



Budget 2016 - Highlights

Income Tax

Personal Taxation:

Taxation slabs:

For Individuals, HUF, AOP and Artificial Jurisdiction Person:

- There is no change in the basic exemption limit and tax slabs including education cess.
- It is proposed to increase surcharge on income above Rs. 1 crore, from 12% to 15%.

The effective rate of income tax for the Financial Year 2016 – 17 will be as per below chart:

Income levels	Individual/ HUF/ AOP/BOI	Senior Citizens (Age 60 – 80 years)	Very Senior Citizens (Age 80 years and above)
Up to 250,000	Nil	Nil	Nil
250,001 – 300,000	10.30%	Nil	Nil
300,001 – 500,000	10.30%	10.30%	Nil
500,001 – 1,000,000	20.60%	20.60%	20.60%
10,00,001 – 10,000,000	30.90%	30.90%	30.90%
Above 10,000,000	35.535%	35.535%	35.535%

Enhanced Rebate u/s. 87A:

Rebate of income tax for resident individual with total income up to Rs. 500,000/- increased from up to Rs. 2,000/- to up to Rs. 5,000/-.

Flexibility in saving schemes and enhanced deduction:

Interest on Housing Loan:

An **additional deduction of Rs. 50,000/-** is available in respect of interest payable on home loan taken by individual during the financial year 2016 – 17. The deduction is available to an individual who does not own a house property, buys a new house where the cost of the house does not exceed Rs. 50 Lacs and loan amount thereon does not exceed Rs. 35 Lacs.

Enhanced deduction on house rent u/s. 80GG:

Maximum deduction increased **from Rs. 2,000/- p.m. to Rs. 5,000/- p.m.** in respect of house rent paid by an individual in case where he does not own a house where he performs his duties and does not receive any House Rent Allowance.

Enhanced period of construction:

The period within which the construction of self occupied property is to be completed to claim **deduction of interest on housing loan** increased from 3 years to 5 years from the year in which loan is borrowed.

Retirement benefits:

Employers' contribution to Provident Fund in excess of 12% of salary of the employee or Rs. 150,000/- whichever is lower will be subject to tax.

Exemption limit for employers' contribution of superannuation has been increased from Rs. 100,000/- to Rs. 150,000/-.

Exemption of the amount withdrawn from recognised provident fund will now be restricted to 40% (earlier fully exempt) of the amount withdrawn to the extent it relates to contribution made by the employee (other than excluded employee) after 1st April 2016. Excluded employee would mean employee whose monthly salary does not exceed such amount as may be prescribed.

40% of the amount withdrawn from New Pension Scheme (NPS) on retirement will be exempt. (Earlier it was fully taxed.) However, amount withdrawn by a nominee from NPS on death of the tax payer would be fully exempt from tax.

Capital Gains:

Deposit certificates under '**Gold Monetisation Scheme 2015**' will not be considered as 'Capital Assets'. Interest thereon would also be exempt from tax.

Capital Gain on redemption of "**Sovereign Gold Bonds Scheme 2015**" issued by RBI will not be taxable for individuals.

Corporate Tax

➤ **Rate of Corporate Tax:**

Corporate Tax will remain the same except that the tax Rate will reduce to 29% in respect of domestic Companies whose total turnover or gross receipts in the previous year 2014 – 15 **does not exceed Rs. 5 crores.**

➤ **Tax on income of Newly set up Domestic Companies – Section 115BA:**

Newly set up domestic Companies engaged in the business of manufacturing or productions of any article or thing have an **option to be taxed @ 25%** subject to following conditions:

- The Company has been registered on or **after 1st March 2016**;
- The Company is engaged in the business of **manufacturing** or production of any articles or things;
- The Total income of the Company has been calculated **without availing any benefits** u/s. 10AA, additional depreciation, accelerated depreciation, investment allowance, expenditure on scientific research or any other deduction under Chapter VI-A other than Section 80JJAA or any other set-off of losses attributable to such deductions or allowances.

➤ **Presumptive Taxation:**

- The Limit for presumptive **taxation @ 8% of total turnover** or gross receipts of the eligible assessee engaged in eligible business is increased **from Rs. 1 crore to Rs. 2 crores**. Further, such tax payers can pay advance tax in single instalment by 15th March of the financial year.
- **Professionals** having total receipts up to **Rs. 50 Lacs** may also opt for **presumptive tax @ 50%** of their total income. The limit of total receipt for the purpose of Tax Audit u/s. 44AB is enhanced from Rs. 25 Lacs to Rs. 50 Lacs.
- Section 115BBF has been introduced whereby royalty received by a person resident in India in respect of a **patent developed and registered** in India, will be chargeable to tax at concessional rate of **10% on gross receipts** from such royalty.

➤ **Phasing-out of profit linked/weighted deductions:**

It is proposed that various profit linked and weighted deductions available will be phased out over next few years as per chart given below:

Sections	Phase-out plan with effect from Assessment Year
10AA – SEZ	2021 – 22
35AC – Eligible social development projects or schemes	2018 – 19
35CCD – Expenditure on skill development project	2021 – 22
80IA – Development, operation and maintenance of infrastructure facility	2018 – 19
80IAB – Development of SEZ	2018 – 19
80IB – Production of mineral oil and natural gas	2018 – 19
32 – Accelerated Depreciation	Maximum accelerated depreciation restricted to 40% wef 2018 – 19 both for old and new assets
35(1)(ii) – Expenditure on scientific research	Weighted deduction reduced to 150% from 2018-19 to 2020-21 and 100% from 2021-22 onwards
35(1)(iia) – Contribution to Companies for scientific research	Deduction restricted to 100% wef 2018-19
35(1)(iii) – Contribution for social science or statistical research	Deduction restricted to 100% wef 2018-19
35(2AA) – Contribution to approved scientific research programme	Weighted deduction reduced to 150% from 2018-19 to 2020-21 and 100% from 2021-22 onwards
35(2AB) – Expenditure on in-house R & D facility	Weighted deduction reduced to 150% from 2018-19 to 2020-21 and 100% from 2021-22 onwards
35AD – Capital expenditure on cold chain facility, warehousing for agriculture produce, affordable housing project, production of fertiliser and hospital project	Deduction restricted to 100% of Capital expenditure wef 2018 – 19
35CCC – Expenditure on notified agriculture extension project	Deduction restricted to 100% of expenditure wef 2018 – 19

- **Section 80JJAA** has been substituted to provide for deduction in respect of **new employment** has been substantially liberalised as follows:

Existing provisions	Proposed provisions
Applicable to Indian Companies engaged in manufacturing of goods	Applicable to any person to whom Sec. 44AB (Tax audit) applies
Deduction of 30% of wages paid to new workmen	Deduction of 30% of additional employee cost whose total emoluments does not exceed Rs. 25,000/- per month.
Deduction available for 3 AYs	Deduction available for 3 AYs
New employee must work for at least 300 days in financial year	New employee must work for at least 240 days in financial year
No deduction allowed if the factory is transferred from existing entity, or acquired as a result of amalgamation or reorganisation	No deduction allowed if the business is formed by splitting up, reconstruction or transfer
Deduction allowed only if number of employees increase by at least 10%	Deduction allowed if there is increase in any number of employees compared to last year. In case of new business, aggregate emoluments paid to employees will be considered as additional employee cost.

➤ **Exemption to Non-Residents from furnishing PAN card – Section 206AA:**

- As per Section 206AA, if PAN is not provided at the time of deduction of tax at source, tax is required to be deducted at higher taxes, a minimum of 20%.
- In order to reduce compliance burden for non residents, it is proposed that this section will not apply to non residents, in respect of any payments, subject to such conditions as may be prescribed.

➤ **Applicability of Minimum Alternative Tax (MAT) to foreign Companies:**

It is proposed to make MAT not applicable to foreign Companies with effect from 1st April 2001 subject to following conditions:

- The foreign Company is a resident of a country with which India has entered into a DTAA and the foreign Company does not have a Permanent Establishment in India
- The foreign Company is a resident of a country with which India does not have a DTAA and the foreign Company is not required to seek registration under any law relating to foreign Company in India.

➤ **Tax on distribution of Dividend:**

- Currently dividend income is exempt from tax in the hands of shareholder. It is proposed to levy additional 10% tax on the resident individual, HUF and Firm shareholders in case the amount of dividend received exceeds Rs. 10 Lacs.
- It is proposed that distribution of dividend out of its current income by a Company to a business trust, which owns 100% of the shares of the Company, be exempt from Dividend Distribution Tax (DDT).

➤ **Tax Deduction at Source (TDS) AND Tax Collection at Source (TCS):**

- The threshold limits for deduction of tax at source has been revised with effect from 1st June 2016 as follows:

Sec.	Account Head	Existing		Revised	
		Limit	Rate	Limit	Rate
192A	Payment of accumulated Provident Fund balance due to an employee	30,000	10%	50,000	10%
194C	Payment to Contractors	30,000 for single transaction and 75,000 for aggregate transactions	2% for Companies/Firms and 1% for non Individuals/HUF	30,000 for single transaction and 100,000 for aggregate transactions	2% for Companies/Firms and 1% for non Individuals/HUF
194H	Commission or Brokerage	5,000	10%	15,000	5%
194I	Rent	2% for Plant & Machinery and 10% for Property		No TDS if self declaration in Form 15G/15H is made by the recipient.	
206C	Sale of motor vehicle			Above 10 Lacs	1%
206C				Sale of goods (other than bullion and jewellery) or provision of services exceeding 2 Lacs	1%

➤ **Filing of Return of Income:**

- Every person whose income, **without giving effect to the exempt section 10(38)** i.e. Income from Long Term Capital Gain on sale of an equity share in the Company or a unit, exceeds the basic threshold limit, shall furnish return of income within the specified due dates.
- Time limit to file **belated tax returns** has been reduced by one year
- Belated Tax Returns can now be revised.
- A Tax Return would not be regarded as 'defective' merely because the tax and interest due thereon has not been paid before furnishing of the return.

Penalty Provisions – Sec. 270:

A new Section 270A has replaced the existing penalty section which prescribes levy of penalty in two different situations viz. Under-reporting of income and Misreporting of income.

- **Under-reporting of Income:**

A person is considered to have under reported his income if –

- Income assessed is greater than income determined in the return processed u/s. 143(1)(a);
- Income assessed is greater than maximum amount not chargeable to tax if no return is furnished;
- Income assessed has the effect of reducing loss or converting such loss into income.

Penalty may be levied for a **sum equal to 50% of the tax payable** on under reported income.

- **Misreporting of Income:**

A person is considered to have misreported his income if –

- Misrepresentation or suppression of facts;
- Failure to record investments in the books of accounts;
- Claim of evidence not substantiated by any evidence;
- Recording of any false entry in the books of accounts;
- Failure to record any receipt in the books of accounts having a bearing on total income.

Penalty may be levied for a **sum equal to 200% of the tax payable** on under reported income.

Immunity from Penalty and Prosecution – Sec. 270AA

- A new Section 270AA is introduced to provide immunity from levy of penalty and prosecution if the assessee **pays the entire tax and interest** payable as per the assessment order within the stipulated time and **does not prefer to appeal** against such order.
- **No immunity** however is available in case of misreporting of income;
- An application has to be made within one month from the end of the month in which the assessment order is received.
- The Assessing Officer shall within one month from the end of the month in which such application is received either accept or reject the application of grant of immunity
- Such order of the Assessing Officer shall be final.

Direct Tax Dispute Resolution Scheme:

In order to reduce the huge backlog of cases and enable Government to realise the dues expeditiously, Direct Tax Dispute Resolution Scheme is proposed in relation to "Tax Arrear" and "Specified Tax".

➤ **Tax Arrear:**

- Tax Arrear is defined as the amount of tax, interest or penalty determined under the Act in respect of which appeal is **pending before the CIT (Appeals)** as on 29.02.2016
- The declarant is required to pay Tax and Interest up to the date of assessment order. In case the disputed tax amount exceeds Rs. 10 Lacs, 25% of the minimum penalty leviable shall also be required to be paid;
- In case the pending appeal is against a penalty order, 25% of the minimum penalty leviable is required to be paid along with tax and interest payable on account of the assessment;
- Consequent to such declaration, appeal shall be deemed to have been withdrawn.

➤ **Specified Tax:**

- Specified Tax is defined to mean tax determined as a consequence of amendment in Income/Wealth Tax Act **with retrospective effect** and dispute in respect of which is pending as on 29.02.2016
- The declarant is required to pay only the Tax due at applicable rates
- The declarant shall get complete waiver of interest and full immunity from penalty and prosecution under the Act;

- For availing the scheme, the declarant shall withdraw any appeal, writ in respect of such specified tax and any claim in proceedings for arbitration, conciliation, mediation and also an undertaking waiving his right to pursue any remedy or claim in relation to such specified tax.

Income Declaration Scheme 2016:

- Immunity is proposed to be granted from further scrutiny under the Income Tax Act in case where the assessee declares **domestic undisclosed income/assets** and pays 45% thereof (Tax of 30%, Surcharge of 7.5% and penalty of 7.5%).
- The scheme is proposed to be brought into effect from 01.06.2016 and will remain open till the date to be notified;
- If declaration is made in respect of undisclosed asset, fair market value (Rules to be prescribed) of that asset as on 01.06.2016 shall be regarded as the value of undisclosed income.
- No scrutiny or inquiry will be made under the Income Tax Act and Wealth Tax Act;
- Immunity from Benami Transactions (Prohibition) Act shall also be granted.

Equalisation Levy – Taxation of digital business:

- A new Chapter has been introduced to charge Equalisation Levy @ **6%** on the amount payable to a **non resident**, not having a PE in India, for specified services.
- Specified Services are defined to mean **online advertising** or any provision for digital advertising space or any other facility or service for the purpose of online advertisement or any other service as may be notified by Government.
- No levy shall be made if aggregate amount of consideration for specified services received from a person resident in India **does not exceed Rs. 1 Lac.**
- The corresponding expenditure shall be deductible only if such levy is deducted and paid before the due date of filing of Tax Return. Payment on a subsequent date will enable claiming deduction in the year of payment;
- **Such income will not be taxable** in the hands of recipient;
- The effective date will be notified by the Government.

Tax Incentives for Start-ups:

'Eligible business' means a business which involves **innovation, development, deployment or commercialisation of new products, processes or services** driven by **technology or intellectual property**.

'Eligible Start-up' means a Company incorporated on or after **1st April 2016** but before **1st April 2019** and the turnover of the business **does not exceed Rs. 25 crores** in any of the period beginning from/after **1st April 2016** and ending on **31st March 2021** and obtains a Certificate of Eligible business from Inter-Ministerial Board of Certification.

In order to provide impetus to eligible start-ups and facilitate their growth in the initial phase of their business, following tax incentives are proposed:

- **Deduction u/s. 80IAC of 100% of the profits** of such eligible business for **3 consecutive assessment years** out of 5 years beginning from the year in which the Company is incorporate;
- A new **Section 54EE** is introduced to provide exemption from capital gain whereby any capital gain arises on transfer of a Long Term Capital Asset and the assessee, within 6 months from the date of transfer, invests the capital gain in '**specified fund**' to the extent the investment does not exceed Rs. 50 Lacs. The lock-in period of investment in this fund is 3 years. Specified fund is created by the Government to promote start-up ecosystem;
- **Section 54GB** has been amended to provide that any Long Term Capital Gain arises to an individual or HUF from transfer of a residential house to be exempt provided the proceeds are utilised to subscribe to shares of an eligible start-up provided the individual or HUF holds more than 50% shares in the Company and such Company utilises such amount of investment to purchase new asset **including Computers or Computer software**, before the due date of filing of return of income.

Miscellaneous amendments:

- In order to provide legal framework for **paperless assessment** and related procedure, it is proposed that notices and documents can be issued either in paper form or electronic form. It has also been proposed to define the term '**hearing**' to include communication of data and documents **through electronic mode**.
- Benefit of deduction of 5% of total income in respect of provision for bad and doubtful debts is proposed to be extended to **NBFCs**.
- Failure to comply with statutory notices under section 142(1)/143(2)/142(2A) shall attract **penalty of Rs. 10,000/- for each of such default**.
- **Scope of Section 143(1)** expanded to include adjustments on the basis of data available with tax department in the form of audit report, past returns, Form 26AS and Form 16/16A, after providing opportunity to the assessee.
- Non-corporate assesses will also have to now pay **Advance Tax** in 4 instalments viz. 15th June, 15th September, 15th December and 15th March.
- Eligible assesses who opt to be assessed u/s. 44AD are required to pay Advance Tax in only one instalment on or before 15th March of the financial year.

- For claiming tax neutrality for conversion of **Company into LLP**, additional condition introduced to provide that value of assets in the books of Company in any of the three preceding years should not exceed Rs. 5 crores.

BEPS – Action Plan and Country by country report

The Finance Bill, 2016 has sought to introduce the norms prescribed by OECD regarding “country by country reporting (CbC)” by making relevant changes in Section 92D and by introducing a new section 286 in the Income Tax Act, 1961.

The OECD has prescribed action plans on Base Erosion and Profit Shifting and in its Action Plan 13 introduced guidance on Transfer Pricing Documentation and CbC.

Following are the highlights of CbC reporting introduced by the Finance Bill, 2016:

- ✓ The reporting provisions shall apply from the FY 2016-17 if the consolidated revenue of the group exceeds € 750 millions in the previous year, i.e. FY 2014-15.
- ✓ The reporting has to be done by the Indian parent company to the prescribed authority for each entity in the group information regarding the revenue, PBT, income tax paid, stated capital, accumulated earnings, no. of employees, tangible assets, main business activity and any other information as may be prescribed of each entity in the group.
- ✓ If there are more than one entities in the group, the parent company can nominate any entity in the group to furnish the information required to be reported to the respective prescribed authority in its country of jurisdiction.
- ✓ The Indian subsidiary company, whose parent company is a non-resident company has to report to the prescribed authority, before the due date of filing of return of income, the name of its parent company and the country of jurisdiction of the parent company.

However if the Indian Government does not have agreement for exchange of information with the country in which such parent company is resident or if there is any violation of such agreement for exchange of information then the entity resident in India shall furnish the details of the of each entity in the group information regarding the revenue, PBT, income tax paid, stated capital, accumulated earnings, no. of employees, tangible assets, main business activity and any other information as may be prescribed of each entity in the group.

- ✓ The prescribed authority can call for any information an document for the purpose of verifying the accuracy of information filed by the entity with the prescribed authority.

- ✓ Failure to furnish the above information will attract penalty of Rs 5,000 per day if the failure continues for 1 month and beyond 1 month, the penalty would be Rs 15,000 per day.
- ✓ If the failure continues after an order by the prescribed authority has been served on the entity, penalty of Rs 50,000 per day may be levied.
- ✓ Furnishing of inaccurate information or failure to rectify the inaccurate information within 15 days of furnishing the information will attract a penalty of Rs 500,000.

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