



# **Rajput Jain & Associates** **Chartered Accountants**





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## HIGHLIGHTS OF THE FINANCE BILL, 2015

### **INCOME TAX**

- Amendment in determination of residential status under the Act for individual and company
- Conveyance Allowance for Salaried assesseees increased from ₹ 800 per month to ₹ 1,600 per month
- Payment from Sukanya Samriddhi Account is exempt under Section 10
- Additional deduction upto ₹ 50,000 for contribution to Pension Fund under Section 80CCD
- Mediciam benefits under Section 80D limit increased from ₹ 15,000 to ₹ 25,000 for all assesseees, for senior citizens from ₹ 20,000 to ₹ 30,000 and for super senior citizens deduction of ₹ 30,000 for medical expenditure
- 100% deduction under Section 80G in case of contribution to Swachh Bharat Kosh and Clean Ganga Fund
- No change in slab rates for all assesseees, proposed to reduce the tax rate to 25% for companies in a phased manner
- Abolition of Wealth tax, imposition of additional surcharge of 2% in case of other than companies assesseees having income of more than ₹ 1 Crore
- Domestic transfer pricing limit increased from ₹ 5 Crore to ₹ 20 Crore
- Charitable activities to include yoga activities
- PAN is mandatory for any property related transaction above ₹ 1,00,000
- Additional depreciation and deduction on new plant and machinery installed in notified backward areas
- Tax to non-residents on royalty and fees for technical services reduced from 25% to 10%
- GAAR deferred for another 2 years

### **SERVICE TAX**

- Service Tax rate increased to 14% from 12.36% (inclusive of Cesses)
- Swachh Bharat Cess proposed to be introduced @ 2% on the value of taxable services, resulting in total taxes @ 16% (14% + 2%) on the value of taxable services
- Number of services covered in Negative list and Mega Exemption reduced
- Clarification issued in respect of taxability of reimbursable expenses
- Registration Certificate can be obtained in 2 working days
- Change in time limit for avaiement of Cenvat credit from 6 months to 1 year
- 100% reverse charge on Manpower and Security services

# MAJOR AMENDMENTS PROPOSED IN FINANCE BILL, 2015

## PROVISIONS RELATING TO INCOME TAX

### Rates of Tax

The Rates of Tax proposed in Finance Bill, 2015 are tabulated as under:

Type of Assessee	Income Slab	Rate
Individual, HUF, AOP and BOI	Up to ₹ 2,50,000	Nil
	₹ 2,50,001 to 5,00,000 Tax Credit up to ₹ 2000	10%
	₹ 5,00,001 to 10,00,000	20%
	Above ₹ 10,00,000	30%
Individuals above the age of 60 Years (Senior Citizens)	Up to ₹ 3,00,000	Nil
		10%
	₹ 5,00,001 to 10,00,000	20%
	Above ₹ 10,00,000	30%
Individuals above the age of 80 years (Super Senior Citizens)	Up to ₹ 5,00,000	Nil
	₹ 5,00,001 to 10,00,000	20%
	Above ₹ 10,00,000	30%
Income Tax on Short Term Capital gain U/s 111A and 115AD 15%		
Firm, LLP, Co-op Society and Local Authority	30%	
In all above cases	surcharge of 12% on tax if the Taxable Income Exceeds ₹ 1,00,00,000/- (Marginal relief is provided)	
Domestic Company	30% plus surcharge of 5% on tax if the Taxable Income Exceeds ₹ 1,00,00,000/-, plus surcharge of 10% on tax for the Taxable Income Exceeds ₹ 10,00,00,000/-	

Corporate Dividend Tax	15% plus 10% Surcharge Plus Cess
Minimum Alternative Tax on Domestic Companies and LLPs	18.5% plus 10% Surcharge plus Cess
Foreign Companies	40% plus surcharge of 2% on tax if the Taxable Income Exceeds ₹ 1,00,00,000/-, plus surcharge of 5% on tax if the Taxable Income Exceeds ₹ 10,00,00,000/-

Additional Education Cess of 2% and Secondary and Higher Education Cess of 1% will continue on Income Tax and Surcharge.

*The amendments will take effect from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2016-17 and subsequent assessment years unless otherwise stated.*

#### **Business Trust - Section 2(13A)**

It is proposed to substitute Section 2(13A) to provide for the definition of "business trust" to mean a trust registered as,—

- (i) an Infrastructure Investment Trust under the Securities and Exchange Board of India (Infrastructure Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992; or
- (ii) a Real Estate Investment Trust under the Securities and Exchange Board of India (Real Estate Investment Trusts) Regulations, 2014 made under the Securities and Exchange Board of India Act, 1992, and the units of which are required to be listed on a recognised stock exchange in accordance with the aforesaid regulations.

#### **Income of Trust - Section 2(15)**

##### **Inclusion of Yoga**

It is proposed to amend Section 2(15) of the aforesaid section to provide that the definition of charitable purpose shall include "yoga" as a separate category on the lines of education and medical relief.

##### **Change in the limit of Income from Trade or commerce**

It is further proposed to provide that the advancement of any other object of general public utility shall not be a charitable purpose,



if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a Cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless–

- (i) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and
- (ii) the aggregate receipts from such activity or activities during the previous year, do not exceed twenty per cent of the total receipts of the trust or institution undertaking such activity or activities, of that previous year.

### **Rates in Force for 194LBA - Section 2(37A)**

It is also proposed to provide that for the purposes of deduction of tax under section 194LBA, the “rates in force”, in relation to an assessment year or financial year shall mean the rate or rates of income-tax specified in this behalf in the Finance Act of the relevant year.

### **Consolidation of Mutual fund schemes - Section 2(42A)**

It is proposed to amend the clause (i) of 2(42A) to provide that in the case of a capital asset, being a unit or units, which becomes the property of the assessee in consideration of a transfer referred to in section 47(xviii), there shall be included the period for which the unit or units in the consolidating scheme of the mutual fund were held by the assessee.

### **Residence in India - Section 6**

#### **Residential status of Crew of ship**

It is proposed to insert a new Explanation 2 so as to provide that in the case of an individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.

This amendment will take effect retrospectively from 1st April, 2015

#### **Residential status of company**

It is proposed to amend Section 6(3) to provide that a company shall be said to be resident in India, in any previous year if–

- (a) it is an Indian company; or
- (b) its place of effective management, at any time in that year, is in India (changed from during that year, the control and management of its affairs is situated wholly in India)

It is also proposed to clarify the expression "place of effective management" to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole, are in substance made.

#### **Income deemed to accrue or arise in India - Section 9**

It is proposed to provide that the share or interest shall be deemed to derive its value substantially from the assets (whether tangible or intangible) located in India, if, on the specified date, the value of such assets is more than ten crore rupees and represents at least fifty percent of the value of all the assets owned by the company or entity, as the case may be. The definition of value of assets and the specified date is also proposed to be provided in the said Explanation.

It is further proposed to insert Explanation 7 in the said clause(i) so as to provide that the income shall not accrue or arise to a non-resident in case of transfer of any share or interest referred to in Explanation 5, unless—

- (a) he along with its associate enterprises,—
  - (i) neither holds the right of management or control;
  - (ii) nor holds voting power or share capital or interest exceeding five per cent of the total voting power or total share capital in the foreign company or entity directly holding the Indian assets (direct holding company);
- (b) he along with its associate enterprises, in case of the transfer of shares or interest in a foreign entity which does not hold the Indian assets directly,—
  - (i) neither holds the right of management or control in relation to such company, as the case may be, or the entity;
  - (ii) nor holds any rights in such company which would entitle it to either exercise control and management of the direct holding company or entitle it to voting power exceeding five percent in the direct holding company or entity.

It is proposed to provide that in the case of a non-resident, being a person engaged in the business of banking, any interest payable by the permanent establishment in India of such non-resident to the head office or any permanent establishment or any other part of such non-resident outside India shall be deemed to accrue or arise in India and



shall be chargeable to tax in addition to any income attributable to the permanent establishment in India and the permanent establishment in India shall be deemed to be a person separate and independent of the non-resident person of which it is a permanent establishment and the provisions of the Act relating to computation of total income, determination of tax and collection and recovery shall apply accordingly. It is further proposed to provide that "permanent establishment" shall have the same meaning assigned to it in clause (iiia) of section 92F.

#### **Certain activities not to constitute business connection in India - New section 9A**

Sub-section 9A(1) propose to provide that in the case of an eligible investment fund, any fund management activity carried through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

Sub-section 9A(2) propose to provide that an eligible investment fund shall not be said to be resident for the purposes of section 6, merely because the eligible fund manager undertaking fund management activities on its behalf is situated in India.

Sub-section 9A(3) propose to provide that the eligible investment fund shall mean a fund, established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and certain conditions specified in the said sub-section.

Sub-section 9A(4) propose to provide that the eligible fund manager in respect of an eligible investment fund shall mean any person who is engaged in the activity of fund management and fulfill certain conditions specified in the said subsection.

Sub-section 9A(5) propose to provide that every eligible investment fund shall furnish a statement in respect of its activities during a financial year in the prescribed form, to the prescribed income-tax authority within ninety days from the end of the financial year.

Sub-section 9A(6) propose to provide that no such income shall be excluded from the total income which would have been so included irrespective of whether the activity or the eligible fund manager constituted the business connection in India of such fund or not.

Sub-section 9A(7) propose to provide that the scope of total income or determination of total income in the case of the eligible fund manager shall not be affected by anything contained in this section.

Sub-section 9A(8) propose to define certain terms such as "associate", "connected person", "corpus", "entity" and "specified regulations".



## **Incomes not included in total income - Section 10**

### **Sukanya Samriddhi Account Rules, 2014 - New Clause 10(11A)**

It is proposed to provide that any payment from an account opened in accordance with the Sukanya Samriddhi Account Rules, 2014 made under the Government Savings Bank Act, 1873, shall not be included in the total income of the assessee.

This amendments will take effect retrospectively from 1st of April, 2015

### **Swachh Bharat Kosh new sub-clauses (iiiaa) and (iiiaaa) in Section 10(23C)**

It is proposed to exempt income received by any person on behalf of the Swachh Bharat Kosh, set up by the Central Government and to exempt income received by any person on behalf of the Clean Ganga Fund set up by the Central Government.

This amendments will take effect retrospectively from 1st of April, 2015

### **Core Settlement Guarantee Fund - New Clause 10(23EE)**

It is also proposed to provide for exemption in respect of any specified income of such Core Settlement Guarantee Fund, setup by a recognised clearing corporation in accordance with the regulations, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

### **Income of a Venture Capital Fund - Clause 10(23FB)**

It is proposed to provide that the exemption of Income of a Venture Capital company or fund shall not apply to a venture capital company or venture capital fund, being an investment fund specified in clause (a) of the Explanation 1 to section 115 UB, for any previous year relevant to the assessment year beginning on or after the 1st day of April, 2016.

### **Income of an investment fund - New Clause (23FBA)**

It is proposed to provide that any income of an investment fund other than the income chargeable under the head "Profits and gains of business or profession" shall not be included in the total income of such fund.

### **Income from investment fund - New clause (23FBB)**

It is proposed to provide that any income of a person accruing or

arising to, or received by, a unit holder of an investment fund, being that proportion of income which is of the same nature as income chargeable under the head "Profits and gains of business or profession" shall not be included in total income of such person.

#### **Income of a real estate investment trust - New clause (23FCA)**

It is proposed to provide that any income of a business trust, being a real estate investment trust, by way of renting or leasing or letting out any real estate asset owned directly by such business trust, shall not be included in the total income.

#### **Income from Business Trust - Section 10 (23FD)**

It is further proposed to amend 10(23FD) to provide that any distributed income, referred to in section 115UA, received by a unit holder from the business trust, being that proportion of the income which is of the same nature as income by way of renting or leasing or letting out any real estate asset owned directly by the business trust, shall be included in total income and not be exempted.

#### **Long term capital gain arising from transfer of units of a business trust - Section 10(38)**

It is also proposed to amend section 10(38) to provide that any income in the nature of long term capital gain arising from transfer of units of a business trust which were acquired in consideration of exchange of shares of a special purpose vehicle and on which securities transaction tax has been paid shall not be included in the total income of the sponsor.

#### **Income from property held for charitable or religious purposes - Section 11**

With regard to accumulation of the Income not applied during the year, it is proposed to provide that the statement intimating the accumulation is required to be furnished on or before the due date specified under 139(1) for the previous year. It is also proposed to provide that in computing the period of five years the period during which the income could not be applied for the purpose for which it is so accumulated or set apart, due to an order or injunction of any court, shall be excluded.

#### **Section 11 not to apply in certain cases - Section 13**

It is proposed to provide that nothing contained in Section 11(2) shall operate so as to exclude any income from the total income of the previous year of a person in receipt thereof, if—



- (i) the statement referred to in Section 11(2)(a) in respect of such income, is not furnished on or before the due date specified under section 139(1) for furnishing the return of income for the previous year; or
- (ii) the return of income for the previous year is not furnished by such person on or before the due date specified under section 139(1) for furnishing the return of income for the said previous year.

## **Depreciation - Section 32**

### **Additional Deprecation in certain cases New clause (iia) in section 32(1)**

It is proposed to provide that where an assessee sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward area notified by the Central Government in this behalf in the State of Andhra Pradesh or in the State of Telangana, and acquires and installs any new machinery or plant (other than ships and aircraft) for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, the provisions of clause (iia) shall have effect as if for the words "twenty per cent.", the words "thirty-five per cent." had been substituted:

### **Additional depreciation for additions made in second half the year - Section 32(1)**

It is proposed to provide that where an asset referred to in clause(iia) or the first proviso to clause (iia), as the case may be, is acquired by the assessee during the previous year and is put to use for the purposes of business for a period of less than one hundred and eighty days in that previous year and the deduction under sub-section (1) in respect of such asset is restricted to fifty per cent of the amount calculated at the percentage prescribed for an asset under clause (iia) for that previous year, then, the deduction for the balance fifty per cent of the amount calculated at the percentage prescribed for such asset under clause (iia) shall be allowed under sub-section (1) in the immediately succeeding previous year in respect of such asset.

### **Investment in new plant or machinery in notified backward areas in certain States- New Section 32AD**

The proposed sub-section (1) provide that where an assessee, sets up an undertaking or enterprise for manufacture or production of any article or thing, on or after the 1st day of April, 2015 in any backward

area notified by the Central Government in this behalf, in the State of Andhra Pradesh or in the State of Telangana, and acquires and installs any new asset for the purposes of the said undertaking or enterprise during the period beginning on the 1st day of April, 2015 and ending before the 1st day of April, 2020 in the said backward area, then, there shall be allowed a deduction of a sum equal to fifteen percent of the actual cost of such new asset for the assessment year relevant to the previous year in which such new asset is installed.

The proposed sub-section (2) provides that if any new asset acquired and installed by the assessee is sold or otherwise transferred, except in connection with the amalgamation or demerger or re-organisation of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47 within a period of five years from the date of its installation, the amount of deduction allowed under sub-section (1) in respect of such new asset shall be deemed to be the income of the assessee chargeable under the head "Profits and gains of business or profession" of the previous year in which such new asset is sold or otherwise transferred, in addition to taxability of gains, arising on account of transfer of such new asset.

The proposed sub-section (3) provides that in case the new asset is sold or otherwise transferred in connection with the amalgamation or demerger or reorganization of business referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, within a period of five years from the date of its installation, the provision of sub-section (2) shall apply to the amalgamated company or the resulting company or the successor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47, as the case may be, as they would have applied to the amalgamating company or the demerged company or the predecessor referred to in clause (xiii) or clause (xiiib) or clause (xiv) of section 47.

The proposed sub-section (4) provides that for the purposes of this section, "new asset" means any new plant or machinery (other than a ship or aircraft) but does not include—

- (a) any plant or machinery which before its installation by the assessee, was used either within or outside India by any other person
- (b) any plant or machinery installed in any office premises or any residential accommodation, including accommodation in the nature of a guest house;
- (c) any office appliances including computers or computer software;
- (d) any vehicle; or
- (e) any plant or machinery,



the whole of the actual cost of which is allowed as deduction (whether by way of depreciation or otherwise) in computing the income chargeable under the head "Profits and gains of business or profession" of any previous year.

### **Expenditure on Scientific Research - Section 35**

It is proposed to insert the reference of Principal Chief Commissioner or Chief Commissioner in the said proviso so as to enable the prescribed authority to submit its report to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General.

It is proposed to provide that no company shall be entitled for deduction under clause (1) of the said sub-section (2AB) unless it enters into an agreement with the prescribed authority for cooperation in such research and development facility and fulfills conditions with regard to maintenance and audit of accounts and furnishing of report, as may be prescribed.

It is proposed to insert the reference of Principal Chief Commissioner or Chief Commissioner in the said clause so as to enable the prescribed authority to submit its report to the Principal Chief Commissioner or Chief Commissioner or Principal Director General or Director General.

### **Transactions not regarded as transfer - Section 47**

It is proposed to provide that the following transfers shall not be regarded as transfer under said section, namely:—

- (i) any transfer, in a scheme of amalgamation, of a capital asset, being a share of a foreign company, referred to in Explanation 5 to clause (i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company to the amalgamated foreign company, subject to conditions provided therein;
- (ii) any transfer in a demerger, of a capital asset, being a share of a foreign company, referred to in Explanation 5 to clause (i) of sub-section (1) of section 9, which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the demerged foreign company to the resulting foreign company, subject to conditions provided therein.

It is further proposed to provide that capital gains shall not apply to any transfer by a unit holder of a capital asset, being a unit or units, held by him in the consolidating scheme of a mutual fund, if the transfer is made in consideration of the allotment to him of any unit or units in the consolidated scheme of the mutual fund under the process of consolidation of the schemes of mutual fund in accordance with the Securities and Exchange Board of India (Mutual Funds) Regulations, 1996 made under the Securities and Exchange Board of India Act, 1992. Provided, the consolidation is of two or more schemes of equity oriented fund or of two or more schemes of a fund other than equity oriented fund. It is further proposed to define the terms "consolidating scheme", "consolidated scheme", "equity oriented fund" and "mutual fund".

#### **Cost with reference to certain modes of acquisition - Section 49**

It is proposed to include the transfer referred to in clause 47(vib) where the capital asset became the property of the assessee under certain situations the cost of acquisition of the asset shall be deemed to be cost for which the previous owner of the property acquired it, as increased by the cost of any improvement of the assets incurred or borne by the previous owner or the assessee, as the case may be.

It is proposed to provide for determination of cost of acquisition in respect of shares or interest of foreign company or entity in certain cases.

It is also proposed to provide that where the capital asset, being a unit or units in a consolidated scheme of a mutual fund, became the property of the assessee in consideration of a transfer referred to in Section 47(xviii) the cost of acquisition of the asset shall be deemed to be the cost of acquisition to him of the unit or units in the consolidating scheme of the mutual fund.

#### **Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, etc. - Section 80C**

It is proposed to provide that a sum paid or deposited during the year as a subscription in the name of any girl child of the individual or in the name of any girl child for whom such individual is the legal guardian, would be eligible for deduction, if the scheme so specifies.

This amendment will take effect retrospectively from 1st April, 2015



### **Deduction in respect of contribution to certain pension funds - Section 80CCC**

It is proposed to raise the limit of deduction from one lakh rupees to one hundred and fifty thousand rupees.

### **Deduction in respect of contribution to pension scheme of Central Government - Section 80CCD**

It is proposed to provide that an assessee be allowed an additional deduction in computation of his total income, of the whole of the amount paid or deposited in the previous year in his account under a pension scheme notified or as may be notified by the Central Government, which shall not exceed fifty thousand rupees.

It is also propose to provide that no deduction shall be allowed in respect of the amount on which deduction has been claimed and allowed under sub-section 80CCD(1).

### **Deduction in respect of health insurance premia- Section 80D**

It is proposed to raise the limit of deduction from fifteen thousand rupees to twenty-five thousand rupees.

It is also proposed to define a 'very senior citizen' to mean an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

It is further proposed to raise the limit of deduction in respect of senior citizens or very senior citizens from twenty thousand rupees to thirty thousand rupees.

It is also proposed to provide that any payment made on account of medical expenditure in respect of a very senior citizen if no payment has been made to keep in force an insurance on the health of such person, as does not exceed thirty thousand rupees shall be allowed as deduction under section 80D.

It is also proposed to provide that the aggregate of the deduction on account of health insurance premium and the medical expenditure in respect of the assessee or his family would not be more than thirty thousand rupees. Similarly, such aggregate deduction in respect of the parents is also proposed to be not more than thirty thousand rupees.

### **Deduction in respect of maintenance including medical treatment of a dependant who is a person with disability- Section 80DD**

It is proposed to raise the limit of deduction in respect of a dependant with disability from fifty thousand rupees to seventy-five thousand rupees.

It is further proposed to amend the said section so as to raise the limit of deduction in respect of a dependant with severe disability from one lakh rupees to one hundred and twenty-five thousand rupees.

#### **Deduction in respect of medical treatment, etc.- Section 80DDB**

It is proposed to provide that no such deduction shall be allowed unless the assessee obtains, a copy of the prescription for such medical treatment from a neurologist, an oncologist, a urologist, a hematologist, an immunologist or such other specialist as may be prescribed.

It is further proposed to provide that where the aforesaid amount actually paid is in respect of the assessee or his dependent or any member of a Hindu undivided family of the assessee, who is a very senior citizen, a deduction up to eighty thousand rupees would be allowed.

It is also proposed to omit the definition of the term "Government hospital" from the Explanation to the aforesaid section.

It is also proposed to define the term 'very senior citizen' to mean an individual resident in India who is of the age of eighty years or more at any time during the relevant previous year.

#### **Deduction in respect of donations to certain funds, charitable institutions, etc.- Section 80G**

It is proposed to provide for a deduction of hundred percent in respect of the sum donated by an assessee to the Swachh Bharat Kosh set up by the Central Government, other than the sum spent by such assessee in pursuance of Corporate Social Responsibility.

It is further proposed to provide for a deduction of hundred percent in respect of the sum donated by a resident assessee to the Clean Ganga Fund set up by the Central Government, other than the sum spent by such assessee in pursuance of Corporate Social Responsibility.

These amendments will take effect retrospectively from 1<sup>st</sup> April, 2015.

It is further proposed to provide hundred per cent deduction in respect of donations made to the National Fund for Control of Drug Abuse constituted under section 7A the Narcotics Drugs and Psychotropic Substances Act, 1985.



### **Deduction in respect of employment of new workmen - Section 80JJAA**

It is proposed to provide that where the gross total income of any assessee includes any profits and gains derived from the manufacture of goods in a factory, the assessee shall be allowed a deduction equal to thirty percent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

It is further proposed to provide that no deduction shall be allowed, if the factory is acquired by the assessee by way of transfer from any other person or as a result of any business reorganization.

It is also proposed to provide “additional wages” to mean the wages paid to the new regular workmen in excess of fifty workmen employed during the previous year.

### **Deduction in case of a person with disability- Section 80U**

It is proposed to raise the limit of deduction for a person with disability from fifty thousand rupees to seventy-five thousand rupees.

It is further proposed to raise the limit of deduction for a person with severe disability from one lakh rupees to one hundred and twenty-five thousand rupees.

### **Meaning of specified domestic transaction- Section 92BA**

It is proposed to provide that the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of twenty crore rupees for such transaction to be treated as ‘specified domestic transaction’.

### **Applicability of General Anti Avoidance Rule - Section 95**

It is also proposed to provide that the provisions of Chapter X-A shall apply in respect of any assessment year beginning on or after the 1st day of April, 2018.

### **Tax on short-term capital gains in certain cases- Section 111A**

It is proposed to provide that the provisions of the said section shall now be applicable in respect of any income arising from transfer of units of a business trust which were acquired by the assessee in exchange of the shares of a special purpose vehicle.

### **Tax on dividends, royalty and technical service fees in the case of foreign companies- Section 115A**

It is proposed to provide that in case of a non-resident taxpayer, where the total income includes any income by way of Royalty and Fees for technical Services received under an agreement entered after the 31st March, 1976, and which are not effectively connected with permanent establishment, if any, of the non-resident in India, the rate of tax on the gross amount of such income shall be ten per cent.

### **Tax on income from Global Depository Receipts purchased in foreign currency or capital gains arising from their transfer - Section 115ACA**

It is proposed to amend the definition of "Global Depository Receipts" to mean an instrument in the form of a depository receipt or certificate created by the Overseas Depository Bank outside India and issued to investors against the issue of,–

- (i) ordinary shares of issuing company, being a company listed on a recognised stock exchange in India; or
- (ii) foreign currency convertible bonds of issuing company

### **Special provision for payment of tax by certain companies - Section 115JB**

It is proposed to provide that the book profit shall be increased by the amount or amounts of expenditure relatable to income, being share of income of an assessee on which no tax is payable in accordance with the provisions of section 86. (Income from AOP)

It is further proposed to provide that the amount of income, being the share of income of an assessee on which no income-tax is payable in accordance with the provisions of section 86, if any such amount is credited to the profit and loss account, shall be reduced from the book profit.

It is also proposed to provide that the book profit shall be increased by the amount or amounts of expenditure relatable to income from transactions in securities, (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable), accrued or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992.

It is also proposed to provide that the amount of income from transactions in securities, (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable),



accrued or arising to an assessee being a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992, if any such amount is credited to the profit and loss account, shall be reduced from the book profit.

It is also proposed to provide that the expression "Foreign Institutional Investor" shall have the meaning assigned to it in clause (a) of the Explanation to section 115AD and the expression "securities" shall have the meaning assigned to it in clause (h) of section 2 of the Securities Contracts (Regulations) Act, 1956.

#### **Tax on income in certain cases - Section 115U**

It is proposed to provide that the existing pass through scheme contained in the provisions of section 10(23FB) and section 115U shall not apply to such investment fund to which the new regime provided in section 10(23FBA) and section 115UB applies.

#### **Tax on income of unit holder and business trust - Section 115UA**

It is proposed to provide that the distributed income or any part thereof, received by a unit holder from the business trust, being a real estate investment trust, which is in the nature of income by way of renting or leasing or letting out any real estate asset owned directly by such business trust shall be deemed to be income of such unit holder and shall be charged to tax.

### **New Chapter XII-FB**

#### **New Section 115UB relating to tax on income of investment funds and income received from such funds**

Sub-section (1) of the proposed new section seeks to provide that any income accruing or arising to, or received by, a person being a unit holder of an investment fund, out of investments made in the investment fund shall be chargeable to income-tax in the same manner as if it were the income accruing or arising to, or received by, such person had the investment made by the investment fund been made directly by him.

Sub-section (2) of the proposed new section seeks to provide that where in any previous year, the net result of computation of total income of the investment fund [without giving effect to the provisions of clause (23FBA) of section 10] is a loss, such loss shall be allowed to be carried forward and it shall be set-off by the investment fund in accordance with the provisions of Chapter VI and such loss shall not be allowed to be passed through to the investors.

Sub-section (3) of the proposed new section seeks to provide that the income paid or credited by the investment fund shall be deemed to be of the same nature and in the same proportion in the hands of the unit holder as it had been received by, or had accrued or arisen to, the investment fund during the previous year subject to the provisions of sub-section (2).

Sub-section (4) of the proposed new section seeks to provide that the total income of the investment fund shall be charged to tax—

- (i) at the rate or rates as specified in the Finance Act of the relevant year, where such fund is a company or a firm; or
- (ii) at maximum marginal rate in any other case.

Sub-section (5) of the proposed new section seeks to provide that the provisions of Chapter XIID or Chapter XIIE shall not apply to the income paid by an investment fund under this Chapter.

Sub-section (6) of the proposed new section seeks to provide that the income accruing or arising to, or received by, the investment fund, during a previous year, if not paid or credited to the investor, shall subject to the provisions of the proposed sub section(2), be deemed to have been credited to the account of the said person on the last day of the previous year in the same proportion in which such person would have been entitled to receive the income had it been paid in the previous year.

Sub-section (7) of the proposed new section seeks to provide that the person responsible for crediting or making payment of income on behalf of an investment fund and the investment fund shall furnish within such time as may be prescribed, to the person who is liable to tax in respect of such income and to the prescribed income-tax authority, a statement in the prescribed form and verified in such manner, giving details of the nature of the income paid or credited during the previous year and such other relevant details as may be prescribed.

Explanation 1 to the proposed new section seeks to define certain terms such as "investment fund", "trust" and "unit".

Further, Explanation 2 to the proposed new section clarifies that if any income has been included in total income on accrual basis in case of a person, the same shall not be included in total income when such income is actually received by the person.

#### **Application of seized or requisitioned assets - Section 132B**

It is proposed to provide that the asset seized under section 132 or requisitioned under section 132A may be adjusted against the amount of liability arising on an application made before the Settlement Commission under sub-section (1) of section 245C.

This amendment will take effect from 1st June, 2015.



### **Return of income - Section 139**

It is proposed to provide that a university, hospital or other institution referred to in sub-clauses (iiiab) and (iiiac) of section 10(23C) shall be required to furnish a return of income if the total income of such university, hospital or other institution without giving effect to provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax.

It is proposed to provide that every investment fund referred to in section 115UB, which is not required furnish return of income or loss under any other provisions of this section, shall furnish the return of its income in respect of its income or loss in every previous year and all the provisions of this Act shall, so far as may be, apply as if it were a return required to be furnished under sub-section (1) of section 139.

### **Sanction for issue of notice U/s 148 - Section 151**

It is proposed to provide that no notice shall be issued under section 148 by an Assessing Officer, after the expiry of a period of four years from the end of the relevant assessment year, unless the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner is satisfied, on the reasons recorded by the Assessing Officer, that it is a fit case for the issue of such notice.

It is further proposed that in any other case, no notice shall be issued under section 148 by an Assessing Officer, who is below the rank of Joint Commissioner, unless the Joint Commissioner is satisfied on the reasons recorded by such Assessing Officer that it is a fit case for the issue of such notice.

This amendment will take effect from 1st day of June, 2015.

### **Assessment of income of any other person - Section 153C**

It is proposed to provide that where the Assessing Officer is satisfied that,

- (a) any money, bullion, jewellery or other valuable article or thing, seized or requisitioned, belongs to; or
- (b) any books of account or documents, seized or requisitioned, pertains or pertain to, or any information contained therein, relates to, a person other than the person referred to in section 153A, then, the books of account or documents or assets, seized or requisitioned, shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue notice and assess or reassess the income of the other person in accordance with the provisions of section 153A, if that Assessing Officer is satisfied that the books of account or

documents or assets, seized or requisitioned, have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A.

This amendment will take effect from 1st June, 2015.

#### **Rectification of mistake - Section 154**

It is proposed to insert a new clause 154(1)(d) so as to provide that an income-tax authority may amend an intimation issued under section 206CB(1). Amendments are proposed in all subsection to insert the reference of "collector" in addition to assessee or deductor, so as to enable him to file an application under the said section.

These amendments will take effect from 1st June, 2015.

#### **Notice of demand to include intimation - Section 156**

It is proposed to provide that where any sum is determined to be payable by the assessee or the deductor or the collector under section 143(1) or 200A(1) or 206CB(1) the intimation under those subsections shall be deemed to be a notice of demand for the purposes of this section.

This amendment will take effect from 1st June, 2015.

#### **Procedure when in an appeal by revenue an identical question of law is pending before Supreme Court - New section 158AA**

The proposed new section seeks to provide that where the Commissioner or Principal Commissioner is of the opinion that any question of law arising in the case of an assessee for any assessment year is identical with a question of law arising in his case for another assessment year which is pending before the Supreme Court in an appeal under section 261 or in a special leave petition under article 136 of the Constitution against the order of the High Court in favour of the assessee, he may, instead of directing the Assessing Officer to file appeal to the Appellate Tribunal, direct the Assessing Officer to make an application to the Appellate Tribunal in the prescribed form within sixty days from the date of receipt of order of the Commissioner (Appeals) stating that an appeal on the question of law arising in the relevant case may be filed when the decision on the question of law becomes final in the other case.

Sub-section (2) of the proposed new section, *inter alia*, seeks to provide that the Commissioner or Principal Commissioner shall direct the Assessing Officer to make an application under sub section(1) only if an acceptance is received from the assessee to the effect



that the question of law in the other case is identical to that arising in the relevant case; and in case no such acceptance is received, the Commissioner or Principal Commissioner shall proceed in accordance with the provisions contained in Section 253 (2A)(2).

Sub-section (3) of the proposed new section seeks to provide that where the order of the Commissioner (Appeals) referred to in sub-section (1) is not in conformity with the final decision on the question of law in the other case, the Commissioner or Principal Commissioner may direct the Assessing Officer to appeal to the Appellate Tribunal against such order and, save as otherwise provided in this section, all other provisions of Part B of chapter XX shall apply accordingly.

Sub-section (4) of the proposed new section seeks to provide that every appeal under sub-section (3) shall be filed within sixty days of the date on which the order of the Supreme Court in the other case is communicated to the Commissioner or Principal Commissioner.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction on salary - Section 192**

It is proposed to provide that the person responsible for making the payment referred to in sub-section (1) of the said section shall, for the purposes of estimating income of the assessee or computing tax deductible under sub-section (1), obtain from the assessee the evidence or proof or particulars of prescribed claims (including claim for set-off of loss) under the provisions of the Act in such form and manner as may be prescribed.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction on payment of accumulated balance due to an employee - New section 192A**

It is proposed to provide that notwithstanding anything contained in any other provisions of this Act, the trustees of the Employees' Provident Fund Scheme, 1952 framed under section 5 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952, or any person authorized under the scheme to make payment of accumulated balance due to employees, shall, in a case where the accumulated balance due to an employee participating in a recognised provident fund is includible in his total income owing to the provisions of rule 8 of Part A of the Fourth Schedule not being applicable, at the time of payment of accumulated balance due to the employee, deduct income-tax thereon at the rate of ten per cent.

It is further proposed to provide that no deduction under the aforesaid section shall be made where the amount of such payment or, as the case may be, the aggregate amount of such payment to the payee is less than thirty thousand rupees.

It is further proposed to provide that any person entitled to receive any amount on which tax is deductible under this section shall furnish his Permanent Account Number to the person responsible for deducting such tax, failing which tax shall be deducted at the maximum marginal rate.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction on interest other than interest on securities - Section 194A**

It is proposed to provide that the amount referred to in the first proviso shall be computed with reference to the income credited or paid by the banking company or the co-operative society or the public company, as the case may be, where such banking company or the co-operative society or the public company has adopted core banking solutions.

It is proposed to provide that the provisions of sub-section (1) of section 194A shall not apply to income credited or paid by a co-operative society (other than a co-operative bank) to a member thereof or to such income credited or paid by a co-operative society to any other co-operative society.

It is further proposed to define the expression "co-operative bank".

It is proposed to provide that the provisions of sub-section (1) of section 194A shall not apply to income paid by way of interest on the compensation amount awarded by the Motor Accidents Claims Tribunal where the amount of such income or, as the case may be, the aggregate of the amounts of such income paid during the financial year does not exceed fifty thousand rupees.

It is proposed to amend the said definition of 'time deposits' so as to provide that for the purposes of said clauses the expression 'time deposits' shall not exclude but include recurring deposits.

These amendments will take effect from 1st June, 2015.

#### **Tax deduction on payments to contractors - Section 194C**

It is proposed to provide that no deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous



year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, where such contractor owns ten or less than ten goods carriages at any time during the previous year and furnishes a declaration to that effect along with his Permanent Account Number, to the person paying or crediting such sum.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction on Rent - Section 194-I**

It is proposed to that no deduction shall be made under the section where the income by way of rent is credited or paid to a business trust, being a real estate investment trust, in respect of any real estate asset, referred to in clause (23FCA) of section 10, owned directly by such business trust.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction on income from units of a business trust - Section 194LBA**

It is proposed to provide that where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder being a resident, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates of ten per cent.

It is further proposed to amend the said section to provide that where any distributed income referred to in section 115UA, being of the nature referred to in clause (23FCA) of section 10, is payable by a business trust to its unit holder, being a non-resident (not being a company), or a foreign company, the person responsible for making the payment shall at the time of credit of such payment to the account of the payee or at the time of payment thereof in cash or by the issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax thereon at the rates in force.

These amendments will take effect from 1st June, 2015.

#### **Tax deduction on income in respect of units of investment fund - New section 194LBB**

The proposed new section seeks to provide that where any

income other than that proportion of income which is of the same nature as income referred to in clause (23FBB) of section 10, is payable to a unit holder in respect of units of an investment fund specified in clause (a) of the Explanation 1 to section 115UB, the person responsible for making the payment shall, at the time of credit of such income to the account of payee, or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct income-tax there on at the rate of ten per cent.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction on Income by way of interest on certain bonds and Government securities - Section 194LD**

It is proposed to amend aforesaid sub-section (2) to provide that the concessional rate of five percent withholding tax on interest payment in respect of investments in Government securities and rupee denominated corporate bonds shall now be available on interest payable before the 1st day of July, 2017.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction on other sums - Section 195**

It is proposed to provide that the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall furnish the information relating to payment of such sum, in such form and manner, as may be prescribed.

This amendment will take effect from 1st June, 2015.

#### **No deduction to be made in certain cases - Section 197A**

It is proposed to give the reference of section 192A and section 194DA also in the said sub-sections.

These amendments will take effect from 1st June, 2015.

#### **Duty of the person deducting tax - Section 200**

It is proposed to insert sub-section (2A) in the said section to provide that in case of an office of the Government, where the sum deducted in accordance with the foregoing provisions of this Chapter or tax referred to in sub-section (1A) of section 192 has been paid to the credit of the Central Government without the production of a challan, the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person by whatever name called, who is responsible for crediting such sum or tax to the credit of



the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorised by such authority, a statement in such form, verified in such manner setting forth such particulars and within such time as may be prescribed.

This amendment will take effect from 1st June, 2015.

#### **Processing of statements of tax deducted at source - Section 200A**

It is proposed to provide that statement of tax deduction at source or correction statement made under section 200 shall be processed and sum deductible under Chapter XVII shall be computed after also taking into account the fee, if any, payable in accordance with the provisions of section 234E. The sum payable or refundable shall be determined after adjusting the aforesaid computed sum against any amount paid under section 200 or section 201 or section 234E and any amount paid otherwise by way of tax or interest or fee.

This amendment will take effect from 1st June, 2015.

#### **Tax deduction and collection account number - Section 203A**

It is proposed to insert sub-section (3) in the said section so as to provide that the provisions of the said section with regard to quoting the TAN, shall not apply to a person notified by the Central Government in this behalf.

This amendment will take effect from 1st June, 2015.

#### **Profit and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.- Section 206C**

It is proposed to insert sub-section (3A) in the said section to provide that in case of an office of the Government, where the amount collected under sub-section (1) or sub-section (1C) or sub-section (1D) has been paid to the credit of the Central Government without the production of a challan by the Pay and Accounts Officer or the Treasury Officer or the Cheque Drawing and Disbursing Officer or any other person, by whatever name called, who is responsible for crediting such tax to the credit of the Central Government, shall deliver or cause to be delivered to the prescribed income-tax authority, or to the person authorized by such authority, a statement in such form, verified in such manner, setting forth such particulars and within such time as may be prescribed.

It is proposed to insert sub-section (3B) in the said section so as to provide that the person referred to in proviso to sub-section (3) may also deliver to the prescribed authority under the said proviso, a

correction statement for rectification of any mistake or to add, delete or update the information furnished in the statement delivered under the said proviso in such form and verified in such manner, as may be specified by the authority.

This amendment will take effect from 1st June, 2015.

#### **Processing of statements of tax collected at source - New section 206CB**

It is proposed to insert a new section 206CB relating to processing of statements of tax collected at source and the said section provide that statement of tax collection at source or a correction statement made under section 206C shall be processed in the manner specified therein.

This amendment will take effect from 1st June, 2015.

#### **Tax payable and when assessee deemed in default - Section 220**

It is proposed to provide that notwithstanding anything contained in section 220(2), where interest is charged under section 206C(7) on the amount of tax specified in the intimation issued under section 206CB(1) for any period, then, no interest shall be charged under the said sub section (2) on the same amount for the same period.

This amendment will take effect from 1st June, 2015.

#### **Interest for defaults in payment of advance tax - Section 234B**

It is proposed to provide that—

- (a) where an assessee has made an application under sub section (1) of section 245C for any assessment year, he shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of making such application, on the additional amount of income-tax referred to in that sub-section;
- (b) where as a result of an order of the Settlement Commission under sub-section (4) of section 245D for any assessment year, the amount of total income disclosed in the application under sub-section (1) of section 245C is increased, the assessee shall be liable to pay simple interest at the rate of one per cent for every month or part of a month comprised in the period commencing on the 1st day of April of such assessment year and ending on the date of such order, on the amount by which the tax on the total income determined on the basis of such order exceeds the tax on the total income disclosed in the application filed under sub-section (1) of section 245C.



It is proposed to provide that the period for which the interest is to be computed will begin from the 1st day of April next following the financial year and end on the date of determination of total income under section 147 or section 153A.

These amendments will take effect from 1st day of June, 2015.

#### **Definitions in respect of settlement of cases - Section 245A**

It is proposed to provide that a proceeding for assessment or reassessment or recomputation under section 147 shall be deemed to have commenced—

- (a) from the date on which a notice under section 148 is issued for any assessment year;
- (b) from the date of issuance of such notice referred to in sub-clause (a), for any other assessment year or assessment years for which a notice under section 148 has not been issued but such notice could have been issued on such date, if the return of income for the other assessment year or assessment years has been furnished under section 139 or in response to a notice under section 142.

It is proposed to provide that the proceeding for assessment shall be deemed to have commenced from the date on which a return of income for that assessment year is furnished under section 139 or in response to notice under section 142 and concluded on the date on which the assessment is made, or on the expiry of two years from the end of relevant assessment year in case where no assessment is made.

This amendment will take effect from 1st June, 2015.

#### **Procedure on receipt of an application under section 245C - Section 245D**

It is proposed to provide that the Settlement Commission may, with a view to rectify any mistake apparent from the record, amend any order passed by it under sub-section (4)—

- (a) at any time within a period of six months from the end of month in which the order was passed;
- (b) on an application made by the Principal Commissioner or Commissioner before the end of the period of six months from the end of the month in which such application was made.

This amendment will take effect from 1st June, 2015.

### **Power of Settlement Commission to grant immunity from prosecution and penalty - Section 245H**

It is proposed to provide that the Settlement Commission may, if it is satisfied that any person who made the application for settlement under section 245C has co-operated with the Settlement Commission in the proceedings before it and has made a full and true disclosure of his income and the manner in which such income has been derived, grant to such person, for the reasons to be recorded in writing, immunity from prosecution.

This amendment will take effect from 1st June, 2015.

### **Abatement of proceeding before Settlement Commission - Section 245HA**

It is proposed to provide that where in respect of any application made under section 245C, an order under section 245D(4) has been passed not providing for the terms of settlement then, the proceedings before the Settlement Commission shall abate on the day on which the order under section 245D(4) was passed not providing for the terms of settlement.

This amendment will take effect from 1st June, 2015.

### **Subsequent application for settlement- Section 245K**

It is proposed to provide that any person related to the person who is barred on subsequent application for settlement also cannot make any application subsequently before the Settlement Commission. The expression "related person" with respect to a person has also been clarified to mean: —

- (i) where such person is an individual, any company in which such person holds more than fifty percent of the shares or voting power at any time or any firm or association of person or body of individual in which such person is entitled to more than fifty per cent of the profits at any time or any Hindu undivided family in which such person is a karta;
- (ii) where such person is a company, any individual who held more than fifty per cent of the shares or voting power in such company at any time before the date of application before the Settlement Commission by such person;
- (iii) where such person is a firm or association of person or body of individual, any individual who was entitled to more than fifty



percent of the profits in such firm, association of persons or body of individuals, at any time before the date of application before the Settlement Commission by such person;

- (iv) where such person is an undivided Hindu family, the karta of that Hindu undivided family.

This amendment will take effect from 1st June, 2015.

#### **Appealable order before Commissioner (Appeals) - Section 246A**

It is proposed to include the reference of "any collector" in addition to any assessee or any deductor, in sub-section (1) of the said sub-section so as to enable such collector also to prefer an appeal under the said section.

It is further proposed to amend clause (a) of sub-section (1) of the said section so as to provide that the collector may prefer an appeal to the Commissioner (Appeals) against an intimation issued under sub-section (1) of section 206CB.

This amendment will take effect from 1st June, 2015.

#### **Appeals to the Appellate Tribunal - Section 253**

It is proposed to amend sub-section (1) of the said section by insertion of a new clause (f) so as to provide that an assessee aggrieved by the order passed by the prescribed authority under sub-clause (vi) or sub-clause (via) of clause (23C) of section 10 may prefer an appeal to the Appellate Tribunal.

This amendment will take effect from 1st June, 2015.

#### **Procedure of Appellate Tribunal - Section 255**

It is proposed to provide that a single member Bench may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

This amendment will take effect from 1st June, 2015.

#### **Revision of orders prejudicial to revenue - Section 263**

It is proposed to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner —

- (a) the order is passed without making inquiries or verification which should have been made;

- (b) the order is passed allowing any relief without inquiring into the claim;
- (c) the order has not been made in accordance with any order direction or instruction issued by the Board under section 119; or
- (d) the order has not been passed in accordance with any decision which is prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.

This amendment will take effect from 1st June, 2015.

#### **Mode of taking or accepting certain loans and deposits - Substitute-Section 269SS**

It is proposed to provide that no person shall take from any person, any loan or deposit or specified sum, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit or specified sum is twenty thousand rupees or more.

It is also proposed to define "specified sum" as any sum of money receivable, whether as advance or otherwise, in relation to transfer of an immovable property whether or not the transfer materialises.

These amendments will take effect from 1st June, 2015.

#### **Mode of repayment of certain loans and deposits - Section 269T**

It is proposed to provide that any loan or deposit or specified advance shall not be repaid, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the person specified in the said section, if the amount of such loan or depositor specified advance is twenty thousand rupees or more.

It is further proposed to define "specified advance" as any sum of money received, as an advance or otherwise, in relation to transfer of an immovable property and becomes repayable if the negotiations do not result in transfer of such immovable property.

These amendments will take effect from 1st June, 2015.

#### **Failure to furnish returns, comply with notices, concealment of income, etc - Section 271**



It is proposed to provide that the amount of tax sought to be evaded shall be determined in accordance with the following formula:  $(A - B) + (C - D)$  where A = amount of tax on the total income assessed as per the provisions other than the provisions contained in section 115JB or section 115JC (hereinafter called general provisions); B = amount of tax that would have been chargeable had the total income assessed as per the general provisions been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished; C = amount of tax on the total income assessed as per the provisions contained in section 115JB or section 115JC; D = amount of tax that would have been chargeable had the total income assessed as per the provisions contained in section 115JB or section 115JC been reduced by the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished:

Provided that where the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished on any issue is considered both under general provisions and under the provisions contained in section 115JB or section 115JC, such amount shall not be reduced from total income assessed while determining the amount under item D: Provided further that where the provisions contained in section 115JB or section 115JC are not applicable, the item (C - D) in the formula shall be ignored.

It is further proposed to provide that where in any case the amount of income in respect of which particulars have been concealed or inaccurate particulars have been furnished has the effect of reducing the loss declared in the return or converting that loss into income, the amount of tax sought to be evaded shall be determined in accordance with the formula contained in clause (a) with the modification that the amount to be determined for item (A - B) in that formula shall be the amount of tax that would have been chargeable on the income in respect of which particulars have been concealed or inaccurate particulars have been furnished had such income been the total income.

It is also proposed to provide that where in any case to which Explanation 3 applies, the amount of tax sought to be evaded shall be the tax on the total income assessed as reduced by the amount of advance tax, tax deducted at source, tax collected at source and self-assessment tax paid before the issue of notice under section 148.

**Penalty for failure to comply with the provisions of Section 269SS - Section 271D**

It is proposed to provide that if a person accepts any loan or deposit or specified sum referred to in section 269SS in contravention of the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified sum so accepted.

This amendment will take effect from 1st June, 2015.

**Penalty for failure to comply with the provisions of Section 269T - Section 271E**

It is proposed provide that if a person repays any loan or deposit or specified advance referred to in section 269T otherwise than in accordance with the provisions of that section, he shall be liable to pay, by way of penalty, a sum equal to the amount of the loan or deposit or specified advance so repaid.

This amendment will take effect from 1st June, 2015.

**Penalty for failure to furnish statement or information or document by an eligible investment fund - New Section 271FAB**

It is proposed to provide that if any eligible investment fund which is required to furnish a statement or any information and document under sub-section (5) of section 9A fails to furnish such statement or information and the document within the time prescribed under that sub-section, the income-tax authority prescribed under the said sub-section may direct that such fund shall pay, by way of penalty, a sum equal to five hundred thousand rupees.

This amendment will take effect from 1st April, 2016.

**Penalty for failure to furnish information or document under section 285A - New Section 271GA**

It is proposed to provide that if any Indian concern which is required to furnish any information or document under the proposed section 285A, fails to do so, the Income-tax authority as may be prescribed in the said section 285A, may direct that such Indian concern shall pay, by way of penalty,—

- (i) a sum equal to two per cent of the value of the transaction, in respect of which such failure has taken place, if such transaction had the effect of directly or indirectly transferring the right of



- management or control in relation to the Indian concern;
- (ii) a sum of five hundred thousand rupees in any other case.

This amendment will take effect from 1st April, 2016.

**Penalty for failure to furnish information or for furnishing inaccurate information under Section 195 - New Section 271-I**

It is proposed provide that if a person, who is required to furnish information under section 195(6), fails to furnish such information; or furnishes inaccurate information, the Assessing Officer may direct that such person shall pay, by way of penalty, a sum of one lakh rupees.

This amendment will take effect from 1st June, 2015.

**Penalty for failure to answer questions, sign statements, furnish information, returns or statements, allow inspections, etc. - Section 272A**

The proposed to insert a new clause (m) in sub-section (2) of the aforesaid section to provide that if any person fails to deliver or cause to be delivered a statement within the time as may be prescribed under sub-section (2A) of section 200 or sub-section (3A) of section 206C, then, such person shall pay, by way of penalty, a sum of one hundred rupees for every day of such default.

It is also proposed to provide that the amount of penalty for failure to file statements under sub-section (2A) of section 200 or under sub-section (3A) of section 206C shall not exceed the amount of tax deductible or tax collectible, as the case may be.

These amendments will take effect from 1st June, 2015.

**Penalty not to be imposed in certain cases - Section 273B**

It is also proposed to include the reference of new Section 271-I.

This amendment will take effect from 1st June, 2015.

It is proposed to include the proposed new Section 271FAB relating to penalty for failure to furnish statement or information or document by an eligible investment fund.

It is further proposed to include the reference of the proposed New Section 271 GA relating to penalty for failure to furnish information or document under section 285A.

These amendments will take effect from 1st April, 2016.

## **Furnishing of information by an Indian concern in certain cases - New Section 285A**

It is proposed to provide that where any share or interest in a company or entity registered or incorporated outside India derives, directly or indirectly, its value substantially from the assets located in India, and such company or, as the case may be, entity holds such assets in India through or in an Indian concern, then, any such Indian concern shall, for the purposes of determination of income accruing or arising in India, furnish within the prescribed period to the prescribed income-tax authority the relevant information or document, in such manner and form as is prescribed in this behalf.

This amendment will take effect from 1st April, 2016.

## **Appearance by authorised representative - Section 288**

It is proposed to provide that the expression "accountant" means a chartered accountant as defined in clause (b) of sub-section (1) of section 2 of the Chartered Accountants Act, 1949 who holds a valid certificate of practice under sub-section (1) of section 6 of that Act.

It is further proposed to provide that the accountant shall not include the following persons (except for the purposes of representing an assessee under sub-section (1)) —

- (a) in case of an assessee, being a company, the person who is not eligible for appointment as an auditor of the said company in accordance with the provisions of sub-section (3) of section 141 of the Companies Act, 2013; or
- (b) in any other case,
  - (i) the assessee himself or in case of the assessee, being a firm or association of persons or Hindu undivided family, any partner of the firm, or member of the association or the family;
  - (ii) in case of the assessee, being a trust or institution, any persons referred to in clauses (a),(b), (c) and (cc) of sub-section (3) of section 13;
  - (iii) in case of a person other than persons referred to in sub-clause (i) and (ii), the person who is competent to verify the return under section 139 in accordance with the provisions of the section 140;



- (iv) any relative of any of the persons referred to in sub-clauses (i),(ii) and (iii);
- (v) an officer or employee of the assessee;
- (vi) an individual who is a partner, or who is in the employment, of an officer or employee of the assessee;
- (vii) an individual who, or his relative or partner is holding any security of or interest in the assessee.
- (viii) It is also provided that the relative may hold security or interest in the assessee of the face value not exceeding one hundred thousand rupees; an individual who, or his relative or partner is indebted to the assessee. It is also provided that the relative may be indebted to the assessee for an amount not exceeding one hundred thousand rupees; an individual who, or his relative or partner has given a guarantee or provided any security in connection with the indebtedness of any third person to the assessee. It is also provided that the relative may give guarantee or provide any security in connection with the indebtedness of any third person to the assessee for an amount not exceeding one hundred thousand rupees;
- (ix) a person who, whether directly or indirectly, has business relationship with the assessee of such nature as may be prescribed;
- (x) a person who has been convicted by a court of an offence involving fraud and a period of ten years has not elapsed from the date of such conviction.
- (xi) It is further proposed to provide that a person who has been convicted by a court of an offence involving fraud shall not be qualified to represent an assessee under sub-section (1) of the said section for a period of ten years from the date of conviction.
- (xii) It is also proposed to provide that the expression "relative" in relation to an individual means (a) spouse of the individual; (b) brother or sister of the individual; (c) brother or sister of the spouse of the individual; (d) any lineal ascendant or descendant of the individual; (e) any lineal ascendant or

descendant of the spouse of the individual; (f) spouse of a person referred to in clause (b), clause (c), clause (d) or clause (e); (g) any lineal descendant of a brother or sister of either the individual or of the spouse of the individual.

These amendments will take effect from 1st June, 2015.

#### **Power to make rules - Section 295**

It is proposed to provide that the Board may, by rules, provide the procedures for the granting of relief or deduction, as the case may be, of any income tax paid in any country or specified territory outside India, under section 90 or section 90A or section 91, against the income-tax payable under this Act.

This amendment will take effect from 1st June, 2015.

#### **Wealth tax**

##### **Charge of wealth-tax - Section 3**

It is proposed to amend the said sub-section (2) so as to provide that wealth-tax shall not be charged in respect of assessment year commencing on or after 1st day of April, 2016.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent years.

***Never choose anyone  
without complete understanding  
and never loose  
anyone because of a small  
misunderstanding.***



## PROVISIONS RELATING TO SERVICE TAX

### I. RATE OF SERVICE TAX EFFECTIVE FROM THE DATE TO BE NOTIFIED AFTER ENACTMENT OF FINANCE BILL 2015

Taxes	Present	Proposed
Service Tax	12%	14%
Education Cess	0.24%	--
SHE Cess	0.12%	--
Swachh Bharat Cess	--	2%
<b>Total</b>	<b>12.36%</b>	<b>16%</b>

### II. CHANGES EFFECTIVE FROM 1ST MARCH 2015

#### 1. Amendment in Reverse Charge Mechanism

[Notification No. 5/2015-ST read with Notification No. 7/2015-ST dated 1st March 2015]

The scope of existing reverse charge mechanism has been expanded to include services provided by any person to a customer which involves an aggregator – 100% of service tax to be paid by aggregator or person representing the aggregator or person appointed by aggregator to pay service tax.

For example, in case of aggregator's such as Uber, Ola Cabs, etc. the drivers are the service providers and the passengers are the customers and the aggregator enables customer to connect with the service provider. By virtue of this amendment, aggregator's such as Uber, Ola Cabs, etc. or person representing the aggregator or person appointed by aggregator shall now be liable to pay service tax on transactions effected through them.

#### 2. Amendments in Service Tax Rules, 1994

[Notification No. 5/2015-ST dated 1st March 2015]

##### Procedure for Registration under Service Tax [Amendment - Rule 4]

The existing procedure for taking registration has been scrapped and new procedure has been prescribed under which service tax registration shall be granted. The new

procedure for registration has been provided in Order No. 1/2015-ST dated 28th February, 2015. Salient features of the new procedure are;

- PAN mandatory for taking service tax registration
- Registration to be granted within 2 days of filing On-line Application
- No requirement to obtain sign and stamp of CEO
- Documents can be submitted within 15 days of on-line application

#### Authentication by Digital Signature [New - Rule 4C]

Rule 4C has been inserted which states that an Invoice, bill, challan or consignment note can now be authenticated by means of a digital signature.

The conditions, safeguards and procedure for issuing digitally signed invoices shall be specified by CBEC by a notification in due course.

This is a step towards paperless transaction wherein invoices can now be issued electronically instead of customary physical mode.

#### 2.3. Option of Maintaining records in electronic form and their authentication [Amendment – Rule 5]

An option has been given to assessee to maintain the 'Records' in terms of Rule 5 in electronic form. Further such records shall be authenticated by a digital signature.

The conditions, safeguards and procedure for preserving digitally signed records shall be specified by CBEC by a notification in due course.

#### 3. **Commission paid to foreign agent for Export of Goods**

[Notification No. 3/2015-Service Tax, dated 1st March 2015]

Earlier an exporter of goods paying commission to foreign agents used to get exemption from payment of service tax under reverse charge on such commission paid by following procedures and conditions given in notification number 42/2012-Service Tax, dated 29th June 2012.

However w.e.f. 1st October, 2014, the definition of intermediary in Place of Provision of Services Rules, 2012 has been amended.



In view of the above amendment the notification number 42/2012 providing for exemption to exporter of goods became redundant and hence the said notification is now been withdrawn.

#### 4. Amendments in Cenvat Credit Rules, 2004

[Notification No. 6/2015-Central Excise (N.T.), dated 1st March, 2015]

Time Limit for availment of Cenvat credit [Proviso to Rule 4(1) and 4(7)]

<i>Period</i>	<i>Cenvat Credit on inputs and input services to be taken</i>
Upto 31.08.2014	At any point of time after the receipt of inputs in the factory of a manufacturer or in the premises of service provider and for input services on receipt of invoice, bill, etc.
From 1.09.2014 to 28.02.2015	Within 6 months of the date of issue of any documents specified in Rule 9(1) such as invoice, bill, etc.
W.e.f 1.03.2015	Within 1 year of the date of issue of any documents specified in Rule 9(1) such as invoice, bill, etc.

Thus, the time limit restriction for availing Cenvat credit on inputs and input services has been increased from 6 months to 1 year.

Recovery of Cenvat credit wrongly taken or erroneously refunded along with interest [Rule 14]

The said Rule provided for recovery of Cenvat credit wrongly availed AND utilised alongwith interest as per provisions of Section 73 and 75 of the Finance Act.

Now, the said Rule has been substituted and has been divided into two (2) limbs as under:

- **Cenvat credit has been taken wrongly but not utilised [Rule 14(1)(i)]:** the same shall be recovered without interest.
- **Cenvat credit has been taken and utilised wrongly [Rule 14(1)(ii)]:** the same shall be recovered alongwith interest.

The said amendment is made in line with the ruling in case of M/s International Flavours and Fragrances (I) Ltd Vs CCE, CHENNAI [2010-TIOL-1448CESTAT- MAD], wherein it was held that Interest and penalty can be leviable from the date of utilisation of credit and not the date of availment of credit.

Further, the said newly substituted Rule 14 sub-rule (2) provides as to when the credit taken during the month shall be deemed to have been taken and how the utilisation shall have deemed to be occurred. The said is as under:

For Credit taken -

- **All credits taken during a month shall be deemed to have been taken on the last day of the month**

For Credit utilisation -

- The opening balance of the month has been utilised first
- Credit admissible in terms of these rules taken during the month has been utilised next
- Credit inadmissible in terms of these rules taken during the month has been utilised thereafter

Thus, in nutshell the credit that has been taken wrongly and has been utilised then for the purpose of recovery and interest the utilisation of such wrongly taken credit shall be deemed to be considered as utilised last i.e. after utilisation of opening balance and other admissible credit.

## 5. **Advance Rulings**

[Notification No. 9/2015-Service Tax, dated 1st March, 2015]

The facility of Advance Ruling is being extended to all resident firms

If there is any question of law or fact regarding the liability to pay service tax in relation to a service proposed to be provided, the determination of the same is done by the separate Authority called the Advance Ruling Authority.

Following persons can apply for Advance Ruling -

- A non-resident setting up a Joint Venture (JV) in India in collaboration with a non-resident or a resident, or



- A resident setting up a JV in India in collaboration with a non-resident, or
- A wholly owned subsidiary Indian company, of which the holding company is a foreign company, or
- A JV in India
- A resident, as the Central Government may, by notification in the Official Gazette, specify in this behalf.

Thus, vide the said Notification the Central Government has now notified that Resident Firms can also apply for Advance Ruling and for the same definition of "Firm", "Sole Proprietorship", "One Person Company" and "Resident" are inserted specifically for the purposes of this notification.

### III. CHANGES EFFECTIVE FROM 1ST APRIL 2015

#### 6. Amendments in Mega Exemption Notification No. 25/2012-ST [Notification No. 6/2015 – ST, dated 1st March, 2015]

Transportation of patients in Ambulance[Sr. No. 2]

The exemption granted in respect of health care services provided to patients has been proposed to be expanded to include services of transportation of patients by an ambulance as well.

Services of construction erection, commissioning, installation, completion, fitting out, maintenance, repair, alteration or renovation services provided to the Government, local authority or governmental authority [Sr. No. 12]

Presently exemption has been granted to above services when such services are *interalia* provided in respect of;

- a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
- a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;
- a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Finance Act, 1994.

The above exemption is proposed to be withdrawn and shall be liable to be service tax.

Services of Construction erection, commissioning, installation of original works [Sr. No. 14]

Exemption to above services pertaining to an airport or port is proposed to be withdrawn and shall be liable to be service tax. The other exemptions covered under S.No. 14 of notification No. 25/2012-ST shall continue unchanged.

Services of performing artist in folk or classical art form of music, dance or theatre [Sr. No. 16]

The above exemption is now proposed to be restricted only to such cases when the amount charged is upto ₹ 1 lac for a performance.

In cases where amount charged exceeds ₹ 1 lac, exemption is proposed to be withdrawn and shall be liable to be service tax.

Transportation of goods by rail or vessel or goods transport agency [Sr. No. 20 & 21]

Exemption provided in respect of transportation by rail or vessel or goods transportation agency relating to foodstuff including tea, coffee, jiggery, sugar, milk products and edible oil is proposed to be withdrawn and exemption is proposed to be expanded to include transportation of milk, foodgrain including pulses and rice.

However, transportation of agricultural produce continues to be exempt.

Services of Life insurance business [Sr. No. 26A]

The scope of the exemption is proposed to be expanded to include the scheme of Varishtha Pension Bima Yojana.

Services by certain persons in respective capacities [Sr. No.29]

Presently, exemption has been granted to services provided by following persons in their respective capacities;

mutual fund agent to a mutual fund or asset management company;

distributor to a mutual fund or asset management company;



selling or marketing agent of lottery tickets to a distributor or a selling agent.

The above exemption is proposed to be withdrawn and shall be liable to be service tax under reverse charge mechanism.

Services by way of making telephone calls [Sr. No. 32]

Presently, exemption has been granted to services by way of making telephone calls from -

departmentally run public telephone;

guaranteed public telephone operating only for local calls; or free telephone at airport and hospital where no bills are being issued.

The above exemption is proposed to be withdrawn and shall be liable to be service tax

New exemption is proposed to be granted to following services

Services by operator of Common Effluent Treatment Plant by way of treatment of effluent. [New Sr. No. 43]

Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits and vegetables. [New Sr. No. 44]

Services by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve. [New Sr. No. 45]

The above services, when provided by Government or local authority, is already covered under Negative List. The proposed exemption shall be beneficial to such services provided by governmental authorities or private entities.

Services provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or an association of persons consisting of such exhibitor as one of its members. [New Sr. No. 46]

With the proposed amendment, the clarification issued by CBEC vide its Circular No. 148/17/2011-ST dated 13th December, 2011 is now practically redundant.

**7. Transportation by road in case of Export of Goods**

[Notification No. 4/2015-Service Tax, dated 1st March 2015]

Exporter of goods are given exemption from payment of service tax on transportation of goods by Road which are exported vide notification number 31/2012-Service tax, dated 20th June 2012.

Earlier this exemption was provided for transportation by road upto the port or airport. Now the exemption is extended for road transportation upto land customs station also.

**8. Amendment in Reverse Charge Mechanism**

[Notification No. 5/2015-ST read with Noti. No. 7/2015-ST dated 1st March 2015]

Supply of Manpower or Security Service [Sr. No. 8]

Presently, in case of supply of manpower or security service provided by an Individual, HUF, partnership firm, including AOP to a business entity registered as body corporate, the service provider is required to pay 25% of the service tax amount and service receiver is required to pay 75% of the service tax amount.

Now, it is proposed that service receiver shall pay 100% of the service tax amount. In other words, full reverse charge is proposed in case of supply of manpower or security service.

The scope of existing reverse charge mechanism is proposed to be expanded to include the following services also;

Services provided by a mutual fund agent or distributor to a mutual fund or asset management company - 100% of service tax to be paid by Service Receiver.

Services provided by selling or marketing agent of lottery tickets to a lottery distributor or selling agent - 100% of service tax to be paid by Service Receiver.

**9. Amendments in Abatement Notification No. 26/2012-ST, dated 20-6-2012 as amended**

[Notification No. 8/2015-Service Tax, dated 1st March, 2015]

Transport of goods / passengers by rail [Sl. No. 2 and 3]

The condition for availing the Cenvat credit has been inserted.



Presently Cenvat credit on inputs, capital goods and input services is available even if abatement benefit is taken.

However, effective from 1.04.2015 abatement benefit will be available only if Cenvat credit on inputs, capital goods and input services has not been taken.

Transport of passengers by air, with or without accompanied belongings [Sl. No. 5]

The Airlines had the exemption / abatement benefit for the services provided by it. The value on which the service tax has to be paid has been amended, as tabulated below –

<i>Tickets</i>	<i>Upto 31.03.2015</i>	<i>w.e.f. 1.04.2015</i>
Economy class tickets	On 40%	On 40%
Other than economy class tickets	On 40%	On 60%

Thus, the ticket cost to the travellers will be costly in case the travelling is by other than economy class.

Services of goods transport agency in relation to transportation of goods [Sl. No. 7]

The person liable to pay freight or the GTA, as the case may be, is liable to pay service tax on 25% of the value of the services provided by the GTA. The same has been amended as tabulated below –

<i>Period</i>	<i>Service Tax payable on</i>
Upto 31.03.2015	25% of the value of services
w.e.f. 1.04.2015	30% of the value of services

Transport of goods in a vessel [Sl. No. 10]

The transportation of goods in a vessel is liable to service tax at the abated rate on 40% of the value of services but from 1.04.2015 the value of which service tax is to be paid has been reduced by 10%. The changes are as tabulated below –

<i>Period</i>	<i>Service Tax payable on</i>
Upto 30.09.2014	50% of the value of services
From 1.10.2014 to 31.03.2015	40% of the value of services
W.e.f. 1.04.2015	30% of the value of services

The said abatement has been now brought in line with the transportation of goods by road services by GTA over the period of time.

#### 10. Amendments in Cenvat Credit Rules, 2004

[Notification No. 6/2015-Central Excise (N.T.), dated 1<sup>st</sup> March, 2015]

Availment of Cenvat credit in cases of reverse charge mechanism (RCM) [Proviso to Rule 4(7)]

The conditions for availing Cenvat credit of service tax paid under RCM on input services has changed frequently. The said changes are tabulated as under –

Period	When Cenvat credit can be availed, in case of	
	Full RCM	Partial RCM
Upto 10.07.2014	Payment of value of input service and service tax thereon was made	Payment of value of input service and service tax thereon was made
From 11.07.2014 to 31.03.2015	After service tax is paid to the Government, irrespective of the fact as to whether the payment of value of services received to the service provider is made to not.	After the payment of value of input services and service tax paid or payable as indicated in invoice, bill or, as the case may be, challan as referred to in rule 9.
w.e.f. 1.04.2015	Payment of service tax is made	Payment of service tax is made

#### IV. CHANGES EFFECTIVE FROM DATE OF ENACTMENT OF FINANCE BILL, 2015

##### 11. Definition / Interpretations [Section 65B]

**Chit Funds :** Government always intended to tax chit fund. However Supreme Court in case of Delhi Chit Fund Association [[2014] 42 taxmann.com 52 (SC)] has held that chit funds are not providing any services and not liable to be taxed under service tax. To nullify the effect of said Supreme Court judgment in future and to tax Chit funds it has now been proposed to

add explanation to the definition of Services to provide that Chit funds are liable to service tax. Definition of foreman has also been added. Further the abatement erstwhile available to chit funds is also proposed to be removed and as such these services will now be taxable at full rate of tax.

**Lottery distributor :** Government here again intended to tax such services. However High Court in the case of Tashi DeLek Gaming Solutions (P.) Ltd [[2014] 51 taxmann.com 9 (SIKKIM)] has held that Lottery distributors are not providing any services and are not liable to service tax. To nullify the effect of said judgment in future it has now been proposed to add explanation to the definition of service to provide that lottery distributor are liable to service tax. Definition of lottery distributors and selling agents has also been added.

**Clause 26A** defining the term Government is proposed to be inserted which would mean the departments of the Central Government, a State Government and its Department and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made thereunder.

## **12. Principles of Interpretation [Section 66F]**

A reference to a service shall not include reference to any input service used for providing such services. An illustration is proposed to be added to the said section which clarifies that any services provided by any banks to the Reserve Bank of India for which the consideration by way of fee or commission or any other amount is received by the banks does not gets excluded from the levy of service tax.

## **13. Valuation of Taxable Services [Section 67]**

In the case of Intercontinental Consultants and Technocrats Pvt. Ltd Honorable Delhi High Court has held that Rule 5(1) of Service Tax (Determination of Value) Rules, 2006 is Ultra Virus in context of wordings contained in Section 67 and hence reimbursement of expenditure are not subject to service tax. To nullify the effect of said judgment in future the term consideration has been proposed to include any reimbursable expenditure or cost incurred by the service provider and charged.



It is to be noted that expenses in the nature of Pure Agent will continue to be excluded from the value of taxable services if all the conditions mentioned in Rule 5(2) of Service tax (Determination of Value) Rules, 2006 are fulfilled.

#### 14. Recovery of Service tax [Section 73]

A new sub clause (1B) is proposed to be inserted providing where the amount of service tax payable has been self-assessed in the return furnished but not paid, the same shall be recovered along with interest, without service of notice. Correspondingly Rule 6(6A) of Service Tax Rules, 1994 is proposed to be omitted.

Sub-section 4A providing for reduced penalty if true and complete details of transaction were available on records is proposed to be deleted. Thus a honest assessee who has mistakenly not paid any service tax will now be subject to heavy penalties under the Act.

#### 15. Rationalisation of Penalty under Section 76 and Section 78

	<i>Non Evasion cases (Section 76)</i>	<i>Evasion cases (Section 78)</i>
Penalty	Up to 10% of service tax	100% of service tax
Service tax, interest paid within 30 days of notice`	No penalty	15%, provided such reduced penalty also paid
Service tax, interest and reduced penalty paid within 30 days of order	25% of penalty demanded, provided such reduced penalty also paid	25% of penalty demanded, provided such reduced penalty also paid

15.1 Presently there is a provision that if the entry has been made in the books of accounts then penalty under section 78 will be reduced to fifty percent, however in the proposed clause the same has been omitted.

**16. Transitional provision relating to Penalty [Section 78B]**

It is proposed to introduce following transitional provision with respect to service tax

Where no notice is served before the date on which the Finance Bill, 2015 receives the assent of the President or

Where notice has been served but no order has been passed before the date on which the Finance Bill, 2015 receives the assent of the President, then in both the above cases, the provisions of Section 76 or Section 78, as the case may be, shall be applicable.

Where the cases falling under Section 73(4A) i.e. where complete details of the transactions are available in the specified records then in such cases,

16.2.1 Where no notice is served before the date on which the Finance Bill, 2015 receives the assent of the President or

16.2.2. Where notice has been served but no order has been passed before the date on which the Finance Bill, 2015 receives the assent of the President, then in both the above cases, the penalty shall not exceed fifty percent of the service tax.

**17. Penalty not to be imposed in certain cases [Section 80]**

Section 80 provided for waiver of penalty if reasonable cause for the failure to pay service tax was shown to the officer.

This Section is proposed to be omitted.

**18. Amendments in Cenvat Credit Rules, 2004**

[Notification No. 6/2015-Central Excise (N.T.), dated 1st March, 2015]

Penalty for Cenvat credit wrongly taken or erroneously refunded  
[Rule 15]

If the Cenvat credit is wrongly taken or utilised then penalty shall be as under

<i>Existing</i>	<i>Proposed</i>
Penalty not exceeding the duty or service tax on such goods or services, as the case may be, or 2,000/, whichever is greater.	Penalty shall not exceed 10% of the service tax amount, however if – <ul style="list-style-type: none"> <li>● Cenvat credit taken or utilised wrongly is paid alongwith interest and penalty within 30 days of –               <ul style="list-style-type: none"> <li>o Date of service of notice then no penalty shall be payable</li> <li>o Date of receipt of order then penalty shall be 25% of the penalty amount</li> </ul> </li> </ul>

If the Cenvat credit is taken or utilised wrongly by reason of fraud, collusion or any wilful mis-statement or suppression of facts, or contravention of any of the provisions with intent to evade payment of service tax then penalty shall be as under:

<i>Existing</i>	<i>Proposed</i>
Penalty shall be equal to 100%, however if – <ul style="list-style-type: none"> <li>● True and complete details of the transactions are available in the specified records then it shall be reduced to 50%</li> <li>● Cenvat credit taken or utilised wrongly is paid alongwith interest and penalty within 30 days from the date of communication of order then penalty shall be reduced to 25%</li> </ul>	Penalty shall be equal to 100%, however if – <ul style="list-style-type: none"> <li>● Cenvat credit taken or utilised wrongly is paid alongwith interest and penalty within 30 days of –               <ul style="list-style-type: none"> <li>o Date of service of notice then penalty shall be 15%</li> <li>o Date of receipt of order then penalty shall be 25%</li> </ul> </li> </ul>

## **V. CHANGES EFFECTIVE FROM THE DATE TO BE NOTIFIED AFTER THE ENACTMENT OF THE FINANCE BILL, 2014.**

### **19. Negative List [Section 66D]**

19.1 Presently only Support services provided by government to business entity is taxable. Now it is proposed to tax all services



provided by government to business entities. In other words it means all services provided by government to non business entities is covered under negative list. Corresponding changes are also made in reverse charge mechanism [Rule 2(1)(d) of Service Tax Rules, 1994 and Notification 30/2012-ST].

**20. Amendments in Mega Exemption Notification No. 25/2012-ST**

[Notification No. 6/2015 – ST, dated 1st March, 2015]

Carrying out an intermediate production process as job work [Sr. No. 30(c)]

Presently, services of exemption carrying out an intermediate production process as job work in relation to any goods (including alcoholic liquor for human consumption) on which appropriate duty is payable by principal manufacturer is exempt from the levy of service tax.

However, it is proposed to tax the 'process amounting to manufacture or production of alcoholic liquor for human consumption'. Correspondingly, the exemption to service of 'carrying out an intermediate production process in respect of alcoholic liquor for human consumption' is also proposed to be withdrawn.

Services by way of admission to certain places [New Sr. No.47]

Presently, admission to an entertainment event or amusement facility is covered under Negative List of services. However, it is proposed to remove such entry from negative list and include the same in Mega Exemption to provide exemption to the following extent;

- Exhibition of cinematographic film, circus, dance, or theatrical performance including drama or ballet;
- Recognised sporting event;
- Award function, concert, pageant, musical performance or any sporting event other than a recognised sporting event, where the consideration for admission is not more than ₹ 500 per person

In a nutshell, service tax is proposed to be levied for following;

- Amusement facilities such as Amusement Park, Water Parks, Theme Parks etc.
- Award function, concert, pageant, musical performance or any non recognized sporting event, where the consideration for admission is more than 500 per person,
- Any other such event or programme.

## 21. Amendments in Service Tax Rules, 1994

[Notification No. 5/2015-ST dated 1st March 2015]

Keeping in view the proposed increase in the rate of service tax from 12% to 14%, the optional rates provided for payment of service tax in Rule 6(7), 6(7A), 6(7B) and 6(7C) of Service Tax Rules, 1994 have been revised.

### 21.1 Services by an Air Travel Agent in respect of booking of passage by air [Rule 6(7)]

<i>Type of Passage</i>	<i>Present Rate</i>	<i>Proposed rate</i>
Domestic bookings	0.6%	0.7%
International Bookings	1.2%	1.4%

### 21.2. Services by an insurer carrying Life Insurance Business [Rule 6(7A)(ii)]

<i>Year</i>	<i>Present Rate</i>	<i>Proposed rate</i>
1 <sup>st</sup> Year	3%	3.5%
Subsequent years	1.5%	1.75%

Services provided in respect of purchase and sale of foreign currency including money changing [Rule 6(7B)]

Gross amount of currency ex- changed	Present Rate	Proposed rate
Upto ₹ 1,00,000/-	0.12% of gross amount of currency exchanged subject to a minimum tax of ₹ 30/-	0.14% of gross amount of currency exchanged subject to a minimum tax of ₹ 35/-
₹ 1,00,001 to ₹ 10,00,000/-	₹ 120 + 0.06% of gross amount of currency exchanged in excess of ₹ 1,00,000/-	₹ 140 + 0.07% of gross amount of currency exchanged in excess of ₹ 1,00,000/-
₹ 10,00,001 and above	₹ 660 + 0.012% of gross amount of currency exchanged in excess of ₹ 10,00,000/- subject to a maximum tax of ₹ 6,000/-	₹ 770 + 0.014% of gross amount of currency exchanged in excess of ₹ 10,00,000/- subject to a maximum tax of ₹ 7,000/-



Services provided by distributor or selling agent providing services of promoting, marketing or organizing or assisting in organizing lottery [Rule 6(7C)]

Condition	Present Rate	Proposed rate
If guaranteed prize payout is more than 80%	₹ 7000 on every 10 Lac (or part thereof) of aggregate face value of lottery tickets printed by the organizing state for a draw	₹ 8200 on every 10 Lac (or part thereof) of aggregate face value of lottery tickets printed by the organizing state for a draw
If guaranteed prize payout is less than 80%	₹ 11000 on every 10 Lac (or part thereof) of aggregate face value of lottery tickets printed by the organizing state for a draw	₹ 12800 on every 10 Lac (or part thereof) of aggregate face value of lottery tickets printed by the organizing state for a draw



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