

India

Union Budget 2014-15

An Insight

July 11, 2014

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1. DIRECT TAXES

1.1. Personal Taxation

1.1.1. Changes in effective tax rates

Basic income tax exemption limit for individuals has been increased to INR 2,50,000 from INR 2,00,000.

Further, basic income tax exemption limit for senior citizens (sixty years or more but less than eighty years) has been increased to INR 3,00,000 from INR 2,50,000.

1.1.2. Tax relief and welfare measures

- The limit of deduction under section 80C has been increased from the existing INR 1 lac to INR 1.5 lac.
- The limit of deduction on account of interest in respect of property has been increased to INR 2 lacs from INR One lac fifty thousand.

1.2. Corporate Tax

1.2.1. Concessional tax rate on interest

- Concessional tax rate of 5% on interest payable on long term borrowings from foreign lenders, which was available for borrowings made till 2015, has been extended to borrowings made till 2017.

- With a view to encourage Indian companies to repatriate foreign dividends into the country, it is proposed to extend the benefit of lower rate of taxation on foreign dividends repatriated into Indian without limiting it to a particular year. Thus, such foreign dividends received in financial year 2014-15 and subsequent financial years shall continue to be taxed at the lower rate of 15%.

1.2.2. Deduction for investment in new plant and machinery

- A company, engaged in manufacture/production, which acquires and installs plant and machinery (other than specified excluded items) during the period April 1, 2013 to March 31, 2015 was allowed a deduction @ 15% of the aggregate amount of actual cost of such plant and machinery provided the aggregate amount of such investment is not less than INR 1 billion under section 32AC of the Income Tax Act, 1961 ('IT Act').
- In order to simplify the existing provisions of section 32AC of the IT Act and also to make medium size investments in plant and machinery eligible for deduction, it is

now proposed that the deduction under section 32AC of the Act shall be allowed if such company on or after 1st April, 2014 invests more than INR 250 million in plant and machinery in a previous year.

1.2.3. Extension of sunset date under section 80 IA for the power sector

- It has been proposed to extend the sunset clause under section 80-IA(4) of the IT Act (*which allows deduction in respect of profits from specified businesses including generation or generation and distribution of power*) from March 31, 2014 to March 31, 2017 i.e. till the end of the 12th Five Year Plan, thereby allowing the benefit of deduction to companies who commence operations on or before March 31, 2017

1.2.4. Special tax regime for Real estate and investment trusts

- It is proposed to provide a special taxation regime for real estate and investment trusts set up in accordance with prescribed regulations. Such trusts would raise capital by issuance of units to unit holders and income bearing assets would be held by acquiring interests in Indian companies. It is proposed to provide that:

- The listed units of such trust, would be treated at par with other listed shares;
- Interest income of the trust shall be exempt and shall be treated as pass through, liable to tax at the time of distribution of income to unit holders;
- Dividend received by the trust, which would already have suffered dividend distribution tax, would be exempt in the hands of trust as well as unit holders at the time of distribution;
- Capital gains arising to trust from disposal of its investment would be tax in the hands of trust and would be exempt in the hands of unit holders.

1.2.5. Tax on long-term capital gains on units

- It is proposed to amend the provisions of section 112 of the IT Act so as to allow the concessional rate of tax of ten percent on long term capital gain to listed securities (other than unit) as well as zero coupon bonds.

1.2.6. Long-term capital gains on debt oriented mutual funds and its qualification as Short-term capital asset

- It is proposed to provide that an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall

be a short-term capital asset if it is held for not more than thirty-six months.

1.2.7. Dividend and Income Distribution Tax

- Presently, dividend distribution tax rate is being applied on the net amount of dividends distributed to shareholders. It is now proposed to provide that the tax rate shall be applied on gross amount to be paid as dividends and net amount, after deduction dividend distribution tax, shall be distributed as dividend. The amendment will have the impact of marginally increasing the incidence of dividend distribution tax due to change in the manner of computation of such tax.
- The amendment will take effect from October 1, 2014.

1.2.8. Alternate Minimum Tax

- With a view to include the investment linked deduction claimed under section 35AD in computing adjusted total income for the purpose of calculating alternate minimum tax, it is proposed to provide that total income shall be increased by the deduction claimed under section 35AD of the IT Act, thus, effectively applying MAT on deduction claimed under section 35AD.

1.2.9. Taxability of advance for transfer of a capital asset

- It is proposed to insert a new clause (ix) in sub-section (2) of section 56 of the IT Act to provide that any sum of money, received as an advance or otherwise in the course of negotiations for transfer of a capital asset, shall be taxable as 'income from other sources' if such sum is forfeited and the negotiations do not result in transfer of such capital asset. A consequential amendment is proposed in the definition of the term 'income'.

1.2.10. Applicability of earlier years of the registration granted to a trust or institution

- It is proposed to provide that in case where a trust or institution has been granted registration under section 12AA of the IT Act, tax exemption shall be available in respect of any income derived in any year prior to such registration if the objects and activities of such trust etc. in the relevant earlier year are the same as those on the basis of which such registration has been granted.

1.2.11. Expenditure on Corporate Social responsibility initiatives

- It is proposed to clarify that expenditure incurred on activities relating to corporate social responsibility referred to in section 135 of the Companies Act, 2013 shall not be considered as business expenditure and thereby no deduction in respect thereof shall be allowed, unless the expenditure is of the nature specified to be deductible under any specific provision of the IT Act.

1.3. INTERNATIONAL TRANSACTIONS

1.3.1. Definition of International transaction

- Under the existing provisions, it was provided that if the terms of a transaction, between a non-resident and a resident, are substantially determined by an associated enterprise and one of the parties to the transaction, such transaction would fall within the purview of international transaction, thus subject to transfer pricing regulations, even if the parties to the transactions were unrelated to each other. It is proposed to expand the scope of this provision by providing that transactions shall be deemed to be 'international transactions' whether or not any party to such transaction is a non-resident.

- **SDA Comment:** By virtue of this amendment, transactions between unrelated domestic entities have been brought under the ambit of international transfer pricing regulations if terms of such transaction are determined by an enterprise, which is a related party of one of the parties to the transaction.

1.3.2. Changes to Advance Pricing Agreements Mechanism

- Under the existing law, a taxpayer can approach the relevant authority and enter into an advance agreement in respect of pricing of its future international transactions, to avoid transfer pricing disputes with the Revenue. It is proposed to expand the scope of this mechanism by providing "roll back" mechanism. The "roll back" provisions imply that in respect of an advance pricing agreement entered into by a taxpayer with the Revenue, in appropriate cases, the applicability of the agreement may be extended to international transactions which had already been entered into in a period prior to the period covered under such agreement. However, the "roll back" relief is provided on case to case basis subject to certain conditions.



1.3.3. Characterization of income of FIIs

- In order to put an end to the controversy of over characterization of income of FIIs from securities, it is proposed to provide that any security held by a FII which has invested in such security in accordance with SEBI regulations would be treated as capital asset only. Consequently, any income arising from transfer of such security by a Foreign Portfolio Investor would be in the nature of capital gain.

SDA comment: This proposal is likely to be welcomed by the FII community which have been hit by the Revenue's move to tax the income from investments as business profits holding that the relevant investors have a Permanent Establishment (PE) in India. Though some FIIs had managed to establish that they did not have a PE in India and therefore, no income could be taxed as business profits, the certainty brought in by the proposed amendment would be welcomed by the investor community.

1.4. DEDUCTION/COLLECTION AT SOURCE

1.4.1 Disallowance of expenditure for non-deduction of tax at source

- Under the current provisions, certain kinds of payments, on which tax is deductible under the IT Act, and on which tax is not so deducted, are not allowed as deduction under section 40(a)(ia) of the IT Act in computing income of the payer. In order to improve compliance with tax deduction at source provisions, in respect of payments to residents which are currently not specified in section 40(a)(ia), it is proposed that the disallowance under section 40(a)(ia) of the Act shall extend to all expenditure on which tax is deductible under Chapter XVII-B of the IT Act.

1.4.2 Tax Deduction at Source

- It is proposed to amend section 200 of the Act to allow the deductor of tax at source to file correction statements to correct mistakes etc. for which there was no specific provision in the IT Act so far.
- It is proposed to extend limitation period for passing orders by the Revenue in respect of default in complying with withholding tax provisions by one year.
- Currently, no specific authority has been specified to levy of penalty for failure to furnish TDS/TCS statements. It is now proposed to provide that the penalty under



section 271H of the IT Act shall be levied by the Assessing officer.

1.5. MISCELLANEOUS

1.5.1. Income Computation and Disclosure Standards

- It is proposed to provide that the Government shall notify Income computation and disclosure standards to be followed in respect of any class of income for computation of income. It is further clarified that the standards shall apply only to computation of income and it shall not be necessary for taxpayers to maintain books of account in accordance with such standards.

1.5.2. Capital gains arising from transfer of an asset by way of compulsory acquisition

- In order to get over the difficulty determining tax liability in cases where asset is compulsorily acquired earlier and compensation is enhanced by a court or Tribunal etc. at a later date, it is proposed to provide that the amount of compensation received in pursuance of an interim order of the court, Tribunal or other authority shall be taxed as 'Capital gains' in the year in which the final order

of such court, Tribunal or other authority is made.

1.5.3. Capital gains exemption in case of investment in a residential house property

- It is proposed to amend the provisions relating to capital gains exemption for investment in house property to restrict the rollover relief under the said section to investment made in one residential house situated in India.

1.5.4. Reference to Valuation Officer

- A new section 142A is proposed to be inserted in IT Act to provide that an assessing officer may refer to the Valuation officer, valuation of any asset if he deems fit. The amendment has been made to get over the interpretation of earlier provisions that rejection of books of account of the taxpayer was an essential condition to make reference to Valuation officer.

1.5.5. Credit of Alternate Minimum tax

- With a view to enable an assessee who has paid alternate minimum tax in any earlier previous year to claim credit of the same, in any subsequent year, it is proposed to



provide that the credit for tax paid under section 115JC shall be allowed in accordance with the prescribed provisions notwithstanding the conditions mentioned in sub-section(1) or (2) of section 115JEE.

2. INDIRECT TAXES

2.1. Customs

2.1.1. Tax Rate

There is no change in peak rate of customs duty rate of 10%. Generally effective Customs duty rate remains at 28.85%.

2.1.2 Sectoral Impact

Metals & ores

Tariff item	Old	New
Basic Customs Duty on stainless steel flat products (CTH 7219 and 7220)	5%	7.5%
BCD on ships imported for breaking up	5%	2.5%
Export duty on bauxite	10%	20%
Basic Customs Duty on coal tar pitch	10%	5%
Basic Customs Duty on battery	10%	5%

waste and battery scrap		
Basic Customs Duty on steel grade limestone and steel grade dolomite	5%	2.5%

Chemicals and Petrochemicals

Tariff item	Old	New
Basic Customs duty on reformat	10%	2.5%
Basic Customs duty on propane, ethane, ethylene, propylene, butadiene	5%	2.5%
Basic Customs Duty on ortho-xylene	5%	2.5%
Basic Customs Duty on denatured ethyle alcohol and methyl alcohol	7.5%	5%
Basic Customs Duty on crude naphthalene	10%	5%
Basic Customs Duty on fatty acids, crude palm stearin, RBD and other palm stearin and specified industrial grade crude oils for manufacture of soaps and oleo chemicals subject to actual user condition	12.5%	7.5%
Basic Customs Duty is on crude glycerine for manufacture of soaps subject to actual user condition	12.5%	Nil



Energy Sector

Tariff item	Old	New
BCD on Coking coal	Nil	2.5%
BCD on steam coal and bituminous coal	2%	2.5%
BCD on anthracite coal and other coal	5%	2.5%
CVD on Anthracite coal, Coking coal and other Coal	6%	2%

Metals

Tariff item	Old	New
Basic Customs Duty on stainless steel flat products (CTH 7219 and 7220)	5%	7.5%
BCD on ships imported for breasting up	5%	2.5%
Export duty on bauxite	10%	20%
BCD on battery waste and battery scrap	10%	5%
Basic Customs Duty on steel grade limestone and steel grade dolomite	5%	2.5%
Basic Customs Duty on metallurgical coke	Nil	2.5%

Textiles

Tariff item	Old	New
Duty free entitlement for import of trimmings & embellishments used by the readymade textile garment sector for manufacture of garments for export	3%	5%

Electronics/Hardware

Tariff item	Old	New
Basic Customs Duty on LCD and LED TV panels of below 19 inches	10%	5%
BCD on colour picture tubes for manufacture of cathode ray TVs	10%	NIL
BCD on specified telecommunication products not covered under the ITA	NIL	10%
BCD on E-book readers	7.5%	NIL

- BCD is being exempted on specified parts of LCD and LED panels for TVs.
- Special Additional Duty (SAD) on all inputs/components used in the



manufacture of Personal Computers (laptops/desktops) and tablet computers is being exempted, subject to actual user condition.

- Full exemption from Special Additional Duty (SAD) is being provided on specified inputs (PVC sheet & Ribbon) used in the manufacture of smart cards.

Renewable Energy

Tariff item	Old	New
Basic Customs Duty on forged steel rings used in the manufacture of bearings of wind operated electricity generators.	10%	5%

- Exemption from Special Additional Duty is being provided on parts and components required for the manufacture of wind operated electricity generators.
- Basic customs duty on machinery, equipments, etc. required for setting up of solar energy production projects is being reduced to 5%.
- Exemption from Basic Customs Duty is being provided on specified raw materials used in the manufacture of solar backsheet and EVA sheet.

- Exemption from Basic Customs Duty is being provided on flat copper wire used in the manufacture of PV ribbons (tinned copper interconnect) for solar PV cells/modules.
- Concessional customs duty of 5% is being provided on machinery, equipments, etc. required for setting up of compressed biogas plant (Bio-CNG).

Capital goods/Infrastructure

- It is being clarified that road construction machinery imported duty free can be sold within 5 years of importation subject to payment of customs duty on depreciated value and that individual constituents of the consortium whose names appear in the contract can import goods without payment of duty.
- Plants & Equipment imported prior to 2008 for use in projects financed by the UN or an international organization, which hitherto could not be transferred / sold / re-exported out of the project site, are now being allowed to be transferred / sold/ re-exported from the project site.
- The requirement of certification by Ministry of Road Transport (or NHAI) for availing of customs duty exemption on



specified goods required for construction of roads being done away with.

Health

- Exemption from customs duty is being provided for HIV/AIDS drugs and diagnostic kits imported under National AIDS Control Programme (NACP) funded by the Global Fund to Fight AIDS, TB and Malaria (GFATM).

Security and Strategic Purposes:

- Exemption from Basic customs Duty is being provided to goods imported by National Technical Research Organisation (NTRO).

Exemption from customs duty is being provided on security fibre, security threads and M-feature imported by Bank Note Paper Mill India Private Limited (BNPMIPL), Mysore. Full exemption from BCD and CVD is also being provided for raw materials required for manufacture of security threads and security fibre subject to actual user condition.

Aircrafts and Ships

It is being clarified that aircraft engines and parts thereof are eligible for duty

exemption when imported for servicing, repair or maintenance of aircrafts used for scheduled operations.

Miscellaneous

Tariff item	Old	New
Basic Customs Duty on Polystyrene (other than moulding powder)	1.15%	7.5%
Basic Customs Duty on electrolysers and their parts/spares required by caustic soda or caustic potash units and membranes and their parts/spares required by industrial plants based on membrane cell technology.	5%	2.5%
The BCD on other spares (other than membranes and parts thereof)	7.5%	2.5%

A provision is being made for refund of Customs duty paid at the time of import of scientific and technical instruments, apparatus, etc. by public funded and other research institutions, subject to submission of a certificate of registration from the Department of Scientific & Industrial Research (DSIR).



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

2.2 Excise Duty

2.2.1 Tax Rate

The standard excise duty rate remains unchanged at 12.36% (including education cess and secondary and higher education cess).

Automobiles

- Excise duty is being exempted on parts of tractors removed from one or more factories of a tractor manufacturer to another factory of the same manufacturer for manufacture of tractors.

Metals

Tariff item	Old	New
Excise duty on winding wires of cooper	10%	12%

Precious Metals

- Un-branded articles of precious metals are being exempted from excise duty for the period 01.03.2011 to 16.03.2012.

Textiles

- Excise duty at the rate of 2% (without CENVAT) or 6% (with CENVAT) is being imposed on Polyester Staple Fiber and Polyester Filament Yarn manufactured from plastic waste or scrap or plastic waste including waste polyethylene terephthalate (PET) bottles w.e.f. 11th July, 2014.

Health

Tariff item	Old	New
Basic Excise duty on pan masala	15%	16%
Basic Excise duty on unmanufactured tobacco	50%	55%
Basic Excise duty on jarda scented tobacco, gutkha and chewing tobacco	60%	70%

- Full exemption from excise duty is being provided to DDT manufactured by Hindustan Insecticides Limited for supply to the National Vector Borne Diseases Control Programme (NVBDCP) of the Ministry of Health & Family Welfare.
- Full exemption from excise duty is being provided for HIV/AIDS drugs and diagnostic kits supplied under National AIDS Control Programme (NACP) funded by the Global Fund to Fight AIDS, TB and Malaria (GFATM).



- Excise duty on cigarettes is being increased by 72% for cigarettes of length not exceeding 65 mm and by 11% to 21% for cigarettes of other lengths. Similar increases are proposed on cigars, cheroots and cigarillos.

Electronics/Hardware

Tariff item	Old	New
Excise duty on recorded smart cards	2%	12%
Excise duty on RO membrane element used in household type filters	12%	6%
Excise duty on Metal core PCB and LED driver for use in the manufacture of LED lights and fixtures and LED	12%	6%

- Exemption from Excise Duty is being provided to reverse osmosis (RO) membrane element used in water filtration or purification equipment (other than household type filter).

Renewable Energy

Tariff item	Old	New
Excise duty on forged steel rings used in manufacture of	12%	NIL

bearings of wind operated electricity generators		
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Consumer Goods

Tariff item	Old	New
Excise duty on footwear of retail price exceeding Rs.. 500 per pair but not exceeding Rs. 1,000 per pair	12%	16%
Excise duty on aerated water containing added sugar.		5% ad valorem

Energy Sector

Tariff item	Old	New
Central Excise Duty on Branded Petrol	Rs. 7.50 per liter	Rs. 2.35 per liter
Clean Energy Cess levied on coal, lignite and peat	Rs. 50 per tone	Rs. 100 per tone

Security and Strategic Purposes

- Full exemption to goods supplied to National Technical Research Organization.
- Full exemption for security threads and security fiber supplied to SPMCIL and BNPMIPL.



2.3. Service Tax

2.3.1 Negative list of services pruned

- Service tax exemption on sale of space or time for advertisements limited to only exemption for sale of space for advertisement in print media
- Service tax to be levied on the services provided by radio taxis or radio cabs, whether or not air-conditioned.

2.3.2 Certain service tax exemptions withdrawn

- The following exemptions from service tax have been withdrawn:
 - Exemption to clinical research on human participants;
 - Exemption to air-conditioned contract carriages like buses;
 - Exemption in respect of services provided to Government or local authority or governmental authority, will be limited to services by way of water supply, public health, sanitation conservancy, solid waste management or slum improvement and upgradation.
- Certain services received by educational institutions to be brought under service tax.

2.3.3. Point of Taxation Rules:

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

2.3.4 Procedural simplification for services relating to SEZ

- It is provided that a service shall be treated as exclusively used for SEZ operations if the recipient of service is a SEZ unit or developer, invoice is in the name of such unit/developer and the service is used exclusively for furtherance of authorized operations in the SEZ.
- It is proposed that exemption from service tax for services provided by SEZs or SEZ units would be available from the date when list of services on which SEZ is entitled to upfront exemption is endorsed by the authorised officer of SEZ in Form A-1, provided prescribed form is furnished to the jurisdictional Officer within fifteen days of its verification. If furnished later,



exemption would be available from the date on which the form is so furnished.

- Pending issuance of prescribed form, exemption will be available subject to condition that authorization issued by the Central Excise officer will be furnished to service provider within a period of three months from provision of service.
- As regards services covered under reverse charge, the requirement of furnishing service tax registration number of service provider shall be dispensed with.
- The aforesaid changes relating to SEZs shall have immediate effect.