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BUDGET 2016

Understanding the Business Impact

Energy & Resources

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Policy Updates

Power

Budget announcement

- Achievement of 100% village electrification i.e. 13,000 more villages to be electrified by 1 May 2018 – ₹8,500 crores is allocated to Deen Dayal Upadhyaya Grameen Vidyutikaran Yojana (DDUGVY) and Integrated Power Development Schemes (IDPS) for financial year (FY) 2016-17.
- Plans spanning next 15 to 20 years, to increase the investment in nuclear power generation. Budgetary allocation up to ₹3,000 crores per annum, together with public sector investments, will be leveraged to facilitate the required investment for this purpose.
- 'Clean Energy Cess' levied on coal, lignite and peat has been renamed as 'Clean Environment Cess' and increased to ₹400 per tonne from ₹200 per tonne earlier.
- The budget announcement of introducing the Public Utility Dispute resolution bill and guidelines on renegotiation of Public Private Partnership (PPP) Concession Agreements will be issued to help re-vitalise PPPs. This is a good initiative as many Infra projects are currently stalled due to lack of appropriate dispute resolution mechanism. Further, a new credit rating system for infrastructure projects to be introduced.

Other recent policy updates

- Government launched UDAY (Ujwal Discom Assurance Yojana) an optional restructuring program for all the distribution utilities to improve their finances.
- New draft standard bidding documents for Ultra Mega Power Projects (UMPP) based on imported coal released.
- Government notified the revised Tariff Policy to ensure 24x7 power to all and introduced measures to allow sale of power under Section 62 of Electricity Act, promotion of hydro power by providing exemption from competitive bidding till August 2022, ancillary services to support renewable capacity addition.
- Approval of the National Smart Grid Mission – for planning, monitoring and implementation of policies and programs related to Smart Grid activities.
- Cabinet Committee on Economic Affairs (CCEA) approved budget of ₹5,000 crores to provide capital subsidy to grid connected solar rooftop projects over next 5 years.
- Government passed the Atomic Energy (Amendment) Bill 2015 allowing The Nuclear Power Corporation of India Limited to form joint ventures with Public Sector Undertakings and government companies.

Mining

Budget announcement

- There are no specific announcements.

Other recent policy updates

- Coal Mines (Special Provisions) Bill 2015 passed.
- CCEA approved that all coal linkage allocations to non-regulated sectors will henceforth be auction based (Central Public Sector Enterprises and fertilizer (urea) exempted).
- CCEA approved that Central and State PSUs to be allotted coal mines for sale of coal to medium, small and cottage industries.

Policy Updates

Oil and Gas

Budget announcement

- Reform aimed at incentivizing gas exploration and production (deep water, ultra-deep water and high pressure), which are presently not exploited on account of higher cost and higher risk, by calibrated market prices for gas based on landed price of alternate fuels.
- A proposal is under consideration for new discoveries and areas which are yet to commence production, first, to provide calibrated marketing freedom; and second, to do so at a pre-determined ceiling price to be discovered on the principle of landed price of alternative fuels.
- Allocation of ₹2,000 crores to fund the initial cost of providing Liquefied Petroleum Gas (LPG) connections to BPL families.
- LPG connections will be provided to women households in rural areas.
- Aadhar bill will be introduced to give constitutional right to Aadhar number.

Other recent policy updates

- Government approved the Marginal Fields Policy allowing Oil and Natural Gas Corporation (ONGC) and Oil India Limited (OIL) to invite exploration companies to submit bids for exploration of these small fields.
- Guidelines for pooling of gas in Fertilizer (Urea) sector launched.
- Sahaj – online release of new LPG connections launched and online payment for LPG refill cylinders launched.

Direct Taxes

- Corporate tax rate for FY 2016-17 remains unchanged @ 30% plus surcharge and cess (except for some companies stated below). The proposed effective maximum marginal rate for Indian companies is 34.61% and for foreign companies is 43.26%.
- Corporate tax rate for FY 2016-17 proposed to be reduced to 29% plus surcharge and cess for relatively small enterprises i.e domestic companies with turnover not exceeding ₹5 crores (in the FY ending March 2015).
- Phase out of 100% profit linked incentives for companies engaged in production of mineral oil and natural gas and no tax incentive shall be available if the specified activity commences on or after 1 April 2017.
- Accelerated depreciation shall be restricted to 40%.
- Power transmission companies can take the benefit of additional 20% depreciation of actual cost of new machinery or plant acquired and installed in a previous year which was not available to them earlier.
- Determination of residency of foreign companies on the basis of Place of Effective Management proposed to be deferred by one year i.e. applicable from FY 2016-17.
- General Anti Avoidance Arrangement to come into effect from 1 April 2017.
- In accordance with the Base Erosion and Profit Shifting plan, a specific reporting regime has been provided in respect of Country by Country (CbC) reporting, applicable to an international group having consolidated revenue above a threshold limit to be prescribed (likely to be Euro 750 million).
- A one-time opportunity provided to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totaling in all to 45% of such undisclosed income declared.
- Minimum Alternate Tax (MAT) provisions amended to provide that the same shall not be applicable to a foreign company if the foreign company does not have permanent establishment under relevant tax treaty or a place of business in India w.e.f. 01 April 2001.
- Any gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company subscribed by a non-resident shall be exempt from capital gains tax.
- An additional condition is provided for a tax neutral treatment to conversion of a company into Limited Liability Partnership i.e. the total value of the assets in the books of account of the company in any of the three preceding years from the year in which conversion takes place does not exceed ₹5 crores.
- Additional tax @ 10% of gross amount of dividend receivable by non-corporate recipients, receiving dividend in excess of ₹10 lakh per annum.
- Tax rate of 10% on income from worldwide exploitation of patents developed and registered in India by a resident.
- Restriction on the weighted average deduction at 100% /150% of the expenditure incurred on scientific research w.e.f. 1 April 2017 (i.e. from previous year 2017-18 and subsequent years) depending on the nature of research undertaken.
- Capital gain arising from transfer of a long term asset being share of a private limited company shall be chargeable to tax at the rate of 10%.
- Storage and sale by the foreign company of crude oil to Indian residents would be exempt subject to the conditions that 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 having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf.

Direct Taxes

- Exemption on distribution of income of SPV to the Infrastructure Investment Trust having specified shareholding from Dividend Distribution Tax, in respect of dividend distributed after the specified date.
- Higher TDS @ 20% not to be charged on payments made to non-residents on submission of alternate documents to PAN card.
- Limitation of disallowance under Section 14A to 1% of the average monthly value of investments yielding exempt income, but not exceeding the actual expenditure claimed under rule 8D of the Income Tax Rules, 1962.
- Period for getting benefit of long term capital gain regime in case of unlisted companies is proposed to be reduced from 3 years to 2 years.
- Penalty rates to be 50% of tax in case of underreporting of income and 200% of tax where there is misreporting of facts.

Indirect Taxes

Customs Duty

- 100% exemption proposed on export duty on specified ores and concentrates.
- Basic customs duty on specified mineral fuels and mineral oils has been revised.
- 100% exemption has been provided on basic customs duty and countervailing duty on goods required for exploration and production of hydrocarbon activities under Petroleum Exploration Licenses/Mining Leases issued on renewed before 1 April 1999.
- New warehousing provisions are proposed to be introduced for new class of warehouses requiring continued physical control of customs authorities.
- Limitation period for recovery of customs duty has been increased from 1 year to 2 years in cases not involving fraud, suppression of facts, willful mis-statement, etc.

Central Excise Duty

- Basic excise duty on Aviation Turbine Fuel other than for supply to Scheduled Commuter Airlines from the Regional Connectivity Scheme airports proposed to be increased from 8% to 14%.
- Revision in excise duty rates for parts of wind operated electricity generators:
- Unsaturated Polyester Resin (polyester based infusion resin and hand layup resin), Hardeners/Hardener for adhesive resin, Vinyl Easter Adhesive and Epoxy Resin used for manufacture of rotor blades and intermediates, parts and sub parts of rotor blades for wind operated electricity generator: NIL to 6%.
- Carbon pultrusion used for manufacture of rotor blades and intermediates, parts and sub-parts of rotor blades for wind operated electricity generators: 12.5% to 6%.
- Basic excise duty on solar lamps proposed to be reduced from 12.5% to NIL.
- Clean Energy Cess proposed to be renamed as 'Clean Environment Cess' with effective rate to be increased from ₹200 per tonne to ₹400 per tonne on all goods covered under the Tenth Schedule of the Finance Act, 2010.
- Facility of filing revised returns extended for central excise returns, which was hitherto available only to service tax assessees.
- Manual attestation of invoices which are digitally signed is proposed to be done away with.
- Period of limitation has been increased from 1 year to 2 years in cases not involving fraud, suppression of facts, willful mis-statement, etc.
- CENVAT Credit Rules have been amended to improve credit flow, reduce the compliance burden and associated litigations, particularly those related to apportionment of credit between exempted and non-exempted final products/services.
- Changes proposed in rule relating to Input Service Distributor (ISD) to transfer credit on input services to outsourced manufacturers under certain circumstances.

Indirect Taxes

Service Tax

- Krishi Kalyan Cess (KKC) is proposed to be levied with effect from 1 June 2016 on any or all of the taxable services at the rate of 0.5% on the value of taxable services. Effective rate of service tax with Swachh Bharat Cess (SBC) and KKC shall be 15%.
- Credit of KKC paid on input services shall be allowed to be used for payment of such Cess.
- Limitation period for recovery of service tax has been proposed to be increased from 18 months to 30 months.
- A manufacturer of final products or provider of output services shall be required to file an 'annual return' for each financial year by the 30th day of November of the succeeding year.

Common changes under Customs Duty/Central Excise Duty/ Service Tax

- Interest rates on delayed payment of duty/tax across all indirect taxes is proposed to be made uniform at 15%.
- Indirect tax Dispute Resolution Scheme, 2016 is proposed in respect of cases pending before Commissioner (Appeals).

Central Sales Tax

- An Explanation has been added under Section 3 of Central Sales Tax Act to provide that where the gas sold or purchased and transported through a common carrier pipeline or any other common transport distribution systems becomes co-mingled and fungible with other gas in the pipeline or system and such gas is introduced into the pipeline or system in one State and is taken out from the pipeline in another State, such sale or purchase of gas shall be deemed to be a movement of goods from one state to another.

Miscellaneous

- Oil Industries Development Cess levied on domestically produced crude oil has been reduced from ₹4500 per metric tonne to 20% ad-valorem from the date to be notified by the Ministry of Petroleum & Natural Gas (MoPNG).

Contact

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