

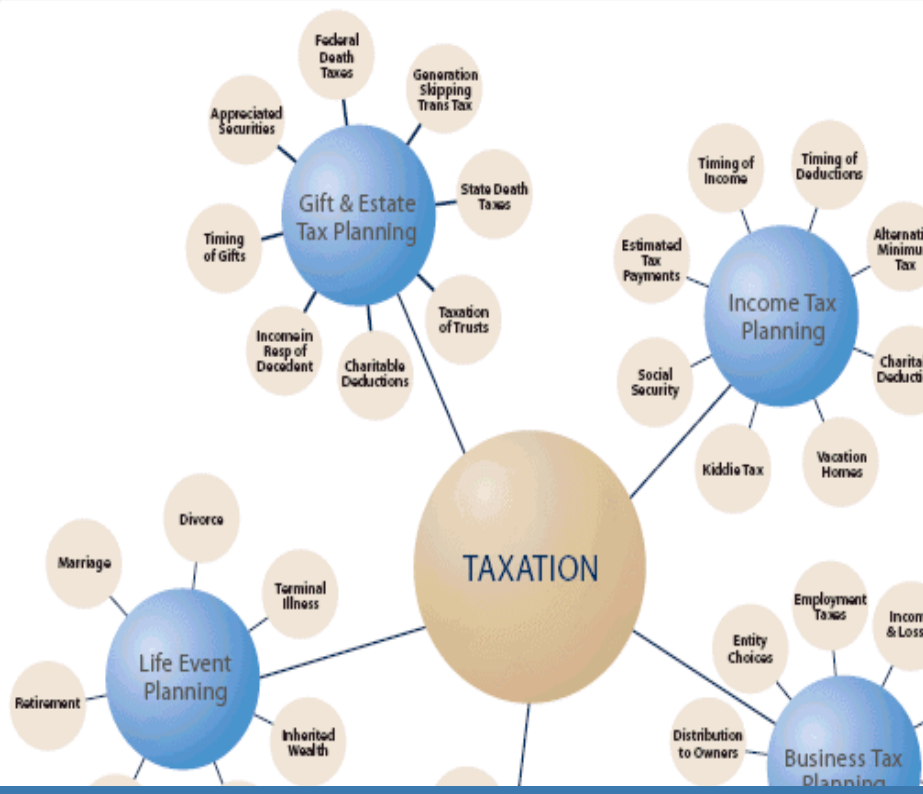


# BUDGET BULLETIN

2015-16

## Solving any tax puzzle

Tax saving advice across all the taxes



## From the CEO's Desk



Dear Friends,

First full-fledged Budget from the new BJP Government has been presented on 28.02.2015 in the Parliament. Finance Minister Mr. Arun Jaitely clearly offered a Budget showing and incorporating Mr. Modi's vision and mission for India on its growth path. The focus is on the growth of not only one single class but in general of all the people and not only of manufacturing sector or defense equipment's but also in respect of agriculture and small scale industries in sync with "Make In India" project.

Creation of new jobs through revival of growth, investment, housing development, health and hygiene for public and promotion of vast infrastructure are the highlights of the Budget in general. Though most of the taxes keeping the same, the only major change is in service tax which has been increased to 14% from the existing 12.36%, impacting on your visits to restaurants and saloons, increasing your telephone bills and insurance premiums as well.

Apart from new AIIMS, IIT and IIMs have been proposed in different states. Emphasis is also on education for differently abled people and for many other vocational courses like animation, film production and horticulture. Many schemes have been planned and offered for under privileged and elderly, like "Swachh Bharat Abhiyan" and increase in pension and medical allowances for senior citizens.

For keeping a check on the pollution, funds have allocated for electric cars and also for alternative energy solutions

like solar, hydro, wind and biomass energy. Visa on Arrival has also been proposed for 150 countries.

The Finance Minister also adopted certain broad measures to effectively deal with the problem of black money. It has been proposed to enact a comprehensive new law on black money to specifically deal with such money stashed away abroad.

Love for yellow metal is well known in India, and Government has proposed many schemes for using it for different purposes and reaping the benefits from the idle gold that is kept in the households.

So in all I would say that it is indeed a people friendly Budget and if all things remain positive I can foresee a higher growth rate and better GDP in coming years, taking India forward.

Be Positive!!

Alok Kumar Agarwal  
CEO  
ASC Group

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# CENTRAL TAXES

## SERVICE TAX

### SECTION 66B - RATE OF SERVICE TAX

**BRIEF 1:** *Clause 106 of the Bill of seeks to amend section 66B of Finance Act, 1994 so as to increase the service tax rate from 12% to 14%.*

**OUR TAKE:** Section 66B of the Finance Act, 1994 levies service tax at the rate of 12% (plus education cess) which is being increased to 14%. 'Education Cess' and 'Secondary and Higher Education Cess' shall now be subsumed in the revised rate of Service Tax. Thus, the effective increase in Service Tax rate will be from the existing rate of 12.36% (inclusive of cesses) to 14%, subsuming the cesses. The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015, may be from 1<sup>st</sup> July, 2015.

**BRIEF 2:** *Clause 117 of the Bill of seeks to Swachh Bharat Cess*

**OUR TAKE:** Chapter VI of the Bill empowers the government to impose Cess on all or any of the taxable services at the rate of 2% of the value of 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.

### SECTION 66D - NEGATIVE LIST OF SERVICES

**BRIEF:** *Clause 107 of the Bill seeks to amend section 66D of Finance Act, 1994 so as to modify the scope of the services specified in negative list.*

**OUR TAKE:** Section 66D of the Finance Act, 1994 provides for the negative list of services. Following amendments have been proposed shall come into effect from a date to be notified later, after the enactment of the Finance Bill, 2015 :

- The Negative List entry that covers "admission to entertainment event or access to amusement facility" is being omitted [section 66D (j)]. Consequently, the definitions of "amusement facility" [section 65 B (9)] and "entertainment event" [section 65B(24)] are also being omitted. Impact of these changes shall be that service tax shall now be levied on these services. However, the

existing exemption, by way of the Negative List entry, to service by way of admission to entertainment event, namely, exhibition of cinematographic film, circus, recognized sporting event, dance, theatrical performance including drama and ballet shall be continued, through the route of exemption. For this purpose a new entry is being inserted in notification No. 25/12-ST.

- The entry in the Negative List that covers service by way of any process amounting to manufacture or production of goods [section 66D (f)] is being pruned to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for a consideration. In this context, the definition of the term " process amounting to manufacture or production of goods" [section 65 B (40)] is also being amended, along with the Negative List entry [section 66D (f)], with a consequential amendment in S. No. 30 of notification No. 25/12-ST, to exclude intermediate production of alcoholic liquor for human consumption from its ambit.
- An enabling provision is being made, by amending section 66D (a)(iv), to exclude all services provided by the Government or local authority to a business entity from the Negative List. Consequently, the definition of "support service" [section 65 B (49)] is being omitted. Accordingly, as and when this amendment is given effect to, 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. (Clauses 105 and 107 of the Bill refers)

### SECTION 67 – VALUATION OF TAXABLE SERVICES

**BRIEF:** *Clause 109 of the Bill seeks to amend section 67 of 1994 Act so as to substitute clause (a) of the Explanation to amplify the scope of the term "consideration".*

**OUR TAKE:** It is being prescribed specifically in this section that consideration for a taxable service shall include:

- All reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically in section 67.
- Amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets.

### SECTION 73 – RECOVERY OF SERVICE TAX

**BRIEF:** *Clause 110 of the Bill seeks to amend section 73 of 1994 Act.*

**OUR TAKE:** insert a new sub-section (1B) to provide that the recovery may be made under section 87 of the self-assessed service tax, declared in the return but not paid, without service of any notice under sub-section (1) and omit sub-section (4A).

### SECTION 76 – PENALTY FOR FAILURE TO PAY SERVICE TAX

**BRIEF:** *Clause 111 of the Bill seeks to substitute a new section for section 76 of 1994 Act relating to penalty for failure to pay service tax in cases other than by reason of fraud, collusion, willful misstatement, suppression of facts or contravention of the provisions of the Act or the rules made there under with the intent to evade payment of service tax.*

**OUR TAKE:**

- Penalty not to exceed 10% of Service Tax amount involved in such cases;
- No penalty is to be paid if Service Tax and interest is paid within 30 days of issuance of notice.
- 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
- 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.

### SECTION 78 – PENALTY FOR SUPPRESSING VALUE OF TAXABLE SERVICES

**BRIEF:** *Clause 112 of the Bill seeks to substitute a new section for section 78 of 1994 Act relating to penalty for failure to pay service tax by reason of fraud, collusion, will full mis-statement, suppression of facts or contravention of the provisions of the Act or the rules made there under with the intent to evade payment of service tax.*

**OUR TAKE:**

- Penalty shall be hundred per cent of Service Tax amount involved in such cases and 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;
- 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;
- 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.

### SECTION 78B – TRANSITIONAL PROVISIONS

**BRIEF:** *Clause 113 of the Bill seeks to insert a new section 78B so as to provide transitional provisions with respect to the amended sections 76 and 78 of 1994 Act.*

**OUR TAKE:** Provision is self explanatory.

### ABATEMENTS UNDER SERVICE TAX

Existing	Proposed
Service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road by a goods transport agency and 40% for goods transport by vessels.	Uniform abatement for all such transports @ 30% of the value of such service subject to a uniform condition of non availment of Cenvat Credit on inputs, capital goods and input services.
Service Tax is payable on 40% of the value of air transport of passenger for economy as well as	Service Tax would be payable on 60% of the value of such higher classes.

higher classes	
Abatement was available on services provided in relation to chit	Such abatement withdrawn. Service Tax shall be paid by the chit fund foremen on the full consideration and entitled to take Cenvat Credit.

**Note** - The proposed rationalization in abatements shall come into effect from the 1st day of April, 2015.

## EXEMPTIONS UNDER SERVICE TAX

### AMENDMENTS IN EXISTING EXEMPTIONS

- Exemption on specified services of construction, repair, maintenance, renovation or alteration -**  
 Such service provided to the Government, a local authority, or a governmental authority (vide S. No. 12 of the notification No. 25/12-ST) shall be limited only to,-
  - (a) historical monument, archaeological site or remains of national importance, archeological 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.
- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater,** - Limited only to such cases where amount charged is upto Rs 1,00,000 for a performance (S. No 16 of notification No. 25/12-ST).
- Exemption to transportation of food stuff by rail, or vessels or road** - Limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue (S. Nos. 20 and 21 of Not. No. 25/12-ST).
- 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.

(d) Construction, erection, commissioning or installation of original works pertaining to an airport or port. The other exemptions covered under S. No. 14 of notification No. 25/12-ST shall continue unchanged.

(e) Departmentally run public telephone;

(f) Guaranteed public telephone operating only local calls;

(g) Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

(S. No. 32 of notification No. 25/12-ST).

- Service by way of manufacture of alcoholic liquor for human consumption** - 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. (S. No 30 of notification No. 25/12-ST).
- Exemption, vide notification No. 42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India** – The same is being rescinded with immediate effect. This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of “intermediary” in the Place of Provision of Services Rules, making the place of provision of a service provided by such agents as outside the taxable territory.

The above changes in notification No. 25/12-ST, except the change mentioned in para 6.6, shall come into effect from the 1st day of April 2015. The change mentioned at para 6.6 shall come into effect from a date to be notified after the enactment of the Finance Bill, 2015. The change mentioned at S. No. 6.8 comes into effect immediately.

### NEW EXEMPTIONS

- Service provided by way of transportation of a patient** to and from a clinical establishment by a clinical establishment is exempt from Service Tax. The scope of this exemption is being widened to include all ambulance services. (Amended in the entry at S.No. 2 of notification No. 25/12-ST refers)
- Life insurance service provided by way of Varishtha Pension BimaYojna** is being exempted. (Amendment in entry at S. No. 26A of notification No. 25/12-ST refers)
- Service provided by a Common Effluent Treatment Plant operator for treatment of effluent** is being exempted. (New entry at S. No. 43 of notification No. 25/12-ST).
- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and**



**vegetables** is being exempted. (New entry at S. No. 44 of notification No. 25/12-ST).

- **Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve** is being exempted. These services when provided by the Government or local authority are already covered by the Negative List. (New entry at S. No. 45 of notification No. 25/12-ST).
- **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 it's members is being exempted. (New entry at S. No. 46 of notification No. 25/12-ST).
- **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 is exempt from Service Tax vide notification No. 31/12-ST dated 20.6.2012. Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS). (Amendment in notification No. 31/12-ST refers).

All the above New Exemptions shall come into effect from the 1st day of April, 2015.

#### REVERSE CHARGE MECHANISM

- **Manpower supply and security services** – Such services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.
- **Mutual fund agents, mutual fund distributors; and agents of lottery distributor** – Such service providers are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, service Tax in respect of mutual fund agent and mutual fund distributor services shall be paid by the assets management company or, as the case may be, by the mutual fund receiving such services. In respect of agents of lottery, Service Tax shall be paid by the distributor of lottery.

**Note** - The above changes in reverse charge mechanism will come into effect from the 1st day of April, 2015.

#### SERVICE TAX RULES

Rule No.	Amendment
<b>Rule 2 of Service Tax Rules, 1994</b>	<b>Service provided under aggregator model - The</b>

	aggregator, is liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner or any agent appointed by the aggregator shall pay the tax on his behalf. Amendment has been made in this regard and <b>Not. No. 30/2012 dated 20.06.2012.</b>
<b>Rule 4 of Service Tax Rules, 1994</b>	CBEC shall, by way of an order, specify the conditions, safeguards and procedure for <b>Registration in service tax.</b> In this regard <b>Order No. 1/15-ST, dated 28.2.2015, effective from 1.3.2015</b> 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.
<b>Rule 4A and 5 Service Tax Rules, 1994</b>	A provision for <b>issuing digitally signed invoices</b> 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.
<b>Rule 6 Service Tax Rules, 1994</b>	<b>Recovery of service tax</b> 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.

#### CENVAT CREDIT RULES, 2004

- **Rule 4(7)** - 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. This change will come into effect from 1.4.2015.

- **Period of taking Cenvat Credit** - extended from six months from the date of invoice to one year from the date of invoice.
- **Other Changes** – These include:
  - i. Allowing Cenvat Credit on input and capital goods received directly by job workers, defining “export goods” for the purposes of **Rule 5**
  - ii. Defining “exempt goods” for the purposes of **rule 6**,
  - iii. Making applicable the provision of **Rule 9(4)** to importer dealers,
  - iv. Authorizing imposition of restrictions on registered dealers under **Rule 12AAA**,
  - v. Provisions relating to recovery of credit wrongly taken and imposition of penalty.

- iv. **CHAPTER 20** - Excise duty of 2% without CENVAT credit or 6% with CENVAT credit is being levied on **peanut butter** [2008 11 00].
- v. **CHAPTER 21** - All goods falling under Chapter sub-heading 2101 20, including **iced tea**, are being notified under section 4A of the Central Excise Act for the purpose of assessment of Central Excise duty with reference to retail sale price with an abatement of 30%.
- vi. **CHAPTER 64** - Basic Excise Duty on **leather footwear** of Retail Sale Price exceeding Rs.1000 per pair falling under Central Excise Tariff heading 6403 and 6405 is being reduced from 12% to 6%. For the purposes of this exemption, leather footwear means footwear, classified under CETH 6403 or 6405, having uppers of leather, where leather refers to goods of heading 4107 or 4112 to 4114. This concessional rate of 6% would however not apply to footwear with leather sole and textile uppers falling under CETH 6404. Footwear, including leather footwear, of Retail Sale Price upto Rs. 500 per pair and those with RSP exceeding Rs. 500 per pair but not exceeding Rs. 1000 per pair will continue to attract NIL and 6% excise duty respectively. The abatement as a percentage of Retail Sale Price is being reduced from 35% to 25% for all footwear.
- vii. **CHAPTER 85** - Excise duty is being reduced from 12% to 6% on wafers for use in the manufacture of **IC modules for smart cards**, subject to actual user condition. Excise duty is being reduced from 12% to 6% on all inputs for use in manufacture of **LED driver and MCPCB for LED lights and Fixtures & LED Lamps**, subject to actual user condition. RSP based assessment is being prescribed expressly for LED lights or fixtures including LED lamps (Chapter 85 or 94) with an abatement of 35%.
- viii. **CHAPTER 87** - Excise duty on **chassis for ambulance** is being reduced from 24% to 12.5%, subject to actual user condition. The validity period of concessional excise duty of 6% granted to specified goods used in the manufacture of electrically operated vehicles and hybrid vehicles is being extended by one more year up to 31st March, 2016

## CENTRAL EXCISE

### RATE OF EXCISE DUTY

- **Ad valorem Rate of Excise Duty** - Increased from 12% to 12.5%. Specific rates of Basic Excise Duty on petrol, diesel, cement, cigarettes & other tobacco products (other than biris) are also being suitably changed. In this regard, the First Schedule to the Central Excise Tariff Act, 1985 as amended by Clause 104 of the Finance Bill, 2015 refers. These changes will come into force with immediate effect owing to a declaration under the Provisional Collection of Taxes Act, 1931. Also, see **S.Nos.42, 43, 45, 50, 51, 52, 53, 90, 107, 205A, 244, 273, 278, 279, 281, 285, 286, 287, 288 and 289 of Not. No.12/2012-Central Excise, dated 17th March, 2012 as amended by notification No.12/2015-Central Excise dated 1st March, 2015 refers.**
  - i. **Tablet Computers** from 12% to 2% without CENVAT credit or 12.5% with CENVAT credit.
  - ii. **Mobiles handsets, including cellular phones** from 1% without CENVAT credit or 6% with CENVAT credit to 1% without CENVAT credit or 12.5% with CENVAT credit. NCCD of 1% on mobile handsets including cellular phones remains unchanged.
  - iii. **CHAPTER 4** - Excise duty of 2% without CENVAT credit or 6% with CENVAT credit is being levied on **condensed milk** [0402 91 10 and 0402 99 20] put up in unit containers. Condensed milk [0402 91 10 and 0402 99 20] is also being notified under section 4A of the Central Excise Act for the purpose of valuation with reference to the Retail Sale Price, with an abatement of 30%.

#### CLARIFICATION ON VARIOUS ISSUES

- **Whether credit balance of EC and SHEC of excise duty available as on 01.03.2015 to lapse?**  
There is no express provision as regards the lapse of balance of credit available with the manufacturers or the provision of its utilisation in future or its refund in the Budget provisions. Moreover, the credit of Education Cess can be utilised only for payment of

Education Cess and likewise, the credit of SHE Cess can be utilised only for payment of SHE Cess. Consequently, the balance of cenvat credit of Education Cess and SHE cess available with the manufacturers will become a “sheer cost” unless and until a clarification as regards disposal of the available cenvat credit balance of Education Cess and SHE Cess is issued by the government. One view that may be taken is that the balance of Education Cess and SHE Cess may be retained by the manufacturers and may be used if any demand is fastened against them for the prior period in future. Alternatively, one may also view that the intention of the government is to grant temporary exemption to the levy of Education Cess and SHE Cess because there is no such exemption with respect to Customs duty and also, the government could have abolished it altogether instead of granting exemption from its levy.

- **Credit eligibility on transit goods as well as on input services**

Supposing the goods are dispatched on February 27 and received in the factory of manufacturer in the month of March. The Education cess and SHE cess will be charged on the same. But the credit will not be available as there is no Education cess and SHE cess leviable on the final product. Similarly the education cess and SHE cess is payable on service tax. It will be discontinued on the date notified after the enactment of budget. But the credit of the same will not be available to manufacturers. This will add to cost of their goods.

- **Whether discrimination between excise and service tax assessee proper?**

It is further submit that with the gap created in the grant of exemption of Education Cess and SHE Cess on excise duty and that on service tax to be applicable on a date to be notified later, the government has put the service providers at a relatively advantageous position than the manufacturer assessee. This is for the reason that the Education Cess and SHE Cess will be continued to be levied until the new service tax rates are effective and so the service providers will continue to utilise their credit balance till notified date. However, if we talk of manufacturer assessee that avail input services, they will have to bear additional cost of Education Cess and SHE Cess levied on input services availed by them because they would be unable to utilise the same. But, the manufacturer who is service provider also will be saved from the

absurd situation. This will be termed as step towards GST or step away from GST where the rates of service tax and excise are different and credit provisions will also apply differently for both of them.

## REGISTRATION

Registration process in Central excise is being simplified. **Notification No.7/2015-Central Excise (N.T.) dated 1st March, 2015 and Circular No.997/4/2015-Central Excise dated 28th February, 2015** issued in this regard may be referred for details of the simplified process to ensure that:

- Registration is granted within two working days of the receipt of a duly completed application form without any examination of documents.
- Verification of documents and premises, as the case may be, shall be carried out after the grant of the registration. The applicant shall tender self-attested copy of the prescribed documents at the time of the verification of the premises.
- Assessee would be enabled to electronically pay duty. Further, the assessee would not need a signed copy of Registration Certificate as proof of registration. Registration Certificate downloaded online from ACES system would be accepted as proof of registration.
- Registration shall mandatorily require that the PAN number of the proprietor or the legal entity being registered be quoted with the exception of the Government Departments for whom this requirement shall be non-mandatory. Applicants, who are not Government Department, shall not be granted registration in the absence of PAN number.

## CENTRAL EXCISE RULES, 2002

**RULE 10 & 11 OF CENTRAL EXCISE RULES, 2002** – Amended to provide for issue of digitally signed invoices and preservation of records in electronic form by a manufacturer.

## CENVAT CREDIT RULES, 2004

- **RULE 4 OF CCR, 2004** –
  - i. Increase the time limit for taking CENVAT credit on inputs and input services from the present six months to one year.
  - ii. Increase the time limit for return of Capital Goods from a job worker from the present six months to two years.



- **RULE 6 OF CCR, 2004** - Make provision relating to reversal for CENVAT Credit in rule 6, presently applicable to exempt goods and services, applicable to non-excisable goods also,
- **RULE 14 OF CCR, 2004** - Provide for recovery of CENVAT Credit taken but NOT utilized. Further, the manner of determining utilization of Credit is also being provided in the rule itself.  
**[Notification No.8/2015-Central Excise (N.T.) and No.6/2015-Central Excise (N.T.) both dated 1st March, 2015 refer]**

#### SECTION 11AC – PENALTY FOR SHORT LEVY OR NON LEVY OF DUTY IN CERTAIN CASES

**Section 11AC** is being substituted so as to rationalize the penalty as follows:

**(i)** in cases not involving fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of excise duty, in the following manner,-

**a)** in addition to the duty as determined under sub-section (10) of section 11A, a penalty not exceeding 10% of the duty so determined or Rs.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 sub-section (10) of section 11A 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 willful mis-statement of suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of excise duty, in the following manner,-

**a)** in addition to the duty as determined under sub-section (10) of section 11A, a penalty equal to the duty so determined shall be payable. In respect of cases where the details relating to such transactions are recorded in the specified record for the period beginning with 8th April, 2011 and upto the date of assent to the Finance Bill, 2015, the penalty payable shall be 50% of the duty so determined.

**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;

**c)** if duty as determined under sub-section (10) of section 11A 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) a)** 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.

**b)** Cases where no show cause notice has been issued prior to the date on which the Finance Bill, 2015 receives the assent of the President, shall be governed by provisions of section 11AC as amended.

**c)** Proceedings in the pending show cause notices can be closed – (i) on payment of duty, interest and penalty @ 15% of the duty in cases involving fraud, collusion, willful misstatement, etc. and (ii) on payment of duty and interest in cases not involving fraud, collusion, willful mis-statement, etc., within 30 days of the Finance Bill, 2015 receiving the assent of the President. In all cases where show cause notices are adjudicated after the Finance Bill, 2015 receives the assent of the President, reduced penalty @ 25% of the duty in cases involving fraud, collusion, willful mis-statement, etc. and 25% of the penalty imposed in cases not involving fraud, collusion, willful mis-statement, etc. can be paid

within 30 days of communication of the adjudication order if the duty, interest and penalty is paid within such time. [Clause 92 of the Finance Bill, 2015 refers]

## CUSTOMS

### RATE OF CUSTOMS DUTY

#### REDUCTION IN SAD

- All goods except populated printed circuit boards (PCBs), falling under any Chapter of the Customs Tariff, for use in manufacture of ITA bound goods from 4% to Nil.
- Naphtha, ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM) for manufacture of excisable goods from 4% to 2%.
- Metal scrap of iron & steel, copper, brass and aluminum from 4% to 2%.
- Inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and LED lamps from 4% to Nil.

### SECTION 28 – RECOVERY OF DUTIES NOT LEVIED OR SHORT LEVIED OR ERRONEOUSLY REFUNDED

**(a)** In sub-section (2), the following proviso shall be inserted, namely:—

“Provided that where notice under clause (a) of sub-section (1) has been served and the proper officer is of the opinion that the amount of duty along with interest payable thereon under section 28AA or the amount of interest, as the case may be, as specified in the notice, has been paid in full within thirty days from the date of receipt of the notice, no penalty shall be levied and the proceedings against such person or other persons to whom the said notice is served under clause (a) of sub-section (1) shall be deemed to be concluded.”;

**(b)** In sub-section (5), for the words “twenty-five per cent.”, the words “fifteen per cent.” shall be substituted;

### SECTION 112 – PENALTY FOR IMPROPER IMPORTATION OF GOODS

Sub clause (ii) of clause (b) of Section 112, following sub clause shall be substituted –

“(ii) In the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher: Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be

paid by such person under this section shall be 25% of the penalty so determined;”.

### SECTION 114 – PENALTY FOR ATTEMPT TO EXPORT GOODS IMPROPERLY

Sub clause (ii) of clause (b) of Section 112, following sub clause shall be substituted –

“(ii) In the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher: Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;”.

### OTHER AMENDMENTS

- **Section 127A** - In clause (b), in the proviso, the words “in any appeal or revision, as the case may be,” shall be omitted.
- **Section 127B** - Sub-section (1A) shall be omitted.
- **Section 127C** - Sub-section (6) shall be omitted.
- **Section 127E** - Shall be omitted.
- **Section 127H** - In sub-section (1), the *Explanation* shall be omitted.
- **Section 127L** - In sub-section (1),—
  - (a)** In clause (i), the words, brackets, figures and letters “passed under sub-section (7) of section 127C, as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C” shall be omitted;
  - (b)** In clause (ii), the words, brackets, figures and letter “under said sub-section (7), as it stood immediately before the commencement of section 102 of the Finance Act, 2007 or sub-section (5) of section 127C” shall be omitted.

## INCOME TAX

### RATES OF INCOME TAX

- **Individual Slab** - It is proposed that there will be no change in the rate of personal income tax in respect of

income earned in the financial year 2015-16, assessable in the assessment year 2016-17.

- **Tax on Corporate** - Proposal to reduce corporate tax from 30% to 25% over the next four years, starting from the next financial year. As per the clarification given by Government the tax rate shall be reduced in the following manner :
  - By 1.5% from Assessment Year 2016-17,
  - By 1.5% from Assessment Year 2017-18,
  - By 2% from Assessment Year 2018-19,
- **Surcharge on Domestic Companies and Individuals** - Surcharge @ 12% on individuals, HUFs, AOPs, BOIs, artificial juridical persons, firms, cooperative societies and local authorities having income exceeding 1 crore. Surcharge in the case of domestic companies having income exceeding 1 crore and upto 10 crore is proposed to be levied @ 7% and surcharge @ 12% is proposed to be levied on domestic companies having income exceeding 10 crore.
- **Surcharge on Foreign Companies** - In the case of foreign companies the surcharge will continue to be levied @ 2% if the income exceeds 1 crore and is upto 10 crore, and @ 5% if the income exceeds 10 crore.
- **Surcharge on Distribution of Dividends** - Surcharge @ 12% as against current rate of 10% on additional income-tax payable by companies on distribution of dividends and buyback of shares, or by mutual funds and securitization trusts on distribution of income.
- **EC and SHEC** - The education cess @ 2% on income-tax and 1% of additional surcharge called 'Secondary and Higher Education Cess' on tax and surcharge is proposed to be continued for the financial year 2015-16 for all taxpayers.

#### SECTION 9 – INCOME DEEMED TO ACCRUE OR ARISE IN INDIA

It is proposed to amend the provisions of the Income-tax Act so as to provide that:-

- The share or interest shall be deemed to derive its value substantially from the assets located in India, if on the specified date, the value of such assets represents at least fifty per cent of the fair market value of all the assets owned by the company or entity. However, the indirect transfer provisions would not apply if the value of Indian assets does not exceed ` 10 crore. Further, the principle of proportionality will

apply to the taxation of gains arising from indirect transfer of Indian assets.

- The Indian entity shall be obligated to furnish information relating to the offshore transactions having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of non-compliance, a penalty is also proposed.
- The indirect transfer provisions shall not apply in a case where the transferor of share or interest in a foreign entity, along with his associated enterprises, neither holds the right of control or

#### SECTION WISE PROPOSED AMENDMENTS

Section	Proposed Amendments
<b>Section 2(15) – Charitable Purpose</b>	To include 'yoga' as a specific category of activity in the definition of 'charitable purpose' and also to provide relief for activities in the nature of business undertaken by genuine charitable organizations subject to the condition that aggregate receipts from such activity is less than 20% of the total receipts.
<b>Section 92BA – Specified Domestic Transactions</b>	Increase the threshold limit for applicability of transfer pricing regulations to specified domestic transactions from `5 crore to `20 crore.
<b>Section 115A – Taxation of Royalty and Fees for Technical Services</b>	To reduce the rate of tax on royalty and fees for technical services from 25% to 10%.
<b>Section 194LD – TDS on income by interest on certain bonds and Govt. Securities</b>	Extend the period of applicability of reduced rate of tax at 5% in respect of income of foreign investors (FIIs and QFIs) from corporate bonds and government securities, from 31.5.2015 to 30.06.2017.
<b>Section 195 – Withholding Tax on Payments made to Non Residents</b>	With a view to ensuring proper deduction of tax on payments made to non-residents, it is proposed to amend the provisions of section 195 of the Income-tax Act so as to provide for enabling power to the CBDT

	for capturing information about prescribed foreign remittances which are claimed to be not chargeable to tax.
<b>Section 197</b> - Certificate of lower deduction or non-deduction of tax source	To provide the facility of filing self-declaration of non-deduction of tax by the recipients of taxable maturity proceeds of life insurance policy.
<b>Section 269SS and 269T</b> - Prohibition on acceptance or repayment of advance in cash	To prohibit acceptance or repayment of advance in cash of ` 20,000 or more for any transaction in immovable property. It is also proposed to provide a penalty of an equal amount in case of contravention of such provisions.
<b>Section 255</b> – Procedure of Appellate Tribunal	Increase the monetary limit from 5 lakh to 15 lakh, for a case to be heard by a Single Member Bench of the ITAT.

#### AMENDMENTS IN SECTION 80 DEDUCTIONS

Section	Proposed Amendments
<b>Section 80C</b> – Deduction in respect of various Investment.	Investment in Sukanya Samridhi Scheme will be eligible for deduction u/s 80C and any payment from the scheme shall not be liable to tax.
<b>Section 80CCC</b>	To increase the limit of deduction u/s 80CCC of the Income tax Act on account of contribution to a pension fund of LIC or IRDA approved insurer from Rs. 1 lakh to Rs. 1.5 lakh.
<b>Section 80CCD</b> – Deduction for NPS Contribution	To increase the limit of deduction u/s 80CCD of the Income tax Act on account of contribution by the employee to National Pension Scheme (NPS) from Rs. 1 lakh to Rs. 1.50 lakh. It is also proposed to provide a deduction of upto Rs. 50,000 over and above the limit of Rs. 1.50 lakh in

	respect of contributions made to NPS.
<b>Section 80D</b> – Deduction on Medical Insurance Premium	It is proposed to increase the limit of deduction u/s 80D of the Income tax Act from Rs. 15,000 to Rs. 25,000 on health insurance premium (in case of senior citizen from Rs. 20,000 to Rs. 30,000). It is also proposed to allow deduction of expenditure of similar amount in case of a very senior citizen not eligible to take health insurance.
<b>Section 80DD</b> – Deduction for expenses on maintenance/medical treatment of disabled dependent	To increase the limit of deduction u/s 80DD of the Income tax Act in respect of maintenance, including medical treatment of a dependant who is a person with disability, from Rs. 50,000 to Rs. 75,000. It is also proposed to increase the limit of deduction from Rs. 1 lakh to Rs. 1.25 lakh in case of severe disability.
<b>Section 80DDB</b> – Deduction in respect medical treatment	It is proposed to increase the limit of deduction in case of very senior citizens u/s 80DDB of the Income-tax Act on expenditure on account of specified diseases from Rs. 60,000 to Rs. 80,000.
<b>Section 80JJAA</b> – Deduction in respect on new workmen employment	Tax benefit under the said section shall be available to a 'person' deriving profits from manufacture of goods in a factory and paying wages to new regular workmen. The eligibility threshold of minimum 100 workmen is proposed to be reduced to 50.
<b>Section 80G</b> – Deduction in respect Donation	<b>1. Contribution to Swachh Bharat Kosh</b> - It is proposed to provide that the donations (other than the CSR contributions made in accordance with section 135 of the Companies Act, 2013)

	made to Swachh Bharat Kosh (by both resident and nonresident) and Clean Ganga Fund (by resident) shall be eligible for 100% deduction under section 80G of the Income-tax Act. <b>2. National Fund for Control of Drug Abuse</b> - Donation made to NFCDA shall be eligible for 100% deduction under section 80G of the Income-tax Act.
<b>Section 80U – Deduction for disabled persons</b>	To increase the limit of deduction u/s 80U of the Income tax Act in case of a person with disability, from Rs. 50,000 to Rs. 75,000. It is also proposed to increase the limit of deduction from Rs. 1 lakh to Rs. 1.25 lakh in case of severe disability.

#### BENEFIT TO INDIVIDUAL TAXPAYERS

Particulars	Amount
Deduction u/s 80C	1,50,000
Deduction u/s 80CCD	50,000
Deduction on account of interest on house property loan (Self occupied property)	2,00,000
Deduction u/s 80D on health insurance premium	25,000
Exemption of transport allowance	19,200
<b>Total Benefits to Individual Taxpayers</b>	<b>4,44,200</b>

#### WEALTH TAX

It is proposed to abolish the levy of Wealth-tax with effect from Assessment Year 2016-17 for reducing the compliance burden on the tax payers. The revenue loss on account of such abolition is proposed to be compensated by increase in the existing surcharge by 2% in case of domestic companies and all non corporate taxpayers.

#### OTHER PROPOSED AMENDMENTS UNDER INCOME TAX

- Offence of making false declaration/documents in the transaction of any business relating to Customs (section

- 132 of the Customs Act) to be predicate offence under PMLA to curb trade based money laundering.
- To defer applicability of General Anti Avoidance Rule (GAAR) by 2 years. Accordingly, it is proposed to be applicable for income of the financial year 2017-18 (A.Y. 2018-19) and subsequent years. It is also proposed that the investments made upto 31.03.2017 shall not be subjected to GAAR.
- To streamline the taxation regime of Alternative Investment Funds (AIFs), it is proposed to provide pass through status to all the subcategories of category-I and also to category-II AIFs governed by the regulations of Securities and Exchange Board of India (SEBI).
- Under the existing provisions of the Income-tax Act, an individual buying an immovable property from a resident is required to deduct tax but is not required to obtain TAN for depositing the tax so deducted. With a view to extend the same facility to an individual or HUF purchasing an immovable property from a non-resident, it is proposed to relax the requirement of obtaining TAN by the individual or HUF who is required to deduct tax on acquisition of immovable property from a non-resident.
- It is proposed to modify the Permanent Establishment Norms to facilitate relocation of fund managers of offshore funds.
- It is proposed to provide for chargeability of interest paid by a permanent establishment (PE) or a branch of foreign bank to its Head Office (HO) and other overseas branches under the source rule of taxation and for treating the PE or branch as a taxable entity for computation of income and for purpose of levy of TDS.
- Additional depreciation @ 20% is allowed on new plant and machinery installed by a manufacturing unit or a unit engaged in generation and distribution of power. However, if the asset is installed after 30<sup>th</sup> September of the previous year only 10% of the additional depreciation is allowed. It is proposed to allow the remaining 10% of the additional depreciation in the subsequent previous year.
- It is proposed to amend the provisions of the Income-tax Act so as to provide tax neutrality on transfer of units of a scheme of a Mutual Fund.
- To provide that while making an application to the Settlement Commission for an assessment year which has been re-opened by the Assessing Officer, the assessee can make an application for other assessment years in which the proceedings could be re-opened provided the return of income for such assessment years has been furnished by the assessee.



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