

E-Flash on Amendment made by Finance Act (No. 2), 2014



The Institute of Chartered Accountants of India

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Message of the President, ICAI

The new government's maiden budget has been presented by Hon'ble Finance Minister Shri Arun Jaitley on 10th July 2014. It is quite evident that budget has announced far reaching reforms especially on the tax administration front.

As widely anticipated, Union Budget 2014-15, focuses on fiscal consolidation and outlines a fiscal deficit target of 4.1% for 2014-15, 3.6% for 2015-16 and 3% for 2016-17. There had been promotion of FDIs in select sectors. Additionally, the funds have been infused for Bank Capitalization, PSU Capital Expenditure, Smart Cities, Irrigation etc. Funds and schemes for Senior Citizens and Women & Child Development have been designed. Education sector has also been given a boost by increasing the counts of IITs, IIMs, and AIIMS etc. A major reform is the virtuous news of approval of legislative scheme for introduction of much awaited Goods and Services Tax (GST).

Direct Taxes have remained unfazed with a recalibration of tax slabs and increase in deduction and allowing higher amounts of investments. Indirect Taxes side also has seen some important changes. Advance rulings have been made available for resident private limited companies. Basic rate of excise remains same with minor changes in rates of duty in case of capital goods, consumer durables and automobile sectors. There are other changes like Customs rates have been rationalized, interest rate slab has been prescribed in service tax.

Given the existing situation and considering the fact that the new government had a limited time to present the budget, the Finance Minister recognizing limited room for fiscal operations, has chosen to present a functioning budget, perhaps as a provisional measure and a prelude to concrete & gallant steps which India requires to take to revive its existing state of affairs. The Budget 2014-15 is indeed a very progressive budget and set the right agenda for the years to come i.e., to accelerate growth through sustainable and inclusive development.

CA. K Raghu
President, ICAI





Message of the Vice - President, ICAI

The Budget 2014-15 of largest democracy of the world aims to address the objectives of accelerating growth, sustainable development and having inclusive growth. Hon'ble Finance Minister in his budget speech said - "Taxes are important for every economy to fund Government expenditure on security and welfare of its people".

The economic challenges being faced by the country leading to sub five per cent growth required immediate attention. The budget attempts to pull back the growth to higher levels. A number of significant initiatives have been taken. Composite cap of 49% FDI in Defence manufacturing & Insurance has been allowed. Agriculture sector has been allotted funds and various Agriculture Credit schemes are initiated to protect farmer's interest.

Acceptance of legislative scheme for launching GST in future reflects the intention of the government towards rationalisation and simplification of tax regime. Resources have been allocated to various sectors of economy including, financial sector, health, family welfare, rural development, education, industry and infrastructure. Relief has also been provided to taxpayers on the front of direct taxes. However, dividend distribution tax has taken a shift to about 3% due to change in manner of calculation.

While keeping the basic rate of excise duty same, some tinkering has been done on excise duty of certain products to give fillip to the manufacturing sector. Further, it has also been raised for sin goods to meet societal good and raise extra revenue. The basic custom duty has also been reduced on certain products in order to provide a boost to domestic manufacturing sector.

Overall it is a pragmatic budget which aims to address public expectations as well as help India garner its inclusive growth status.

This e-publication on changes proposed by Union Budget 2014-15 has been brought out by the joint efforts of four committees, Indirect Taxes Committee (IDTC), Direct Taxes Committee (DTC), Committee of International Taxation (CIT) and Committee on Public Finance and Government Accounting (CPFGA). I compliment the efforts of all the committees particularly that of their Chairman and Vice-Chairman, viz., CA. Atul Kumar Gupta, Chairman, IDTC, CA. G. Sekar, Chairman, DTC, CA. Nihar Niranjan Jambusaria, Chairman, CIT and Vice-Chairman, IDTC, CA. Vijay Garg, Chairman, IDTC, CA. Sanjiv Kumar Chaudhary, Vice-Chairman, DTC and CIT, CA. Charanjot Singh Nanda, Vice-Chairman, CPFGA. I am sure members will find it very useful.

CA. Manoj Fadnis
Vice-President, ICAI

Chairmen Speak



The Union Budget 2014-15 has been brought up by the new Government with a view to gratify the growing economic need of development and growth. It has initiated many reforms and is foresighted

enough to have far reaching impacts in the long run. The idea of sustainable growth and overall development has also been targeted well. Acceptance of legislative scheme of GST marks the beginning of expected focal changes in indirect taxes to take place in future.

This document is developed with intent to assist the readers with amendments in Taxation brought in by Union Budget 2014-15.

CA. Atul Gupta
Chairman, Indirect Taxes Committee



The Union Budget 2014-2015 aims to cater all groups of the society with a motto, "Sab ka Saath Sab ka Vikas". Even though very few have the mindset to appreciate the impact it would

bring to the economy, mainly because of the tax proposals, this budget is awaited by the masses eagerly. This document intends to bring clarity with regard to the amendments in taxation brought through Finance (No.2) Bill, 2014.

CA. G. Sekar
Chairman, Direct Taxes Committee



The new Government unveiled its maiden budget in the backdrop of huge expectations, wherein the Finance Minister showed good administrative discipline and outlined its plan for reviving the

growth spirit of the Indian Economy. In the current year Government has fixed the growth target between 5.4 to 5.9 percent with the fiscal deficit at 4.1 percent.

The goal is committed to second generation of tax reforms, stability of tax regime and fiscal prudence.

I hope you will find this "E -Book" useful for a comprehensive view of the Union Budget 2014-15.

With warm regards,

CA Vijay Garg
Chairman
Committee on Public Finance & Government Accounting



The much awaited Governments maiden budget aims to strike a chord with the masses by targeting the development for one and all. Union Budget 2014-15 has brought many reforms

in administration as well as taxation front and focuses on improvements in the existing state of economy. This document is produced to enable the readers to easily comprehend the tax amendments announced by Finance Bill (No. 2), 2014.

CA. Nihar Jambusaria
Chairman
Committee on International Taxation



State of the economy

Union Budget 2014-15- Highlights

Committee on Public Finance and Government Accounting

The Union Budget 2014-15 was announced as the tone for a revival in economic growth, improve governance and focus on fiscal consolidation. The Government has presented a balanced budget without big-bang announcement. The Budget is directionally positive for the infrastructure and manufacturing sectors as well as the overall investment climate, which have the potential to create both skilled and unskilled job opportunities is indeed applaudable.

The new Government's focus on fiscal prudence and announcement of the roadmap for consolidation road map for fiscal consolidation target fiscal deficit of **3.6** per cent for **2015-16** and **3** per cent for **2016-17**. The Government will constitute an Expenditure Management Commission, which will look into various aspects of expenditure reforms to be undertaken by the Government. The proposal to constitute an Expenditure Management Commission to focus on improving the efficiency of spending is a welcome step. However, additional clarity is awaited on plans to overhaul the subsidy regime, as improved targeting is critical to free-up resources for more productive capital spending.

Overall fiscal consolidation view is given below,

Highlights of the proposals,

- The fiscal deficit to GDP target for the current financial year has been kept unchanged at 4.1%, which is the same as indicated in the interim budget announced earlier this year and Revenue deficit will be 2.9 per cent of GDP.
- Non-Plan expenditure estimates for the Financial Year are Rs. 12,19,892 crore. Total expenditure estimates thus stands at Rs. 17,94,892 crore.
- The decline in fiscal deficit from 5.7 per cent of GDP in 2011-12 to 4.8 per cent in 2012-13 and 4.5 per cent in 2013-14 was mainly achieved by reduction in expenditure rather than by way of realization of higher revenue. Current Account Deficit was mainly achieved through restriction on non-essential imports and slowdown in overall aggregate demand.
- The Government will try to find a solution in the course of the year and approve the legislative scheme which will enable introduction of the GST.
- The Adoption of The New Indian Accounting Standards (Ind AS) by the Indian Companies from the financial year 2015-16 voluntarily and from the financial year 2016-17 on a mandatory basis.



- The Finance Minister stressed to have a modern monetary policy framework to meet the challenge of an increasingly complex economy. Government will, in close consultation with the RBI, put in place such a framework.
- **FDI** in several sectors is an additionality of resource which helps in promoting domestic manufacture and job creation. The composite cap in the Insurance sector is proposed to be increased up to 49 per cent from the current level of 26 percent, with full Indian management and control, through the FIPB route.
- Requirement of the built up area and capital conditions for FDI to be reduced from 50,000 square metres to 20,000 square metres and from US\$ 10 million to US\$ 5 million respectively for development of smart cities.
- The e Biz platform aims to create a business and investor friendly ecosystem in India by making all business and investment related clearances and compliances available on a 24x7 single portal, with an integrated payment gateway. All Central Government Departments and Ministries will integrate their services with the eBiz platform on priority by 31 December 2014.
- An institution to provide support to mainstreaming PPPs called 3P India will be set up with a corpus of Rs.500 crores.
- The announcements of setting up a Price Stabilization Fund and working with states in re-orienting **APMC Act** will help tackle elevated food prices. Further, measures to enhance agriculture productivity will enable inflation management on a sustainable basis in the long run.
- Agricultural growth of 4% targeted with focus towards building irrigation infrastructure. Further, technology-driven growth targeted with an aim of higher productivity, by setting up Agricultural Research Institute of excellence and Agri-tech Infrastructure Fund.
- Committee set up to examine the financial architecture for SMEs and remove bottlenecks. Further, easier availability of funds through a corpus for providing equity through venture capital funds, quasi equity, soft loans and other risk capital to encourage startups.
- Commitment to revive Special Economic Zones (SEZs) and make them effective instruments of industrial production, economic growth, export promotion and employment generation.
- Planned expenditure increases towards agriculture, capacity creation, infrastructure, clean energy focused on reducing supply side inefficiencies and giving boost to infrastructure development.
- Setting up of an Expenditure Management Commission to look into expenditure reforms.



- Focus on infrastructure and mining by developing comprehensive policies to promote ship building and enhancing domestic coal production. Further, incentives for Real Estate Investment Trusts (REITS) and modified infrastructure project structure through Infrastructure Investment Trusts (INVITS)
- To provide all households in the country with banking services, a time bound programme would be launched as Financial inclusion Mission on 15 th August 2014 is step in the right direction.

The Budget has given a clear signal that it will attempt moving towards a more efficient expenditure management system and a rationalised tax framework. The resolve to get back on the path of fiscal consolidation seems strong. It shall enhance our economy to pick up higher **Economic Growth** in future.

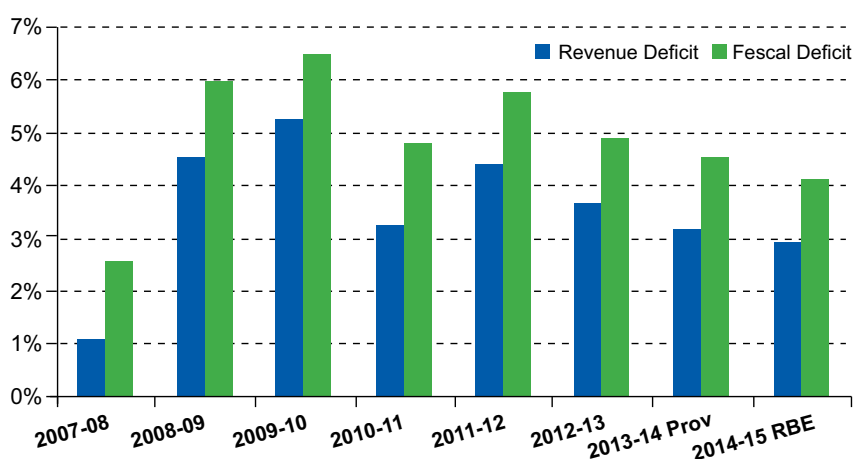
Some Indicators given below,

Government of India's Fiscal Balances

	Rs. billion		
	2013-14 Prov.	2014-15 IBE	2014-15 RBE
Revenue Receipts	10,153	11,671	11,898
Tax Revenues\$	8,160	9,864	9,773
Non Tax Revenues	1,992	1,807	2,125
Revenue Expenditure	13,756	15,501	15,681
Revenue Deficit	-3,603	-3,829	-3,783
% of GDP	-3.2%	-3.0%	-2.9%
Capital Receipts (Non Debt)	401	675	740
Capital Expenditure	1,879	2,132	2,268
Fiscal Deficit	-5,081	-5,286	-5,312
% of GDP	-4.5%	-4.1%	-4.1%

Source: Gol Budget Documents; CGA, Ministry of Finance, Gol; ICRA Research

Government of India's Revenue and Fiscal Deficit as a Percentage of GDP



Source: Gol Budget Documents; CGA, Ministry of Finance, Gol; ICRA Research



Amendment made by Finance Act (No. 2), 2014 in Direct Taxes

Personal Taxation

- Basic exemption limit increased from Rs. 2 lakhs to Rs. 2.5 lakhs for an individual below the age of 60 years and from Rs. 2.5 lakhs to Rs. 3 lakhs, in case of an individual who is of age of 60 years or above, but below the age of 80 years.
- The existing limit of deduction under section 80C increased from Rs. 1 lakh to Rs. 1.5 lakhs. The annual ceiling limit for investment in Public Provident Fund increased from Rs. 1 lakh to Rs. 1.5 lakh.
- The deduction in respect of interest on housing loan borrowed for acquisition or construction of self occupied house property enhanced from Rs. 1.5 lakhs to Rs. 2 lakhs.
- No change in the income tax rate, surcharge and education cess.

Business Taxation

- Deduction under section 32AC@15% of investment in new plant and machinery to be allowed if such investment exceeds Rs. 25 crores during the previous year. Such deduction is allowable for investment made in plant and machinery upto 31.03.2017.
- Investment linked tax deduction in respect of capital expenditure incurred to be extended to two new sectors, namely, laying and operating of slurry pipelines for the transportation of iron ore, and setting up and operating semi conductor wafer fabrication manufacturing units. Period of 8 years being specified for which such capital asset is to be used for specified business.
- Corporate Social Responsibility (CSR) expenditure under section 135 of the Companies Act, 2013 not deductible under section 37.
- Disallowance of payments made to non-residents not to be attracted if tax is being deducted during the previous year and deposited on or before the due date of filing of return of income.
- Disallowance of payments made to residents without deduction of tax to be limited to 30% of such payment. Further, disallowance to be attracted for all payments on which tax is required to be deducted under Chapter XVII-B.
- Presumptive business income of an assessee engaged in the business of plying, hiring or leasing goods carriage to be computed at Rs. 7,500 per month per vehicle for all types of goods carriage vehicles, whether heavy vehicles or not.



- The business of purchase and sale of shares carried on by a company not to be deemed as a speculation business, if the principal business of such company is the business of trading in shares.
- The terminal date for power sector undertakings to set-up, start transmission or distribution or substantial renovation and modernization of existing network to be extended for a further period upto 31st March, 2017.
- Provisions of AMT to be attracted, in case of assessees claiming investment linked tax deduction under section 35AD.
- The claim of credit of AMT to be allowed even in an assessment year where the adjusted total income does not exceed twenty lakh rupees and there is no claim of any deduction under section 10AA or section 35AD or Chapter VIA under the heading "C- Deductions in respect of certain incomes".
- Tax on distributed profits of domestic companies under section 115-O and tax on distributed income to unit holders under section 115-R to be levied on the gross amount of dividend and not on net amount of dividend distributed. For example, if Rs.10,000 is to be distributed to shareholders, the dividend distribution tax would be Rs.2,047 [$10,000 \times 16.995/83.005$] and not Rs.1,700 [i.e., $10,000 \times 16.995\%$].
- Special taxation regime for Real Estate Investment Trust (REIT) & Infrastructure Investment Trust (InvIT), to provide a pass-through tax status for the business trust and also provide the manner in which the income is to be taxed in the hands of the unit holders of the business trust. However, income by way of capital gains on disposal of assets by the trust would be taxable in the hands of the trust. If such capital gains is distributed to unit holders, the component of distributed income attributable to capital gains would be exempt in the hands of unit holders.
- Permissible mode of acceptance or repayment of loan and deposits under sections 269SS and 269T, respectively, expanded to include Electronic Clearing System (ECS) through a bank account.
- Central Government to notify in the Official Gazette from time to time income computation and disclosure standards to be followed by any class of assesses or in respect of any class of income.



Capital Gains

- Units of debt oriented mutual funds and unlisted securities to remain as a short-term capital asset, if held for not more than 36 months. Resultantly, the period for qualifying as a long-term capital asset increased from “more than 12 months” to “more than 36 months”.
- Long-term capital gains on units of debt-oriented mutual funds not eligible for benefit of concessional rate of tax@10% without indexation
- Any transfer of capital asset, being Government Security carrying periodic payment of interest, made outside India, through an intermediary dealing in settlement of securities, by a non-resident to another non-resident, not to be considered as “transfer” for the purpose of capital gains.
- Advance received and retained in the course of negotiations for transfer of a capital asset which did not materialize to be treated as income chargeable to tax under the head “Income from other sources”. Currently, such sum is being deducted from the cost of acquisition for computing capital gains when the asset is subsequently transferred.
- Enhanced compensation on compulsory acquisition of a capital asset received in pursuance of an interim order of a court, tribunal or other authority to be deemed as income chargeable under the head “Capital gains” in the previous year in which the final order of such Court, Tribunal or other authority is made.
- “Cost Inflation Index” in relation to a previous year to mean such index as may be notified by the Central Government having regard to 75% of average rise in the Consumer Price Index (Urban) for the immediately preceding previous year to such previous year. With effect from A.Y. 2016-17, reference to Consumer Price Index (CPI) for urban non-manual employees to be removed, since release of CPI for such employees has been discontinued.
- Sections 54 and 54F amended to provide that the benefit of exemption thereunder to be available only in respect of investment in one residential house situated in India.
- Exemption under section 54EC for investment in long-term specified asset, out of capital gains arising from transfer of one or more original assets in a financial year, restricted to Rs. 50 lacs, whether such investment is made in the same financial year or in the next financial year or partly in the same financial year and partly in the next financial year.



Charitable Trusts

- Where a trust or institution has been granted registration for availing benefit under section 11 and the registration is in force for a previous year, then, such trust or institution cannot claim any exemption under any provision of section 10 [other than section 10(1) and section 10(23C)]. Likewise, where an entity has been approved or notified for claiming benefit of exemption under section 10(23C), it would not be entitled to claim any benefit of exemption under the other provisions of section 10 [except the exemption under section 10(1) in respect of agricultural income].
- Income for the purposes of application under section 11 and section 10(23C), to be determined without providing deduction or allowance for depreciation in respect of an asset, the cost of acquisition of which has been claimed as an application of income under these sections in the same or any other previous year. In effect, if the cost of asset has been claimed as application of income, then depreciation on such asset cannot be claimed in the same or any other previous year.
- The power of the Commissioner or Principal Commissioner to cancel the registration of the trust or institution expanded. Section 12AA amended to provide that where a trust or institution has been granted registration and subsequently, it is noticed that its activities are being carried out in such a manner that –
 - (a) its income does not enure for the benefit of general public;
 - (b) it is for the benefit of any particular community or caste;
 - (c) any income or property of the trust is applied for the benefit of specified persons like author of trust, trustees, etc.; or
 - (d) its funds are invested in prohibited modes, the registration may be cancelled, if such trust or institution does not prove that there was a reasonable cause for the activities to be carried out in the above manner.
- Anonymous donations in excess of Rs. 1 lakh or 5% of total donations received by the assessee, is taxable at 30%. Section 115BBC amended to provide that the income-tax payable by the assessee shall be the aggregate of 30% of such donations in excess of Rs. 1 lakh or 5% of total donations, whichever is higher and the income-tax, which would be leviable, had the total income been reduced by the aggregate of anonymous donations which is in excess of 5% of total donations received by the assessee or one lakh, whichever is higher.



Non-resident Taxation

The benefit of concessional rate of withholding tax @5% extended to foreign borrowings by way of issue of any long-term bonds, and not restricted only to long-term infrastructure bonds. Further, the period for which the benefit is available is extended by two years i.e. benefit to be available for borrowings made before 1st July, 2017.

Benefit of concessional rate of tax @15% on gross dividend received by Indian companies from specified foreign companies extended without limitation to a particular assessment year.

“Roll Back mechanism” provided in the APA scheme upto a period not exceeding 4 previous years preceding the first of the previous years for which the APA applies.

Income arising from transfer of security by a Foreign Portfolio Investor (FPI) to be in the nature of capital gains, irrespective of the presence of the fund manager managing the funds of the FPI in India.

Tax Deduction at Source

Tax to be deducted @2% on the sum paid under life insurance policies, including the sum allocated by way of bonus, which are not exempted under section 10(10D). However, no tax to be deducted where the aggregate sum paid to an assessee in a financial year is less than Rs. 1 lakh.

Amendment made by Finance Act (No. 2), 2014 in International Taxation

Committee on International Taxation

1. Scope of 194LC extended:-

It extends the benefit of 5% of withholding tax to the following:

- Interest referred to in sub-section 2 of 194LC is payable to nonresident individual or foreign company by business trust then TDS is required to be deducted u/s 194LC @ 5%.
- Borrowings by way of issue of any long-term bond, and not limited to a long term infrastructure bond.
- The period of borrowing to extend by two years. The concessional rate of withholding tax will now be available in respect of borrowings made before 1st day of July, 2017.

These amendments will take effect from 1st October, 2014.

2. Section 115BBD continued:-

- Concessional rate of tax of 15 percent on dividend received by an Indian company from its foreign subsidiary proposed to continue for assessment year 2015-16 and subsequent assessment years.
- This amendment will take effect from 1st April, 2015.

3. Section 92CC provisions:-

- A new provision “**Roll back mechanism**” in the APA scheme has been inserted. It provides that
 - i. The APA may,
 - ii. subject to such prescribed conditions, procedure and manner,
 - iii. provide for determining the arm's length price or for specifying the manner in which arm's length price is to be determined in relation to an international transaction entered into by a person
 - iv. during any period not exceeding four previous years preceding the first of the previous years for which the advance pricing agreement applies in respect of the international transaction to be undertaken in future.
- This amendment will take effect from 1st October, 2014.





4. Section 2 (14):-

- Any security held by foreign institutional investor which has invested in such security in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 would be treated as capital asset.
- Any income arising from transfer of such security would be in the nature of capital gain.
- This amendment will take effect from 1st April, 2015

5. Transfer of Government Security by one non-resident to another non-resident:

- New Clause (viiB) under section 47 has been inserted.
- Not regarded as transfer if following conditions satisfied:-
 - o There is transfer of a capital asset, being a Government Security carrying a periodic payment of Interest,
 - o Transfer is made outside India through an intermediary dealing in settlement of securities, and
 - o Transfer is done by a non-resident to another non-resident
- This amendment will take effect from AY 2015-16

6. Amendment in provision 40(a)(i)

- The deductor shall be allowed to claim deduction for payments made to non-residents in the previous year of payment, if tax is deducted during the previous year and the same is paid on or before the due date specified for filing of return under section 139(1) of the Act.
- This amendment will take effect from AY 2015-16

7. Levy of Penalty under section 271G by Transfer Pricing Officers:-

- An amendment has been made in section 271G of the Act to include Transfer pricing officer, as referred to in Section 92CA, as an authority competent to levy the penalty under section 271G in addition to the Assessing Officer and the Commissioner (Appeals).
- This amendment will take effect from 1st October, 2014.



8. Rationalization of the Definition of International Transaction

- The sub-section as presently worded led to a doubt whether or not, for the transaction to be treated as an international transaction, the unrelated person should also be a non-resident.
- Thus it is provided that
 - o Where, in respect of a transaction entered into by an enterprise with a person other than an associated enterprise,
 - o There exists a prior agreement in relation to the relevant transaction between the other person and the associated enterprise or,
 - o Where the terms of the relevant transaction are determined in substance between such other person and the associated enterprise, and either the enterprise or the associated enterprise or both of them are non-resident,
 - o Then such transaction shall be deemed to be an international transaction entered into between two associated enterprises,
 - o Whether or not such other person is a non-resident.
- This amendment will take effect from AY 2015-16

9. New insertion of section 194LBA and corresponding amendment in section 115A

- Where certain income is distributed by a business trust to its unit holder, being a non-resident individual or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rate of five per cent..

“business trust” to mean a trust registered as an Infrastructure Investment Trust or a Real Estate Investment Trust, the units of which are required to be listed on a recognised stock exchange, in accordance with the regulations made under the Securities Exchange Board of India Act, 1992 and notified by the Central Government in this behalf.

- This amendment will take effect from AY 2015-16

Amendment made by Finance Act (No. 2), 2014 in Indirect Taxes

Indirect Taxes Committee

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CENTRAL EXCISE

Amendments in the Central Excise Act, 1944

1. A new section 15A has been inserted so as to empower the Central Government to prescribe an authority or agency to whom the information return shall be filed by the specified persons such as Income-tax authorities, State Electricity Boards, VAT or Sales Tax authorities, Registrar of Companies. Information can be collected for the purposes of the Act, such as, to identify tax evaders or recover confirmed dues.

Further, section 15B has also been inserted to provide for imposition of penalty on failure to furnish information return.

2. Section 32E(1) has been amended so as to allow filing of applications of settlement before the Settlement Commission in cases where the applicant has not filed the returns after recording reasons for the same.
3. Section 35L has been amended so as to clarify that determination of disputes relating to taxability or excisability of goods is covered under the term 'determination of any question having a relation to rate of duty' and hence, appeal against Tribunal orders in such matters would lie before the Supreme Court.

CUSTOMS DUTY

Amendments in the Customs Act, 1962

1. Section 15(1) and Section 46(3) has been amended to provide for determination of rate of duty and tariff valuation for imports by vehicle through land route and allows presentation of Bill of Entry for imported goods before arrival of vehicle carrying the goods.
2. Section 127B(1) has been amended to provide that an application for settlement of cases can also be filed in cases where a Bill of Export, Baggage Declaration, Label or Declaration accompanying the goods effected through Post or Courier have been filed.



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Amendment in the Customs Tariff Act, 1975

Section 8B of the Customs Tariff Act, 1975 has been amended so as to provide for levy of safeguard duty on inputs/raw materials imported by an EOU and cleared into DTA as such or are used in the manufacture of final products & cleared into DTA.

Amendments in the Baggage Rules, 1998

Baggage Rules, 1998 have been amended to-

- (i) Raise the free baggage allowance from ₹35,000 to ₹45,000.
- (ii) Reduce the duty free allowance of cigarettes from 200 to 100, of cigars from 50 to 25 and of tobacco from 250 gm to 125 gm.

(Effective from 11.07.2014)

Common amendments in Central Excise/Customs

1. Section 32O of the Central Excise Act, 1944/Section 127L of the Customs Act, 1962 has been amended to clarify that reference to the concealment of particulars of duty liability is any such concealment made from the officer of central excise/customs and not from the Settlement Commission.
2. Section 35B(1) of the Central Excise Act, 1944/Section 129A(1) of the Customs Act, 1962 has been amended so as to increase the discretionary powers of the Tribunal to refuse admission of appeal from the existing ₹50,000 to ₹2 lakh.
3. Section 35B(1B) of the Central Excise Act, 1944/Section 129A(1B) of the Customs Act, 1962 has been amended so as to enable the Board to constitute a Review Committee by issuing an order instead of a notification to be published in the Official Gazette.
4. Proviso to section 35E(3) of the Central Excise Act, 1944/Proviso to section 129D(3) of the Customs Act, 1962 has been inserted to vest the Board with powers to condone delay for a period upto 30 days for review by the Committee of Chief Commissioners of the orders in original passed by the Commissioner.
5. Section 35F of the Central Excise Act, 1944/Section 129E of the Customs Act, 1962 has been substituted with a new section to prescribe a mandatory fixed pre-deposit of 7.5% of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute for filing appeal with the Commissioner (Appeals) or the Tribunal at the first stage and 10% of the duty, in case where duty or duty and penalty are in dispute, or penalty, where such penalty is in dispute for filing second stage appeal before the Tribunal. The amount of pre-deposit payable would be subject to a ceiling of ₹10 crores. Further, provisions relating to grant of stay by the Tribunal proposed to be omitted in section 35C(2A) of the





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Central Excise Act, 1944/section 129B(2A) of the Customs Act, 1962.

Further, a new section 35FF/129EE has been inserted in Central Excise Act, 1944/ Customs Act, 1962 to provide that where an amount deposited by the appellant under section 35F/129E is required to be refunded consequent upon the order of the appellant authority, there shall be paid to the appellant interest at such rate, not below five percent, and not exceeding thirty-six percent per annum as is for the time being fixed by the Central Government, by notification in the Official Gazette, on such amount from the date of payment of the amount till, the date of refund of such amount.

However, the amount deposited under Section 35F prior to the commencement of the Finance (No.2) Act, 2014, shall continue to be governed by the provisions of section 35FF as it stood before the commencement of the said Act.

6. Section 35R of the Central Excise Act, 1944/Section 131BA of the Customs Act, 1962 has been amended so as to enable the Commissioner (Appeal) to take into consideration the fact that a particular order being cited as a precedent decision on the issue has not been appealed against for reasons of low amount.

All the amendments given above in respect of excise and customs, except Baggage Rules, is effective from 6th August, 2014

7. With effect from 11.07.2014, "resident private limited company" has been notified as class of persons under section 23A(c)(iii) of Central Excise Act, 1944/28E(c)(iii) of Customs Act, 1962 who can make application for advance ruling.

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Amendments to be effective from a date to be notified

A. Review of negative list

1. Hitherto, sale of space or time for advertisements in broadcast media, namely radio or television was only liable to service tax. However, now sale of space or time for advertisements on other segments like online and mobile advertising is proposed to be brought under the service tax purview. Sale of space or time for advertisements on print media is included in negative list and thus, not taxable.

Now, print media is also being defined to exclude business directories, yellow pages and trade catalogues which are primarily meant for commercial purposes.

2. Services of transportation of passengers by radio taxis/radio cabs to be brought under the service tax net to bring them at par with rent a cab service.



3. In Section 67A, for determination of rate of exchange, rules would be prescribed for calculation of taxable value in respect of certain services. (Rules would be prescribed in due course of time).

Amendments applicable w.e.f. 11th July, 2014/1st September, 2014/1st October, 2014

Following amendments are applicable with effect from 11.07.2014, unless otherwise specified:

B. Amendments in Mega Exemption Notification

1. Existing exemptions withdrawn
 - (a) Exemption to services by way of technical testing or analysis of newly developed drugs on human participants by a clinical research organisation approved to conduct clinical by the Drug Controller General of India withdrawn.
 - (b) Exemption to transport of passengers by an air conditioned contract carriage withdrawn.
2. New exemptions introduced
 - (a) Exemption to services provided by operators of the Common Bio-medical Waste Treatment Facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto.
 - (b) Exemption to services provided by way of transportation by rail/vessel/GTA of organic manure, cotton, ginned or baled.
 - (c) Exemption to life insurance service provided under scheme life micro-insurance product as approved by the IRDA, having maximum amount of cover of ₹ 50,000.
 - (d) Exemption to services by way of loading, unloading, packing, storage or warehousing of cotton, ginned or baled.
 - (e) Exemption to services received by the RBI, from outside India in relation to management of foreign exchange reserves.
 - (f) Exemption to services provided by a tour operator to a foreign tourist in relation to a tour conducted wholly outside India.
3. Rationalisation of existing amendments
 - (a) Exemption to services provided to an educational institution by way of

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auxiliary education services and renting of immovable property services has been rationalised. The services received by an eligible educational institution which are exempt from service tax have been specified to do away with the doubts regarding the scope and meaning of 'auxiliary educational services' arising earlier. Further, exemption extended so far in respect of renting of immovable property service received by educational institutions, stands withdrawn.

- (b) Exemption available to accommodation services provided by hotels, dharamshalas or ashrams when they provide rooms for less than ₹ 1,000 per day, re-worded to bring out the intent clearly.
- (c) For greater clarity, the exemption in respect of services provided to Government or local authority or governmental authority made more specific. Services by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and up-gradation continue to remain exempted but exemption not be extendable to other services such as consultancy, designing, etc., not directly connected with these specified services.

C. Abatement Notification amended

1. The condition for availing abatement in case of GTA service amended with immediate effect to clarify that the condition for non-availment of credit is required to be satisfied by the service providers only.
2. The taxable portion of service of transportation of passenger by air-conditioned contract carriages shall be 40% with the condition that CENVAT credit of inputs or capital goods or input services has not been taken.
3. With effect from 01.10.2014, CENVAT credit of input service of renting of a motor cab is allowed if such services are received from a person engaged in the similar line of business i.e. a sub-contractor providing services of renting of motor cab to the main contractor. The whole of the CENVAT credit has been allowed with respect to input service of renting of any motor cab, received from a person who is paying service tax on 40% of the value of services. The CENVAT credit eligibility will be restricted to 40% of the credit of the input service of renting of any motor cab if service tax is paid or payable on full value of the services i.e. no abatement is availed.
4. With effect from 01.10.2014, tour operator service providers, availing abatement, are allowed CENVAT credit on the input service of another tour operator, which are used for providing the taxable service.
5. With effect from 01.10.2014, abatement in respect of transport of goods by vessel is increased from 50% to 60%.



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D. Reverse charge/Partial reverse charge

- In relation to following services, service receiver to pay service tax:
 - Services provided by a recovery agent to a banking company/financial institution/NBFC.
 - Services provided by a Director to a body corporate.
- With effect from 01.10.2014, in renting of motor vehicle, where the service provider does not take abatement, the portion of service tax payable by the service provider and service receiver will be 50% each.

E. Other Amendments

- With effect from 01.10.2014, e-payment of service tax is made mandatory. Relaxation from e-payment may be allowed by the Deputy/Assistant Commissioner on case to case basis.
- “Resident private limited company” has been notified as class of persons under section 96A(b)(iii) of the Finance Act, 1994 who can make application for advance ruling.
- Procedure with respect to SEZ exemption has been further simplified.
- With effect from 01.10.2014, in rule 2A of the Service Tax (Determination of Value) Rules, 2006, category ‘B’ and ‘C’ of works contracts to be merged into one single category, with service portion as 70%.
- With effect from 1.10.2014, interest for delayed payment of service tax would be charged at new rates which would vary on the extent of delay. Simple interest rates per annum payable on delayed payments under section 75, are prescribed as follows:

Extent of delay	Simple interest rate per annum
Up to six months	18%
From six months & upto one year	24%
More than one year	30%

- Amendments in Place of Provision of Supply of Rules, 2012 (with effect from October 1, 2014) :
 - ❖ The second proviso to rule 4(a) has been amended to prescribe that it would suffice for the purpose of exclusion of repair service from applicability of rule 4(a) that the goods imported for repair are exported after repair without being put to any use in the taxable territory, other than those which are required for such repair.



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- ❖ Intermediary of goods to be given the same treatment as is given to intermediary of services.
- ❖ Vessels (excluding yachts) and aircraft to be excluded from rule 9(d); hiring of vessels or aircrafts, irrespective of whether short term or long term, will be covered by the general rule, which is place of location of the service receiver

7. Amendments in Point of Taxation Rules, 2011:

In case of reverse charge services, to bring certainty in the determination of point of taxation, it has been provided that point of taxation will be the payment date or first day after three months from the date of invoice, whichever is earlier. The amended point of taxation will apply to invoices issued after 1st October 2014.

8. Amendment in CENVAT Credit Rules, 2004

(i) A new sub-rule (qa) has been inserted in Rule 2 of Cenvat Credit Rules, 2004 to introduce the definition of "place of removal". According to this Rule, the 'place of removal' means-

- A factory or any other place or premises of production or manufacture of the excisable goods;
- A warehouse or any other place or premises wherein the excisable goods have been permitted to be deposited without payment of duty;
- A depot, premises of a consignment agent or any other place or premises from where the excisable goods are to be sold after their clearances from the factory,

(ii) Proviso to Rule 4(1) and 4(7) has been amended to provide that a manufacturer or a service provider shall take credit on inputs and input services within a period of six months from the date of issue of invoice, bill or challan with effect from 1st September, 2014. Currently, CENVAT Credit can be claimed at any time after receipt of invoice.

Further, in the case of Full Reverse charge, proviso to Rule 4 (7) has been amended to withdraw the condition relating to payment of value of input service to the vendor prior to taking credit. Earlier credit was allowed only after payment of service tax and value of input service i.e both.

(iii) A new proviso has been inserted in clause (b) of Rule 6(8) to allow re-credit of CENVAT credit reversed on account of non-receipt of export proceeds





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within the specified period or extended period, if export proceeds are received within one year from the period so specified or extended period. This can be done on the basis of documents evidencing receipt of export proceeds.

- (iv) Rule 12A has been amended so as to disallow transfer of credit by a large taxpayer from one unit to another.

Amendments effective from 6th August, 2014

1. Scope of section 83 has been enhanced by including reference to sections 5A(2A), 15A and 15B of the Central Excise Act.
2. Section 73 has been amended by way of insertion of new sub-section (4B) to prescribe time limits for completion of adjudication. Where it is possible, the Central Excise Officer shall determine the amount of service tax due within one year in cases involving fraud etc. and six months in other cases.
3. Section 80 which provides for non-imposition of penalties in case there is a reasonable cause for failure has been amended to exclude the reference of first proviso to sub section (1) of section 78. This amendment, in effect, will remove the power to waive the remaining 50% penalty imposable in cases where service tax has not been levied, not paid or short levied or short paid on account of suppression of facts or willful misstatement but true and complete details of transactions are available in the specified record.
4. Section 82(1) has been amended, along the lines of section 12F(1) of the Central Excise Act, so that Joint Commissioner or Additional Commissioner or any other officer to be notified by the Board can authorize any Central Excise Officer to search and seize.
5. Section 87 has been amended to incorporate power to recover dues of a predecessor from the assets of a successor purchased from the predecessor as it is presently provided for in section 11 of the Central Excise Act, 1944.
6. Section 94 has been amended to obtain the following rule making powers:
 - (a) To impose upon assesseees, inter alia, the duty of furnishing information, keeping records and making returns and specify the manner in which they shall be verified;
 - (b) For withdrawal of facilities or imposition of restrictions (including restrictions on utilization of CENVAT credit) on service provider or exporter, to check evasion of duty or misuse of CENVAT credit; and
 - (c) To issue instructions in supplemental or incidental matters