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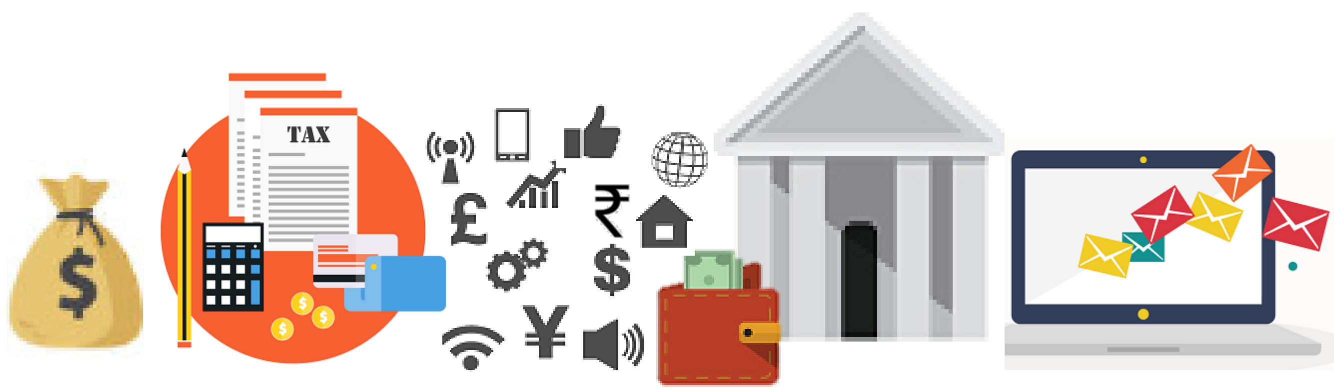
Demystifying Complexities

India Union Budget 2017

February 2017



India Union Budget 2017

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The Union Budget 2017, fourth budget under the Narendra Modi Government, was presented by the Hon'ble Finance Minister Arun Jaitley on February 1, 2017. Budget 2017 was marked by historic economic policy developments in the midst of mid-year GST roll out, and demonetization.

"Spring is a season of optimism", Budget 2017 not only changed the tradition of being presented on the last day of February, but also the Railway Budget was combined with the General Budget for the first time in independent India. The Budget seeks to do just what it promises "Transform, Energize and Clean India" – TEC India. The underlying theme of countless expectations was good governance. The digitization agenda and the curbing of the cash economy will be supported by fiscal prudence.

Historic and impactful economic reforms and policy making were announced to ensure that the fruits of growth reach the rural areas, farmers, poor & underprivileged, women and other vulnerable sections of the society. The Budget focused on energizing the youth to reap the benefits of growth and employment to unleash their true potential and clean the country from the evils of corruption, black money and non-transparent political funding.

Key tax proposals are mostly in the nature of anti-abuse provisions, to ensure that their implementation does not lead to hardship and targeting of genuine and legitimate transactions.
Leaving the indirect tax rates unchanged and amending only a few critical areas that needed attention shows the intent of the Government to roll out GST by 1 July, 2017.

Economic Indicators

- GDP growth @ 7.1%
- Average CPI inflation @ 4.85%
- Industrial production growth @ 2.6%
- Fiscal deficit @ 3.2%
- Revenue Deficit @ 2.1%
- Highest forex reserves of $ 361 B
- INR depreciation of 3.3%; Average INR 67.21 / $
- FDI jumps 60% from Oct '14 to Sept '16 ($ 77.9 B)

India moves up 16 spots to 39th rank in the WEF's Global Competitiveness Index

India Union Budget 2017

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Distinct Themes

- **Farmers**, for whom we have committed to double the income in five years
- **Rural population:** Providing employment and basic infrastructure
- **Youth:** Energizing them through education, skills and jobs.
- **Poor and the underprivileged:** Strengthening the systems of social security, health care and affordable housing.
- **Infrastructure:** For efficiency, productivity and quality of life.
- **Financial sector:** Growth and stability through stronger institutions
- **Digital economy:** For speed, accountability and transparency.
- **Public service:** Effective governance and efficient service delivery through people's participation.
- **Prudent fiscal management**: To ensure optimal deployment of resources and preserve fiscal stability.
- **Tax Administration**: Honoring the honest.

- Agenda for 2017-18 is "Transform, Energize and Clean India" – TEC India
- FIPB abolished, New FDI Policy underway
- Rules to curb black money and curtail illicit deposits
- Creation of integrated public sector oil major
- Recapitalization of public sector banks

Sectoral Announcements

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Infrastructure

- Significant allocation; focus on railways and roads
- Railway Station redevelopment projects; ~ 25 stations targeted in 2017-18
- New Metro Rail Policy; implementation & indigenization of hardware & software
- PPP mode for operation and maintenance of select airports in Tier 2 cities
- Second phase of Solar Park development for additional 20 K MW capacity to be started
- Steps to rationalize tax provisions, disincentive black money, promote digital economy & bring transparency

Technology & Start-ups

- New Ministry of Electronics and Information Technology (MeITY) to promote Digital India
- Pilot Digital Village platform for services like tele-medicine, tele-education, LED street lighting, Wi-Fi hotspot and skill development
- India BPO Promotion Scheme for financial support
- Draft National Policy on Software Products 2016 to stimulate emerging software products ecosystem
- Strengthen PPP for solution abilities, availability of digital architects and global experience

Real Estate

- Focus on reforms and affordable housing
- 10 M houses by 2019 to provide homes to houseless and those living in kutcha houses
- INR 230 B allocated to Pradhan Mantri Awas Yojana
- Emphasis on
  - helping the sector raise funds
  - providing clarity to reduce tax litigation and ambiguity
  - introducing anti-abuse measures

Logistics

- Railway Budget merged with General Budget to facilitate multi modal transport planning between railways, highways and inland waterways
- Multi modal logistics parks & transport facilities proposed may drive growth
- Not being completely organized sector, anti black money and digital economy could act as a deterrent

Sectoral Announcements

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Automobile Sector

- No significant announcements pursuant to 'Make in India' & changes in emission and safety regulations
- Increased allocation for rural economy & infrastructure promises well for automotive industry
- Likely beneficiaries Two-Wheeler, Tractors, commercial vehicles and earth-mover industry along with their suppliers.
- Increased allocation for MSIPS and EDF to fillip manufacture of electronic components
- Electric Vehicle, R&D expenditure, Vehicle Scrapping policy, relief from excise duty missed

Life Sciences

- New Drugs and Cosmetics Rules for availability at reasonable prices and promote generic medicines
- New rules for medical devices to reduce cost
- Two new All India Institutes of Medical Sciences in Jharkhand and Gujarat
- Action plan to eliminate critical diseases i.e. Kala-Azar and Filariasis, Leprosy, Measles & tuberculosis
- Aadhar based Smart Cards for senior citizen containing their health details

Telecom

- Big push towards the digital economy
- Rural connectivity, BharatNet Project & DigiGaon initiative may boost growth
- BharatNet Project - high speed broadband connectivity and access to digital services in rural areas
- DigiGaon initiative to provide tele-medicine, education and skills through digital technology
- Increased allocation towards M-SIPS making India a global electronic manufacturing hub
- 2% SAD on populated 'printed circuit boards' for mobile phones to promote domestic manufacturing

Defense

- Marginal increase of 5.4% over the last year budget
- Accounts for 12.22% of the total budget allocation
- Allocation for 'Make in India' programs and R&D
- Capex decline from 34.7% to 33%
- Increase in revenue expenditure due to pay & allowances

Key Pillars

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Rates of Income Tax

Additional resource mobilization

Promoting affordable housing

Measures for stimulating growth

Promoting digital economy

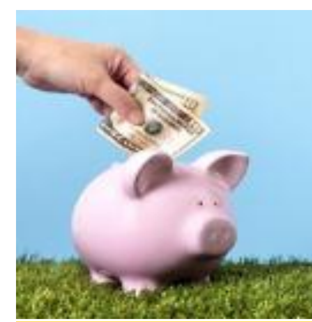
10 Key Pillars of the Budget

Transparency in Electoral Funding

Ease of doing business

Anti abuse measures

Rationalisation Measures



Benefit for NPS subscribers

Major Direct Tax Proposals

1

Reduction in Tax Rates

Reduction in Tax Rates

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Proposal	Individuals / Association of Persons / Hindu Undivided Families (HUF)	Companies
Reduction in tax rate & changes in surcharge	• Reduction in basic tax rate from 10% to 5% in respect of income between INR 250,000 and INR 500,000 (in case of senior citizens between 60-80 years, income between INR 300,000 to INR 500,000) • Surcharge of 10% (on tax) introduced for income between INR 5,000,000 to INR 1,000,000 • Tax rebate available to individuals reduced from INR 5,000 to INR 2,500 in respect of incomes below INR 350,000.	• Corporate tax rate reduced to 25% (from 30%) for companies with a turnover < INR 500,000,000 in FY 2015-16. • No other change in corporate tax rates / Minimum Alternate Tax Rate.

2

Resource Mobilization

Resource Mobilization

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Taxation of dividend income **Applicable from: AY 2018-19 onwards**	• As per existing section 115BBDA, income by way of dividend > Rs. 1,000,000 is taxable @ 10% on gross basis in case of a resident individual, Hindu undivided family or firm.	• Extending the applicability of said provision to all resident assessees except domestic company and certain funds, trusts, institutions, etc.	• To ensure horizontal equity among all categories of tax payers deriving dividend-income
Liability on Individuals / HUFs to withhold tax (TDS) on rent-payments **Applicable from: 1 June 2017 onwards**	• As per section 194-I, an Individual or HUF, if he is not liable for tax audit in the last year, is not required to withhold tax on payment of rent to landlord	• New section 194IB introduced - an Individual or HUF, if he is not liable for tax audit in the last year, is required to withhold tax (TDS) @ 5% in case of rent payments exceeding INR 50,000 per month • Requirement to deduct tax only once in a year (last month of the previous year) • No requirement for deductor to obtain TAN (tax deduction account no.) • Where landlord does not have PAN (section 206AA), amount of deduction not to exceed rent payable for last month of previous year	• To widen the scope of tax deduction at source keeping compliance burden minimum at the same time

3

Promotion of Affordable Housing and Real Estate Sector

Affordable Housing & Real Estate Sector

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Incentives for Promoting Investment in immovable property **Applicable from: AY 2018-19 onwards**	• Concessional rate of tax and also indexation benefit is available for long term capital gains • To qualify for long-term asset, assessee is required to hold the asset for more than 36 months subject to certain exceptions (for example 24 months for unlisted shares)	• Section 2 (42A) amended to reduce the period of holding from the existing 36 months to 24 months in case of immovable property, being land or building or both, to qualify as long term capital asset.	• To promote real-estate sector and to make it more attractive for investment
Rationalisation of Provisions of Section 80-IBA to promote Affordable Housing **Applicable from: AY 2018-19 onwards**	Existing section 80-IBA provides for 100% deduction in respect of the profits and gains from developing and building certain housing projects subject to conditions such as, • Limit of 30 square meters for built-up area of residential unit in respect of project located in Chennai, Delhi, Kolkata and Mumbai, OR within 25 kms from the municipal limits of these 4 cities. • Project has to be completed within 3 years.	Relaxations granted • Size of residential unit to be measured considering "carpet area" & not "built-up area" • Restriction of 30 square meters not to apply to a place located within 25 km from the municipal limits of the Chennai, Delhi, Kolkata or Mumbai • Period of completion of project extended from 3 years to 5 years	• To promote development of affordable housing sector

Affordable Housing & Real Estate Sector

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Capital gains in case of joint development agreement **Applicable from: 1 April 2017 onwards**	• Execution of Joint Development Agreement between the owner of immovable property and the developer triggers the capital gains tax liability in the hands of the owner in the year in which the possession of immovable property is handed over to the developer for development of a project.	• In case of an individual or Hindu undivided family, who enters into joint development agreement, capital gains shall be taxable in the year in which the certificate of completion for the whole or part of the project is issued by the competent authority. • Stamp duty value of his share in the project on the date of certificate of completion (increased by any monetary consideration received, if any) shall be considered to be full value of the consideration received. • Benefit not applicable to an assessee who transfers his share in the project to any other person on or before the date of issue of said certificate of completion. In such a situation, capital gains as per general provisions of the Act shall be considered to be the income of the previous year in which such transfer took place	• To minimize the genuine hardship which the owner of land may face in paying capital gains tax in the year of transfer

Affordable Housing & Real Estate Sector

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Shifting base year from 1981 to 2001 for computation of capital gains **Applicable from: AY 2018-19 onwards**	• For computing capital gains in respect of an asset acquired before 01.04.1981, the assessee is allowed an option of either to take the fair market value of the asset as on 01.04.1981 or the actual cost of the asset as cost of acquisition. • The assessee is also allowed to claim deduction for cost of improvement incurred after 01.04.1981, if any.	Revision of Base Year from 1981 to 2001 • Cost of acquisition of an asset acquired before 01.04.2001 shall be allowed to be taken as fair market value as on 1.4.2001 • Cost of improvement shall include only those capital expenses which are incurred after 01.04.2001	• Base year for computation of capital gains has become more than 3 decades old. Assessees are facing difficulties due to non-availability of relevant information as on 01.04.1981.
Expanding the scope of long term bonds under 54EC **Applicable from: AY 2018-19 onwards**	As per section 54EC, long term capital gain is tax-exempt if the assessee invests the whole or any part of capital gains in • Bonds issued by the National Highways Authority of India, or • Bonds issued by Rural Electrification Corporation Limited	Scope of investment expanded – • Investment in any bond redeemable after 3 years which has been notified by the Central Government shall be eligible for exemption.	• To widen the scope for sectors which may raise fund by issue of bonds eligible for exemption under section 54EC

Affordable Housing & Real Estate Sector

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
No notional income for house property held as stock-in-trade **Applicable from: AY 2018-19 onwards**	• Section 23 of the Act provides for the manner of determination of annual value of house property.	• Where a house property is held as stock-in-trade and the property is not let during the whole or any part of the previous year, the annual value of such property, for upto 1 year from the end of the financial year in which the certificate of completion of construction of the property is obtained from the competent authority, shall be taken to be nil	• Considering the business exigencies in case of real estate developers

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Measures for Stimulating Growth

Measures for Stimulating Growth

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Extension of eligible period of concessional tax rate on interest in case of External Commercial Borrowing (ECB) & Extension of benefit to Rupee Denominated Bonds **Applicable from: AY 2018-19 onwards**	• As per section 194LC, interest payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond is eligible for concessional TDS of 5 %. • Borrowings shall be made, under a loan agreement at any time between 1.7.2012 to 1.7.2017; or by way of any long-term bond between 1.10.2014 to 1.7.2017 • Press Release dated 29.10.2015 was issued clarifying that TDS @ 5 % would be applicable to these bonds in the same way as it is applicable for off-shore dollar denominated bonds.	• The concessional rate of 5% TDS will now be available in respect of borrowings made before 1.7.2020. • Benefit of section 194LC extended to rupee denominated bond issued outside India before 1.7.2020. (applicable for AY 2016-17 onwards)	• To encourage foreign capital.

Measures for Stimulating Growth

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Extension of eligible period of concessional tax rate under section 194LD **Applicable from: AY 2018-19 onwards**	• Existing section 194LD provides for lower TDS at the rate of 5% in the case of interest payable at any time on or after 1.6.2013 but before 1.7.2017 to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds provided that the rate of interest does not exceed the rate notified by the Central Government in this behalf.	• Concessional rate of 5% TDS on interest will now be available on interest payable before 1.7.2020	• To encourage foreign capital.
Carry forward and set off of loss in case of closely held companies **Applicable from: AY 2018-19 onwards**	• As per section 79, accumulated losses of closely held companies lapse in case of a change in shareholding beyond 51%.	• Relaxation granted in case of start-ups, subject to the condition that the original shareholders continue to hold their shares from the year in which loss is incurred, to the year in which the loss is proposed to be set-off.	• Any change in shareholding of start-ups due to capital infusions by new investors should not affect carry forward and set-off of accumulated losses.

Measures for Stimulating Growth

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Extending the period for claiming deduction by start-ups **Applicable from: AY 2018-19 onwards**	• Section 80-IAC provides that an eligible start-up shall be allowed a deduction of 100% profits from eligible business for 3 consecutive years out of 5 years beginning from the year in which such eligible start-up is incorporated.	• Horizon of 5 years extended to 7 years	• Start-ups may take time to derive profit out of their business.
Minimum Alternate Tax (MAT) **Applicable from: AY 2018-19 onwards**	• MAT credit allowed to be carried forward for 10 years	• Time-limit of 10 years extended to 15 years. Foreign Tax credit in excess of MAT to be ignored for carry forward purposes	• Rationalisation of Provisions relating to tax credit for Minimum Alternate Tax and Alternate Minimum Tax

Measures for Stimulating Growth

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Budget Proposal	Proposed Amendment	Applicable from
Banking Sector	• Tax deduction in respect of provision for bad and doubtful debts increased from 7.5% to 8.5% for banks. • Interest on loan from a co-operative bank to be allowed as a deduction on payment basis, payment should be made on or before due date of filing return of income	• AY 2018-19 onwards
Authority for Advance Rulings	• Merger of **Authority for Advance Rulings** for income-tax, central excise, customs duty and service tax	• 1 April 2017 onwards

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Promoting Digital Economy

Promoting Digital Economy

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Restricting cash donations **Applicable from: AY 2018-19 onwards**	• As per section 80G, cash-donations of more than INR 10,000 is not tax-deductible	• Limit of INR 10,000 reduced to INR 2,000	• To encourage cashless economy and transparency
Disallowance of depreciation under section 32 and capital expenditure under section 35AD on cash payment **Applicable from: AY 2018-19 onwards**	• Revenue expenditure incurred in cash exceeding certain monetary threshold is not allowable as per section 40A(3) of the Act (except in specified circumstances) • Further, section 35AD provides for investment linked deduction on the amount capital expenditure incurred, wholly or exclusively for business, during the previous year for a specified business	• Where an assessee incurs any cash-expenditure for acquisition of any asset exceeding INR 10,000, such expenditure shall be ignored for the purposes of determination of actual cost of the asset (section 43) • Cash expenditure of INR 10,000 or more not to be allowed as tax deduction u/s 35AD	• To discourage cash transactions

Promoting Digital Economy

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Measures to discourage cash transaction **Applicable from: AY 2018-19 onwards**	• Cash-payments of more than INR 20,000 in a single day to a person, is not allowable as tax deduction	• Limit of INR 20,000 reduced to INR 10,000	• To encourage cashless economy and transparency
Measures for promoting digital payments in case of small unorganized businesses **Applicable from: AY 2017-18 onwards**	• Section 44AD provides for a presumptive basis of taxation for small businesses with turnover upto INR 20,000,000. • 8% of the turnover is treated as taxable profits	• Existing rate of 8% reduced to 6% provided turnover is received through banking channels. • Otherwise, 8% continues to remain taxable profits.	• To promote digital transactions and encourage small unorganized business to accept digital payments

Promoting Digital Economy

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Restriction on cash transactions **Applicable from: 1 April 2017 onwards**	No specific prohibition / penalty on cash receipts (other than loans and advances)	Penalty u/s 271D introduced for persons receiving INR 300,000 or more from single person in a day in respect of a single transaction /event / occasion	To achieve the mission of the Government to eliminate generation and circulation of black money
Transparency in Electoral Funding **Applicable from: AY 2018-19 onwards**	• There is no restriction on receipt of any amount of donation in cash by a political party. • A Political party is required to file its return of income u/s 139(4B), if its income exceeds the threshold limit (without considering the exemption u/s 13A). However, filing of the return is not a condition for availing exemption under the said section.	Additional conditions imposed for eligibility to claim exemption u/s 10(13A) • No cash-donations should be received beyond INR 2,000 • Filing of Return of income within time limit made mandatory for being entitled to exemption	To discourage cash transactions and bring transparency in the source of funding to political parties

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Ease of Doing Business

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Clarity relating to Indirect transfer provisions **Applicable from: AY 2012 - 13 onwards**	• As per section 9, all income accruing or arising, whether directly or indirectly, from any property / asset /source of income / transfer of a capital asset situate in India shall be taxable in India • Finance Act 2012 (Explanation 5) clarified, that an asset or capital asset, being any share or interest in a company or entity registered or incorporated outside India shall be considered to be situated in India, if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.	Clarification that Explanation 5 shall not apply to any investment held by non-resident, directly or indirectly, in a Foreign Institutional Investor or Foreign Portfolio Investor as these entities are regulated by Securities Exchange Board of India.	The proposed amendment is clarificatory in nature.

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Modification in conditions of special taxation regime for off shore funds under section 9A **Applicable from: AY 2016 - 17 onwards**	• Section 9A provides for a special regime in respect of offshore funds. Fund management activity carried out through an eligible fund manager acting on behalf of eligible investment fund is not treated as business connection in India. • The benefit is subject to certain conditions. One of the conditions is that, monthly average of the corpus of the fund shall be more than INR 1,000,000,000 except where the fund has been established or incorporated in the previous year in which case, the corpus of fund shall not be less than INR 1,000,000,000 at the end of such previous year.	The condition regarding minimum monthly average corpus shall not be applicable in the year in which the fund is being wound up	In the year of winding up, it is difficult to maintain such minimum monthly average corpus.

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Enabling of Filing of Form 15G/15H for commission payments specified u/s 194D **Applicable from: I June 2017 onwards**	• Section 194D provides for withholding tax (TDS) @ 5% on insurance commission beyond INR 15,000 per year. • As per section 197A, tax shall not be deducted, if the recipient furnishes to the payer a self-declaration in Form.No.15G/15H declaring that the tax on his estimated total income of the year would be nil. • Presently, insurance commission is not covered by provisions of section 197A	• Eligibility to submit form 15G /15H for non-deduction of tax at source, extended to insurance commission u/s 194D	• To reduce compliance burden in the case of Individuals and HUFs
Increasing the threshold limit for maintenance of books of accounts in case of Individuals and Hindu undivided family **Applicable from: AY 2018-19 onwards**	Threshold limit for maintenance of books of accounts by a person carrying on business / profession, is: • Minimum income of INR 120,000, or • Minimum Turnover / Gross receipts of INR 1,000,000	Increase in threshold limits (for individuals / HUF) from INR 120,000 to INR 250,000 and from INR 1,000,000 to INR 2,500,000	• To reduce compliance burden in the case of Individuals and HUFs

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Exclusion of certain persons (covered by presumptive basis of taxation) from requirement of tax-audit **Applicable from: AY 2017-18 onwards**	• Threshold limit for tax audit u/s 44AB for regular businesses: turnover should exceed INR 10,000,000 • As per Press Release dated 20.6.2016, threshold limit for tax audit u/s 44AB for assesses covered by presumptive basis of taxation u/s 44AD(1): INR 20,000,000	• Provisions of Press Release made part of section 44AB	• To reduce the compliance burden of the small tax payers and facilitate the ease of doing business
Simplification of withholding tax (TDS) on fee for professional services paid to call centers **Applicable from: 1 June 2017 onwards**	• Withholding tax (TDS) @ 10% applicable on payment of fee for professional services	• Rate of withholding tax reduced from 10% to 2% in case of payment to call center	• To facilitate ease of doing business

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Payment to related persons excluded from the ambit of Specified Domestic Transactions u/s 92BA **Applicable from: AY 2017-18 onwards**	Payment to related parties u/s 40A(2)(b) covered within the scope of section 92BA (Specified Domestic Transactions)	Payment to related parties excluded from the scope of section 92BA (Specified Domestic Transactions)	To relieve high compliance burden on taxpayers such as need to obtain chartered accountant's certificate in Form 3CEB providing the details such as list of related parties, nature and value of transactions (SDTs), method used to determine the arm's length price, positions taken etc.
Tax neutral conversion of preference shares to equity shares **Applicable from: AY 2018-19 onwards**	Conversion of preference shares into equity shares is regarded as 'transfer' for the purpose of capital gains taxation	Conversion of preference shares into equity shares excluded from the scope of 'transfer' for the purpose of capital gains taxation	Current law provides for tax neutrality to conversion of bond or debenture of a company to share or debenture of that company. However, no express clarity in law regarding tax neutrality of conversion of preference shares into equity shares

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Cost of acquisition in Tax neutral demerger of a foreign company **Applicable from: AY 2018-19 onwards**	As per section 47(vic), transfer of shares of an Indian company by a demerged foreign company to a resulting foreign company is not regarded as transfer.	Amendment to section 49 to provide that cost of acquisition of shares of Indian company in the hands of the resulting foreign company shall be the same as it was in the hands of demerged foreign company	To align provisions of section 49 (cost of acquisition) with section 47 (transfer) in case of demerger of foreign company
Taxability of income from transfer of carbon credits **Applicable from: AY 2018-19 onwards**	Income-tax Department has been treating income on transfer of carbon credits as business income taxable @ 30%.	New section 115BBG inserted - Income from transfer of carbon credit taxable @ 10% on gross basis	To encourage protection of environment

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Processing of return within the prescribed time and enable withholding of refund in certain cases **Applicable from: AY 2017-18 onwards**	• As per section 143(1D), processing of a return shall not be necessary, where a notice has been issued to the assessee u/s 143(2). • As per amendment by Finance Act, 2016 from AY 2017-18, processing u/s 143(1) is to be done before passing of assessment order.	• Section 143(1D) shall cease to apply in respect of returns furnished for AY 2017-18 onwards. • However, to address concerns of recovery of revenue in doubtful cases, new section 241A introduced to provide that for AY 2017-18 onwards, where refund becomes due to the assessee u/s 143(1) and the Assessing Officer is of the opinion that grant of refund may adversely affect the recovery of revenue, he may, for reasons recorded in writing and approval of Commissioner, withhold the refund upto the date on which the assessment is made.	• To avoid delay in issuance of refund in genuine cases which are routinely selected for scrutiny assessment

Ease of Doing Business

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Capital gain exemption on Rupee Denominated Bonds **Applicable from: AY 2018-19 onwards**	• Finance Act, 2016 amended section 48 to provide that capital gains arising on account of appreciation of rupee against a foreign currency at the time of redemption of rupee denominated bond of an Indian company, shall not be taxable	• Scope of capital gain exemption extended to secondary holders • Further, exemption granted on transfer of rupee denominated bond of Indian company from one non-resident to another non-resident	• Reserve Bank of India has granted permission to Indian corporates to issue rupee denominated bonds outside India to raise funds. • The amendment seeks to encourage issue of rupee denominated bonds as a measure of raising funds and making it more easily transferrable
Enabling claim of credit for foreign tax paid in cases of dispute **Applicable from: AY 2018-19 onwards**	• Section 155 provides for procedure for amendment of assessment order in case of certain specified errors.	• Amendment proposed that where credit for foreign taxes paid is not given on the ground that the payment of such foreign tax was in dispute, the tax department shall rectify the assessment order, if the assessee, within 6 months from the end of the month in which the dispute is settled, furnishes proof of settlement of such dispute	• To facilitate foreign-tax-credit-payments.

Ease of Doing Business

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Budget Proposal	AY	Revision in time limit for	Existing time limit	Proposed time limit
Rationalisation of time limits for completion of assessment, reassessment and reducing the time for filing revised return	2018-19	Regular Assessment (section 143) / Best-judgment Assessment (section 144)	21 months from end of AY	18 months from end of AY
Reason for Amendment	AY 2019-20 onwards			12 months from end of AY
As an effort to minimize human interface and move towards technology	Notice u/s 148 served on or after 1 April 2019	Section 147 assessment / re-assessment	9 months from the end of the financial year in which notice u/s 148 is served	12 months from the end of the financial year in which notice u/s 148 is served.
	AY 2018-19 onwards	Filing revised return of income u/s 139(5)	1 year from end of relevant AY or before completion of assessment, whichever is earlier.	End of relevant AY or before completion of assessment, whichever is earlier.
	For search and seizure cases conducted in FY 2018-19	Making assessment order u/s 153A	21 months from end of the financial year in which the last of the authorizations for search was executed.	18 months from end of the financial year in which the last of the authorizations for search was executed
	For search and seizure cases conducted in FY 2019-20 onwards			12 months from end of the financial year in which the last of the authorizations for search was executed

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Anti-Abuse Measures

Anti-Abuse Measures

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Exemption of long term capital gains tax u/s 10(38) **Applicable from: AY 2018-19 onwards**	Long term capital gain arising from transfer of equity share of a company or a unit of an equity oriented fund is tax-exempt u/s 10(38), if: • Sale is undertaken on or after 1st October, 2014, and • Is chargeable to Securities Transaction Tax	• Additional condition introduced for tax exemption – Exemption available only if acquisition of share is chargeable to Securities Transactions Tax • Immunity provided to protect exemption for genuine cases where the Securities Transactions Tax could not have been paid like acquisition of share in IPO, FPO, bonus or right issue by a listed company, acquisition by non-resident in accordance with FDI policy of the Government etc	• Exemption u/s 10(38) being misused by certain persons for declaring their unaccounted income as exempt long-term capital gains by entering into sham transactions.

Anti-Abuse Measures

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Fair Market Value to be full value of consideration in certain cases of transfer of shares **Applicable from: AY 2018-19 onwards**	In order to ensure that value of consideration received is not understated while computing capital gains, the Act contains provisions for assuming full value of consideration in certain cases (such as considering stamp duty value as full value of consideration for transfer of immovable property in cases covered u/s 50C)	New section 50CA introduced on similar lines as section 50C • Where consideration for transfer of share of a company (other than listed share) is less than the Fair Market Value (FMV) of such share, the FMV shall be considered to be the full value of consideration for the purposes of computing Capital gains	• To avoid understatement of capital gains on sale of unlisted shares
Taxability of money or property received without consideration or for inadequate consideration **Applicable from: 1 April 2017onwards**	Receipt of money or property without consideration or for inadequate consideration currently does not attract taxability u/s 56(2) in case of certain individuals, HUFs, firm or company in certain cases.	Scope of taxability increased to cover all forms of assesses (i.e not limited to individuals and HUFs)	• To prevent the practice of receiving money or property without consideration or for inadequate consideration by any and all forms of assessees

Anti-Abuse Measures

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Disallowance for non-deduction of tax from payment to resident under the head 'Income from other sources' **Applicable from: AY 2018-19 onwards**	• For computing income under the head "Profits and gains of business or profession", a disallowance is made for non-deduction of tax from payment to resident as per section 40(a)(ia). • The corresponding provision for disallowance is currently not expressly covered under the head 'Income from other sources'	• Section 58 amended to include similar corresponding disallowance (for non-deduction of tax at source on payment to resident) while computing income from other sources.	• To align provisions relating to income from other sources with profits and gains from business / profession

Anti-Abuse Measures

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Budget Proposal	New section 94B introduced
Limitation of Interest deduction in certain cases. **Applicable from: AY 2018-19 onwards**	**Background** • Most countries usually allow tax-deduction for interest paid while the dividend paid on equity contribution is not deductible. Debt is often a more tax efficient method of finance than equity. Multinational groups are often able to structure their financing arrangements to maximize these benefits. • For this reason, country's tax administrations often introduce limit on the amount of interest that can be deducted Such rules are designed to counter cross-border shifting of profit through excessive interest payments, and thus aim to protect a country's tax base. • The Organization for Economic Co-operation and Development (OECD) in its Base Erosion and Profit Shifting (BEPS) project had taken up this issue. **Proposed amendment** • New section 94B introduced to provide that interest expenses claimed by an entity to its associated enterprises shall be restricted to 30% of its earnings before interest, taxes, depreciation and amortization (EBITDA) or interest paid or payable to associated enterprise, whichever is less. • The provision shall be applicable to an Indian company, or a permanent establishment of a foreign company being the borrower of money. Threshold for applicability – Interest expenditure of INR 10,000,000 exceeding which the provision would be applicable. • Carry forward of disallowed interest expense to 8 years • Banks and Insurance business excluded considering the nature of these businesses.

Anti-Abuse Measures

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Budget Proposal	Harmonizing Indian transfer pricing regulations with global standards
Secondary adjustments in transfer pricing cases **Applicable from: AY 2018-19 onwards**	Where the transactions between Associated Enterprises is not considered at ALP, then in addition to the existing primary adjustments, a 'secondary adjustment' is proposed to be levied in case of difference in the adjusted profit and real cash situations. Threshold of INR 10,000,000 to apply for primary adjustments, and applicable from assessment year 2017-18.

Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Mandatory furnishing of return by certain exempt entities **Applicable from: AY 2018-19 onwards**	Section 139(4C) mandates filing of return by certain entities which are exempt from income-tax.	Specific provision introduced mandating following entities to file tax-returns • Any person referred to in section 10(23AAA) • Investor Protection Fund referred to in section 10(23EC) /(23ED) • Core Settlement Guarantee Fund referred to in section 10 (23EE) • Any Board or Authority referred to in section 10(29A)	• To verify that such entities genuinely carry out the activities for which the exemption has been provided to them u/s 10

Anti-Abuse Measures

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Fee for Delayed Filing of Return **Applicable from: AY 2018-19 onwards**	Section 271F provides for penalty (optional) of INR 5,000 for non-filing of tax-return before the end of relevant AY	Provision relating to Penalty replaced by late filing fee (section 234F). Where the tax-return is not filed within the due-date, fee payable as below: • INR 5,000 in case return is filed before 31 Dec of AY • INR 10,000 in other cases	To improve tax compliance
Penalty on professionals for furnishing incorrect information in statutory report or certificate **Applicable from: 1 April 2017 onwards**	Various provisions exist to penalize the defaulting assessee in case of furnishing incorrect information. However, there exist no penal provision for professionals who certify the same.	New section 271J introduced for penalty of INR 10,000 on professionals (chartered accountants /merchant banker /registered valuer) furnishing incorrect information	To ensure that professionals furnishing report or certificate undertake due diligence before making such certification

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Rationalization Measures

Rationalization Measures

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Rationalisation of section 115JB (Minimum Alternate Tax) in line with Indian Accounting Standard (Ind-AS)

- The Government notified the Indian Accounting Standards (Ind AS) which are converged with International Financial Reporting Standards(IFRS) and prescribed the Companies(Indian Accounting Standards) Rules, 2015 which laid down a roadmap for implementation of these Ind AS. Globally, different approaches have been adopted to deal with the tax issues arising from adoption of IFRS. For ensuring horizontal equity across the companies, the Government has issued Income Computation and Disclosure Standards (ICDS) for computation of taxable income

- As the book profit based on Ind AS compliant financial statement is likely to be different from the book profit based on existing Indian GAAP, the Central Board of Direct Taxes (CBDT) constituted a committee in June, 2015 for suggesting the framework for computation of minimum alternate tax (MAT) liability under section 115JB for Ind AS compliant companies in the year of adoption and thereafter. The Committee submitted its final report in December 2016.

- Section 115JB proposed to be amended to provide the framework for computation of book profit for Ind AS compliant companies in the year of adoption and thereafter. Book profits for MAT to be computed in alignment with Ind AS from AY 2017-18 for companies to which Ind AS applies.

Rationalization Measures

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Budget Proposal	Existing provision	Proposed Amendment	Reason for Amendment
Rationalisation of provisions of Section 10AA **Applicable from: AY 2018-19 onwards**	• As per section 10AA, deduction is allowed from the total income of an assessee, in respect of gains from his Unit operating in SEZ (Special Economic Zone) • However, courts have taken a view that the deduction is to be allowed from the total income of the undertaking and not from the total income of the assessee.	Clarification issued • Deduction u/s 10AA shall be allowed from the total income of the assessee as per provisions of the Act before giving effect to the provisions of the section 10AA • Deduction u/s 10AA in no case shall exceed the total income	The amendment is clarificatory in nature
Restriction on set-off of loss from House property **Applicable from: AY 2018-19 onwards**	Section 71 relates to set-off of loss from one head against income from another.	• Set-off of loss under the head "Income from house property" against any other head of income shall be restricted to INR 200,000 for any year • However, the unabsorbed loss shall be allowed to be carried forward for set-off in subsequent years	Alignment with international best practices

Major Indirect Tax Proposals

Major Indirect Tax Proposals

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Goods and Services Tax (GST) | Service tax | Central Excise | Customs

- With GST around the corner, it is but natural that the Budget has not made significant changes in existing indirect taxes. In the budget speech, the finance minister mentioned few areas including finalization of the Model GST Law, IT readiness and consensus between the Centre and the States represented at the GST Council which indicated the government's confidence in moving ahead with GST. The likely date for introduction of GST is 1July'2017.

- The Rates of Service Tax, Excise & Customs remain same. Certain changes in customs/excise duty rates have been proposed with the objective to Incentivize domestic manufacturing, Promoting cashless transactions, improve ease of doing business and export promotion

Major Indirect Tax Proposals

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Goods and Services Tax (GST) | **Service tax** | Central Excise | Customs

- Life Insurance services provided by Army, Naval and Air Force Group Insurance Funds to their members under the Group Insurance Schemes of the Central Government now exempted.

- Exemption granted to services provided by IIM by way of 2 year full time residential post graduate programmes in management through Common Admission Test is extended even to non-residential programmes.

- Following changes will be effective from the date of enactment of Finance Bill:

  - Services by way of carrying any process amounting to manufacture / production of goods (excluding alcoholic liquor) proposed to be deleted from the Negative List and inserted in Mega Exemption Notification. Consequently, it is also proposed to shift the definition of 'process amounting to manufacture' from the Finance Act, 1994 to Mega Exemption Notification.
  - Exemption is proposed to be provided on one time upfront amount in respect of services provided by the State Government Industrial Development Corporations/undertakings to industrial units retrospectively from 1 June 2007 (the date on which such services became taxable) upto 21 September 2016. Refund claims in relation to such services to be filed within 6 months from presidential assent.
  - Rule 2A of Service tax (Determination of Value) Rules, 2006 to be amended retrospectively from 1 July 2010 to exclude value of land or undivided share of land from works contract. Further, abatement is also provided where value of land is included in the contract value.

Major Indirect Tax Proposals

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Goods and Services Tax (GST) | Service tax | **Central Excise** | Customs

- Increase in excise duty on tobacco / tobacco products from 2 Feb 2017 onwards. Changes in rates of excise duty on various commodities as per notification no. 5-6/2017 dated 2 Feb 2017. Time limit for deciding on the remission of duty is prescribed as 3 months which can further be extended upto 6 months
- Following changes effective from enactment of Finance Bill:
  - Application to Settlement commission can be filed by a person other than assessee in respect of show cause notice issued to him in a case relating to assessee. Settlement Commission can amend its order to rectify any error apparent on record within 3 months from the date of order
  - Excise duty proposed to be reduced from 27% to 12.5% on motor vehicles falling under tariff items 8702 9021 to 8702 90 29 with retrospective effect from 1 January 2017.

Major Indirect Tax Proposals

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Goods and Services Tax (GST) | Service tax | Central Excise | **Customs**

- Following key changes effective from 2 Feb 2017:
  - Export duty introduced on Other aluminum ores and concentrates (2606 00 90) @ 30%, and Other Aluminum ores including laterite (2606 00 90) @ 15%
  - Change in rate of basic customs duty on imports as per notification no.6 dated 2 Feb 2017
  - Change in rate of special additional duty as per notification no.4 dated 2 Feb 2017 (also covering goods exempted from BCD, CVD, SAD).

Disclaimer

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The intention of the newsletter is to cover highlights of major direct & indirect tax proposals introduced in India Union Budget 2017. Attempt has been made to cover most of the tax proposals likely to impact businesses in general. No claim is made to cover each and every proposal introduced in the budget. The newsletter contains information of general nature and is not meant to be a substitute for professional advice in any manner. In case the Reader requires any specific inputs / suggestions / advice from our end, please contact us separately.

About KrayMan

Who we are

KrayMan

KrayMan was founded by professionals from consulting and industry experience with a vision to set up a distinctive accounting services Firm.

Our forte lies in demystifying the complex Indian regulatory compliance environment thereby making it easy for our Clients.

We service diverse Client mix of multinationals, domestic companies, non-corporate entities and expatriates.

We advise and hand-hold foreign companies in establishing their operations in India and partner in their growth story.

Global Alliances

We are Member of two prestigious International Networks:

1. **Cross Border Associates (CBA):** Headquartered in Germany, CBA is a Global Network of Business Advisers, Legal and Tax experts specializing in cross border midmarket Mergers and Acquisitions and related services. The Network has presence in 76 countries globally.

2. **Prime Advisory Network (PAN):** Headquartered in London (UK), PAN is an International Accounting Network of Chartered Accountants and Lawyers, having presence in more than 40 countries globally.

CBA Cross Border Associates
Global Network of Trusted Business Advisers

PRIME ADVISORY NETWORK

Service offerings

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Setting up India operations

- Assessment of legal entity options for entry into India
- Setting up of presence in India and other start-up services
- Simplifying the procedures and addressing the bottlenecks
- Strategic, Governance & Management advisory services
- On-going tax & regulatory advisory & compliance services
- Virtual CFO services

Audit

- Statutory Audit, Tax Audit, Internal audit
- Review of financial statements
- Risk assessment / advisory
- Certification & Attestation
- Internal control reviews, reporting requirements, physical verification of assets
- Audit support on behalf of management / management letters

Accounting & Payroll

- Accounting & Financial Reporting
- Preparation of financial statements
- Accounting system implementation
- Forecasting and projections
- Financial analysis of reports
- Payroll processing of salary

Tax & Regulatory

- Tax planning & Advisory
- Direct tax compliances: Corporate tax, Withholding tax, Expatriate tax, Transfer Pricing
- Indirect tax compliances: Sales tax, Value added-tax, Service tax
- Litigation management support
- Company law & Exchange control advisory & compliances

Service offerings

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Virtual CFO

- Design and implementation of best practice framework for internal governance
- Setting up standard operating procedures (proper authority for transactions, internal compliance processes, adequacy of documentation, filing system & record keeping)
- Evaluation of internal controls and monitoring results
- Timely and accurate adherence with legal requirements

Corporate Secretarial

- Preparing & maintaining statutory registers as per companies law
- Conducting directors' and shareholders' meetings as per secretarial standards
- Preparation of agenda, notices, minutes and resolutions of directors' and shareholders' meetings
- Preparation & filing of Annual Return including Balance Sheet, Profit & Loss account & other documents
- Preparation and filing of forms with Registrar of Companies

Advisory

- Mergers & Acquisitions
- Due diligence
- Compliance health-check
- Valuation
- Business structuring
- Outsourcing
- Accounting advisory services
- Corporate finance

HR Advisory

- Building HR infrastructure for start ups.
- HR policy/ manual design
- Talent Acquisition and Induction policies/ programs
- Role defining and Competency framework
- Employee Engagement/ communication policies and programs
- Performance Management System

Contact Us

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