

## Highlights

28 February 2015

[www.deloitte.com/in](http://www.deloitte.com/in)

## Direct Taxes

### Personal Taxation

- No change in income slabs or tax rates.
- Additional surcharge at 2% to be levied on individuals having income exceeding ₹1 crore.
- Exemption for transport allowance to be increased from ₹800 per month to ₹1,600 per month as per the Finance Minister's speech.
- Deduction for:
  - Health insurance premia increased from ₹15,000 to ₹25,000 (as per Finance Minister's speech); for senior citizens, deduction enhanced from ₹20,000 to ₹30,000.
  - Medical expenditure in the case of very senior citizens, up to ₹30,000 provided no health insurance coverage has been taken.
  - Medical treatment of persons with disability increased from ₹50,000 to ₹75,000 (from ₹100,000 to ₹125,000 in case of persons with severe disability).
  - Medical treatment of very senior citizens with specified diseases with specified ailments up to ₹80,000.
  - Payment to notified pension scheme will be available up to ₹50,000 under section 80CCD(1B).
  - Person with disability increased from ₹50,000 to ₹75,000 (from ₹100,000 to ₹125,000 in the case of a person with severe disability).
- Limit for deduction under section 80CCC increased from ₹100,000 to ₹150,000; however overall limit for deduction under section 80C, 80CCC and 80CCD(1) remains at ₹150,000.
- Contribution to Clean Ganga Fund and Swachh Bharat Kosh (other than CSR contributions by companies) and National Fund for Control of Drug Abuse eligible for 100% deduction under section 80G without the overall 10% cap.

### Other proposed amendments

- Rules will be prescribed for determining the period of stay in India of an Indian citizen, being a member of crew of foreign bound ship leaving India.
- Employer will have to obtain documentation, based on rules to be specified, in support of deductions/exemptions such as house rent allowance, interest on self-occupied house property loan, etc.
- Payment of accumulated provident fund balance to suffer tax deduction at 10% provided it is taxable in the individual hands (based on the conditions laid down in Rule 8 of Part A of the Fourth Schedule).
  - No such deduction to be made if the payment is less than ₹30,000.
  - In the absence of PAN, tax to be deducted at 30%.
- New legislation for unearthing black money located outside India and Benami Transaction Prohibition Bill to be introduced as per Finance Minister's speech.

<b>Direct Taxes</b>	<b>1</b>
Personal Taxation	1
Corporate Taxation	2
Mergers & Acquisitions	3
Transfer Pricing	3
<b>Indirect Taxes</b>	<b>4</b>
Goods and Service Tax	4
Customs Duty	4
Central Excise Duty	4
Service Tax	4
Common changes under Customs Duty / Central Excise Duty / Service Tax	4
Clean Energy Cess	4

## Corporate Taxation

### Reduction of corporate tax rate

- The Finance Minister has announced that corporate tax rate of an Indian company will be reduced from 30% to 25% over a period of 4 years. Above reduction to be accompanied by rationalization and removal of various tax exemptions and incentives available to Indian companies. These changes will start from financial year 2016-17.

### Amendment to definition of residence of companies

- Definition of 'residence' of 'company' proposed to be amended. A company would now be resident in India if it is an Indian company or its 'place of effective management' (POEM) is situated in India. POEM would mean a place where key management and commercial decisions necessary for conduct of business of an entity as a whole are in substance made.

### International tax

- Section 9 to be amended to specify that transfer of an asset (e.g. shares of a foreign company) will be deemed to derive its value from India (and hence taxable in India) if such value exceeds ₹10 crore and further represents at least 50% of value of all assets owned by the company owning the Indian assets. Further, such taxable income would be computed on principle of 'proportionality' based on value of assets located in India versus that outside of India.
- Section 9 amended to provide that any interest paid by the Indian permanent establishment of a foreign banking company would be income deemed to accrue in India and hence taxable in India.
- New provisions introduced to provide that taxability of eligible foreign funds would not be impacted merely by reason of their fund managers being located in India.
- TDS rate on royalties and technical service fee payable by Indian concerns to foreign companies reduced from 25% to 10% (plus applicable surcharge and cess).
- Enabling provision inserted for CBDT to prescribe mechanism for granting relief or deduction of foreign taxes paid.

### Abolition of wealth tax

- Wealth Tax not payable from assessment year 2016-17. Loss in revenue to be compensated by increase in surcharge by 2% on all assessees (except foreign companies) including individuals which are currently being subject to levy of surcharge.

### Certain changes to TDS provisions and related documentation

- Section 195 has been amended to provide that prescribed information on payments to non-residents / foreign companies must be provided whether or not tax has been deducted thereon by the payer.
- Concessional rate of tax of 5% applicable to FII and QFI on interest income from rupee bonds of Indian companies and government securities, which was applicable till 31 May 2015 extended to 30 June 2017.

### MAT provisions under section 115JB rationalised

- MAT provisions have been amended to provide that foreign institutional investors (FIIs) would not be subject to MAT in relation to their capital gains income except where such income qualifies as short term capital gains on which securities transaction tax (STT) is not payable.

### Incentive for employing new workmen extended

- Provision for deduction (@ 30% of salary cost) available under section 80JJAA from hiring of new workmen amended. The existing requirement to employ minimum 100 regular workmen has now been reduced to 50, thereby extending the incentive to smaller units.

### Amendment in penalty provisions

- Amendment made under section 271(1)(c) to clarify that penalty would also apply where the provisions of section 115JB and 115JC (MAT and AMT) apply.

### Revision of assessments

In the context of revision of assessments under section 263, it has been clarified that an order shall be deemed to be erroneous in so far as it is prejudicial to the interests of revenue if, in the opinion of Principal Commissioner or Commissioner –

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

<b>Direct Taxes</b>	<b>1</b>
Personal Taxation	1
Corporate Taxation	2
Mergers & Acquisitions	3
Transfer Pricing	3
<b>Indirect Taxes</b>	<b>4</b>
Goods and Service Tax	4
Customs Duty	4
Central Excise Duty	4
Service Tax	4
Common changes under Customs Duty / Central Excise Duty / Service Tax	4
Clean Energy Cess	4

## Mergers & Acquisitions

### GAAR

- GAAR to be applicable from financial year 2017-18; GAAR provisions to be implemented as part of a comprehensive regime to deal with OECD's recommendation on BEPS and aggressive tax avoidance.
- As per the Finance Minister's speech, GAAR would apply prospectively to investments made on or after 1 April 2017.

### Alternative Investment Fund

- As per the existing tax regime, tax pass through was limited to the funds registered as Venture Capital Fund (VCF) under Category I of SEBI (Alternative Investment Fund) Regulations 2012 (AIF Regulations). It is now proposed to extend the pass through status to:
  - all the Category I AIFs (i.e. AIFs which invest in angle fund, start-up or early stage ventures or social ventures or SMEs or infrastructure); and
  - Category II AIFs (i.e. private equity funds or debt funds) which neither undertake leverage or borrowing (except for operational purposes) nor employs diverse or complex trading strategies.

### Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit)

- As per the existing tax regime, taxation of capital gains for Sponsor on transfer of shares of Special Purpose Vehicle (SPV) in lieu of units of the business trust was deferred till divestment of units by the Sponsor. The Sponsor was not eligible for preferential capital gains tax regime available to other unit holders (consequential to levy of Securities Transaction Tax (STT)) on divestment of the units. This results in a disadvantageous tax position for a Sponsor vis-à-vis Initial Public Offer (IPO) of the SPV.
- It is now proposed to provide for taxation of sponsors at the time of initial offer on listing of units of REIT and INVIT i.e. to be at par with taxation regime applicable at the time of IPO
- Rental income earned by Real Estate Investment Trust (REIT) will be taxed as per provisions applicable to interest income earned by REIT.

### Tax neutrality on merger of similar schemes of Mutual Funds

- Exemption from capital gains tax provided to unit holders of mutual fund schemes on merger of similar schemes.
- Cost of acquisition of units of consolidated scheme to be the cost of units held in consolidating scheme.

- Period of holding of units of consolidated scheme to be determined from the date of acquisition of units in consolidating scheme.

### Cost of acquisition of capital asset in hands of resulting company an demerger

- Cost of acquisition of capital asset transferred pursuant to demerger by demerged company to resulting company to be the cost (including cost of improvement) of such assets in the hands of demerged company.
- Period of holding of such capital asset in hands of resulting company to include the period for which such capital asset was held by demerged company.

### Transfer Pricing

#### Specified domestic transaction threshold is increased

- Under the current provisions, the tax payers having aggregate specified domestic transactions in excess of ₹5 crore in a previous year would need to comply with transfer pricing provisions.
- The threshold limit has now been proposed to be increased to ₹20 crore with an intention to reduce the compliance burden on small businesses.
- The proposed amendment will be applicable for the assessment year 2016-17 and subsequent assessment years.



# Indirect Taxes

## Direct Taxes 1

Personal Taxation 1

Corporate Taxation 2

Mergers & Acquisitions 3

Transfer Pricing 3

## Indirect Taxes 4

Goods and Service Tax 4

Customs Duty 4

Central Excise Duty 4

Service Tax 4

Common changes under  
Customs Duty / Central  
Excise Duty / Service Tax 4

Clean Energy Cess 4

### Goods and Services Tax

- Commitment to introduce nation-wide Goods and Services Tax (GST) from 1 April 2016 re-affirmed.

### Customs Duty

- Standard ad-valorem rate of Counter Veiling Duty (CVD) proposed to be increased from the existing rate of 12% to 12.5%.
- Education cess and Secondary & Higher Education cess to be applicable on Basic Custom Duty (BCD).

### Central Excise Duty

- Standard ad-valorem rate of excise duty proposed to be increased from the existing effective rate of 12.36% to 12.5%. Education cess and Secondary & Higher Education cess proposed to be subsumed in the ad valorem rate with effect from 1 March 2015.
- The rate of excise duty applicable to goods covered by Medicinal and Toilet Preparations Act, 1955 is increased from 12% to 12.5% ad valorem with effect from 1 March 2015.
- Direct dispatch of goods to premises of customers of a registered dealer/registered importer without bringing the goods to the registered premises allowed subject to conditions.
- Time-limit for availing CENVAT credit on inputs and input services is being extended from six months to one year, from the date of invoice.
- Time-limit for return of capital goods from job workers' premises extended from six months to two years.
- Reversal of proportionate CENVAT credit extended to a manufacturer of non-excisable goods.

### Service Tax

- Effective rate of Service Tax to be increased from the existing effective rate of 12.36% to 14%. Education cess and Secondary & Higher Education cess proposed to be subsumed in the said rate from a date to be notified.
- Swachh Bharat cess (SB cess) at 2% on value of all or any of the taxable services to be levied from a notified date.
- Abatement rate for transport of goods by road, rail and vessel rationalized at 30% on value of services, with effect from 1 April 2015.

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

- In case of Customs Duty, Central Excise Duty and Service Tax law, penalty provisions are being rationalized to encourage compliance and early dispute resolution and facility of obtaining advance rulings has been extended to resident firms.
- Central Excise and Service Tax registration process simplified by prescribing documents, time limit and procedure for registration. Single premises registration shall be granted within two working days of filing the application.
- In case of Central Excise Duty and Service Tax, issuance of digitally signed invoices and maintenance of electronic records permissible.

### Clean Energy cess

- Clean energy cess to be increased from ₹100 per tonne to ₹200 per tonne on all goods covered under Tenth Schedule of the Finance Act, 2010.



Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited, a UK private company limited by guarantee (“DTTL”), its network of member firms, and their related entities. DTTL and each of its member firms are legally separate and independent entities. DTTL (also referred to as “Deloitte Global”) does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) for a more detailed description of DTTL and its member firms.

This material and the information contained herein prepared by Deloitte Touche Tohmatsu India Private Limited (DTIPL) is intended to provide general information on a particular subject or subjects and is not an exhaustive treatment of such subject(s). This material contains information sourced from third party sites (external sites). DTIPL is not responsible for any loss whatsoever caused due to reliance placed on information sourced from such external sites. None of DTIPL, Deloitte Touche Tohmatsu Limited, its member firms, or their related entities (collectively, the “Deloitte Network”) is, by means of this material, rendering professional advice or services. The information is not intended to be relied upon as the sole basis for any decision which may affect you or your business. Before making any decision or taking any action that might affect your personal finances or business, you should consult a qualified professional adviser.

No entity in the Deloitte Network shall be responsible for any loss whatsoever sustained by any person who relies on this material.

©2015 Deloitte Touche Tohmatsu India Private Limited. Member of Deloitte Touche Tohmatsu Limited