Indian Union Budget – 2016
An Analysis

For

Layman as well
Tax Practitioners

Analysis by

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1. Income Tax rates are not changed (except in case of certain types of companies) but surcharge in case of individual, H.U.F., A.O.P., B.O.I. and artificial juridical persons is increased from 12% of income tax to 15% of income tax. [Not to worry situation for most of the tax payers as surcharge is applicable to so called super rich persons only. i.e., when taxable income exceeds Rs. 1 crore.] [Applicable from A. Y. 2017-18]

2. Rebate under section 87A is increased to Rs. 5,000/- from Rs. 2000/-. [This rebate is available to individual resident in India whose taxable income does not exceed five lakh rupees.] [Applicable from A. Y. 2017-18]

3. Under the existing provisions, tax is not deducted at source (TDS) on rent payment where the rent does not exceeds Rs. 1,80,000/- per financial year. To further relax this provision, section 197A is proposed to be amended in this budget. As a result, recipient of rent can now furnish to the payer of rent a self- declaration in prescribed Form. no. 15G/15H declaring that the tax on his estimated total income (which includes this rent income also) of the relevant previous year would be nil. (Thus, one can save itself from TDS even when rent income during the year exceeds Rs. 1,80,000/-).

4. **Tax Collection at Source (TCS)**: In order to reduce the quantum of cash transaction in sale of any goods and services and for curbing the flow of unaccounted money in the trading system and to bring high value transactions within the tax net, it is proposed to amend section 206C, whereby it is proposed that the seller shall collect the tax at the rate of 1% from the purchaser on sale of motor vehicle of the value exceeding Rs. 10 lakh. Further it is also proposed that sale in cash of any goods (other than bullion and jewellery), or providing of any services (other than payments on which tax is deducted at source under Chapter XVII-B) exceeding Rs. 2 lakh except in certain class of buyers who fulfill such conditions as may be prescribed. [Applicable from 01/06/2016]

5. **Housing Loan Interest:** As per existing provisions, housing loan interest in case of self-occupied property is available upto Rs 2,00,000 under section 24(b) of the Act where such acquisition or construction of such house property is completed within 3 years from the end of the financial year in which capital was borrowed. This limit of 3 years is extended to 5 years from A.Y. 2017-18. Further, under section 80EE, deduction of up to 1 lakh rupees in respect of interest paid on loan by an individual for acquisition of a residential house property was available for A.Y. 2014-15 and A.Y. 2015-16. In this budget, by substituting existing section 80EE with new provisions, it is proposed to further incentivise first-home buyers (the assessee does not own any residential house property on the date of sanction of loan) availing home loans, by providing additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 50,000. This incentive is proposed to be extended to a house property of a value less than Rs. 50 lakhs in respect of which a loan of an amount not exceeding Rs. 35 lakh has been sanctioned during the period from the 01/04/2016 to the 31/03/2017. It is also proposed to extend the benefit of deduction till the repayment of loan continues. .] [Applicable from A. Y. 2017-18]

6. **Deduction towards House Rent:** At present, deduction under section 80GG is available to an individual (who is not in receipt of House Rent Allowance anytime during the year) upto Rs. 2000 per month. In this budget, this upper limit of Rs. 2000 per month is increased to new upper limit of Rs. 5,000 per month. [Applicable from A. Y. 2017-18]

7. **Housing Projects:** Weighted deduction under section 35AD (1A) was available of 150 per cent of capital expenditure (other than expenditure on land, goodwill and financial assets) for developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed. In this budget, subsection (1A) is omitted w.e.f. A.Y. 2018-19, so from A.Y. 2018-19, such deduction will be limited to 100% instead of 150%.

   Further, new section 80-IBA is proposed to be inserted by this budget w.e.f. A.Y. 2017-18 which proposes a deduction of an amount equal to 100%. of the profits and gains derived from the business of developing and building housing projects of specified nature as explained below.

   i. The project is approved by the competent authority after the 01/06/2016, but on or before the 31/03/2019, in accordance with such guidelines as may be prescribed;
   ii. The project is completed within a period of three years from the date of approval by the competent authority (Following are further conditions).
      I.) Where more than one approval are taken, three years shall be counted from the date on which the project was first approved by the competent authority; and
      II.) the project shall be deemed to have been completed when a certificate of completion of project as a whole is obtained in writing from the competent authority;
      III.) the built-up area of the shops and other commercial establishments included in the housing project does not exceed 3% of the aggregate built-up area;
      IV.) the project is on a plot of land measuring not less than 1000 square metres where such project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of 25 kilometres from the municipal limits of these cities, or 2000 square metres within the jurisdiction of any other municipality or cantonment board;
      V.) the residential units comprised in the housing project does not exceed 30 square metres where such project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilometres from the municipal limits of these cities, or 60 square metres, where such project is located within the jurisdiction of any other municipality or cantonment board;
      VI.) where a residential unit in the housing project is allotted to an individual, no other residential unit in the housing project shall be allotted to the individual or the spouse or the minor children of such individual;
      VII.) the project utilizes:
         - ✓ not less than 90%. of the floor area ratio permissible in respect of the plot of land under the rules to be made by the Central Government or the State Government or the local authority, as the case may be, where the project is located within the cities of Chennai, Delhi, Kolkata or Mumbai or within the area of twenty-five kilometres from the municipal limits of these cities, or
         - ✓ not less than 80%. of such floor area ratio where such project is located in any area other than the areas referred to in above point; and

      VIII.) the assessee maintains separate books of account in respect of the housing project
   iii. This section shall not apply to any undertaking which executes the housing project as a works-contract awarded by any person (including the Central Government or the State Government)

iv. Where the housing project is not completed within the period of 3 years specified above and in respect of which a deduction has been claimed and allowed under this section, the total amount of deduction so claimed and allowed in one or more previous years, shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which the period for completion so expires.

v. Where any amount of profits and gains derived from the business of developing and building housing projects under this scheme for any assessment year, deduction to the extent of such profit and gains shall not be allowed under any other provisions of this Act (means no double deduction)

vi. Definitions of terms used above

I.) "built-up area" means the inner measurements of the residential unit at the floor level, including projections and balconies, as increased by the thickness of the walls, but does not include the common areas shared with other residential units, including any open terrace so shared;

II.) "competent authority" means the authority empowered by the Central Government;

III.) "floor area ratio" means the quotient obtained by dividing the total covered area of plinth area on all the floors by the area of the plot of land;

IV.) "housing project" means a project consisting predominantly of dwelling units with such other facilities and amenities as the competent authority may specify subject to the provisions of this section;

V.) "residential unit" means an independent housing unit with separate facilities for living, cooking and sanitary requirements, distinctly separated from other residential units within the building, which is directly accessible from an outer door or through and interior door in a shared hallway and not by walking through the living space of another household.'.

8. **Two new tax rates for domestic companies:** Where total turnover or the gross receipt in the previous year 2014-15 does not exceed Rs. 5 crore in case of domestic company, income tax shall be payable at the rate of 29% instead of 30% w.e.f. A.Y. 2017-18. Further option is given to pay the tax @ 25% to domestic company w.e.f. A.Y. 2017-18 by insertion of section 115BA subject to following conditions.

i. This rate is subject to the provisions of section 111A and section 112 (Special rate provisions)

ii. the company has been set-up and registered on or after the 01/03/2016;

iii. the company is engaged in the business of manufacturing or production of any article or thing;

iv. the company while computing its total income has not claimed any benefit under section 10AA, benefit of accelerated depreciation, benefit of additional depreciation, investment allowance, expenditure on scientific research and any deduction in respect of certain income under Part-C of Chapter-VI-A other than the provisions of section 80JJAA;

v. No set off of any loss carried forward from any earlier assessment year is done, if such loss is attributable to any of the deductions referred to in preceding point. Further such carried forward loss shall be deemed to have been already given full effect to and no further deduction for such loss shall be allowed for any subsequent year.

vi. depreciation under section 32, other than clause (iia) of sub-section (1) of the said section, is determined in the manner as may be prescribed.

vii. the option is furnished in the prescribed manner before the due date of furnishing of income under section 139(1)

9. **Tax on dividend to high income earner:** New section 115BBDA (One more special rate of tax) in inserted w.e.f. A.Y. 2017-18 whereby it is proposed that where the total income of an assessee, being an individual, Hindu undivided family or a firm, resident in India, includes any income exceeding Rs. 10 lakh, by way of dividends declared, distributed or paid by a domestic company, the income-tax payable shall be the aggregate of (1) the amount of income-tax calculated on the income by way of such dividends, @ 10%; and (2) the amount of income-tax with which the assessee would have been chargeable had the total income of the assessee been reduced by the amount of income by way of such dividends. Further, No deduction in respect of any expenditure or allowance or set off of loss shall be allowed to the assessee under any provision of this Act in computing the income by way of dividends referred to above.

10. **No capital gain tax to merger of different plans in Mutual Funds:** Currently, capital gains tax is levied on consolidation or merger of multiple plans within a mutual fund (MF) scheme. However, fund houses are of the view that it is not feasible to levy capital gains tax when an investor moves from dividend option to growth option in a scheme. So, clause (xix) is proposed to be inserted in section 47 whereby any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating plan of a mutual fund scheme, made in consideration of the allotment to him of a capital asset, being a unit or units, in the consolidated plan of that scheme of the mutual fund shall not be chargeable to tax. **[Applicable from A.Y. 2017-18]**

11. **Securities Transaction Tax (STT):** At present securities transaction tax on sale of an option in securities where option is not exercised is 0.017% of the option premium which is proposed to be increased to 0.05% (Nearly 3 times as compared to old rate) [Applicable from 01/06/2016]

12. **Rule making power for taxation on buyback of shares:** Section 115QA is proposed to be amended w.e.f. 01/06/2016 whereby It is proposed to provide that for the purpose of computing distributed income, the amount received by the Company in respect of the shares being bought back shall be determined in the prescribed manner. The rules would thereafter be framed to provide for manner of determination of the amount in various circumstances including shares being issued under tax neutral reorganizations and in different tranches. Further, it is proposed to amend section 115QA to provide that the provisions of this section shall apply to any buy back of unlisted share undertaken by the company in accordance with the provisions of the law relating to the Companies and not necessarily restricted to section 77A of the Companies Act, 1956.

13. **Provision to restrict mischief of certain charitable institutions:** A society or a company or a trust or an institution carrying on charitable activity may voluntarily wind up its activities and dissolve or may also merge with any other charitable or non-charitable institution, or it may convert into a non-charitable organization. In such a situation, the existing law does not provide any clarity as to how the assets of such a charitable institution shall be dealt with. Under provisions of section 11 certain amount of income of prior period can be brought to tax on failure of certain conditions. However, there is no provision in the Act which ensure that the corpus and asset base of the trust accreted over period of time, with promise of it being used for charitable purpose, continues to be utilised for charitable purposes and is not used for any other purpose. In the absence of a clear provision, it is always possible for charitable institutions to transfer assets to a non-charitable institution.

There is a need to ensure that the benefit conferred over the years by way of exemption is not misused and to plug the gap in law that allows the charitable trusts having built up corpus/wealth through exemptions being converted into non-charitable organisation with no tax consequences.

As a result, new Chapter - XII-EB is proposed to be introduced w.e.f. 01/06/2016 in Income Tax Act, 1961, whereby if a trust or institution registered under section 12AA, (1) converted into any form which is not eligible for grant of registration under section 12AA; or (2) merged with any entity other than an entity which is a trust or institution having objects similar to it and registered under section 12AA; or (3) failed to transfer upon dissolution all its assets to any other trust or institution registered under section 12AA or to any fund or institution or trust or any university or other educational institution or any hospital or other medical institution referred to in sub-clause (iv) or sub-clause (v) or sub-clause (vi) or sub-clause (via) of clause (23C) of section 10, within a period of twelve months from the end of the month in which the dissolution takes place, then, in addition to the income-tax chargeable in respect of the total income of such trust or institution, the accreted income of the trust or the institution as on the specified date shall be charged to tax and such trust or institution, as the case may be, shall be liable to pay additional income-tax (herein referred to as tax on accreted income) at the maximum marginal rate on the accreted income.

14. **Removal of certain weighted deductions and Phasing out of certain incentives:** Many weighted deductions like weighted deduction of 125%/150 %/175%/200% of any expenditure incurred are proposed to be reduced by nearly 50% (subject to minimum 100% deduction of expenditure incurred) like section 35CCD, 35(1), 35(2AA), 35(2AB), 35AD and 35CCC. Plus, proposal is made to not to increase the sunset clauses of certain deductions like Section 10AA, 35AC etc. [Applicability : various dates]

15. **Special exemption for creation of Strategic Petroleum Reserves:** The Indian Strategic Petroleum Reserves Limited (ISPRL) is in the process of setting up underground storage facility for storage of crude oil as part of strategic reserves. The maintenance of strategic reserves is in India's national interest and ensures price stability for Indian oil companies. The filling cost of such facility entails huge financial burden. The Government has explored the possibility of meeting a substantial part of the financial burden through participation of private players including foreign national oil companies (NOCs) and multinational companies (MNCs) storing and selling crude oil from outside India. However, the storage of crude oil by NOCs/MNCs and its sale in India would create tax liability for these entities.

    In order to achieve neutrality in terms of taxation to encourage the NOCs & MNCs to store their crude oil in India and to build up strategic oil reserves, new clause (48A) is proposed to be inserted into section 10 of Income Tax Act, 1961 whereby exemption will be given to foreign company (Why only foreign company?) on any income accruing or arising on account of storage of crude oil in a facility in India and sale of crude oil there from to any person resident in India subject to these conditions (1) the storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; and (2) having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf;" **[Applicable from A.Y. 2016-17]**

16. **Clarification by amendment of section 9 for foreign mining companies (FMC):** It is proposed to amend section 9 of the Act to provide that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to the display of uncut

and unassorted diamond in any special zone notified by the Central Government in the Official Gazette in this behalf. **[Applicable from A.Y. 2016-17]**

17. **Benefit of initial additional depreciation for transmission of power also:** It is proposed to amend section 32(1)(iia) whereby an assessee engaged in the business of transmission of power shall also be allowed additional depreciation at the rate of 20% of actual cost of new machinery or plant acquired and installed in a previous year. **[Applicable from A.Y. 2017-18]**

18. **Measure to make India a global R & D hub:** It is proposed to insert new section 115BBF (Special rate of taxation) to provide that Where the total income of an eligible assessee includes any income by way of royalty in respect of a patent developed and registered in India, the income-tax payable shall be @10% (plus applicable surcharge and cess) on the gross amount of royalty. No expenditure or allowance in respect of such royalty income shall be allowed under any provision of this Act.

    For the purpose of this concessional tax regime an eligible assessee means a person resident in India, who is the true and first inventor of the invention and whose name is entered on the patent register as the patentee in accordance with Patents Act, 1970 and includes every such person, being the true and the first inventor of the invention, where more than one person is registered as patentee under Patents Act, 1970 in respect of that patent. **[Applicable from A.Y. 2017-18]**

19. **Incentives to Start-ups:** It is proposed to provide a deduction of 100% of the profits and gains derived by an eligible start-up from a business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property (by the way of insertion of new section 80-IAC). This benefit shall be available to an eligible start-up which is setup before 01/04/2019.

    Further, in order to make available finance to the start-ups it is proposed to insert a new Section 54EE to provide exemption from capital gains tax if the long term capital gains proceeds (entire proceeds, otherwise proportionate deduction) are invested by an assessee in units of such specified fund, as may be notified by the Central Government in this behalf, subject to the condition that the amount remains invested for three years failing which the exemption shall be withdrawn. The investment in the units of the specified fund shall be allowed up to Rs. 50 lakh.

    The existing provisions of section 54GB provide exemption from tax on long term capital gains in respect of the gains arising on account of transfer of a residential property, if such capital gains are invested in subscription of shares of a company which qualifies to be a small or medium enterprise under the Micro, Small and Medium Enterprises Act, 2006 subject to other conditions specified therein. With an objective to provide relief to an individual or HUF willing to setup a start-up company by selling a residential property to invest in the shares of such company, it is proposed to amend section 54GB so as to provide that long term capital gains arising on account of transfer of a residential property shall not be charged to tax if such capital gains are invested in subscription of shares of a company which qualifies to be an eligible start-up subject to the condition that the individual or HUF holds more than 50% shares of the company and such company utilises the amount invested in shares to purchase new asset before due date of filing of return by the investor. It is further proposed to be amended to include computers or computer software within the meaning of term "new asset". **[Applicable from A.Y. 2017-18]**

20. **Tax incentive for employment generation – Conditions are relaxed:** Section 80JJAA is substituted with the new one. It is proposed to provide that the deduction under the said provisions shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to Rs. 25,000 per month. No deduction, however, shall be allowed in respect of cost incurred on those employees, for whom the entire contribution under Employees' Pension Scheme notified in accordance with Employees' Provident Fund and Miscellaneous Provisions Act, 1952, is paid by the Government. It is further proposed to relax the norms for minimum number of days of employment in a financial year from 300 days to 240 days and also the condition of 10% increase in number of employees every year is proposed to be done away with so that any increase in the number of employees will be eligible for deduction under the provision. It is also proposed to provide that in the first year of a new business, 30% of all emoluments paid or payable to the employees employed during the previous year shall be allowed as deduction. **[Applicable from A.Y. 2017-18]**

21. **Taxation aspects of Sovereign Gold Bond Scheme, 2015:** It is proposed to amend Section 47 of the Income-tax Act by insertion of clause (viic), so as to provide that any redemption (not transfer to someone) of Sovereign Gold Bond under the Scheme, by an individual shall not be treated as transfer and therefore shall be exempt from tax on capital gains. It is also proposed to amend section 48 of the Income-tax Act, so as to provide indexation benefits to long terms capital gains arising on transfer (not redemption as said above) of Sovereign Gold Bond to all cases of assessees. **[Applicable from A.Y. 2017-18]**

22. **Relaxation of tax in rupee denominated bonds:** RBI has recently permitted Indian corporates to issue rupee denominated bonds outside India as a measure to enable the Indian corporates to raise funds from outside India. As the bonds are rupee denominated, obviously the risk of currency fluctuation lies on non-resident investors. Accordingly, it is proposed to amend section 48 of the Act so as to provide that the capital gains, arising in case of appreciation of rupee between the date of issue and the date of redemption against the foreign currency in which the investment is made shall be exempt from tax on capital gains. **[Applicable from A.Y. 2017-18]**

23. **Tax on Gold Monetization Scheme, 2015:** It is proposed to amend Clause (14) of section 2, so as to exclude Deposit Certificates issued under Gold Monetisation Scheme, 2015 notified by the Central Government, from the definition of capital asset and thereby to exempt it from capital gains tax. It is also proposed to amend clause (15) of section 10 so as to provide that the interest on Deposit Certificates issued under the Scheme, shall be exempt from income-tax. **[Applicable from A.Y. 2016-17]**

24. **Tax uniformity to individual or HUF with a firm or a company:** It is proposed to amend the Act so as to provide that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not attract the provisions of clause (vii) of sub-section (2) of section 56. **[Applicable from A.Y. 2017-18]**

25. **More clarification on implementation of POEM based rule:** The Finance Act, 2015 provided that a company would be resident in India in any previous year if it is an Indian company or its Place of Effective Management (POEM) in that year is in India. In budget 2016, it is proposed to defer the applicability of POEM based residence test by one year i.e., w.e.f. A.Y. 2017-18. The Central Government is proposed to be empowered to notify exception, modification and adaptation subject to which, the provisions of the Act relating to computation of income, treatment of unabsorbed depreciation, setoff or carry forward and setoff of losses, special provision relating to avoidance of tax and the collection and recovery of taxes shall apply in a case where a foreign company is said to be resident in India due to

its POEM being in India for the first time and the said company has never been resident in India before.

26. **Presumptive taxation scheme from professionals:** New section 44ADA is proposed to be inserted in the Act to provide for estimating the income of an assessee who is engaged in any profession referred to in sub-section (1) of section 44AA such as legal, medical, engineering or architectural profession or the profession of accountancy or technical consultancy or interior decoration or any other profession as is notified by the Board in the Official Gazette and whose total gross receipts does not exceed Rs. 50 lakh in a previous year, at a sum equal to 50% of the total gross receipts, or, as the case may be , a sum higher than the aforesaid sum earned by the assessee. Memorandum to Finance Bill 2016, says that the scheme will apply to such resident assessee who is an individual, Hindu undivided family or partnership firm but not Limited Liability partnership firm, but Finance Bill, 2016 itself does not impose any such restriction.

    Other provisions of this section are similar to those of presumptive taxation based section 44AD, like deeming allowance of depreciation, deeming allowance of section 30 to 38 etc. **[Applicable from A.Y. 2017-18]**

    Consequential amendment is made to section 44AB whereby threshold limit of total gross receipts, specified for getting accounts audited, is increased from 25 lakh to 50 lakh in the case of persons carrying on profession. **[Applicable from A.Y. 2017-18]**

27. **Changes in Presumptive Taxation provisions for Businessmen:**
    i. Section 44AD regarding presumptive taxation is amended w.e.f. A.Y. 2017-18 whereby it is proposed to increase the threshold limit of Rs. 1 crore specified in the definition of "eligible business" to Rs. 2 crore.
    ii. Further, it is proposed to remove proviso to section 44AD(2) whereby w.e.f. A.Y. 2017-18, salary and interest paid to its partners of firm [which are other allowable u/s. 40(b)] will not be deducted from such presumptive profit under section 44AD.
    iii. Restrictive provision is proposed to be made in this section by insertion of new subsection (4) to section 44AD w.e.f. A.Y. 2017-18, whereby It is also proposed that where an eligible assessee declares profit for any previous year in accordance with the provisions of this section and he declares profit for any of the five consecutive assessment years relevant to the previous year succeeding such previous year not in accordance with the provisions of sub-section (1), he shall not be eligible to claim the benefit of the provisions of this section for five assessment years subsequent to the assessment year relevant to the previous year in which the profit has not been declared in accordance with the provisions of sub-section (1). For example, an eligible assessee claims to be taxed on presumptive basis under section 44AD for Assessment Year 2017-18 and offers income of Rs. 8 lakh on the turnover of Rs. 1 crore. For Assessment Year 2018-19 and Assessment Year 2019-20 also he offers income in accordance with the provisions of section 44AD. However, for Assessment Year 2020-21, he offers income of Rs.4 lakh on turnover of Rs. 1 crore. In this case since he has not offered income in accordance with the provisions of section 44AD for five consecutive assessment years, after Assessment Year 2017-18, he will not be eligible to claim the benefit of section 44AD for next five assessment years i.e. from Assessment Year 2021-22 to 2025-26.
    iv. Section 211 is amended w.e.f. 01/06/2016, whereby advance tax shall be payable by an eligible assessee in respect of an eligible business referred to in section 44AD, to the extent of the whole amount of such advance tax during each financial year on or before the 15th March.

28. **Advance Income Tax provisions are made similar for company and non-company assesseess:** Section 211(1) in proposed to be amended w.e.f. 01/06/2016, whereby now all assessees (whether company or non-company, but other than eligible assessee u/s. 44AD) are liable to pay advance income tax on similar line of basis i.e., not less than 15% of advance tax within 15th June, not less than 45% of advance tax within 15th September, not less than 75% of advance tax within 15th December and the whole amount of such advance tax within 15th March. Section 234C which is about interest on deferment of advance tax is also proposed to be amended accordingly. Further, clause (c) is proposed to be inserted to proviso to section 234(1)(b) w.e.f. 01/06/2016, where by It is also proposed that interest under section 234C shall not be chargeable in case of an assessee having income under the head "Profits and gains of business or profession" for the first time (This will cause a little headache for software developers), subject to fulfillment of conditions specified therein.

29. **Interest on Refund of Income Tax:** As per existing provisions interest is calculated at the rate of one-half per cent for every month or part of a month comprised in the period from the 1st day of April of the assessment year to the date on which the refund is granted subject to the condition that no interest is payable for period of delay which is attributable to the assessee (means late filing of return, incorrect bank details submission etc.). In budget 2016, section 244A is proposed to be amended w.e.f. 01/06/2016, whereby if return of income is not filed within the due date specified u/s. 139(1), then interest shall be calculated from the date of furnishing of return of income to the date on which the refund is granted.

Exmaple:

Scenario for ITR of A.Y. 2016-17	Refund Amount (Rs.)	Due Date of filing of return	Date of filing of return	Refund is granted on	Interest u/s. 244A (Rs.)
As per existing provisions	1,00,000	31/07/2016	01/08/2016	01/01/2017	4,500
As per proposed provisions	1,00,000	31/07/2016	01/08/2016	01/01/2017	3,000

In the interest of fairness and equity, it is further proposed to provide that an assessee shall be eligible to interest on refund of self-assessment tax for the period beginning from the date of payment of tax or filing of return, whichever is later, to the date on which the refund is granted. For the purpose of determining the order of adjustment of payments received against the taxes due, the prepaid taxes i.e. the TDS, TCS and advance tax shall be adjusted first.

Additional interest of 3% p.a. on refund amount is proposed to be made available to the assessee where delay is caused in giving effect to the appeal order by assessing officer beyond three months or such extended period granted by the Principal Commissioner or Commissioner not exceeding 6 additional months [new time limitation is imposed by insertion of section 153(5)] [In such cases, interest shall be calculated from the date following the date of expiry of the time allowed under sub-section (5) of section 153 to the date on which the refund is granted.]

30. Deduction towards provision for bad and doubtful debt not exceeding 5% of total income (computed before making any deduction under this clause and Chapter VI-A) is proposed to be made available to Non-Banking Financial companies (NBFCs) also by insertion of sub-clause (d) in section 36(1)(viia) w.e.f. A.Y. 2017-18.

31. Rationalisation of investment allowance u/s. 32AC: It is proposed to amend the sub-section (1A) of section 32AC so as to provide that the acquisition of the plant & machinery of the specified value has to be made in the previous year. However, installation may be made by 31.03.2017 in order to avail the benefit of investment allowance of 15%. It is further proposed to provide that where the installation of the new asset is in a year other than the year of acquisition, the deduction under this sub-section shall be allowed in the year in which the new asset is installed. [Though this section has already a subset clause expiring with A.Y. 2017-18 means no allowance from A.Y. 2018-19] [w.e.f. A.Y. 2017-18]

32. **Rule making power is proposed to be created under section 206AA:** Sub-section (7) of section 206AA is proposed to be substituted w.e.f. 01/06/2016, whereby non-resident, not being a company, or a foreign company may be exempted from furnishing PAN under provisions of this section subject to such conditions as may be prescribed.

33. **Tax Incentives to International Financial Services Centre:** Various tax incentives like exemption on capital gain tax even when securities transaction tax is not paid in respect of such transactions, MAT @ 9% only, no Dividend Distribution Tax are proposed to be made available to transactions carried out in such International Financial Services Centre to the unit located in such centre. [Applicable from A.Y. 2017-18]. Further, exemption from payment of STT and CTT w.e.f. 01/06/2016 to such transactions of such eligible unit is proposed. One common condition for all such exemptions is the receipt of convertible foreign exchange.

34. **Setting up time limits and opportunity of being heard is given:** It is proposed to amend section 220 to provide that an order accepting or rejecting application of an assessee shall be passed by the concerned Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such application is received. It is further proposed to amend section 273A and section 273AA to provide that an order accepting or rejecting the application of an assessee shall be passed by the Principal Commissioner or Commissioner within a period of 12 months from the end of the month in which such application is received. It is also proposed to provide that no order rejecting the application of the assessee under section 220 or 273A, 273AA shall be passed without giving the assessee an opportunity of being heard. However, in respect of applications pending as on 01/06/2016, the order under said sections shall be passed on or before 31stMay, 2017. [Applicable from 01/06/2016]

35. In order to set up legal framework for electronic assessment, relevant sections are amended whereby electronic notices can be issued and their replies can be filed. [Applicable from 01/06/2016]

36. **Extension of scope of section 43B:** New clause (g) is proposed to be inserted into section 43B w.e.f. A.Y. 2017-18, whereby any sum payable by the assessee to the Indian Railways for the use of railway assets will also be made deductible on payment basis latest by income tax return filing due date.

37. **No set off of any loss against deemed undisclosed income:** it is proposed to amend the provisions of the sub-section (2) of section 115BBE to expressly provide that no set off of any loss shall be allowable in respect of income under the sections 68 or section 69 or section 69A or section 69B or section 69C or section 69D. [Applicable from A.Y. 2017-18]

38. Section 28(va)(a) is proposed to be amended w.e.f. A.Y. 2017-18, whereby any sum, whether received or receivable, in cash or kind, under an agreement for not carrying out any activity in relation to any profession shall also be chargeable to income-tax under the head "Profits and gains of business or profession" in addition to existing provision of charging such receipts only in case of business.

39. **Specified qualification of unlisted securities:** It is proposed to amend the provisions of clause (c) of sub-section (1) of section 112 of the Income- tax Act, so as to provide that long-term capital gains arising from the transfer of a capital asset being shares of a company not being a company in which the public are substantially interested, shall be chargeable to tax at the rate of 10 per cent. [Applicable from A.Y. 2017-18]

40. **Changes in threshold limits and rates of TDS:** Changes in threshold limits are given below. [Applicable from 01/06/2016]

Section	Heads	Existing Threshold Limit (Rs.)	Proposed Threshod Limit (Rs.)
192A	Payment of accumulated balance due to an employee	30,000	50,000
194BB	Winnings from Horse Race	5,000	10,000
194C	Payments to Contractors	Aggregate annual limit of 75,000	Aggregate annual limit of 1,00,000
194LA	Payment of Compensation on acquisition of certain Immovable Property	2,00,000	2,50,000
194D	Insurance commission	20,000	15,000
194G	Commission on sale of lottery tickets	1,000	15,000
194H	Commission or brokerage	5,000	15,000

Changes in rates of TDS are given below.

Present Section	Heads	Existing Rate of TDS (%)	Proposed Rate of TDS (%)
194DA	Payment in respect of Life Insurance Policy	2%	1%
194EE	Payments in respect of NSS Deposits	20%	10%
194D	Insurance commission	10%	5%
194G	Commission on sale of lottery tickets	10%	5%
194H	Commission or brokerage	10%	5%

41. **Section 50C in line with Section 43CA:** Provisos are proposed to be added in section 50C(1) w.e.f. A.Y. 2017-18, whereby it proposed that where the date of the agreement fixing the amount of consideration and the date of registration for the transfer of the capital asset are not the same, the value adopted or assessed or assessable by the stamp valuation authority on the date of agreement may be taken for the purposes of computing full value of consideration for such transfer. Further that the first proviso shall apply only in a case where the amount of consideration, or a part thereof ("or part thereof" is probable loophole, instead

it should have been proposed that the agreement fixing the consideration must be registered with the registration authorities of government appointed for registration of immovable properties. Similar amendment is needed in section 43CA also.), has been received by way of an account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account, on or before the date of the agreement for transfer.

42. **One more condition for tax-neutral conversion into LLP:** One more condition is added for tax-neutral conversion of private limited or unlisted public company into Limited Liability Partnership (LLP) by proposed insertion of clause (ea) into section 47 (xiiib) w.e.f. A.Y. 2017-18, whereby the total value of the assets as appearing in the books of account of the company in any of the three previous years preceding the previous year in which the conversion takes place must not exceed Rs. 5 crore.

43. **Exemption upto 40% on payment from National Pension System (NPS):** Under the existing provisions of section 80CCD, any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme is chargeable to tax. In budget 2016, it is proposed to provide that any payment from National Pension System Trust to an employee on account of closure or his opting out of the pension scheme referred to in Section 80CCD, to the extent it does not exceed 40% of the total amount payable to him at the time of closure or his opting out of the scheme, shall be exempt from tax. However, the whole amount received by the nominee, on death of the assessee shall be exempt from tax. [Applicable from A.Y. 2017-18]

44. **Make habit to file I T Return in same Assessment Year:** Section 139(4) is amended w.e.f. A.Y. 2017-18, whereby it is proposed that any person who has not furnished a return within the time allowed to him under section 139(1), may furnish the return for any previous year at any time before the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. (This curtailment of one year has made section 271F redundant w.e.f. A.Y. 2018-19, as one can file return of income for A.Y. 2016-17 up to 31/03/2018, but still it is not declared in this budget, so announcement of the same must be made in next budget).

45. **Belated return can also be revised now:** Due to Hon'ble Supreme Courts judgment in case of Kumar Jugdish Chandra Sinha vs. CIT, at present it is not possible to revise the belated return. To nullify this judgment, section 139(5) is proposed to be amended w.e.f. A.Y. 2017-18, whereby it is proposed that if any person, having furnished a return under sub-section (1) or sub-section (4), discovers any omission or any wrong statement therein, he may furnish a revised return at any time before the expiry of one year from the end of the relevant assessment year or before the completion of the assessment, whichever is earlier. [Earlier section 139(5) and proposed section in memorandum to budget 2016 also cover return furnished in response to notice issued under sub-section (1) of section 142, but Finance Bill, 2016 does not cover this]

46. **ITR will not be considered defective merely due to non-payment of S. A. Tax:** Clause (aa) is proposed to be omitted from Section 139(9) w.e.f. A.Y. 2017-18, whereby a return which is otherwise valid would not be treated defective merely because self-assessment tax and interest payable in accordance with the provisions of section 140A has not been paid on or before the date of furnishing of the return.

47. **Will have file ITR, even if exempted LTCG along with other types of income exceeds maximum amount not chargeable to tax:** It is proposed to amend the sixth proviso to sub-section (1) of the section 139 to include that if a person during the previous year earns

income which is exempt under clause (38) of section 10 and income of such person without giving effect to the said clause of section 10 exceeds the maximum amount which is not chargeable to tax, shall also be liable to file return of income for the previous year within the due date. [Applicable from A.Y. 2017-18]

48. **Processing of ITR u/s. 143(1) is compulsory before making order u/s. 143(3):** It is proposed to amend sub-section (1D) of section 143 to provide that before making an assessment under sub-section (3) of section 143, a return shall be processed under sub-section (1) of section 143. [Applicable from A.Y. 2017-18]

49. **Section 153 and 153B regarding limitation period are comprehensive amended:** Following proposal are made in budget 2016 in this matter. [w.e.f. 01/06/2016]

i. the period, for completion of assessment under section 143 or section 144 be changed from existing 2 years to 21 months from the end of the assessment year in which the income was first assessable;
ii. the period for completion of assessment under section 147 be changed from existing 1 year to 9 months from the end of the financial year in which the notice under section 148 was served;
iii. the period for completion of fresh assessment in pursuance of an order under section 254 or section 263 or section 264, setting aside or canceling an assessment be changed from existing 1 year to 9 months from the end of the financial year in which the order under section 254 is received by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. Order under section 263 or section 264 is passed by the Principal Commissioner or Commissioner
iv. New time limitation is introduced for appeal and other order effects: It is further proposed to provide that the period for giving effect to an order, under sections 250 or 254 or 260 or 262 or 263 or 264 or an order of the Settlement Commission under sub-section (4) of section 245D, where effect can be given wholly or partly otherwise than by making a fresh assessment or reassessment shall be 3 months from the end of the month in which order is received or passed, as the case may be, by the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner. It is also proposed that in a case where it is not possible for the Assessing Officer to give effect to such order within the aforesaid period, for reasons beyond his control, the Principal Commissioner or Commissioner on receipt of such reasons in writing from the Assessing Officer, if satisfied, may allow additional time of 6 months to give effect to the said order. However, in respect of cases pending as on 01/06/2016, the time limit for passing such order is proposed to be extended to 31/03/2017.
v. It is also proposed that where the assessment, reassessment or re-computation is made on the assessee or any person in consequence of or to give effect to any finding or direction contained in an order under section 250, 254, 260, 262, 263, or section 264 or in an order of any court in a proceeding otherwise than by way of appeal or reference under the Income-tax Act, then such assessment, reassessment or re-computation shall be made on or before the expiry of 12 months from the end of the month in which such order is received by the Principal Commissioner or Commissioner. However, for cases pending as on 01/06/2016, the time limit for taking requisite action is proposed to be 31/03/2017 or 12 months from the end of the month in which such order is received, whichever is later.
vi. It is also proposed that where an assessment is made on a partner of the firm in consequence of an assessment made on the firm under section 147, such assessment be made on or before the expiry of 12 months from the end of the month in which the

assessment order in the case of the firm is passed. However, for cases pending as on 01/06/2016, the time limit for taking requisite action is proposed to be 31/03/2017 or 12 months from the end of the month, in which order in case of firm is passed, whichever is later.

vii. It is also proposed to make consequential changes in time limit for completion of assessment or reassessment by the Assessing Officer in accordance with the extension of time limit provided to the Transfer Pricing Officer in certain cases by amendment in sub-section (3A) to section 92CA.

viii. The existing provisions of section 153, shall apply to and in relation to any order of assessment, reassessment or re-computation made before the 01/06/2016.

ix. The limitation for completion of assessment under section 153A, in respect of each assessment year falling within 6 assessment years referred to in clause (b) of sub-section (1) of section 153A and in respect of the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A be changed from existing 2 years to 21 months from the end of the financial year in which the last of the authorisations for search under section 132 or for requisition under section 132A was executed.

x. The limitation for completion of assessment in case of other person referred to in section 153C shall be changed from existing 2 years to 21 months from the end of the financial year in which the last of the authorisation for search under Section 132 or requisition under section 132A was executed or 9 months (changed from the existing 1 year) from the end of the financial year in which the books of account or documents or assets seized or requisition are handed over under section 153C to the Assessing Officer having jurisdiction over such other person, whichever is later.

50. **Decreased the limit for rectification of ITAT order:** It is proposed to amend sub-section (2) of section 254 to provide that the Appellate Tribunal may rectify any mistake apparent from the record in its order at any time within 6 months from the end of the month in which the order was passed (earlier it was four years from the date of the order). [w.e.f. 01/06/2016]

51. Monetary limit for a case to be heard by a single member bench of Income Tax Appellate Tribunal is increased from Rs. 15 lakh to Rs. 50 lakh (Total income as computed by the Assessing Officer). (In budget 2015, it was increased from 5 lakh to 15 lakh) [w.e.f. 01/06/2016]

52. **New penalty provisions**: It is proposed that section 271 shall not apply to and in relation to any assessment for the A. Y. 2017-18 and subsequent assessment years and penalty be levied under the newly inserted section 270A with effect from A.Y. 2017-18. The new section 270A provides for levy of penalty in cases of (1) under reporting and (2) misreporting of income.

i. It is proposed that the rate of penalty shall be 50% of the tax payable on under-reported income.

ii. It is proposed that a person shall be considered to have under reported his income if,-

I.) the income assessed is greater than the income determined in the return processed under clause (a) of sub-section (1) of section 143;

II.) the income assessed is greater than the maximum amount not chargeable to tax, where no return of income has been furnished;

III.) the income reassessed is greater than the income assessed or reassessed immediately before such re-assessment;

IV.) the amount of deemed total income assessed or reassessed as per the provisions of section 115JB or 115JC, as the case may be, is greater than the deemed total income determined in the return processed under clause (a) of sub-section (1) of section 143;

V.) the amount of deemed total income assessed as per the provisions of section 115JB or 115JC is greater than the maximum amount not chargeable to tax, where no return of income has been filed;

VI.) the income assessed or reassessed has the effect of reducing the loss or converting such loss into income.

iii. It is also proposed that the under-reported income under this section shall not include the following cases **(Negative list)**:

I.) where the assessee offers an explanation and the income-tax authority is satisfied that the explanation is bona fide and all the material facts have been disclosed;

II.) where such under-reported income is determined on the basis of an estimate, if the accounts are correct and complete but the method employed is such that the income cannot properly be deducted therefrom;

III.) where the assessee has, on his own, estimated a lower amount of addition or disallowance on the issue and has included such amount in the computation of his income and disclosed all the facts material to the addition or disallowance;

IV.) where the assessee had maintained information and documents as prescribed under section 92D, declared the international transaction under Chapter X and disclosed all the material facts relating to the transaction;

V.) where the undisclosed income is on account of a search operation and penalty is leviable under section 271AAB.

iv. It is proposed that the rate of penalty shall be 200% of the tax payable on misreported income.

v. The cases of misreporting of income have been specified as under:

I.) misrepresentation or suppression of facts;

II.) non-recording of investments in books of account;

III.) claiming of expenditure not substantiated by evidence;

IV.) recording of false entry in books of account;

V.) failure to record any receipt in books of account having a bearing on total income;

VI.) failure to report any international transaction or deemed international transaction under Chapter X.

vi. Section 270A(10) proposes as - The tax payable in respect of the under-reported income shall be the amount of tax calculated (a) on such income as if it were the total income, in the case of a company, firm or local authority; and (b) at the rate of 30%, of the amount of under-reported income, in any other case.

vii. It is also proposed that no addition or disallowance of an amount shall form the basis for imposition of penalty, if such addition or disallowance has formed the basis of imposition of penalty in the case of the person for the same or any other assessment year.

viii. The provisions of section 270A are illustrated through examples as below (Illustration is from memorandum to finance bill, 2016):

Example 1. Case is of a firm liable to tax at the rate of 30 per cent.:

	(Figures in Rs lakh)
Returned total Income	100

Total Income determined under section 143(1)(a)	110
Total Income assessed under section 143(3)	150
Total Income reassessed under section 147	180

Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under sub-section (6) of section 270A, the penalty would be calculated as under:

	Assessment under section 143 (3)	Re-assessment under section 147
Under-reported Income	(150-110) = 40	(180-150) = 30
Tax Payable on under-reported Income	30 % of 40 = 12	30 % of 30 = 9
Penalty Leviable*	50 % of 12 = 6	50 % of 9 = 4.5

* Considering under-reported income is not on account of misreporting

Example 2. Case is of an individual below 60 years of age and no return of income has been furnished:

	(Figures in Rs)
Total Income assessed under section 143(3)	10,00,000
Under-reported Income	10,00,000- 2,50,000* =7,50,000
Tax Payable on under-reported Income	30 % of 7,50,000 = 2,25,000
Penalty Leviable**	50 % of 2,25,000 = 1,12,500

* Being maximum amount not chargeable to tax

** Considering under-reported income is not on account of misreporting

Example 3. Case is of a company liable to tax at the rate of 30 per cent.:

	(Figures in Rs lakh)
Returned total Income (loss)	(-)100
Total Income (loss) determined under section 143(1)(a)	(-)90
Total Income (loss) assessed under section 143(3)	(-)40
Total Income reassessed under section 147	20

Considering that none of the additions or disallowances made in assessment or reassessment as above qualifies under sub-section (6) of section 270A, the penalty would be calculated as under:

	Assessment under section 143 (3)	Re-assessment under section 147
Under-reported Income	(-)40 minus (-)90 = 50	20 minus (-)40 = 60
Tax Payable on under-reported Income	30 % of 50 = 15	30 % of 60 = 18
Penalty Leviable*	50 % of 15 = 7.5	50 % of 18 = 9

** Considering under-reported income is not on account of misreporting*

53. **Discretionary power is removed in case of penalty in search cases:** It is proposed to amend that clause (c) of sub-section (1) of section 271AAB to provide for levy of penalty on such undisclosed income at a flat rate of 60% of such income. (instead of 30% to 90% earlier) [Applicable from A.Y. 2017-18]

54. Provision for bank guarantee is proposed under section 281B for revocation of provisional attachment of property subject to certain conditions specified therein. This proposal is based on recommendations of The Income Tax Simplification Committee (Easwar Committee). [w.e.f. 01/06/2016]

55. **Extension in scope of electronic processing of information:** Clause (a) of sub-section (1) of section 143 provides that, a return filed is to be processed and total income or loss is to be computed after making the adjustments on account of any arithmetical error in the return or on account of an incorrect claim, if such incorrect claim is apparent from any information in the return. In order to expeditiously remove the mismatch between the return and the information available with the Department, it is proposed to expand the scope of adjustments that can be made at the time of processing of returns under sub-section (1) of section 143. It is proposed that such adjustments can be made based on the data available with the Department in the form of audit report filed by the assessee, returns of earlier years of the assessee, 26AS statement, Form 16, and Form 16A. However, before making any such adjustments, in the interest of natural justice, an intimation shall be given to the assessee either in writing or through electronic mode requiring him to respond to such adjustments. The response received, if any, will be duly considered before making any adjustment. However, if no response is received within 30 days of issue of such intimation, the processing shall be carried out incorporating the adjustments.

56. **New section 270AA for immunity from penalty and prosecution and to curtail the number of appeals:** It is proposed to provide that an assessee may make an application to the Assessing Officer for grant of immunity from imposition of penalty under section 270A and initiation of proceedings under section 276C, provided he pays the tax and interest payable as per the order of assessment or reassessment within the period specified in such notice of demand and does not prefer an appeal against such assessment order. The assessee can make such application within 1 month from the end of the month in which the order of assessment or reassessment is received in the form and manner, as may be prescribed.

    It is proposed that the Assessing Officer shall, on fulfillment of the above conditions and after the expiry of period of filing appeal as specified in sub-section (2) of section 249, grant immunity from initiation of penalty and proceeding under section 276C if the penalty proceedings under section 270A has not been initiated on account of the following, namely:—

    i. misrepresentation or suppression of facts;
    ii. failure to record investments in the books of account;
    iii. claim of expenditure not substantiated by any evidence;
    iv. recording of any false entry in the books of account;
    v. failure to record any receipt in books of account having a bearing on total income; or
    vi. failure to report any international transaction or any transaction deemed to be an international transaction or any specified domestic transaction to which the provisions of Chapter X apply.

(All the above grounds are regarding misreporting of income envisaged u/s. 270A.)

It is proposed that the Assessing Officer shall pass an order accepting or rejecting such application within a period of 1 month from the end of the month in which such application is received. However, in the interest of natural justice, no order rejecting the application shall be passed by the Assessing Officer unless the assessee has been given an opportunity of being heard. It is proposed that order of Assessing Officer under the said section shall be final (means no appeal or revision application can be filed against this order u/s. 246A or 264 respectively).

In order to give time to assessee to file appeal, in case of rejection of an application as said above, it is proposed to provide that in a case where the assessee makes an application under section 270AA of the Income-tax Act seeking immunity from penalty and prosecution, then, the period beginning from the date on which such application is made to the date on which the order rejecting the application is served on the assessee shall be excluded for calculation of the aforesaid 30 days period. The proposed amendment is consequential to the insertion of section 270AA. [Applicable from A.Y. 2017-18]

57. **Equalisation Levy**: The Organization for Economic Cooperation and Development (OECD) has recommended, in Base Erosion and Profit Shifting (BEPS) project under Action Plan 1, several options to tackle the direct tax challenges which include modifying the existing Permanent Establishment (PE) rule to include that where an enterprise engaged in fully de-materialized digital activities would constitute a PE if it maintained a significant digital presence in another country's economy. It further recommended a virtual fixed place of business PE in the concept of PE i,e creation of a PE when the enterprise maintains a website on a server of another enterprise located in a jurisdiction and carries on business through that website. It also recommended to impose of a final withholding tax on certain payments for digital goods or services provided by a foreign e-commerce provider or imposition of a equalisation levy on consideration for certain digital transactions received by a non-resident from a resident or from a non-resident having permanent establishment in other contracting state.

Considering the potential of new digital economy and the rapidly evolving nature of business operations it is found essential to address the challenges in terms of taxation of such digital transactions as mentioned above. In order to address these challenges, it is proposed to insert a new Chapter titled "Equalisation Levy" in the Finance Bill 2016, to provide for an equalisation levy of 6 % of the amount of consideration for specified services received or receivable by a non-resident from a person resident in India or from a non-resident having a permanent establishment in India.

Threshold limit: Further, in order to reduce burden of small players in the digital domain, it is also provided that no such levy shall be made if the aggregate amount of consideration for specified services received or receivable by a non-resident from a person resident in India or from a non-resident having a permanent establishment in India does not exceed Rs. 1 lakh in any previous year.

As per clause 161(i) of Finance Bill 2016, "specified service" means online advertisement, any provision for digital advertising space or any other facility or service for the purpose of online advertisement and includes any other service as may be notified by the Central Government in this behalf.

In order to avoid double taxation, it is proposed to provide exemption under section 10 of the Act by insertion of new clause (50) (w.e.f. 01/06/2016), for any income arising from providing specified services on which equalisation levy is chargeable.

In order to ensure compliance with the provisions this Chapter, it is further proposed to insert sub-clause (iib) to section 40(a) of the Act (w.e.f. 01/06/2016), whereby it is proposed that the expenses incurred by the assessee towards specified services chargeable under this Chapter shall not be allowed as deduction in case of failure of the asseseee to deduct and deposit the equalisation levy to the credit of Central government.

Furnishing of statement: Every assessee shall, within the prescribed time after the end of each financial year, prepare and deliver or cause to be delivered to the Assessing Officer or to any other authority or agency authorised by the Board in this behalf, a statement in such form, verified in such manner and setting forth such particulars as may be prescribed, in respect of all specified services during such financial year.

Furnishing of belated or revised statement: An assessee who has not furnished the statement within the time prescribed under above para or having furnished a statement as said above, notices any omission or wrong particular therein, may furnish a statement or a revised statement, as the case may be, at any time before the expiry of two years from the end of the financial year in which the specified service was provided.

Where any assessee fails to furnish the statement under sub-section (1) within the prescribed time, the Assessing Officer may serve a notice upon such assessee requiring him to furnish the statement in the prescribed form, verified in the prescribed manner and setting forth such particulars, within such time, as may be prescribed.

This Chapter will take effect from the date appointed in the notification to be issued by the Central Government.

58. **The Income Declaration Scheme, 2016:** Subject to the provisions of this Scheme, any person may make, on or after the date of commencement of this Scheme (i.e., 01/06/2016) but before a date to be notified by the Central Government in the Official Gazette, a declaration in respect of any income chargeable to tax (as mentioned in points below) under the Income-tax Act for any financial year upto 2015-16.

    i. for which he has failed to furnish a return under section 139 of the Income-tax Act;
    ii. which he has failed to disclose in a return of income furnished by him under the Income-tax Act before the date of commencement of this Scheme;
    iii. which has escaped assessment by reason of the omission or failure on the part of such person to furnish a return under the Income-tax Act or to disclose fully and truly all material facts necessary for the assessment or otherwise.

Where the income chargeable to tax is declared in the form of investment in any asset, the fair market value of such asset as on the date of commencement of this Scheme shall be deemed to be the undisclosed income. The fair market value of any asset shall be determined in such manner, as may be prescribed.

No deduction in respect of any expenditure or allowance shall be allowed against the income in respect of which declaration under this section is made.

Rates of tax, surcharge and penalty payable on income declared under this scheme are given below.

Tax	30.00%
surcharge @ 25% of Tax	7.50%
Penalty @ 25% of Tax	7.50%
Total	**45.00%**

It is proposed that following cases shall not be eligible for the scheme **(Negative list)**:

i. where notices have been issued under section 142(1) or 143(2) or 148 or 153A or 153C, or
ii. where a search or survey has been conducted and the time for issuance of notice under the relevant provisions of the Act has not expired, or
iii. where information is received under an agreement with foreign countries regarding such income,
iv. cases covered under the Black Money Act, 2015, or
v. persons notified under Special Court Act, 1992, or
vi. persons notified under Special Court Act, 1992, or

It is proposed that payment of tax, surcharge and penalty may be made on or before a date to be notified by the Central Government in the Official Gazette and non-payment up to the date so notified shall render the declaration made under the scheme void.

It is proposed to provide that declarations made under the scheme shall be exempt from wealth-tax in respect of assets specified in declaration. It is also proposed that no scrutiny and enquiry under the Income-tax Act and Wealth-tax Act be undertaken in respect of such declarations and immunity from prosecution under such Acts be provided. Immunity from the Benami Transactions (Prohibition) Act, 1988 is also proposed for such declarations subject to certain conditions. The provisions of the Benami Transactions (Prohibition) Act, 1988 shall not apply in respect of the declaration of undisclosed income made in the form of investment in any asset, if the asset existing in the name of a benamidar is transferred to the declarant, being the person who provides the consideration for such asset, or his legal representative, within the period notified by the Central Government.

It is proposed to provide that where a declaration under the scheme has been made by misrepresentation or suppression of facts, such declaration shall be treated as void.

It is also proposed that nothing contained in the Scheme shall be construed as conferring any benefit, concession or immunity on any person other than the person making the declaration under this Scheme. In cases where any declaration has been made but no tax and penalty referred to the scheme has been paid within the time specified, the undisclosed income shall be chargeable to tax under the Income-tax Act in the previous year in which such declaration is made.

It is further proposed that if any difficulty arises in giving effect to the provisions of this Scheme, the Central Government may, by order, not inconsistent with the provisions of this Scheme, remove the difficulty by an order not after the expiry of a period of two years from the date on which the provisions of this Scheme come into force and such order be laid before each House of Parliament.

It is proposed that the Central Board of Direct Taxes under the control of Central Government be provided the power to make rules, by notification in the Official Gazette, for carrying out the provisions of this Scheme and such rules made be laid before each House of Parliament in the manner provided in the scheme.

Every rule made under this Scheme shall be laid, as soon as may be, after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

59. **The Direct Tax Dispute Resolution Scheme, 2016:** In order to reduce the huge backlog of cases and to enable the Government to realise its dues expeditiously, it is proposed to bring the Direct Tax Dispute Resolution Scheme, 2016 in relation to tax arrear and specified tax. Subject to the provisions of this Scheme, where a declarant files, on or after the 01/06/2016 but on or before a date to be notified by the Central Government in the Official Gazette, a declaration to the designated authority in accordance with the provisions of section 200 in respect of tax arrear, or specified tax, then, notwithstanding anything contained in the Income-tax Act or the Wealth-tax Act or any other provision of any law for the time being in force, the amount payable under this Scheme by the declarant shall be as under, namely:–

i. in case of pending appeal related to tax arrear being–
   I.) tax and interest,
      - ✓ in a case where the disputed tax does not exceed Rs. 10 lakh, the whole of the disputed tax and the interest on disputed tax till the date of assessment or reassessment, as the case may be; or
      - ✓ in any other case, the whole of disputed tax, 25% of the minimum penalty leviable and the interest on disputed tax till the date of assessment or reassessment, as the case may be;

   II.) penalty, 25% of the minimum penalty leviable and the tax and interest payable on the total income finally determined.

ii. in case of specified tax, the amount of such tax so determined.

(a) The salient features of the proposed scheme are as under
   I.) The scheme be applicable to "tax arrear" which is defined as the amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act, 1957 in respect of which appeal is pending before the Commissioner of Income-tax (Appeals) or the Commissioner of Wealth-tax (Appeals) as on 29/02/2016.
   II.) The pending appeal could be against an assessment order or a penalty order.
   III.) The declarant under the scheme be required to pay tax at the applicable rate plus interest upto the date of assessment. However, in case of disputed tax exceeding Rs. 10 lakh, 25% of the minimum penalty leviable shall also be required to be paid.
   IV.) In case of pending appeal against a penalty order, 25% of minimum penalty leviable shall be payable alongwith the tax and interest payable on account of assessment or reassessment.

V.) "Designated authority" means an officer not below the rank of a Commissioner of Income-tax and notified by the Principal Chief Commissioner for the purposes of this Scheme;

VI.) Consequent to such declaration, appeal in respect of the disputed income and disputed wealth pending before the Commissioner (Appeals) shall be deemed to be withdrawn.

(b) Scheme also proposes that person may also make a declaration in respect of any tax determined in consequence of or is validated by an amendment made with retrospective effect in the Income-tax Act or Wealth-tax Act, as the case may be, for a period prior to the date of enactment of such amendment and a dispute in respect of which is pending as on 29/02/2016 (**referred to as specified tax**).

(c) For availing the benefit of the Scheme, such declarant shall be required to withdraw any writ petition or any appeal filed against such specified tax before the Commissioner (Appeals) or the Tribunal or High Court or Supreme Court, before making the declaration and shall also be required to furnish a proof of such withdrawal. Further if any proceeding for arbitration conciliation or mediation has been initiated by the declarant or he has given any notice under any law or agreement entered into by India, whether for protection of investment or otherwise, he shall be required to withdraw such notice or claim for availing benefit under this Scheme.

(d) It is proposed that person making declaration in respect of specified tax shall be required to furnish an undertaking in the prescribed form and verified in the prescribed manner, waiving the right, whether direct or indirect, to seek or pursue any remedy or claim in relation to the specified tax which otherwise be available to them under any law, in equity, by statute or under an agreement, whether for protection of investment or otherwise, entered into by India with a country or territory outside India. It is proposed that no appellate authority or Arbitrator or Conciliator or Mediator shall proceed to decide an issue relating to the specified tax in the declaration in respect of which an order is made by the designated authority or in respect of the payment of the sum determined to be payable.

(e) It is proposed that where the declarant violates any of the conditions referred to in the scheme or any material particular furnished in the declaration is found to be false at any stage, it shall be presumed as if the declaration was never made under this Scheme and all the consequences under the Income-tax Act or Wealth-tax Act under which the proceedings against declarant were or are pending, shall be deemed to have been revived.

(f) The declarant under the scheme shall get immunity from institution of any proceeding for prosecution for any offence under the Income-tax Act or the Wealth-tax Act. In case of specified tax the declarant shall also get immunity from imposition of penalty under the Income-tax Act or the Wealth-tax Act.

(g) In the following cases a person shall not be eligible for the scheme **(Negative list)**:

I.) Cases where prosecution has been initiated before 29/02/2016.
II.) Search or survey cases where the declaration is in respect of tax arrears.
III.) Cases relating to undisclosed foreign income and assets.

IV.) Cases based on information received under Double Taxation Avoidance Agreement under section 90 or 90A of the Income-tax Act where the declaration is in respect of tax arrears.
V.) Person notified under Special Courts Act, 1992.
VI.) Cases covered under Narcotic Drugs and Psychotropic Substances Act, Indian Penal Code, Prevention of Corruption Act or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

(h) A declaration under the scheme may be made to the designated authority in such form and verified in such manner as may be prescribed. The designated authority shall within 60 days from the date of receipt of the declaration, determine the amount payable by the declarant. The declarant shall pay such sum within 30 days of the passing such order and furnish proof of payment of such sum. Any amount paid in pursuance of a declaration shall not be refundable under any circumstances.

(i) No matter covered by order of designated authority shall be reopened in any other proceeding under the Income-tax Act, 1961 or Wealth-tax Act, 1957.

(j) Nothing contained in this Scheme shall be construed as conferring any benefit, concession or immunity on the declarant in any proceedings other than those in relation to which the declaration has been made.

(k) It is proposed that the Central Government may be given the power to issue such orders, instructions and directions for the proper administration of this Scheme to persons employed in the execution of this Scheme shall observe and follow such orders, instructions and directions of the Central Government. Plus, CG can make rules for removal of difficulty, but before expiry of a period of two years from the date on which the provisions of this Scheme come into force.

(l) Every rule made by the Central Government under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

60. Relevant sections (Customs Act and Central Excise Act) are proposed to be amended to increase the limitation period from 1 year to 2 years in cases not involving fraud, suppression of facts, willful mis-statement, etc. Section 73 of the Finance Act, 1994 (regarding service tax) is being amended so as to increase the limitation period from 18 months to 30 months for short levy/non levy/short payment/non-payment/erroneous refund of Service Tax. [w.e.f. the date of enactment of finance bill, 2016]

61. Facility for revision of return, hitherto available to a service tax assessees only, are being extended to manufacturers also.

62. Comprehensive annul return is going to be introduced in Central Excise whereby number of returns to be filed during the year will come down to 13 from 27. Similarly, annual return is also going to be introduced in service tax for assessees crossing certain threshold limit.

63. In cases where invoices (Central Excise) are digitally signed, the manual attestation of copy of invoice, meant for transporter, is done away with.

64. Instructions are being issued to Chief Commissioners of Central Excise to file application to Courts to withdraw prosecution in cases involving duty of less than Rs. 5 lakh and pending for more than 15 years.

65. In Service Tax, Krishi Kalyan Cess @ 0.5% of value of taxable services will be levied w.e.f. 01/06/2016, whereby overall tax rate will reach to 15%.

66. By amending notification no. 25/2012 ST w.e.f 01/04/2016, Exemption on services provided by (1) a senior advocate to an advocate or partnership firm of advocates providing legal service; and a person represented on an arbitral tribunal to an arbitral tribunal is being withdrawn. Further, Service Tax is being levied under forward charge mechanism in these cases. "senior advocate" has the meaning assigned to it in section 16 of the Advocates Act, 1961 (25 of 1961); (It is to be noted that section 16 of the Advocates Act, 1961 grants discretion to the advocate to be or not to be senior advocate as per his consent)

67. By amending notification no. 25/2012 ST w.e.f 01/06/2016, Exemption on services provided by stage carriage of transportation of passengers, with or without accompanied belongings, by **air conditioned** stage carriage, is made taxable with the same level of abatement as applicable to the transportation of passengers by a contract carriage, that is, 60% without credit of inputs, input services and capital goods. Stage carriage **other than air-conditioned** stage carriage (like VITCOS) is still under exemption.

68. By amending notification no. 25/2012 ST w.e.f 01/03/2016, Exemption is granted to Services by way of construction etc. in respect of (1) housing projects under Housing For All (HFA) (Urban) Mission/Pradhan Mantri Awas Yojana (PMAY); (2) low cost houses up to a carpet area of 60 square metres in a housing project under "Affordable housing in Partnership" component of PMAY, (3) low cost houses up to a carpet area of 60 square metres in a housing project under any housing scheme of the State Government,

69. The threshold exemption to services provided by a performing artist in folk or classical art forms of music, dance or theatre is being enhanced from Rs 1 lakh to Rs 1.5 lakh charged per event with effect from 01/04/2016.

70. W.e.f. 01/04/2016, The benefit of quarterly payment of Service Tax is being extended to 'One Person Company' (OPC) and HUF.

71. W.e.f. 01/04/2016, The facility of payment of Service Tax on receipt basis is being extended to 'One Person Company' (OPC).

72. The services provided by mutual fund agent/distributor to a mutual fund or asset management company, are being made taxable under forward charge w.e.f. 01/04/2016, so as to enable the small sub-agents down the distribution chain to avail small scale exemption having threshold turnover of Rs 10 lakh per year, subject to fulfillment of other conditions prescribed.

73. Interest on delayed payment of tax, hitherto, in case of customs and central excise is 18% whereas, in case of service tax it is 15% or 18% or 24% or 30% (in different situations). It is proposed to keep the same interest rate across all indirect taxes @ 15% except in case of Service Tax collected but not deposited to the exchequer, in which case the rate of interest will be 24% from the date on which the Service Tax payment became due. [There is a big chance for disputes, as section 67(2) of Finance Act, 1994 says that Where the gross amount charged by a service provider, for the service provided or to be provided is inclusive of service tax payable, the value of such taxable service shall be such amount as, with the addition of tax payable, is equal to the gross amount charged. Hence, officers are likely to impose 24% interest rate in most of cases by saying that assessee has already collected service tax but not paid to Govt.] In case of assessees, whose value of taxable services in the preceding year/years covered by the notice is less than Rs. 60 Lakh, the rate of interest on delayed payment of Service Tax will be 12%. (Applicable from the date of enactment of finance bill 2016).

74. The abatement rate in respect of services by way of construction of residential complex, building, civil structure, or a part thereof, is being rationalized at 70% by merging the two existing rates (70% for high end flats and 75% for low end flats). [By vide Notification No. 8/2016-Service Tax, dated 01/03/2016 which is applicable from 01/04/2016]

75. The abatement rate in respect of services by a tour operator in relation to packaged tour (defined where tour operator provides to the service recipient transportation, accommodation, food etc) and other than packaged tour is being merged and rationalized at 70%. [By vide Notification No. 8/2016-Service Tax, dated 01/03/2016 which is applicable from 01/04/2016]

76. The abatement on shifting of used household goods by a Goods Transport Agency (GTA) is being rationalized @ 60%, without CENVAT credit on inputs, input services and capital goods. (The existing rate of abatement of 70% allowed on transport of other goods by GTA continues unchanged). [By vide Notification No. 8/2016-Service Tax, dated 01/03/2016 which is applicable from 01/04/2016]

77. The power to arrest in Service Tax is being restricted only to situations where the tax payer has collected the tax but not deposited it to the exchequer, and that too above a threshold of Rs. 2 crore. The monetary limit for launching prosecution is being increased from Rs. 1 crore to Rs. 2 crore of Service Tax evasion.

78. **The Indirect Tax Dispute Resolution Scheme, 2016:** It shall come into force on 01/06/2016 and tt shall be applicable to the declarations made up to the 31/12/2016.

    i. In respect of cases pending before Commissioner (Appeals), the assessee, after paying the duty + interest + penalty (equivalent to 25% of duty), can file a declaration to designated authority. In such cases the proceedings against the assessee will be closed and he will also get immunity from prosecution.
    ii. "Designated authority" means an officer not below the rank of Assistant Commissioner who is authorised to act as Assistant Commissioner by the Commissioner for the purposes of this Scheme;
    iii. The designated authority shall acknowledge the declaration in such form and manner as may be prescribed.
    iv. The declarant shall pay tax due + interest thereon at the rate as provided in the Act + penalty equivalent to 25% of the penalty imposed in the impugned order, within 15 days of the receipt of acknowledgement as said above and intimate the

designated authority within 7 days of making such payment giving the details of payment made along with the proof thereof.

v. On receipt of the proof of payment of tax, interest and penalty as said above, the designated authority shall, within 15 days of the receipt of such proof; pass an order of discharge of dues referred to above in such form as may be prescribed.

vi. No matter relating to the impugned order shall be reopened thereafter in any proceedings under the Act before any authority or court.

vii. This scheme will not apply in following cases **(Negative list)**.

I.) the impugned order is in respect of search and seizure proceeding;

II.) prosecution for any offence punishable under the Act has been instituted before the 01/06/2016;

III.) the impugned order is in respect of narcotic drugs or other prohibited goods;

IV.) impugned order is in respect of any offence punishable under the Indian Penal Code, the Narcotic Drugs and Psychotropic Substances Act, 1985 or the Prevention of Corruption Act, 1988;

V.) any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974.

viii. The Central Government may, by notification in the Official Gazette, make rules for carrying out the provisions of this Scheme. Every rule made under this Scheme shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

79. Direct tax proposals would result in revenue loss of Rs. 1,060 crore and indirect tax proposals are expected to yield Rs. 20,670 crores. Thus the net impact of all tax proposals would be revenue gain of Rs. 19,610 crores.

80. **Fiscal Discipline:** Actual fiscal deficit of F.Y. 2014-15 remained at 4.1%. Estimated and estimated (revised) fiscal deficit of F.Y. 2015-16 is 3.9%. In this budget, fiscal deficit is targeted to be reduced to 3.5%.

Conclusion: In my opinion, budget is above the average, but to gain benefit out of it, honest implementation of the same is necessary.

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