

E-Flash

Amendments Proposed by Finance Bill, 2015



The Institute of Chartered Accountants of India
(Set up by an Act of Parliament)

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Message from the President



The full-fledged yearly budget was presented by Hon'ble Finance Minister Shri Arun Jaitley on 28th February 2015. The much anticipated budget is considered to lay the roadmap for the ruling Government's focus on manufacturing in India through its initiative "Make in India". It is quite evident that budget has announced far reaching reforms especially on the tax administration front.

The Institute of Chartered Accountants of India (ICAI) has always been proactive in disseminating vital information to its members and other stakeholders. Continuing with its efforts in this direction, the ICAI has come up with this e-publication on Changes proposed by Union Budget 2015-16 which aptly provides crisp highlights of the Union Budget 2015-16.

I heartily appreciate the efforts put in by CA. Atul Gupta, Chairman and CA. Shyam Lal Agarwal, Vice-Chairman, Indirect Taxes Committee (IDTC), CA. Tarun Jamnadas Ghia, Chairman, Direct Taxes Committee (DTC), CA. Nihar N. Jambusaria, Chairman and CA. Sanjiv Kumar Chaudhary, Vice-Chairman, Committee of International Taxation (CITAX), CA. Vijay Garg, Chairman, Committee on Public Finance and Government Accounting (CPF&GA), CA. Sanjay Agarwal, Vice-Chairman, (DTC & CPF&GA) and other members of respective committees in bringing out this publication in a short span of time. I am sure this publication would prove useful and beneficial for members in their endeavours.

Best Wishes

CA. Manoj Fadnis
President, ICAI

Message from the Vice-President

The Union Budget 2015-16, presented on 28th February 2015 by Shri Arun Jaitley, Hon'ble Finance Minister, is indeed a very progressive budget and sets the right agenda for the years to come i.e., to accelerate growth with focus on ease of doing business, corporate tax rationalization, predictive tax regime and adopting more technology. It rightly aims to address public expectations as well as help India garner its inclusive growth status.

A gamut of changes are introduced by the Union Budget 2015-16, paving a way for major changes expected to take place like introduction of GST, infrastructure development, smart cities, make in India, skill India, digital India, etc. The budget is directed towards economic stability, improved governance and stable growth & development. What needs to be noted is that it intends to cater to the needs of all the sections of the society.

All the four Committees-Indirect Taxes Committee (IDTC), Direct Taxes Committee (DTC), Committee on International Taxation (CITax) and Committee on Public Finance and Government Accounting (CPF&GA) of the Institute of Chartered Accountants of India (ICAI) have put in tremendous efforts to bring this e-publication and I sincerely appreciate their hard work for the same. I also compliment Chairmen of all the above Committees namely CA. Atul Kumar Gupta, CA. Tarun Jamnadas Ghia, CA. Nihar N. Jambusaria and CA. Vijay Garg respectively for all their untiring efforts and contribution.

This e-publication systematically brings out the crux of the Finance Bill, 2015. I wish the members/stakeholders to have an enriching knowledge update with this initiative of ICAI.

Warm regards
CA. M. Devaraja Reddy
Vice- President, ICAI





Chairmen Speak



The Government's much awaited reform-oriented budget targets a higher growth in order to boost the national economy in the days to come. It focuses on sustainable growth and development fixing the growth rate between 8% and 8.5% and aiming to achieve durable double-digit economic growth very soon, while the fiscal and revenue deficit target has been set at 3.9% and 2.8% of the GDP respectively for 2015-16.

In order to create more jobs, the budget aims at making India a global manufacturing hub through Make in India programmes. The impetus to infrastructure, agriculture and education sectors is laudable. Other significant initiatives like universal social security system for all, comprehensive law to deal with black money, need to increase public investment in infrastructure by introducing National Investment and Infrastructure Fund, improving the quality of life through Swachh Bharat initiative.

I sincerely hope that this e-Flash will apprise our readers with a broader view of the Union Budget 2015-16.

CA. Vijay Garg

Chairman

Committee on Public Finance & Government Accounting

The drift of this budget is an effective abolishment of black money by introducing stringent laws, while ensuring more transparency in the system. Highlights of the budget include more rigid punishments for the income concealers, getting rid of wealth tax and replacing that with an additional surcharge on super rich, reduction in corporate tax, increase in threshold limit of transfer pricing, introduction of direct tax regime (internationally competitive on rates without exemptions), implementation of GST in April 2016, etc. It aims at achieving the growth of 8% to 8.5%.

CA. Tarun Jamnadas Ghia

Chairman, Direct Taxes Committee



The Union Budget 2015-16 has been presented which addresses the need of all inclusive development and sustainable economic growth. The budget is pragmatic enough to strike a chord with the masses by targeting the development for one and all. It is quite evident that budget has announced far reaching reforms especially on the tax administration front.

This publication is developed with an objective to acquaint the readers with amendments in taxation brought in by Union Budget 2015-16.

CA. Atul Gupta

Chairman, Indirect Taxes Committee

The Union Budget 2015-16 presented on 28th February, 2015 is widely considered to be Industry-Friendly and pre-reform was the first glimpse into the mindset of Shri Narendra Modi regime. This Budget has made Commitment for the next generation of tax reforms, stability of tax regime and fiscal consolidation. It paves the way for a strong and vibrant economy. I am confident that this progressive and growth oriented budget would facilitate the emergence of a resurgent India.

CA. Nihar N. Jambusaria

Chairman

Committee on International Taxation





State of the Economy

Union Budget 2015-16 Highlights

Committee on Public finance and Government Accounting

The Government in its first full-year Budget has claimed to take up several steps to energise Indian Economy. The Union Budget for 2015-16 has attempted to strike a balance between supporting investment, boosting social sector spending and introducing investor and market friendly measures. It contains a series of incrementally positive steps, with the focus firmly on reviving investments in infrastructure, improving the ease of doing business and augmenting funds in the hands of the middle class. The setting up of a Public Debt Office and specific inflation targeting framework are also steps in the right direction.

The Budget 2015-16 has been presented when Indian Economy has embarked upon a high growth trajectory when the global economy is facing a downturn. With Growth Rate expected to be 7.4%, Inflation touching negative level (in terms of Whole-Sale-Price Index i.e. WPI), Current Account Deficit (CAD) moving towards less than 1.3% of GDP and maintaining fiscal deficit of 4.1 % of GDP in 2014-15, the Indian Economy is expected to achieve **dream double digit** growth in near future.

By the year 2022 which will be the Amrut Mahotsav, the 75th year, of India's independence.

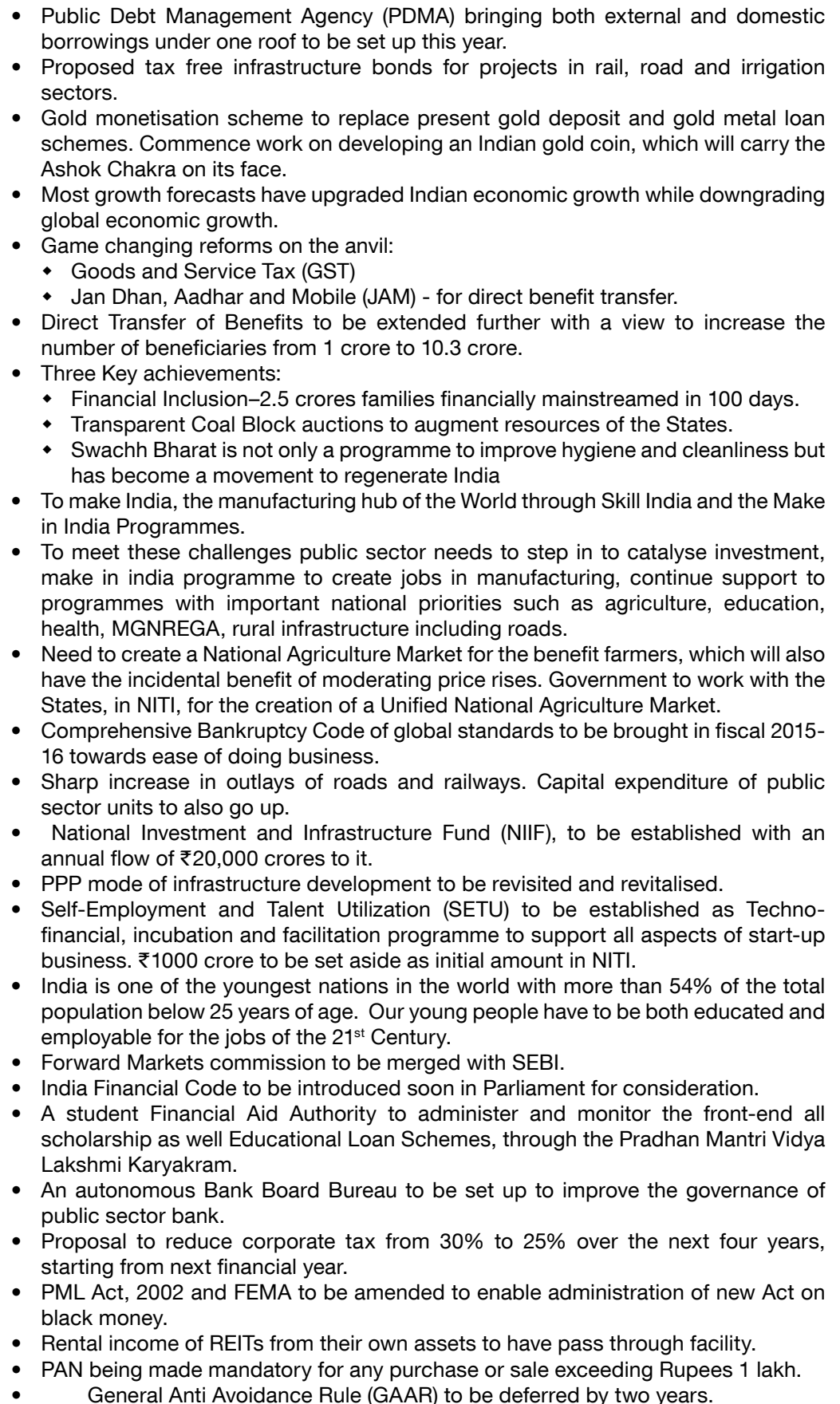
The Government envisions to,

- Give Housing for all clean drinking water, a toilet, and be connected to a road
- Give basic facilities of 24 hours power supply clean drinking water, a toilet, and be connected to a road to every household.
- Means for livelihood to every household.
- Substantial reduction of poverty.
- Electrification, by 2020

Key Highlights of the Union Budget 2015-16

- Budget 2015-16 marks the beginning of co-operative federalism and empowerment of the states.
- GDP growth in 2015-16, projected to be between 8 to 8.5%.
- Government firm on journey to achieve fiscal target of 3% of GDP. Accordingly, journey for fiscal deficit target of 3% will be achieved in 3 years rather than 2 years. The fiscal deficit targets are 3.9%, 3.5% and 3.0% in FY 2015-16, 2016-17 & 2017-18 respectively.
- Need to view public finances from a National perspective and not just the perspective of the Central Government. Aggregate public expenditure of the Governments, as a whole can be expected to rise substantially.
- Non-Plan expenditure estimates for the Financial Year are estimated at ₹13,12,200 crore.
- Plan expenditure is estimated to be ₹4,65,277 crore, which is very near to the R.E. of 2014-15.
- Gross Tax receipts are estimated to be ₹14,49,490 crore.
- Devolution to the States is estimated to be ₹5,23,958.
- Share of Central Government will be ₹9,19,842.
- Fiscal deficit will be 3.9 per cent of GDP and Revenue Deficit will be 2.8 per cent of GDP.
- CPI inflation projected at 5% by the end of the year, consequently, easing of monetary policy.
- Monetary Policy Framework Agreement with RBI, to keep inflation below 6%.







- Wealth-tax replaced with additional surcharge of 2 per cent on super rich with a taxable income of over ₹1 crore annually.
- Tax Administration Reform Commission (TARC) recommendations to be appropriately implemented during the course of the year.
- Service-tax plus education cesses increased from 12.36% to 14% to facilitate transition to GST.
- 100% deduction for contributions, other than by way of CSR contribution, to Swachh Bharat Kosh and Clean Ganga Fund.

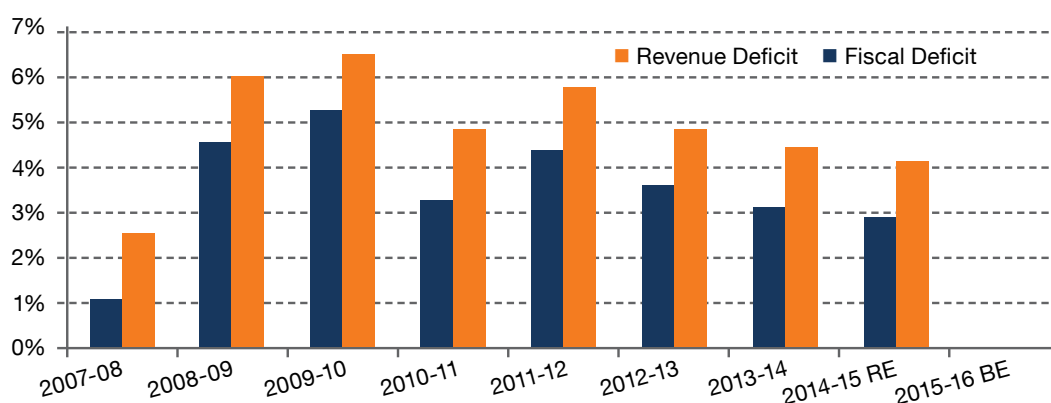
In line with expectations, the RE for 2014-15 indicate that the fiscal deficit would be restricted at the budgeted 4.1% of GDP. The BE for 2015-16 indicates continued fiscal consolidation, albeit with a limited reduction in the fiscal deficit to 3.9% of GDP. The quality of the fiscal deficit is expected to remain stagnant, with the revenue deficit accounting for around 71% of the total fiscal deficit in both 2014-15 RE and 2015-16 BE. Some Indicators are given below:

Government of India's Fiscal Balances

	₹billion			Growth	
	2013-14 Actual	2014-15 RE	2015-16 BE	2014-15 RE	2015-16 BE
Revenue Receipts	10,147	11263	11416	11%	1%
Tax Revenue \$	8159	9085	9198	11%	1%
Non Tax Revenues	1989	2178	2217	10%	2%
Revenue Expenditure	13718	14888	15360	9%	3%
Revenue deficit	3570	3625	3945		
% of GDP	3.1%	2.9%	2.8%		
Capital Receipts (Non Debt)	419	422	803	1%	90%
Capital Expenditure	1877	1924	2414	3%	25%
Fiscal Deficit	5029	5126	5556		
% of GDP	4.4%	4.1%	3.9%		

Source: Gol Budget Documents; CGA; ICRA Research
\$ Net of Refunds, Net of States' share in Central Taxes

Gol's Revenue and Fiscal Deficit as a Percentage of GDP



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

Overall, the budget seems credible, especially pertaining to revenue growth. Gross tax revenues are estimated to grow by 15.8%, boosted by the hike in indirect taxes, increase in surcharge on direct taxes and the impact of the excise hikes on petrol and diesel instituted since November 2014. However, growth of net tax revenues is subdued on account of the sharp step up in devolution of Central taxes to State Governments.



Amendments Proposed by Finance Bill, 2015 in Direct Taxes

Direct Taxes Committee

Tax Rates

- No change in the basic exemption limit and the tax rates of individuals
- Corporate tax rates proposed to be reduced from 30% to 25% over the next four years, starting from next financial year.
- The existing rate of tax on Income by way of Royalty and Fees for technical services in case of non-residents @25% proposed to be reduced to 10%.
- Additional surcharge @ 2% being levied on income exceeding ₹1 crore. **This surcharge would be levied in place of Wealth-tax which is proposed to be abolished.**

Deductions from Gross Total Income

- Exempt-Exempt-Exempt (EEE) tax benefit proposed for assessee having a girl child and investing under the Sukanya Samriddhi Account Scheme. The investments made in the Scheme will be eligible for deduction under section 80C of the Act, the interest accruing on deposits in such account will be exempt from income tax and the withdrawal from the said scheme in accordance with the rules of the said scheme will be exempt from tax.
- In view of continuous rise in the cost of medical expenditure, section 80D is proposed to be amended to raise the limit of deduction from **₹15,000 to ₹25,000**. Further, the limit of deduction for senior citizens is also proposed to be increased from **₹20,000 to ₹30,000**.
- As a welfare measure towards **very senior citizens**, a deduction under section 80D is proposed for any payment made on **account of medical expenditure** in respect of a very senior citizen, subject to a limit ₹30,000.
- The limit for deduction under section 80DDB is proposed to be increased to ₹80,000 in respect of amount paid for medical treatment **of very senior citizen**.
- Section 80DD and section 80U is proposed to be amended to increase the limit from **₹50,000 to ₹75,000** and from **₹1 lakh to ₹1.25 lakh**, as the case may be.
- In order to promote social security, deduction section 80CCC(1) which provides for deduction of amount paid or deposited to effect or keep in force a contract for any annuity plan of LIC or any other insurer for receiving pension from a fund set up under a pension scheme is proposed to be amended to raise the limit of deduction from **₹1 lakh to ₹1.5 lakh**, within the overall limit provided in section 80CCE.
- Section 80G is proposed to be amended to provide for 100% deduction in respect of donations made to the **National Fund for Control of Drug Abuse**.
- With a view to encourage and enhance people's participation in the national effort to improve sanitation facilities and rejuvenation of river Ganga, section 80G is proposed to be amended so as to provide 100% deduction for donations made by any donor to the **Swachh Bharat Kosh and to Clean Ganga Fund**.



Measures to curb black money

- In order to curb generation of black money by way of dealings in cash in immovable property transactions, section 269SS is proposed to be amended so as to provide that no person shall accept from any person, any loan or deposit or any sum of money, whether as advance or otherwise, **in relation to transfer of an immovable property** otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.
- Similarly, section 269T also is proposed to be amended so as to provide that no person shall repay any loan or deposit made with it or any specified advance received by it **in relation to transfer of an immovable property whether or not the transfer takes place**, otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount or aggregate amount of loans or deposits or specified advances is twenty thousand rupees or more.

General Anti Avoidance Rule (GAAR)

- The implementation of General Anti Avoidance Rule (GAAR) is proposed to be deferred by two years. Accordingly, it would be applicable for the financial year 2017-18 (A.Y. 2018-19) and subsequent years. Further, it is also proposed that the investments made upto 31.03.2017 shall not be subject to GAAR.

Additional Investment Allowance and provisions in respect of additional depreciation

- A new section 32AD is proposed to be inserted to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—
 - (a) he sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and
 - (b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.
 This deduction shall be available over and above the existing deduction available under section 32AC of the Act.
- Further, in order to incentivise acquisition and installation of plant and machinery for setting up of manufacturing units in the notified backward area in the State of Andhra Pradesh or the State of Telangana, it is proposed **to allow higher additional depreciation at the rate of 35% (instead of 20%)** in respect of the actual cost of new machinery or plant (other than a ship and aircraft) acquired and installed by a manufacturing undertaking or enterprise which is set up in the notified backward area of the State of Andhra Pradesh or the State of Telangana on or after the 1st day of April, 2015.
- To remove the discrimination in the matter of allowing additional depreciation under section 32(1)(ia) on plant or machinery used for less than 180 days and used for 180 days or more, it is proposed to provide that the **balance 50% of the additional depreciation** on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the immediately succeeding previous year.





Definition of charitable purpose

- The definition for charitable purpose provided under section 2(15) is proposed to be amended to include the activity of Yoga as a special category of activity to be considered as charitable purpose on the lines of education.
- The definition is proposed to be further amended to provide that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless,-
 - (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
 - (ii) the aggregate receipts from such activity or activities, during the previous year, do not exceed 20% of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year.

Cost of acquisition in the hands of resulting company

- There is no express provision under the Income-tax Act, with regard to value to be considered as cost of acquisition of a capital asset in the hands of resulting company on transfer of capital assets acquired on demerger. Accordingly, section 49 is proposed to be amended to provide that the cost of acquisition of an asset acquired by resulting company shall be the **cost for which the demerged company acquired the capital asset** as increased by the cost of improvement incurred by the demerged company.

Direct Taxes Code

- Since the jurisprudence under the Income-tax Act is well evolved and a large number of provisions of the proposed DTC have already been included in the Income-tax Act, 1961 and the remaining are proposed to be included through the Finance Bill, 2015, the Government has expressed its resolve of not going ahead with the DTC.





Amendments Proposed by Finance Bill, 2015 in Indirect Taxes

Indirect Taxes Committee

CENTRAL EXCISE


Rate of excise duty

Education Cess and Secondary & Higher Education Cess leviable on excisable goods fully exempted. Further, standard ad valorem rate of excise duty increased from 12% to 12.5%. These changes have come into force with immediate effect.

Amendments to be effective from the date on which Finance Bill receives the assent of the President

Amendments in the Central Excise Act, 1944

1. Section 11A proposed to be amended to provide as follows:
 - (i) category of cases where extended period of time applies but the transactions are recorded in the specified record, to be removed from the statute,
 - (ii) provision relating to relevant date also amended to provide definition of relevant date in respect of cases where a return is not filed on the due date and where only interest is required to be recovered,
 - (iii) provisions of section 11A not to apply to cases where the non-payment or short payment of duty is reflected in the periodic returns filed and that in such cases recovery of duty shall be made in such manner as may be prescribed in the rules.
2. Section 11AC proposed to be substituted so as to rationalize the penalty in the following manner:
 - (i) in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Central Excise Act or rules with the intent to evade payment of excise duty-
 - a) in addition to the duty as determined under section 11A(10), a penalty not exceeding 10% of the duty so determined or ₹5000, whichever is higher, shall be payable;
 - b) if duty and interest payable thereon under section 11AA is paid either before issue of show cause notice or within 30 days of issue of show cause notice, no penalty shall be payable and all proceedings in respect of said duty and interest shall be deemed to be concluded;
 - c) if duty as determined under section 11A(10) and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the penalty so imposed, provided that such reduced penalty is also paid within 30 days of the date of communication of such order.
 - (ii) in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Central Excise Act or rules with the intent to evade payment of excise duty-
 - a) in addition to the duty as determined under section 11A(10), a penalty equal to the duty so determined shall be payable.
 - b) if duty and interest payable thereon under section 11AA is paid within 30 days of communication of show cause notice, the amount of penalty payable shall be 15% of the duty demanded, provided that such reduced penalty is also paid within 30 days of communication of show cause notice and all proceedings in respect of said duty, interest and penalty shall be deemed to be concluded;



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c) if duty as determined under section 11A(10) and interest payable thereon under section 11AA is paid within 30 days of the date of communication of order of the Central Excise Officer who has determined such duty, the amount of penalty shall be equal to 25% of the duty so determined, provided that such reduced penalty is also paid within 30 days of the date of communication of such order; and

(iii) If the duty amount gets modified in any appellate proceeding, then the penalty amount mentioned in (ii) (a) above and interest shall also stand modified accordingly. Where the duty amount is increased in the appellate proceedings, the benefit of reduced penalty as specified shall be admissible if duty, interest and reduced penalty in relation to such increased amount is paid within 30 days of such appellate order.

3. Section 32B proposed to be amended so as to enable Vice Chairman or Member of the Settlement Commission to officiate as Chairman, in the absence of Chairman of the Settlement Commission.
4. Penalty provided under sub-sections (4) and (5) of section 37 proposed to be enhanced from `2000 to `5000.
5. An explanation proposed to be inserted to section 3A(3) to provide that “factor” relevant to production, in the said sub-section, includes “factors” relevant to production. This enables the Central Government to specify more than one factor relevant to the production of such goods. This amendment will come into effect immediately.

Amendments effective from 1st March, 2015

Amendments in the CENVAT Credit Rules, 2004

1. Time limit for taking CENVAT credit on inputs and input services enhanced from the present 6 months to one year [Rule 4].
2. Time limit for return of capital goods from a job worker enhanced from the present 6 months to two years [Rule 4].
3. Provision relating to reversal for CENVAT credit, presently applicable to exempted goods and services, made applicable to non-excisable goods also [Rule 6].
4. CENVAT credit taken, but NOT utilized, also to be recovered [Rule 14].

Amendments in the Central Excise Rules, 2002

Digitally signed invoices may be issued and records may be preserved in electronic form by a manufacturer [Rules 10 and 11].

Simultaneous amendments in Central Excise Rules, 2002 and CENVAT Credit Rules, 2004

1. Direct dispatch of goods to registered dealer's/registered importer's customers allowed without first bringing them to the dealer's/importer's registered premises subject to the conditions specified therein.
2. Direct dispatch of inputs and capital goods to job worker allowed without first bringing them to the manufacturer's /output service provider's premises subject to the conditions specified therein.
3. Application of certain provisions of these rules, presently applicable to the registered dealers, to apply to the registered importers also.

Other amendment

Registration process simplified to ensure that registration is granted within 2 working days of the receipt of a duly completed application form. Verification of documents and premises, as the case may be, shall be carried out after the grant of the registration.



CUSTOMS

Amendments to be effective from the date on which Finance Bill receives the assent of the President

Amendments in the Customs Act, 1962

1. Section 28 to be amended to provide as follows:
 - (i) in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, no penalty shall be imposed if the amount of duty along with interest, is paid in full within 30 days from the date of receipt of the notice and the proceedings in respect of such person or other persons to whom the notice is served shall be deemed to be concluded;
 - (ii) in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of duty, the amount of penalty payable to be reduced to 15% (instead of the present 25%) if the amount of duty in full or in part, as may be accepted, along with interest and such reduced penalty, is paid within 30 days from the date of receipt of the notice.
2. Section 112 providing penalty for improper importation of goods, etc/section 114 providing penalty for attempt to export goods improperly, etc. proposed to be amended to provide that any person who, in relation to any dutiable goods, other than prohibited goods, does or omits to do any act which would render such goods liable to confiscation under section 111/ section 113 respectively, or abets the doing or omission of such an act, shall, subject to the provisions of section 114A, be liable to a penalty not exceeding 10% of the duty sought to be evaded OR `5000, whichever is greater.

However, in cases of short levy or non-levy or short payment or non-payment and erroneous refund of duty for reasons of collusion or any willful mis-statement or suppression of facts, if the duty as determined under section 28(8) and the interest payable thereon under section 28AA is paid within 30 days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid under this section shall be 25% of the penalty so determined.

COMMON AMENDMENTS UNDER CENTRAL EXCISE AND CUSTOMS

1. The scheme of Advance Ruling extended to "resident firm" in Central Excise and Customs (effective from 1st March, 2015).
2. Proviso to section 31(c) of the Central Excise Act, 1944/ proviso to section 127A(b) of the Customs Act, 1962 proposed to be amended to provide that when any proceeding is referred back, whether in appeal or revision or otherwise, by any court, Appellate Tribunal Authority or any other authority to the adjudicating authority for a fresh adjudication or decision, then such case shall not be entitled for Settlement (to be effective from the date the Finance Bill received President's assent).
3. Certain provisions relating to Settlement Commission, which are now redundant, are proposed to be omitted (to be effective from the date the Finance Bill received President's assent).

SERVICE TAX

Amendments to be effective from a date to be notified after Finance Bill receives the assent of the President

1. Service Tax Rate

The rate of Service Tax is being increased from 12% plus Education Cesses i.e. 12.36% to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess'

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shall be subsumed in the revised rate of Service Tax. Accordingly, an amendment is being made in section 66B, sections 95 and section 140 of the Finance Act. The 'EC' and SHEC will continue to be levied in Service Tax till the time revised rate comes into effect.

2. Swachh Bharat Cess

Central Government has been empowered to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% on the value of such taxable services. This cess shall be levied from such date as may be notified by the Central Government after the enactment of the Finance Bill, 2015.

Amendments made with immediate effect

- Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the services provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This is done on account of the amendments made in law in the previous budget making the place of provision of a service provided by such agents as outside the taxable territory.
- The facility of Advance Ruling is being extended to all resident firms by specifying such firms under section 96A (b)(iii) of the Finance Act, 1994.

A. Amendment to Negative List: to be effective from a date to be notified after Finance Bill receives the assent of the President

- Negative list entry covering "Entry to Entertainment Events and Access to Amusement Facilities" has been omitted. Its implications are as follows:
 - Service Tax shall be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.
 - Service tax to be levied on service by way of admission to entertainment event of concerts, pageants, musical performances concerts, award functions and sporting events other than the recognized sporting event, if the amount charged is more than Rs. 500 for right to admission to such an event.
 - Service by way of admission to entertainment event, namely, exhibition of cinematographic film, circus, recognized sporting event, dance, theatrical performance including drama and ballet is exempted from Service Tax from notification No. 25/12-ST(Mega exemption Notification)
- Earlier Negative List covered services by way of any process amounting to manufacture or production of goods which includes carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Now Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for human consumption.
- Earlier Negative List covered services provided by the Government or a local authority excluding certain services, as specified, which included "support service" provided by the Government or local authority to a business entity. Now all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax.

B. Amendments in Service Tax Rules

- With effect from 01st March 2015, in respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India or an agent of aggregator, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. In

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- this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012.
- With effect from 01st March 2015, rule 4 has been amended to provide that the CBEC shall, by way of an order will specify the conditions, safeguards and procedure for registration in service tax. In this regard Order No. 1/15-ST, dated 28.2.2015 has been issued, prescribing documentation, time limits and procedure for registration. It has also been prescribed that henceforth registration for single premises shall be granted within two days of filing the application.
 - Rule 4, 4A and 5A: provision for issuing digitally signed invoices is being added along with the option of maintaining of records in electronic form and their authentication by means of digital signatures. The conditions and procedure in this regard shall be specified by the CBEC. The changes are applicable with immediate effect.
 - Rule 6 (6A): provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to the amendment in section 73 for enabling such recovery. This change will come into effect from the date of enactment of the Finance Bill, 2015.
 - In respect of services given in below table the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates is revised proportionately as per the table given below:

S. No.	Name of Service	Old Rate	New Rate
1.	Air Travel Agent(Domestic Bookings)	0.6%	0.7%
	Air Travel Agent (International Bookings)	1.2%	1.4%
2.	Life Insurance Service	3 % and 1.5 %	3.5 % and 1.75 % respectively.
3.	Money Changer Service	(a) 0.12 per cent. of the gross amount of currency exchanged for an amount upto rupees 100,000, subject to the minimum amount of rupees 30; and (b) rupees 120 and 0.06 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding rupees 100,000 and upto rupees 10,00,000; and (c) rupees 660 and 0.012 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding 10,00,000, subject to maximum amount of rupees 5000	(a) 0.14 per cent. of the gross amount of currency exchanged for an amount upto rupees 100,000, subject to the minimum amount of rupees 35; and (b) rupees 140 and 0.07 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding rupees 100,000 and upto rupees 10,00,000; and (c) rupees 770 and 0.014 per cent. of the gross amount of currency exchanged for an amount of rupees exceeding 10,00,000, subject to maximum amount of rupees 5000
3.	lottery distributor and selling agent	₹7,000/- & ₹10,000/-	₹8,200/- & ₹12,800/- respectively.

The above changes will become effective from a date to be notified after Finance Bill receives the assent of the President

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Amendments applicable w.e.f. 1st April 2015

A. Amendment to Mega Exemption Notification

1. Rationalization of Existing Exemptions

- (a) Exemption presently available on specified services of construction, repair, maintenance, renovation or alteration service provided to the Government, a local authority, or governmental authority (vide S. No. 12 of the notification No. 25/12-ST) shall be limited only to:-
 - (a) a historical monument, archaeological site or remains of national importance, archaeological excavation or antiquity;
 - (b) canal, dam or other irrigation work; and
 - (c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.
 Exemption to other services presently covered under S. No. 12 of notification No. 25/12-ST is being withdrawn.
- (b) Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port provide vide entry 14 is being withdrawn. However the other exemptions covered under entry 14 will continue unaltered.
- (c) Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, will be limited only to such cases where amount charged is upto ₹1,00,000 for a performance.
- (d) Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.
- (e) Exemptions are being withdrawn on the following services:
 - a. services provided by a mutual fund agent to a mutual fund or assets management company,
 - b. distributor to a mutual fund or AMC,
 - c. selling or marketing agent of lottery ticket to a distributor.
 Service Tax on these services shall be levied on reverse charge basis.
- (f) Consequent to imposition of Service Tax levy on service by way of manufacture of alcoholic liquor for human consumption, an amendment is being made in the entry at S. No. 30 of notification No. 25/12-ST to exclude carrying out of intermediate production process of alcoholic liquor for human consumption on job work from this entry. The change shall come into effect from a date to be notified after the enactment of the Finance Bill, 2015.
- (g) Exemption is being withdrawn on the following service,-
 - a. Departmentally run public telephone;
 - b. Guaranteed public telephone operating only local calls;
 - c. Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

2. New exemptions introduced

- (a) Exemption to any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment. All ambulance services are covered within the scope of this exemption.
- (b) Exemption to Life insurance service provided by way of Varishtha Pension Bima Yojna.
- (c) Exemption to Service provided by a Common Effluent Treatment Plant operator for treatment of effluent.
- (d) Exemption to Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables.
- (e) Exemption to Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve. These services when provided by Government or local authority are covered under Negative List.



- (f) Exemption to Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitor as one of its members.
- (g) Exemption to Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport vide notification No. 31/12-ST dated 20.6.2012.
- (h) Exemption to service by way of right to admission to,-
 - i. exhibition of cinematographic film, circus, dance, or theatrical performances including drama or ballet.
 - ii. recognized sporting events.
 - iii. concerts, pageants, award functions, musical performances or sporting events not covered by S. No. ii, where the consideration for such admission is upto ₹500 per person.

These exemptions are in lieu of activities covered by the Negative List which are withdrawn. The change shall come into effect from a date to be notified after the enactment of the Finance Bill, 2015.

B. Abatement Notification amended

1. The taxable portion of service of transportation by rail, road and vessel shall be 30% subject to a uniform condition of non-availment of CENVAT Credit on inputs, capital goods and input services.
2. The taxable portion of value of air transport of passenger for higher classes shall be 60% as against economy class for which Service Tax is payable on 40% of the value.
3. Abatement is withdrawn for services provided in relation to chit and Service Tax is payable by chit fund foremen on the full consideration received by way of fee, commission or any such amount with a facility to avail CENVAT Credit on the same.

C. Reverse charge/Partial reverse charge

1. In relation to manpower supply and security services provided by an individual, HUF, or partnership firm to a body corporate, only service receiver to pay service tax as against present system of partial reverse charge.
2. Service Tax in respect of mutual fund agent and mutual fund distributor services shall be paid by the assets management company or by the mutual fund receiving such services.
3. Distributor of Lottery is required to pay Service Tax in respect of agents of lottery.

D. CENVAT CREDIT RULES

1. Earlier CENVAT credit to service receiver under partial reverse charge was eligible only if payment of service has been made to service provider. Now with effect from 1.4.2015 Rule 4(7) has been amended to allow CENVAT Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

E. Other Amendments which shall get incorporated in the said Act on the day the Finance Bill, 2015 is enacted.

1. Consideration for a taxable service shall include all reimbursable expenditure or cost incurred and charged by the service provider and amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket or the discount received.
2. Section 73 is being amended in the following manner:
 - (a) A new sub-section (1B) is being inserted to provide that recovery of the Service Tax amount self-assessed and declared in the return but not paid shall be made

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under section 87, without service of any notice under sub-section (1) of section 73; and

- (b) sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.
3. Section 76 is being amended to rationalize the provisions relating to penalties, in cases not involving fraud or collusion or wilful misstatement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-
 - (a) penalty not to exceed ten per cent. of Service Tax amount involved in such cases;
 - (b) no penalty is to be paid if Service Tax and interest is paid within 30 days of issuance of notice under section 73 (1);
 - (c) a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and
 - (d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.
4. Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or wilful mis-statement of suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of Service Tax, in the following manner,-
 - (a) penalty shall be hundred per cent of Service Tax amount involved in such cases;
 - (b) a reduced penalty equal to 15% of the Service Tax amount is to be paid if Service Tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;
 - (c) a reduced penalty equal to 25% of the Service Tax amount, determined by the Central Excise officer by an order, is to be paid if the Service Tax, interest and reduced penalty is paid within 30 days of such order; and
 - (d) if the Service Tax amount gets reduced in any appellate proceeding, then the penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if Service Tax, interest and reduced penalty is paid within 30 days of such appellate order.
5. A new section 78 B is being inserted to prescribe, by way of a transition provision, that,-
 - (a) amended provisions of sections 76 and 78 shall apply to cases where either no notice is served, or notice is served under subsection (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and
 - (b) in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the Service Tax amount.
6. Section 80, that provided for waiver of penalty in certain circumstances, is being omitted.
7. Section 86 is being amended to prescribe that remedy against the order passed by Commissioner (Appeal), in a matter involving rebate of Service Tax, shall lie in terms of section 35EE of the Central Excise Act. It is also being provided that all appeals filed in Tribunal after the date the Finance Act, 2012 came into effect and pending on the date when the Finance Bill, 2015 receives assent of the President shall be transferred and dealt in accordance with section 35EE of the Central Excise Act.

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Amendments Proposed by Finance Bill, 2015 in International Taxation

Committee on International Taxation

Fund Managers in India not to constitute business connection of offshore funds

- It is proposed that mere presence of a fund manager in India would not constitute PE of the offshore funds, as this is resulting in adverse tax consequences currently.
- In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfilment of certain conditions by the fund and the fund manager,-
 - (i) the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and
 - (ii) that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India.
- In the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

Reduction in rate of tax on Income by way of Royalty and Fees for technical services in case of non-residents-Proposed Reduction in Royalty / FTS rate to 10% from 25%

- It is proposed to reduce the rate of tax provided under section 115A on royalty and FTS payments made to non-residents from 25% to 10%.

Clarity relating to Indirect transfer provisions-Further clarification to Explanation 5 in section 9(1)(i)

Currently The Explanation 5 in section 9(1)(i) clarified that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

The share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if on the specified date, the value of Indian assets,-

- a) exceeds the amount of ten Crore rupees ; and
- b) Represents at least fifty per cent. of the value of all the assets owned by the company or entity.

Value of an asset shall mean the fair market value of such asset without reduction of liabilities, if any, in respect of the asset.

The specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.

Raising the threshold for specified domestic transaction-Increase in limit of specified domestic transaction from 5 Crores to 20 Crores rupees

- It is proposed to amend section 92BA by increasing the limit of specified domestic transactions entered into by the assessee from 5 Crores to 20 Crores rupees.





Enabling the Board to notify rules for giving foreign tax credit-Rules will be prescribed to claim foreign tax credit u/s 90, 90A and 91

- CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act. This amendment will take effect from 1st day of June, 2015.

Clarity regarding source rule in respect of interest received by the non-resident in certain cases

- In the case of a non-resident, being a person engaged in the business of banking, the PE in India of such non-resident shall be obligated to deduct tax at source on any interest payable to either the head office or any other branch or PE, etc. of the non-resident outside India. Further, non-deduction would result in disallowance of interest claimed as expenditure by the PE and may also attract levy of interest and penalty in accordance with relevant provisions of the Act.

Amendment to the conditions for determining residency status in respect of Companies

- POEM is proposed to be introduced for determining the residential status of company which is in line with DTAA
- It is proposed to amend the provisions of section 6 to provide that a person being a company shall be said to be resident in India in any previous year, if-
 - (i) it is an Indian company; or
 - (ii) Its place of effective management, at any time in that year, is in India. (Earlier the provision was -during that year, the control and management of its affairs is situated wholly in India)
- Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

Rationalisation of provisions relating to Tax Deduction at Source (TDS) and Tax Collection at Source (TCS)-Penalty of 1 lakh proposed for providing incorrect information or non-providing of information as per 195(6)

- It is proposed to amend the provisions of section 195 of the Act to provide that the person responsible for paying any sum, **whether chargeable to tax or not, to a non-resident individual** or foreign company, **shall be required to furnish the information of the prescribed sum in such form and manner as may be prescribed.**
- It is further proposed to insert a new provision in the Act to provide that in case of non-furnishing of information or furnishing of incorrect information under sub-section (6) of section 195(6) of the Act, a penalty of **one lakh rupees** shall be levied.
- It is also proposed to amend the provisions of section 273B of the Act to provide that **no penalty shall be imposable under this new provision if it is proved that there was reasonable cause for non-furnishing or incorrect furnishing of information under sub-section (6) of section 195 of the Act.** These amendments will take effect from 1st June, 2015.

Power of the Central Board of Direct Taxes to prescribe the manner and procedure for computing period of stay in India

- It is proposed to amend the Act to provide that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed. This amendment will take effect retrospectively from 1st April, 2015.