Rules

(Effective from 2 February 2017)

- Banks and financial institutions including Non-Banking Financial Companies (NBFCs) are required to include the value of interest or discount earned on extending deposits, loans or advances for computing the reversal of CENVAT credit as per the proportionate reversal method prescribed under Rule 6 (3) and 6 (3A) of CENVAT Credit Rules, 2004.
  - Earlier, the value of interest or discount earned on extending deposits, loans or advances was excluded from the value of services under Explanation I to Rule 6 (3D) of the CENVAT Credit Rules, 2004.
- The time limit for the grant of permission for transfer of CENVAT credit in the case of shifting of factory/premise has been notified to be three months from the date of application.
  - Such time limit may be extended by a period not exceeding six months.

Goods and Service Tax (GST)

- The Finance Minister, while presenting the Budget, did not specify a definitive way forward or a roadmap for the implementation of GST. However, he reiterated that preparatory work for this path-breaking reform has been a top priority of the government.
- The GST Council has conducted nine meetings post the enactment of the Constitution (One Hundred and First Amendment) Act, 2016 which resulted in the finalisation of their recommendations on almost all issues such as rate structure, threshold exemption, parameters for composition scheme, details for compensation to states, examination of the draft Model GST Law, draft Integrated GST (IGST) Law and the Compensation Law and administrative mechanism for GST based on consensus.
- Considering that GST shall be implemented in the coming FY, no major amendments are proposed under the Central Excise Law and Service Tax Law in Union Budget 2017.
- Furthermore, the Finance Minister reported that the preparation of Information Technology (IT) systems for GST is on schedule and that the extensive efforts to reach out to trade and industry will start from 1 April 2017.
- He also mentioned that the implementation of GST is likely to bring more taxes to both central and state governments because of the widening tax net and that the government shall continue to strive to achieve the goal of implementation of GST as per schedule without compromising on the spirit of cooperative federalism.

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