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All eyes are set on the Union Budget 2016 announcement in the wake of the current buoyant economic scenario and positive investor sentiment. A robust tax and regulatory policy reform structure, if undertaken, has the potential to put India on the growth path. Deloitte Touche Tohmatsu India LLP commissioned a survey aimed at understanding budget expectations of India Inc from the standpoint of taxes, regulatory policy and key industry issues. This report aims to encapsulate key findings from this survey.
The survey was conducted in January 2016 with tax and finance executives of over 130 mid-large Indian companies and MNCs based in India.
Economy and investment climate
Question 1

Does the government need to give a boost to demand via increased capital expenditure through the public sector in FY17?

One of the most critical areas of focus for the government has been addressing the infrastructure deficit. The government has increased its spending on capital intensive projects over the past one year and picked up the shortfall by budgeting in a ~25% increase in capital expenditure. However, given the state of the private sector, spending from their side has been low. In line with broader expectations, the survey respondents also overwhelmingly expect a further boost to demand in the upcoming budget via increased capital expenditure.

- Yes. The public sector needs to give a boost to infrastructure spending
- No. The private sector has recovered enough to start spending on its own
Do you believe that the government can renege from its fiscal consolidation targets given the situation of the domestic economy?

The debate on whether or not the government should change its fiscal consolidation target continues as the government tries to meet its objectives of increased expenditure to support the economy while also bringing the level of deficit down. Majority of our survey respondents also believe that the government can change its fiscal targets and instead opt for a longer route to the 3% target for the fiscal deficit. The purpose is to have a counter cyclical policy and support demand till the time the private sector is able to recover.

- No, it will raise credibility issues: 62%
- Yes, fiscal policy should be countercyclical and hence support demand: 38%
Do you believe that a further slowdown in the Chinese economy will have adverse effects on the Indian Economy?

A large part of the current slowdown in the global economy can be attributed to the growth concerns of the Chinese economy. A further slowdown will possibly push a number of commodity producing nations into recession. Our survey respondents were almost equally divided on this question as 52% believed that Indian growth is primarily domestically driven and any knock effects would be limited. But, 48% believed that a further slowdown had the potential of spooking the markets and lead to much lower global growth. Given the interconnectedness of the global financial systems, this presents a clear dilemma for policymakers around the world.

- Yes, it can spook markets and further spark-off a chain reaction leading to much lower global growth
- No, Indian growth is primarily determined by domestic prospects
For ease of doing business in India which one of the following is most important?

The response highlights desire of entrepreneurs to have a stable and transparent system for facilitating business in India. Approximately 71% are of the view that for ease of doing business having a transparent system driven by process with minimum discretion is the most important factor. This view underlines frustration with person driven system where views of persons making or implementing policy become more important than the policy itself. This view is also held by another 17% who are of the view that certainty of decisions by the government is crucial for smooth functioning of business. It is interesting to that only 6% are worried about retrospective amendments. This is understandable as people may be feeling that once there is transparency and absence of discretion coupled with certainty on decisions by government the issue of retrospective amendments may not arise.
Which one of the following will be the most critical for Make in India initiative to be successful?

According to the survey, 57% of the respondents opined that a business friendly tax administration is critical for the ‘Make in India initiative to be successful. It is evident that the investors look for a responsive tax administration that provides certainty and consistency in tax treatment. The need of the hour is to strengthen the trust between the taxpayers and the tax administrators through effective implementation of tax administrative measures and reducing the number of disputes to make the ‘Make in India’ campaign a grand success.
Personal tax
The limit under Section 80C of the Income tax Act is pegged at INR 150,000 with payments towards investment and expenditure qualifying for deduction. Do you think the proposed Union Budget should rationalize Section 80C to segregate investment and expenditure, and at the same time, increase the limit considering the current state of affairs?

It is time to relook at the current scope of Section 80C especially with the objective of encouraging investments. With this perspective, majority of the respondents have expressed a desire that the scope of Section 80C be pruned to cover investment linked deduction, with an enhanced limit (higher than INR150,000). In addition, the current category of specified expenditure under Section 80C (such as tuition fee, repayment of housing loan principle) should be carved out as a separate deduction.
It is time to relook at the tax slabs and make the tax regime simple for individual tax payers in line with the steps being proposed for corporate tax. To achieve the same, what do you think the Government should look at in the proposed Union Budget?

There is a consistent expectation of widening of tax slabs, with almost 30% respondents expecting an increase in the basic exemption limit from INR 250,000 to INR 300,000. Interestingly, majority are of the view the individual tax rates should be brought down over time, with the exemptions/deductions being phased out, thereby the government adopting an approach similar to that of bringing down the corporate tax rate and phasing out the deductions/exemptions.

- The maximum tax rate should be brought down to 20 % and all exemptions, concessions and deductions should be removed
- The Government should adopt the same practice as for corporate tax and bring down the tax rate over next 3 years and phase out deductions accordingly
- The existing tax slabs be widened with basic exemption limit being increased to INR 300,000
Corporate tax
There has been a consistent decline in net exports of India for the twelfth straight month. Do you think that the proposed budget should provide Minimum Alternate tax (MAT) and DDT exemption to 100% EOUs and SEZs

Generally, investors have raised their concerns on the limited tax benefits being made available to EOUs and SEZ units on account of MAT applicability. However, given the slump in the world economy and lowering global consumption level, approximately 60% of the respondents are of the view that such incentivization might not lead to immediate favourable results. On the contrary, approximately 40% of the respondents agree and believe that exempting MAT on EOUs and SEZs might result in increase of net exports. The survey results show a divided response from the investor community, with the community almost equally divided on whether MAT benefits should be extended to exports and SEZ units. However, such divide could also be on account of the current slump in global economy.

- Yes, exempting 100% EOUs and SEZs from the provisions of MAT and DDT should make the sector more lucrative for investors and hence will promote new business ventures and exports
- This may not necessarily lead to increase in investments given that the consumption in the global economy is still low
- Only marginal increase may be expected
IndAS is proposed to be implemented and made applicable to specified companies with effect from FY 2016-17. In the first year of adoption, IndAS could significantly impact net profits of companies, vis-à-vis the current Accounting Standards, on account of various one-time adjustments/notional transactions mandated to be accounted for by such companies. Such enhanced book profits could lead to enhanced MAT liability. The adjustments specified by Explanation 1 to Section 115JB to compute book profits for the purpose of MAT are exhaustive. Given that introduction of IndAS would result in higher notional profits, 59% of our survey respondents are of the view that it is imperative to introduce corresponding amendments in the provisions for MAT computation. However, 20% respondents have called for change in the base profits for computation of MAT while 21% believe that since this is a transitional phase, there is no need to introduce such amendments. The survey results point towards a need to realign MAT provisions to incorporate potential income changes that could result from applicability of IndAS.
Should all dividends on which DDT has been paid, be allowed to be reduced from dividends irrespective of the percentage of equity holding

Currently dividends paid by Indian Companies are subjected to tax (‘DDT’) at the time of distribution and are considered exempt in the hands of recipient. However, currently pass through status to such DDT is limited to holding-subsidiary relationship. Given that DDT is an additional cost to the company, not providing complete pass through to all DDT paid dividend increases tax burden on companies. There is hence a need to rationalize DDT provisions to mitigate cascading effect. These results are hence not surprising. More than 85% of the survey respondents are clearly in favour of the principle that inter corporate dividends should be considered pass through to mitigate the hardship of double taxation on account of cascading effect of DDT.

- Yes, the current provisions do not completely mitigate the hardship of double taxation on account of cascading effect of DDT in case of inter-corporate dividend, apart from dividend received by holding company from its subsidiary company
- No, the benefit of pass through status should only be available to the holding company
One of the major issues for increased litigation is non-acceptance of decision of Income Tax Appellate Tribunal/ High Court by the income tax department. Should the department create a standardized form/submission procedure wherein the assessee can objectively correlate the facts of his case to previous pronouncements from the judiciary and provide an augmented argument for his case?

“Currently there is no standardized format prescribed by the tax authorities for assesses to objectively collate facts of the case, relate it to its own case and present the same before tax officers. A standardized format for comparing a settled decision with the assessee’s facts would significantly reduce litigation since tax officers would now be under an obligation to objectively discuss and agree/disagree with such settled cases.

More than 85% of the survey respondents are clearly in favour of issuance of a standard litigation form/submission procedure wherein the assessee can objectively correlate the facts of his case to previous pronouncements from the judiciary and provide an augmented argument for his case. The respondents are of the view that this would significantly reduce litigation. Interestingly, 15% of the participants are of the view that such an exercise may be futile since no two cases have the same facts.
Recently, the Central Board of Direct Taxes (CBDT) issued a press release confirming government’s decision not to levy MAT on foreign companies which do not have a PE in India. Should the budget mandate similar clarifications to be issued by the CBDT for all decisions of the Supreme Court to bring about further clarity on the subject:

“Recently the CBDT issued a clarification on non-applicability of MAT provisions on foreign companies not having a PE in India. The clarification came in the backdrop of a proposed amendment in the 2015 budget on non-applicability of MAT on certain income earned by FIIs. The clarification was welcomed by the investor community. On whether CBDT should issue such clarifications frequently, almost 75% of the participants were of the view that regular clarifications by CBDT strengthen the confidence of taxpayer and that such clarifications would also reinforce authorities’ objective of tax-friendly regime in India.

- Yes, this would strengthen confidence of the tax payers
- No, it would not be feasible for the CBDT to issue a press release after every Supreme Court decision or on all contentions of tax payers
- The decisions/judgements themselves provide ample explanation and there is no requirement to reiterate the same via press releases. Only significant issues should be clarified by the CBDT
Currently, only online orders are issued under Section 197. Should the budget also provide for online filing and processing of applications for lower withholding under Section 197.

Withholding taxes impact cash flows of companies and hence significantly affect loss making/non tax paying companies. To mitigate this hardship caused to specific categories of companies, such companies can make an application to the tax authorities to reduce/issue NIL withholding tax certificates. However, currently the process of making such an application is manual and the Income Tax Act does not have any provision for online application of such certificates. Given that the revenue authorities have made most of the processes like rectification, communication, etc. online, it is imperative that authorities now digitize important aspects like issuing lower withholding certificates which are to be issued in a time bound manner. Given the importance of timely issuance of such certificates, almost 90% of the respondents are of the view that digitizing issuance of lower withholding tax certificates would result in time saving.

- Yes, this would significantly reduce the processing time from the current 40 to 50 days
- No, given that the Assessing Officers are required to study each case in detail before issuance of lower withholding tax certificate, online processing of such application may not be practical
Indirect tax
It is widely expected that the combined rate of Central Goods and Service Tax (CGST) and State Goods and Service Tax (SGST) in the GST regime would be higher than the current rate of Service tax. In this context, do you think that the Government should prepare industry by:

The non-recoverable levy of Swachh Bharat Cess on services leads to cascading effect of tax. While the Cess was introduced at 0.5% on value of taxable services from November 2015, the Finance Act 2015 gives power to Government to levy a Cess up to 2%. With continuing pressure to keep fiscal deficit in check it is widely perceived that the Government may be tempted to increase the rate of Cess. It is not surprising therefore that the survey respondents have largely voted for subsuming the Cess in the higher rate of service tax, which is a recoverable tax for a business.
Top industry focused agendas
Government has announced phasing out of tax holidays/ incentives and reducing the corporate tax rate from 30% to 25%. What are your views on the same?

58% of the respondents agree that complete phase-out of tax incentives is a good measure and will reduce litigation. Interestingly, 22% of the respondents agree that instead of phasing out incentives for infrastructure sector, it should continue in form of investment linked tax incentive. Given the industry pressures and recent announcement of tax incentives for start-ups, complete phase-out of tax incentives looks difficult. Considering that some tax incentives would continue, one of the most eligible sector for the same is infrastructure sector as else the higher tax cost will impact the common man.
BEPS Action Plan 1 allows countries, subject to treaty obligations, to introduce additional safeguards under domestic laws to prevent BEPS issues arising from the digital economy. Please choose from the options below what you believe the Indian Tax Authorities should do.

While the majority result seems to indicate that the Government ought to retain the existing status quo for income taxes, 21% of respondents suggest that service tax or GST be imposed on such transactions. Already domestic law has wide definitions for royalties and fees for technical services. Action Item 1 clearly says that any changes should not transgress treaty obligations.

- Do nothing and follow the Action Plan recommendations to wait and watch and see if the other Actions Plans alleviate concerns
- Impose a withholding tax under domestic law on such digital economy transactions
- Impose a service tax or GST
- Deem such companies to have a virtual PE in India
Would the changes announced in the FDI policy around retail adversely impact the local India retailer

Several States have rolled out their draft retail policy with some of them already finalizing the same. This creates a conducive environment for the local retail players to operate in a win-win situation with the global players. The results of the survey are indicative of these market sentiments.
Changes in the FDI regulations impacting the retail sector have been announced in the recent past. Would this make the overseas investors take another look at India with a view to expand their foothold?

Opening of FDI in the retail sector has laid down the platform for some of the large retail global players to review their India strategy. Proposals to invest in India which were shelved for a while have now being brought back to the Board rooms for a discussion and a possible decision to invest into India. With the objective to attract foreign investments in this sector, the Government recently made a few clarifications to remove the cloud of uncertainty within the policy. Having noted this, there continues to remain some black boxes in interpreting this policy. The general understanding is that some of the global retailers have sought for clarification in these areas so as to clear their doubts.
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