India

Union Budget 2016-17

An Insight

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POLICY ANNOUNCEMENTS

1. **Agriculture and Farmer's Welfare**

- Implementation of 89 irrigation projects under Accelerated Irrigation Benefits Program (AIBP) will be fast tracked.

- A dedicated long term irrigation fund will be created in National Bank for Agricultural and Rural Development (India) (NABARD) with an initial corpus of INR 200 Billion to achieve above projects.

- A major program of sustainable management of the ground water resources has been prepared with an estimated cost of INR 600 Billion and proposed multilateral funding.

2. **Real Estate**

Modernization of land records is critical for dispute free titles. The National Land Record Modernization Program has been revamped under the Digital India Initiative and will be implemented as a Central sector scheme with effect from 1st April, 2016.

3. **Social Sector Including Health Care**

- INR 20 Billion allocated for initial cost of providing Liquefied Petroleum Gas (LPG) connections to Below Poverty Line (BPL) families.

- In order to help such families, the Government will launch a new health protection scheme which will provide health cover up to INR 0.1 Million per family. For senior citizens of age 60 years and above belonging to this category, an additional top-up package up to INR 30,000 will be provided.

- Government to start a 'National Dialysis Services Program'. Funds will be made available through Public Private Partnership (PPP) model under the National Health Mission, to provide dialysis services in all district hospitals.

- It is proposed to constitute a National Scheduled Caste and Scheduled Tribe Hub in the Micro Small and Medium Enterprises (MSME) Ministry in partnership with industry associations. This hub will provide professional support to Scheduled Caste and Scheduled Tribe entrepreneurs to fulfil the obligations under the Central Government Procurement Policy 2012 adopt global best practices and leverage the Stand Up India initiative.

- "Stand-Up India Scheme" to facilitate at least two such projects per bank branch. This will benefit at least 0.25 Million entrepreneurs.

4. Education and Skill Development

- It is proposed to establish a Digital Depository for school leaving certificates, college degrees, academic awards and mark sheets, on the pattern of a Securities Depository.

- To set up a Higher Education Financing Agency (HEFA) with an initial capital base of INR 10 Billion. The HEFA will be a not-for-profit organization that will leverage funds from the market and supplement them with donations and Corporate Social Responsibility (CSR) funds.

5. Skill Development

- It is proposed to set up 1500 Multi Skill Training Institutes across the country.

- To set up a National Board for Skill Development Certification in partnership with the industry and academia.

- Entrepreneurship Education and Training will be provided in 2200 colleges, 300 schools, 500 Government ITIs and 50 Vocational Training Centers through Massive Open Online Courses.

6. Job Creation

- Government of India will pay the Employee Pension Scheme contribution of 8.33% for all new employees enrolling in Employees Provident Fund Organization for the first three years of their employment.

- To make 100 Model Career Centres operational by the end of 2016-17 and also to inter-link State Employment Exchanges with the National Career Service platform.

- Government proposes to circulate a Model Shops and Establishments Bill which can be adopted by the State Governments on voluntary basis to protect the interest of the workers in terms of mandatory weekly holiday, number of working hours per day and to enable flexible working hours etc.

7. Infrastructure and Investment

- Government will enact necessary amendments in the Motor Vehicles Act and open up the road transport sector in the passenger segment. An enabling eco-system will be provided for the States which will have the choice of adopting the new legal framework.

- In the civil aviation sector, the Government is drawing up an action plan for revival of unserved and underserved airports for regional connectivity.

- As part of our drive towards self-sufficiency, the Government is considering to incentivise gas production from deep-water, ultra deep-water and high pressure-high temperature areas, which are presently not exploited on account of higher cost and higher risks. A proposal is under consideration for new discoveries and areas which are yet to commence production, first, to provide calibrated marketing freedom; and second, to do so at a pre-determined ceiling price to be discovered on the principle of landed price of alternative fuels.

- Steps to re-vitalize PPPs ie. Public Private Partnership :
  - Public Utility (Resolution of Disputes) Bill will be introduced
  - Guidelines for renegotiation of PPP Concession Agreements will be issued.
  - New credit rating system for infrastructure projects to be introduced.

- The changes are proposed in the Foreign Direct Investment (FDI) limits for the sectors such as areas of insurance and pension, Asset Reconstruction Companies, Stock Exchanges, etc.

- 100% FDI is proposed to be allowed through approval route in marketing of food products produced and manufactured in India. This will benefit farmers, give impetus to food processing industry and create vast employment opportunities.

- The Department of Disinvestment is being re-named as the "Department of Investment and Public Asset Management (DIPAM)".

8. Financial Sector Reforms

- A comprehensive Code on Resolution of Financial Firms will be introduced as a Bill in the Parliament during 2016-17. This Code will provide a specialized resolution mechanism to deal with bankruptcy situations in banks, insurance companies and financial sector entities.

- The Reserve Bank of India Act 1934, is being amended to provide statutory basis for a Monetary Policy Framework and a Monetary Policy Committee through the Finance Bill 2016.

- A Financial Data Management Centre under the aegis of the Financial Stability Development Council (FSDC) will be set up to facilitate integrated data aggregation and analysis in the financial sector.

- To make necessary amendments in the The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (SARFAESI Act) to enable the sponsor of an Asset Reconstruction Company (ARC) to hold up to 100% stake in the ARC and permit non institutional investors to invest in Securitization Receipts.

- Comprehensive Central Legislation to be bought to deal with the menace of illicit deposit taking schemes.

- To amend the Securities Exchange Board of India Act 1992 in the coming year to provide for more members and benches of the Securities Appellate Tribunal.

9. Governance and Ease of Doing Business

- A bill for Targeted Delivery of Financial and Other Subsidies, Benefits and Services to the people of India by using the Aadhar framework to be introduced.

- To introduce Department of Biotechnology (DBT) on pilot basis for fertilizer in a few districts across the country, with a view to improving the quality of service delivery to farmers.

- "Ek Bharat Shreshtha Bharat" program will be launched to link States and Districts in an annual program that connects people through exchanges in areas of language, trade, culture, travel and tourism.

FISCAL PROPOSALS

1. DIRECT TAXES

1.1 PERSONAL TAXATION

No change in the rates in case of individuals (including senior and super senior citizens), Hindu Undivided Family (HUF), co-operative societies, firms and Local Authorities. However, additional surcharge of 3% has been proposed to be levied in case of person having total income exceeding INR 10 million.

1.2 TAX RELIEF AND WELFARE MEASURES

1.2.1 The existing tax rebate of INR 2,000 available for small taxpayers having taxable income less than or equal to INR 500,000 is proposed to be increased to INR 5,000

1.2.2 Deduction of INR 24,000 available for people living in rented house (not having their own house nor receiving any house rent allowance) is proposed to be increased to INR 60,000.

1.2.3 Upper limit for applicability of presumptive taxation provisions for non-corporate business has been proposed to be increased from INR 10 million to INR 20 million.

1.2.4 Introduction of presumptive taxation scheme for professionals having income not exceeding INR 5 million, wherein, 50% of the gross receipts shall be deemed to be income liable for tax. This scheme is applicable on individuals, HUF's and partnership firms (LLP not covered) only.

1.2.5 Threshold limit for compulsory tax audit enhanced in the case of professionals from INR 2.5 million to INR 5 million. However, professionals not opting for presumptive scheme of taxation shall be compulsorily covered by tax audit, if their taxable income is more than the maximum amount not chargeable to income-tax.

1.2.6 Lower tax rate on royalty from patents registered in India

It is proposed that where the total income of a person resident in India includes any income by way of royalty in respect of a patent developed and registered in India (consideration for transfer of all or any rights in respect of a patent or imparting of any information concerning the working or use of a patent), then, such royalty shall be taxable at the rate of 10% (plus applicable surcharge and cess) on the gross amount of royalty. Further, the provisions of MAT shall not be applicable on such royalty income.

However, income from transfer of patent or any product manufactured with the use of patented process or patented article would not be covered by above.

1.2.7 Tax holiday of 3 years for start-ups

It is proposed to provide a tax holiday for any 3 consecutive assessment years out of 5 years (beginning from the year of incorporation) to an eligible start-up from a business involving innovation development, deployment or commercialization of new products, processes or services driven by technology or intellectual property, subject to certain conditions.

MAT would, however, be applicable.

1.2.8 Capital gain exemption for investment in Start Up Fund

It is proposed to provide capital gains tax exemption on investment of long term capital gain proceeds in units of a fund set up by the Government of India for financing of start-ups, subject to lock in period of 3 years and maximum amount of INR 5 million.

1.2.9 Tax holiday for housing projects

It is proposed to provide for a 100% tax holiday to assesses developing and building affordable housing projects if the housing project is approved by the competent authority before 31.03.2019, subject to following conditions:

i. The project is completed within a period of three years from the date of approval

ii. The project is on a plot of land measuring not less than 1000 sq. metres if it is located within the cities of Delhi, Mumbai, Chennai & Kolkata or within the area of 25 km from the municipal limits of said cities and the size of residential unit is not more than thirty sq. metres.

iii. The project is on a plot of land measuring not less than 2000 sq. metres if it is located in any other area and the size of residential unit is not more than sixty sq. metres

iv. If residential unit is allotted to an individual, no other unit shall be allotted to him or any member of his family.

MAT would, however, be applicable.

1.2.10 Additional deduction to individuals for availing housing loan during tax year 2016-17

It is proposed to incentivise first-home buyers availing home loans by providing an additional deduction in respect of interest on loan taken for residential house property from any financial institution up to INR 50,000. This incentive is available for house property of a value less than INR 50 million in respect of which a loan of an amount not exceeding INR 3.5 million has been sanctioned during the tax year 2016-17.

The above deduction is available over and above the existing limit of INR 0.2 million in respect of interest for a self-occupied property.

1.2.11 Tax incentive for employment generation

The current incentives are available to a taxpayer deriving profits and gains from manufacture of goods in a factory. With a view to extend the current employment generation incentive to all sectors, it is proposed to extend the benefit of deduction @ 30% on additional wages paid, to all assesses liable for tax audit.

- It is also proposed to provide that the deduction under the said provisions shall be available in respect of cost incurred on any employee whose total emoluments are less than or equal to INR 25,000 per month.

- It is also proposed to do away with conditions relating to minimum number/ percentage of increase in workmen and reduce the minimum number of working days from 300 to 240. It is also proposed that in the first year of a new business, 30% of all emoluments paid or payable to the employees employed shall be allowed as deduction.

1.2.12 Tax benefits for Sovereign Gold Bond Scheme, 2015

It is proposed that any redemption of Sovereign Gold Bond under the Sovereign Gold Bond Scheme, 2015, by an individual, shall be exempt from capital gains tax. It is also proposed to provide indexation benefits to long terms capital gains arising on transfer of Sovereign Gold Bond.

1.2.13 Tax benefits for Rupee Denominated Bond

It is proposed to provide that the capital gains arising in case of appreciation of rupee between the date of issue and the date of redemption of Rupee Denominated Bonds against the foreign currency in which the investment is made shall be exempt from tax on capital gains.

1.2.14 Tax exemption on consolidation of 'plans' within a 'scheme' of mutual fund

It is proposed to extend the tax exemption available on merger or consolidation of mutual fund schemes to the merger or consolidation of different plans in a mutual fund scheme.

1.2.15 Tax benefits for Gold Monetization Scheme, 2015

It is proposed that interest and capital gains arising in respect of Gold Deposit Bonds issued under Gold Monetization Scheme, 2015 shall be exempt from tax.

1.2.16 No levy of tax on shares received under demerger or amalgamation by an individual or HUF

It is proposed that any shares received by an individual or HUF as a consequence of demerger or amalgamation of a company shall not be liable for tax under the head 'income from other sources'.

1.2.17 Extension of time limit for acquisition or construction of house property for claiming deduction of interest from 3 years to 5 years

It is proposed that the deduction of INR 0.2 million available on account of interest paid on capital borrowed for acquisition or construction of a self-occupied house property shall be available if the acquisition or construction is completed within five years from the end of the financial year in which capital was borrowed.

1.2.18 Exemption from DDT on distribution made by an SPV to Business Trust

Currently, Business Trusts comprising of Real Estate Investment Trusts and Infrastructure Investment Trusts have been granted a tax pass through status.

In order to further rationalize the taxation regime for Business Trusts (REITs and Invits) and their investors, it is proposed to grant DDT exemption on distribution of dividends by SPV to Business Trusts. The said dividend income would not be taxable in the hands of Business Trusts or their investors.

1.2.19 Modification in conditions of special taxation regime for off-shore funds

One of the specified condition for being an offshore fund is to be a resident of a country/ specified territory with which India has entered into a tax treaty.

Now, it is proposed to include a fund established /incorporated /registered outside India in a country or a specified territory notified by the Central Government also in this regard.

It is also proposed that the condition of fund not controlling and managing any business in India or from India shall be restricted only in the context of activities in India.

1.2.20 Deferment of POEM

The criteria for characterising a foreign company as a resident or non-resident depends the newly introduced concept of Place of Effective Management (‘POEM’).

It is proposed to defer the applicability of the concept of POEM to tax year 2017-18.

1.2.21 Deduction of bad debts for NBFC’s

Presently, a deduction limited to 5% of gross total income is available to public financial institutions, State financial corporations and State industrial investment corporations in respect of any provision for bad and doubtful debt.

The above deduction is proposed to be extended to NBFC’s also.

1.2.22 Exemption for non-residents from furnishing of PAN at the time of receiving payments (PAN was required to avoid tax withholding at higher rate)

It is proposed that non-residents would no longer be required to furnish PAN to avoid tax withholding at higher rate, subject to satisfaction of prescribed conditions (the said conditions are yet to be released by the Government of India).

1.2.23 Tax Incentives to International Financial Services Centre

It is proposed to provide for tax exemption on capital gains to the income arising from transaction undertaken in foreign currency on a recognised stock exchange located in an International Financial Services Centre (‘IFSC’) even if securities transaction tax is not paid in respect of such transactions.

It is further proposed that, in case of a company, being a unit located in IFSC and deriving its income solely in convertible foreign exchange, MAT shall be chargeable @ 9%. Further, DDT shall also not be applicable on such a company.

It is also proposed that securities transaction tax and commodities transaction tax would not be applicable on transactions entered into by any person on a recognized stock exchange located in IFSC.

1.2.24 Providing time limit for disposing applications for waiver of penalty and interest

Section 220(2A) of the Act empowers the Principal Chief Commissioner, Chief Commissioner, Principal Commissioner or Commissioner to reduce or waive the amount of interest paid or payable by an assessee in default.

Similarly, section 273A empowers the Principal Commissioner or the Commissioner for reduction or waiver of the amount of any penalty payable by the assessee or stay or compound any proceeding for recovery of the penalty amount in certain circumstances.

Section 273AA also provides that the Principal Commissioner or the Commissioner may grant immunity from penalty, if penalty proceedings have been initiated in case of a person who has made application for settlement before the settlement commission and the proceedings for settlement had abated under certain circumstances.

In all the above sections, there is no time limit prescribed for passing of orders.

Accordingly, in all the above sections, a time limit of 12 months has been proposed to inserted for passing of orders from end of the month in which application is received.

1.3 CORPORATE TAXATION

1.3.1 Reduction in corporate tax rate for manufacturers claiming no deduction/ exemption

It is proposed to reduce corporate tax rate for new manufacturing companies (incorporated on or after 01.03.2016) engaged in manufacture or production of any article or thing and not engaged in any other business. The applicable tax rate is proposed to be reduced from 30% to 25%, provided, the said companies are not availing specified tax deductions/ exemptions in their return of income.

1.3.2 Reduction in corporate tax rate for corporates having turnover equal to or less than INR 50 million

It is proposed to reduce corporate tax rate for corporates having turnover or gross receipts equal to or less than INR 50 million in the previous year 2014-15, from 30% to 29%.

1.3.3 Buy back tax extended to all kind of buy backs

Buy back tax @ 20% applicable on domestic companies on payment made for buy back of shares from shareholders has been extended to all forms of buy back.

1.3.4 Measures to phase out deductions and exemptions

Following incentives provided by the domestic tax laws of India are proposed to be phased out as under:

i. Section 10AA dealing with tax exemption to SEZ's – sunset clause from tax year 2020-21

ii. Section 35AC dealing with deduction on eligible social projects/ schemes - sunset clause from tax year 2017-18.

iii. Section 35CCD dealing with weighted deduction of 150% on expenditure on skill development projects – Restriction of deduction to 100% only from tax year 2020-21.

iv. Section 80IA dealing with development, operation and maintenance of an infrastructure facility - No deduction shall be available if the specified activity commences from tax year 2017-18.

v. Section 80IAB dealing with development of SEZ's - No deduction shall be available if the specified activity commences from tax year 2017-18.

vi. Section 80IB dealing with production of mineral oil and natural gas - No deduction shall be available if the specified activity commences from tax year 2017-18.

vii. Section 32 dealing with depreciation Restriction on rate of depreciation to 40% (maximum) from tax year 2017-18.

viii. Section 35 dealing with weighted deduction on research and development activities - Restriction of deduction to 100% only in a phased manner.

ix. Section 35AD dealing with weighted deduction for specified businesses - Restriction of deduction to 100% only from tax year 2017-18.

x. Section 35CCC dealing with weighted deduction of 150% for expenditure on notified agriculture extension projects – Restriction of deduction to 100% only from tax year 2017-18.

1.3.5 Benefit of additional depreciation extended to transmission of power

Currently, additional depreciation of 20% is allowed to assesses engaged in the business of generation and distribution of power. This benefit of additional depreciation is proposed to be extended to transmission of power as well.

1.3.6 Non-applicability of MAT on foreign companies even prior to 01.04.2015

It is proposed that the provisions of MAT would not be applicable on foreign companies even prior to 01.04.2015 in respect of their passive incomes (i.e., if foreign company is not having a PE/ office in India).

1.4 RATIONALIZATION MEASURES

1.4.1 Taxation of dividends in the hands of shareholders even after levy of DDT

Currently, dividends which are subject to DDT are exempt in the hands of the recipients. It is proposed to levy, in the hands of individual, HUFs & Firms, which are resident in India, an additional tax of 10% on the dividend income received (exceeding INR 1 million) from a domestic company. However, the amount of deemed dividend under section 2(22)(e) shall not be covered in this.

1.4.2 Issue of notices and conduct of hearings in electronic mode

In order to undertake tax audits in electronic form, enabling provisions are proposed to be inserted in the tax laws for issue of notices and conduct of hearings in electronic form as may be prescribed.

1.4.3 Rationalization of tax laws for investment allowance

The existing tax laws provides for investment allowance @ 15% on investment made in new assets (plant and machinery) exceeding INR 250 million in a previous year by a company engaged in manufacturing or production of any article or thing subject to the condition that the acquisition and installation has to be done in the same tax year. This tax incentive is available up to 31.03.2017.

It is proposed that the acquisition of the plant & machinery of the specified value has to be made in the relevant tax year, while, installation may be made by 31.03.2017. It is further proposed that where the installation of the new asset is in a year other than the year of acquisition, the deduction shall be allowed in the year in which the new asset is installed.

1.4.4 Rationalization of withholding tax provisions relating to payments by Category-I and Category-II Alternate Investment Funds to its investors

It is proposed to that the investment funds making payment to investor shall withhold tax @ 10% where the payee is a resident and at the rates in force where the payee is a non-resident.

Further, a nil or a lower rate withholding tax order can be applied by above investors also.

1.4.5 Taxation regime for securitisation trust, asset reconstruction companies and its investors

Under the current provisions, the income of the securitisation trust is exempt income. Further, the income distributed by a securitization trust is subject to an additional income-tax at 25%/30%.

In order to rationalise the tax regime for securitisation trust and its investors and to provide tax pass through treatment, with effect from 1 June 2016, the following is proposed:

- The new regime shall apply to securitisation trust being an SPV defined under SEBI (Public Offer and Listing of Securitised Debt

Instrument) Regulations, 2008 or SPV as defined in the guidelines on securitisation of standard assets issued by RBI or being setup by a securitisation company or a reconstruction company in accordance with the SARFAESI Act

- The income of securitisation trust (which includes an ARC) shall be exempt.

- However, income distributed or deemed to be distributed shall be taxable in the hands of the investors. The income accrued or received from the securitisation trust shall be taxable in the hands of investor in the same manner and to the same extent as it would have happened had investor made investment directly in the underlying assets and not through the trust. (This amendment is proposed to be effective from 1 April 2016).

- Tax shall be withheld on such distributions at the rate of 25% in case of payment to resident investors which are individual or HUF and @ 30% in case of others. In case of payments to non-resident investors, the tax shall be withheld at rates in force

- The investors can obtain low or nil deduction of tax certificate

1.4.6 Tax exemption on subsidy or grants received by trusts established by Central Government or State Government

It is proposed that subsidy or grant provided by the Central Government for the purpose of the corpus of a trust or institution established by the Central Government or State government shall be exempt from tax.

1.4.7 Section 43B to be applicable on payment to railways

Section 43B of the Act providing for payment based deductions has been extended o payments to railways also.

1.4.8 Set off of losses not allowed with deemed undisclosed income

It is proposed that no set off of losses shall be allowable in respect of deemed undisclosed income under sections 68, 69, 69A, 69B, 69C or section 69D.

1.4.9 Taxability of non-compete fees for carrying out of profession

It is proposed that non-compete fees received/ receivable in relation to carrying out of profession would be taxed under the head ‘profits and gains of business or profession’.

Further, it is also proposed that receipts for transfer of right to carry on any profession would be chargeable to tax under the head "Capital gains".

1.4.10 Clarification on applicability of 10% tax rate on capital gains arising on transfer of shares of a private company

It is proposed to clarify that capital gains arising on transfer of shares of a private company shall be taxable @10%, without claiming the benefits of indexation.

1.4.11 Losses of specified business to be carried forward if return of income filed within prescribed time limit

It is proposed that losses of a specified business referred to in section 35AD of the Act would be allowed only if return of income of said business is filed within prescribed time limit

1.4.12 Fair market value of property for computation of capital gains to be considered as on date of sale agreement

It is proposed that where the date of agreement fixing the amount of consideration for transfer of immovable property and the date of registration thereof are not the same, the stamp duty value on the date of agreement may be taken for the purposes of computing the full value of consideration and capital gains tax.

1.4.13 Taxpayers earning long term capital gains on transfer of securities on a recognized stock exchange required to file a return of income

It is proposed that taxpayers earning long term capital gains on transfer of securities on a recognized stock exchange would be required to file their return of income in proper form and manner within prescribed time limit.

1.4.14 Change in advance tax payment schedule of taxpayers other than companies

It is proposed to bring the advance tax payment schedule of taxpayers other than companies in line with that of companies.

Therefore, the new advance tax payment schedule for individuals, firms, AOP's, BOI's, trusts etc. shall be as under:

Installment	Due date	% of advance tax payment
I	15th June	15%
II	15th September	45%
III	15th December	75%
IV	15th March	100%

1.4.15 Levy of tax on interest component of PF withdrawals

It has been proposed to levy tax on interest component relating to 60% of the corpus of provident fund withdrawals, in respect of provident fund contributions made after 01.04.2016.

However, the above proposal would not be applicable on employees whose per month salary is equal to or less than INR 15,000.

1.4.16 No appeal by Revenue Authorities against DRP order

It has been proposed that the Revenue Authorities would no longer be eligible to appeal against the DRP order. Consequently, DRP order shall be final, unless appealed by the taxpayer.

1.4.17 Time limit of 6 months for second level appellate authority to rectify their orders

It has been proposed to provide for a time limit of 6 months (instead of 4 years) to ITAT for rectifying the orders passed.

1.4.18 Rationalization of rate of penalty in case of search proceedings

The present provisions provide for levy of penalty in the range of 30% to 90% at the discretion of the assessing officer in search proceedings, where undisclosed income is neither surrendered nor accepted by the taxpayers.

The above rate of penalty has been proposed to freeze @ 60%.

1.5 BEPS EFFECT

1.5.1 Introduction of Equalisation Levy

Proposal for deduction of Equalisation Levy of 6% on the amount of consideration paid/ payable to a non-resident (not having a PE in India) on B2B basis for specified services (online advertisement or digital advertising space) by a person resident in India or a non-resident (having a PE in India). Specified threshold limit of INR 0.1 million on an annual basis for applicability of equalisation levy.

Non-deduction of Equalisation Levy would attract interest, penalty and disallowance of expenditure/ payment in the hands of the proposed deductor.

Furnishing of annual statement of equalisation levy by deductors within prescribed time limit in proper form and manner.

1.5.2 Introduction of Country-By-Country Reporting, master file and local file

In accordance with recommendations in BEPS Action Plan 13, revised standards for transfer pricing documentation and a template for country-by-country reporting of income, earnings, taxes paid and certain measure of economic activity are proposed to be introduced.

In this regard, a three-tiered structure has been mandated consisting of:

(i) a master file containing standardised information relevant for all multinational enterprises (MNE) group members;

(ii) a local file referring specifically to material transactions of the local taxpayer; and

(iii) a country-by-country report containing certain information relating to the global allocation of the MNE's income and taxes paid together with certain indicators of the location of economic activity within the MNE group.

The country-by-country report requires MNE’s to report annually and for each tax jurisdiction in which they do business; the amount of revenue, profit before income tax and income tax paid and accrued. It also requires MNEs to report their total employment, capital, accumulated earnings and tangible assets in each tax jurisdiction. Finally, it requires MNEs to identify each entity within the group doing business in a particular tax jurisdiction and to provide an indication of the business activities each entity engages in.

The master file is intended to provide an overview of the MNE groups business, including the nature of its global business operations, its overall transfer pricing policies, and its global allocation of income and economic activity in order to assist tax administrations in evaluating the presence of significant transfer pricing risk. In general, the master file is intended to provide a high-level overview in order to place the MNE group's transfer pricing practices in their global economic, legal, financial and tax context.

The above documentation would be mandatory for international group whose consolidated revenue exceeds prescribed limit. For tax year 2016-17, the above reporting would apply to an international group if its consolidated revenue during tax year 2015-16 exceeds INR 53,950 million.

The above reporting is mandatory for international group, whose parent entity is in India. Such international group would be required to make above reporting, as prescribed, on or before the due date of filing return of income.

The above reporting would be mandatory for international group, whose parent entity is not in India, if the parent entity of the group is resident:

(a) in a country with which India does not have an arrangement for exchange of the CbC report; or

(b) such country is not exchanging information with India even though there is an agreement; and

(c) this fact has been intimated to the entity by the prescribed authority.

Separately, penal provisions have also been proposed for compliance defaulters.

1.6 Widening of Tax Base and Anti Abuse Measures

1.6.1 Tax Collection at Source (TCS) on sale of vehicles; goods or services

It is proposed to extend the provisions of tax collection at source at the rate of 1% on:

- sale of motor vehicles of value exceeding INR 1 million;
- cash sale of any goods (other than bullion and jewellery) exceeding INR 0.2 million; and
- cash receipt for providing any services (other than payments on which tax is withheld) exceeding INR 0.2 million.

1.6.2 Levy of exit tax where the charitable institution ceases to exist or converts into a non-charitable organization

The difference of assets and liabilities shall be deemed to be taxable income (in addition to other taxable income) of a charitable institution, which, ceases to exist or converts into a non-charitable organization or merges in an entity not having similar objects, though, registered u/s 12AA of the Act. Such taxable income shall be liable for exit tax at the maximum marginal rate.

1.7 Measures To Promote Socio-Economic Growth

1.7.1 Exemption to foreign companies storing and selling crude oil in India

The Indian Strategic Petroleum Reserves Limited ('ISPRL') is in the process of setting up underground storage facility for storage of crude oil as part of strategic reserves. In this connection, it is proposed that any income accruing or arising to a foreign company on account of storage of crude oil in a facility in India and sale of crude oil therefrom to any person resident in India shall be exempt from tax, if:

(i) such storage and sale by the foreign company is pursuant to an agreement or an arrangement entered into by the Central Government or approved by the Central Government; or

(ii) Having regard to the national interest, the foreign company and the agreement or arrangement are notified by the Central Government in this behalf.

This amendment would be effective from tax year 2015-16 itself.

1.7.2 Exemption to activities related to diamond trading in "Special Notified Zone"

It is proposed that in the case of a foreign company engaged in the business of mining of diamonds, no income shall be deemed to accrue or arise in India to it through or from the activities which are confined to display of uncut and unassorted diamonds in a Special Zone notified by the Central Government in the Official Gazette in this behalf. This amendment would also be effective from tax year 2015-16 itself.

1.8 Tax Amnesty Scheme for Undisclosed Assets/ Income Located within India

An opportunity is proposed to be provided to persons who have not paid full taxes in the past to come forward and declare the undisclosed income and pay tax, surcharge and penalty totaling in all to 45% of such undisclosed income declared, subject to certain conditions.

The scheme is proposed to be brought into effect from 01.06.2016 and will remain open up to the date to be notified by the Central Government.
The scheme is proposed to be made applicable in respect of undisclosed income of any tax year upto 2015-16.

1.9 Dispute resolution scheme for tax matters pending before the first level appellate authority, viz., CIT(A)

It is proposed to introduce The Direct Tax Dispute Resolution Scheme, 2016 ('the Scheme') for resolution of tax disputes/ appeals pending before the CIT(A) in an instant manner. As per the scheme, the taxpayer need to a file a declaration in this regard in prescribed form and manner, pursuant to which, it shall be deemed that the appeal before CIT(A) stands withdrawn.

The settlement of tax dispute vide filing of prescribed declaration shall be subject to payment of tax and interest till the date of assessment order along with 25% of the minimum penalty leviable in case the tax liability exceeds INR 1 million. In case the tax liability is less than INR 1 million, only tax and interest would be required to be paid while minimum penalty would not be payable.

1.10 Dispute Resolution Scheme for tax matters arising due to retrospective amendment

The scheme also provides for instant resolution of matters arising due to retrospective amendment in tax laws. As per the scheme in this regard, tax matters arising due to retrospective amendment can be settled instantly by filing of a declaration in prescribed form and manner and payment of tax arrears. However, more clarity is expected on this.

For filing of above declaration, the declarant would be required to withdraw of all appeals, writ petitions, arbitration proceedings etc. filed in respect of the tax dispute.

1.11 Amortisation of spectrum fee for purchase of spectrum

It is proposed that any capital expenditure incurred and actually paid by an assessee on the acquisition of any right to use spectrum for telecommunication services by paying spectrum fee will be allowed as a deduction in equal instalments over the period for which the right to use spectrum remains in force.

Further, on transfer of spectrum, any unallowed expenditure can be claimed as deduction while profits would be liable for tax under the head ‘profits and gains of business or profession’.

1.12 Reduction in time limit for filing of belated returns

The time limit for filing of belated return of income is proposed to be reduced from 2 years after the end of the relevant tax year to 1 year.
However, a belated return would be eligible for revision (this was not allowed earlier) within a period of 2 years from the end of the relevant tax year.

1.13 Revision in time limit for assessments and re-assessments

The following revisions in time limit for completion of income-tax assessments and re-assessments have been proposed:

i. Time limit for completion of normal assessment proceedings has been reduced from 24 months to 21 months.

ii. Time limit for completion of re-assessment proceedings has been reduced from 12 months to 9 months.

iii. Time limit for completion of assessment proceedings on remand back of matter by Tribunal or CIT has been reduced from 12 months to 9 months.

iv. Time limit for giving appeal effect to an order of CIT(A), Tribunal, Settlement commission, High Court or Supreme Court would be 3 months, which can be extended upto 9 months in special circumstances.

v. Time limit for completion of assessment proceedings after a search operation on person searched and other persons has been reduced from 24 months to 21 months.

1.14 New provisions for levy of penalty on additions/ disallowances in returned income

The current provisions provide for levy of penalty in case of concealment of income or furnishing of inaccurate particulars of income. The rate of levy of penalty lies on the discretion of the assessing officer and ranges from 100% to 300%.

It has been proposed to repeal the above provisions and introduce new penalty provisions which shall provide for fixed levy of penalty @ 50% in case of under reporting of income and @ 200% in case of mis-reporting of income.

The new penalty provisions shall be applicable from tax year 2016-17 onwards.

1.15 Immunity from penalty in case of additions/ disallowances made in assessment order on legal grounds or interpretative issues

It is proposed that a taxpayer may seek immunity from levy of penalty if additions/ disallowances have been made in assessment order on legal grounds or interpretative issues, provided the taxpayer pays tax and interest levied in such assessment order.

1.16 Increase in STT rate

Rate of Securities Transaction Tax proposed to be increased from .017% to .05% in case option in securities is not exercised.

2. SERVICE TAX

2.1 Increase in rate of service tax

It has been proposed to increase the current rate of service tax from 14.5% (including Swacch Bharat Cess of 0.5%) to 15% by incorporating a new levy of Krishi Kalyan Cess of 0.5%.
However, credit of Krishi Kalyan Cess shall be available against payment of said cess.

2.2 Broadening of tax base

Following service tax exemptions are proposed to be withdrawn:

- Exemption on services provided by a Senior Advocate to an advocate or firm of advocates (reverse charge mechanism not applicable in this)

- Exemption on services provided by a person represented on an arbitral tribunal to an arbitral tribunal

- Exemption on construction, erection, commissioning or installation of original works pertaining to monorail or metro in respect of contracts entered into on or after 01.03.2016.

- Exemption on transport of passengers by ropeway, cable car, aerial tramway or air conditioned stage carriage

2.3 New Service tax exemptions

Following services are proposed to be exempted from levy of service tax:

- Service of housing projects under specified housing schemes

- Service of life insurance business provided by way of annuity under the National Pension System regulated by Pension Fund Regulatory and Development Authority of India ('PFRDA')

- Services provided by Employees' Provident Fund Organisation ('EPFO') to employees

- Services provided by Insurance Regulatory and Development Authority (IRDA)

- Regulatory services provided by Securities and Exchange Board of India (SEBI)

- Services of assessing bodies empanelled centrally by Directorate General of Training, Ministry of Skill Development & Entrepreneurship

- Services provided by the Indian Institutes of Management (IIM) by way of 2 year full time Post Graduate Programme in Management (PGPM) (other than executive development programme), Integrated Programme in Management and Fellowship Programme in Management (FPM)

- Services of Information Technology Software on media bearing RSP provided Central Excise duty is paid on RSP

2.4 Refund of service tax on all services used for exports from 01.07.2012

The notification providing for refund of service tax on services used beyond the factory or any other place or premises of production or manufacture of the said goods for the export of said goods is proposed to be made applicable from 01.07.2012.

2.5 Services provided by mutual fund agent/distributor to a mutual fund or asset management company made taxable

Services provided by a mutual fund agent/ distributor to a mutual fund or asset management company proposed to be taxed under forward charge.

However, small scale exemption of INR 1 million per year can be availed, if available.

2.6 Uniformity in rate of interest on indirect taxes

It is proposed to levy a uniform rate of interest of 15% on all indirect taxes (Customs, Excise and Service Tax).

However, a higher rate of interest of 24% shall be applicable where service tax is collected but not deposited with the Government.

2.7 Scheme for settlement of cases pending before Commissioner (Appeals)

It is proposed to settle cases pending before Commissioner (Appeals) on filing of prescribed declaration by taxpayers and payment of disputed tax and interest alongwith 25% of minimum penalty applicable thereupon.

2.8 Levy of tax on lottery selling agent or distributor

Any activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of the State Government is proposed to be leviable to service tax.

2.9 Assignment of spectrum and subsequent transfers thereof declared as service

Assignment of spectrum by Government and subsequent sharing/ trading thereof proposed to be declared as a service leviable to service tax and not sale of intangible goods (sales tax/ VAT not applicable).

2.10 Additional compliance of filing of annual service tax return

It is proposed that service tax assesses, in addition to 2 half yearly returns presently filed by them, would be required to file an additional annual service tax return as well, above a certain threshold of services.

2.11 Increase in limitation period for issuing demand notices

It is proposed to increase the limitation period for issuing demand notices by the service tax department from 18 months to 30 months for short levy/ non levy/ short payment/ non-payment/ erroneous refund of Service Tax.

2.12 Restriction on power to arrest in service tax laws

The power to arrest in service tax is being restricted only to situations where the tax payer has collected the tax but not deposited it with the Government and that too above a threshold of INR 20 million.

3. CUSTOMS

3.1 Tax Rate

There is no change in the peak rate of BCD of 10%.

3.2 Scope of the term ‘warehouse’ widened

The definition of ‘Warehouse’ under section 2(43) of the Customs Act is proposed to be substituted to include special warehouse licensed under section 58A.

3.3 Power to declare warehousing stations withdrawn

Section 9 which empowered the CBEC to declare places to be warehousing stations is proposed to be omitted.

3.4 Limitation period for issue of show cause notice increased from 1 year to 2 years

The time limit for issue of show cause notices in cases not involving fraud, suppression of facts, willful mis-statement, etc. increased from 1 year to 2 years.

3.5 Facility of deferred payment of custom duty to certain class of importers and exporters

Provisions have been made for facilitating deferred payment of custom duty to certain class of importers and exporters

3.6 Allowance of transit of certain goods without payment of duty

CBEC has been enabled to allow transit of certain goods without payment of duty, subject to certain conditions.

3.7 Bond amount for importers fixed at thrice the duty involved

The importers are required to furnish bond of an amount of thrice the duty involved and furnish security as prescribed at the time of presenting bill of entry for warehousing.

3.8 Permission for deposit of goods in a warehouse

the proper officer may make an order permitting removal of the goods from a customs station for the purpose of deposit in a warehouse.

3.9 Period for which goods may remain warehoused in EOU/EHTP/STP enhanced

The capital goods intended for use in any 100% EOU/ EHTP/ STP unit or any warehouse wherein manufacture or other operations have been permitted, are permitted to be warehoused till their clearance from the warehouse.

In case of other goods for use by 100% EOU/ EHTP/ STP unit, the goods are permitted to be warehoused till their consumption or clearance from the warehouse.

3.10 Provisions on physical control over warehouse and warehouse renting charges omitted

The provisions relating to physical control over the warehouse and payment of rent and warehousing charges are proposed to be omitted for privatization of services and allowing market forces to determine the rates for warehousing.

3.11 Cancellation of bond in case of transfer of ownership

It is proposed to provide for Cancellation of bond in case of transfer of ownership of goods

3.12 Introduction of Baggage Rules, 2016

The existing Baggage Rules, 1998 are proposed to be substituted with the Baggage Rules, 2016 to enhance baggage allowances for various categories of passengers.

3.13 Introduction of Customs Baggage Declaration Regulations, 2013

The provisions of Customs Baggage Declaration Regulations, 2013 are proposed to be amended so as to prescribe filing customs declaration only by passengers who carry dutiable or prohibited goods.

3.14 Change in Rates of Duty - Sectoral Impact

<u>Articles of rubber</u>

Tariff item	Old	New
Natural latex rubber made balloons falling under specified headings	10%	20%

Metals

Tariff item	Old	New
Primary aluminium	5%	7.5%
Zinc alloys	5%	7.5%

Jewellery

Tariff item	Old	New
Imitation jewellery	10%	15%

Renewable Energy

Tariff item	Old	New
Industrial solar water heater	7.5%	10%

Food processing

Tariff item	Old	New
Cashew nuts in shell	NIL	5%
Cold chain including pre-cooling unit, packhouses, sorting and grading lines and ripening chambers	10%	5%
Refrigerated containers	10%	5%

Petroleum exploration and production

Tariff item	Old	New
Goods required for exploration & production of hydrocarbon activities undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 1st April 1999	Applicable BCD and CVD	BCD - Nil CVD – Nil

Textiles

Tariff item	Old	New
Specified fibres and yarns	5%	2.5%
Specified fabrics [for manufacture of textile garments for export] of value equivalent to 1% of FOB value of exports in the preceding financial year subject to the specified conditions. The entitlement for the month of March 2016 shall be one twelfth of one per cent. of the FOB value of exports in the financial year 2014-15.	Applicable BCD	Nil

<u>Electronics / Hardware</u>

Tariff item	**Old**	**New**
Magnetron of capacity of 1 KW to 1.5 KW for use in manufacture of domestic microwave ovens subject to actual user condition.	10%	Nil
Machinery, electrical equipment and instrument and parts thereof (except populated PCBs) for semiconductor wafer fabrication / LCD fabrication units	Applicable BCD SAD	Nil BCD Nil SAD
Machinery, electrical equipment and instrument and parts thereof (except populated PCBs) imported for Assembly, Test, Marking and Packaging of semiconductor chips (ATMP)	Applicable BCD SAD	Nil BCD Nil SAD
The exemption from basic customs duty, CV duty, SAD on charger / adapter, battery and wired headsets / speakers for manufacture of mobile phone being withdrawn	BCD-Nil CVD - Nil SAD - Nil	Applicable BCD CVD – 12.5 % SAD – 4%
Inputs, parts and components, subparts for manufacture of charger / adapter, battery and wired headsets / speakers of mobile phones, subject to actual user condition	Applicable BCD, CVD SAD	Nil BCD Nil CVD Nil SAD
Parts and components, subparts for manufacture of Routers, broadband Modems, Set-top boxes for gaining access to internet, set top boxes for TV, digital video recorder (DVR) / network video recorder (NVR), CCTV camera / IP camera, lithium ion battery [other than those for mobile handsets]	Applicable BCD, CVD SAD	Nil BCD Nil CVD Nil SAD
To exclude specified telecommunication equipment [Soft switches and Voice over Internet Protocol (VoIP) equipment namely VoIP phones, media gateways etc.	Nil BCD	10%

Defence Production

Tariff item	**Old**	**New**
Direct imports of specified goods by Government of India or State Governments, with effect from 01.4.2016	BCD Nil CVD – Nil SAD – Nil	Applicable BCD, CVD and SAD
Imports of specified goods for defence purposes by contractors of the Government of India, PSUs or sub-contractors of PSUs, with effect from 01.4.2016	BCD Nil Applicable CVD and SAD	Applicable BCD, CVD and SAD

Maintenance, repair and overhaul [MRO] of aircrafts

Tariff item	**Old**	**New**
Tools and tool kits when imported by MROs for maintenance, repair, and overhauling [MRO] of aircraft subject to a certification by the Directorate General of Civil Aviation	Applicable BCD, CVD and SAD	BCD Nil CVD – Nil SAD – Nil

4. EXCISE

4.1 Tax rate

No change in the current standard rate of 12.5%.

4.2 Limitation period for issue of show cause notice increased from 1 year to 2 years

The time limit for issue of show cause notices in cases not involving fraud, suppression of facts, willful mis-statement, etc. increased from 1 year to 2 years.

4.3 Centralized registration for Jewellery manufacturers and SSI exemption

An option of centralised registration has been provided for jewellery manufacturers (articles of jewellery other than articles of silver jewellery but inclusive of articles of silver jewellery studded with precious stones) where they maintain centralised billing or accounting system and where the accounts/records showing receipts of raw materials and finished excisable goods manufactured or received back from job workers are kept.

Also, SSI exemption has been granted to Jewellery manufacturers up to a turnover of INR 60 million, subject to aggregate turnover not exceeding INR 120 million in preceding financial year.

4.4 Change in the rate of duty - Sectoral impact

Aerated Beverages

Tariff item	Old	New
Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	18%	21%

Tobacco and Tobacco Products

Tariff item	Old	New
Cigar and cheroots	12.5% or INR 3375 per thousand, whichever is higher	12.5% or INR 3755 per thousand, whichever is higher
Cigarettes of tobacco substitutes	INR 3375 per thousand	INR 3755 per thousand

Gutkha, chewing tobacco (including filter khaini) and jarda scented tobacco	70%	81%
Unmanufactured tobacco	55%	64%

Textiles

Tariff item	**Old**	**New**
To increase Tariff Value of readymade garments and made up articles of textiles	30% of retail sale price	60% of retail sale price
Branded readymade garments and made up articles of textiles of retail sale price of Rs.1000 or more	Nil [without CENVAT credit] or 6%/12.5% [with CENVAT credit]	2% [without CENVAT credit] or 12.5% [with CENVAT credit]

Footwear

Tariff item	**Old**	**New**
Rubber sheets & resin rubber sheets for soles and heels	12.5%	6%
Increase the abatement from retail sale price (RSP) for the purposes of excise duty assessment for all categories of footwear	25%	30%