HEMANT ARORA & CO.
Chartered Accountants

INDIA BUDGET STATEMENT 2013

The Direct Tax proposals

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This document is a result of our study of the direct tax proposals forming part of the Finance Bill and is intended to bring to you the salient proposals in a simple, condensed and comprehensible manner.

We would like to reiterate that what have been discussed in the following pages are the proposals pertaining to the direct taxes. The said proposals are open to modifications and alterations during the course of discussion in the Parliament before they eventually become law upon receiving the assent of the President of India.

Disclaimer

This document is intended for use by Firm's personnel and clients only. It summarizes the Direct tax proposals forming part of the Union Budget 2013.

While due care has been taken during the compilation of this document to ensure that the information is accurate to the best of our knowledge and belief, the content is not to be construed in any manner whatsoever as a substitute for professional advice. We do not assume any liability or responsibility for the outcome of decisions taken as a result of any reliance placed on this publication.

Contents

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Foreword

It is an accepted fact that over ninety percent of India's 1.3 billion population is outside the ambit of Income Tax. Yet, each year the run-up to the Budget creates enormous amount of anxiety, curiosity, nervousness and guess work which all revolve around 'the likely changes' in the tax laws. And then the moment of truth arrives i.e. February 28 when the Budget proposals are placed by the Finance Minister before the Parliament. Continuing with the hallowed tradition, this year too on the morning of February 28, at the stroke of 11 the Finance Minister P Chidambaram rose to present the Union Budget 2013 to the Parliament.

Last year's budget ushered in wholesale changes in areas of International tax law, some of them with retrospective operation which is perceived to have generated strong headwinds for the flow of foreign investment into India and also the growth of Indian enterprise gasping for cheaper capital. The Government was at pains for almost the entire year to undo, explain, clarify, postpone or amend those retrospective amendments with an intent to assuage ruffled feathers of foreign investors and industry. Notably this year's budget proposals contain not many amendments in international tax law. However of the few that are proposed the one relating to Tax Residency Certificate of residents of foreign tax jurisdictions which entitle them to beneficial provisions of India's Tax Treaties with respective countries has evoked immediate and sharp reaction from think tanks. For a change the response from the Government to this was unbelievably quick. The Ministry of Finance issued a written clarification in less than twenty four hours of presenting the Budget stating that the concerns raised on the language of the proposal will be suitably addressed at the time of consideration of the Finance Bill in the Parliament. In our understanding this amendment is intended to apply to tax treaties that have 'limitation of benefit clause' which provides that in order to be entitled to treaty benefits residency should also be coupled with beneficial ownership of the entity by persons of resident state.

The proposed General Anti Avoidance Rule introduced in last year's budget and originally intended to take effect from April 1, 2013, was after much resistance to it's form and content referred to an expert committee for a re-look, then it's implementation was postponed to April 1, 2016 and finally in this year's budget more relief is likely to be provided by proposing an independent representation on the Panel to determine if tax avoidance agreements are permissible.

Nextly, there is a proposal to increase the tax rate on foreign payment of the nature of Royalty and Fee for technical services ('FTS') from the present ten percent to twenty five percent. This would have far reaching consequences and would impact various tax payers. For one it would impact Indian subsidiaries of multinationals which pay royalty to their parent companies. Secondly, it would also increase the cost of hiring of equipment, transponders, acquisition of content and availing technical services from non-residents especially when the tax treaty benefits are not available. But the more concerning aspect of this amendment is the vast gap which has now been created between the concessional tax rates for certain business incomes of non-residents on one hand and Royalty/FTS on the other. It is a hard fact that the distinction between what constitutes business income and royalty/FTS under the Indian tax law cannot be seen through binary lenses. There are more gray areas than black and white. This enhancement in tax rate is bound to harden the respective stance of taxpayer and the revenue on the issue of classification of income leading to spate of litigation which would tread its dreary course for years to come.

The old fashioned fiscal theory that the Government revenues can be increased by increasing the tax rates has become debunk long ago. The unfailing experience of the progressive economies the world over is that the only way to shore up the Government's revenues is by increasing the income levels of the populace and widening the tax base. The proposal in this years' budget to increase the surcharge rates for ultra rich individuals and companies is at odds with the modern fiscal policies. A lasting solution lies in bringing more people within the ambit of tax – even though it may be averse to political expediency.

India's direct tax policy has for long suffered from multiple flaws. Notably, the extreme uncertainty, lack of consistency and arbitrariness with perennial amendments being made to the Income Tax Act and Rules year after year. This has resulted in tax laws becoming extremely complex and incomprehensible to the taxpayers at large. The complexities in tax laws have lead to a plethora of litigation with billions of rupees tied up in tax disputes. The multiplicity and excessiveness of taxation only makes tax evasion a risk worth the take. The discretionary powers of the tax administrators are often exercised in accordance with individual whims which further add to acrimonious and protracted litigation. To address these defects and bring about much awaited tax reforms a new tax code called the Direct Tax Code ('DTC') was perceived, drafted, circulated, debated and envisaged to be implemented. But that was not to be. The DTC is now expected to be introduced in the Parliament in the ongoing Budget session and apparently we are destined to log one more year in the chronicles of Income Tax Act of 1961.

The proposed fifteen percent investment allowance for investments exceeding Rs. 100 crore in plant and machinery acquired and installed over the next two years would certainly give a push to new investments. However the threshold of Rs. 100 crore and the two year limitation to invest would ensure that the beneficiaries would only be big companies with projects already in pipeline.

To plug tax leakages in property transactions there are a couple of proposals in this year's Budget. One relates to deduction of tax by the purchaser of property valued at more than Rs. 50 lacs. There is nothing inherently wrong with this proposal except that the individuals intending to buy property shall now have to obtain a TAN number to report the TDS and that would lead to more compliance issues. Another seeks to tax additional gains made through buying properties at less than the price on which stamp duty is required to be paid.

There are sops for low income bracket taxpayers (with an income below Rs. 5 lacs) who have been provided with a tax credit of Rs. 2000 and the additional tax deduction of interest for home loans not exceeding Rs. 25 lac sanctioned during financial year 2013-14.

There is no denying the fact that Indian Income Tax law is complex and hard to understand. But we can take solace from the fact that the bewildering complexity of tax laws is a worldwide phenomenon. Even the genius in Albert Einstein was insufficient to comprehend Income Tax as is evident from his quote:

"*the hardest thing in the world is to understand the income tax*".

I am sure that this statement was not in any way related to his understanding of the theory of Indian Income Tax Act of 1961. And I say this with all my conviction because Einstein, the proponent of the general theory of relativity, passed away six years prior to the enactment of Act in question.

Jeetan Nagpal
Partner &
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March 5, 2013

At a glance

Income Tax

- No changes in the slabs/rates of Income Tax on Individuals / HUF's / AOP / BOI / other artificial juridical persons.

- No change in tax rates for persons other than Individuals/HUF's.

- Tax credit of Rs. 2,000/- to every person with total income upto Rs. 5 lakhs.

- Surcharge of 10 percent to be levied on persons (other than companies) whose taxable income exceed Rs. 1 crore.

- Surcharge on domestic companies having taxable income of more than Rs. 10 crore to be increased to10% from the current 5%.

- In case of foreign companies, surcharge to increase from 2 to 5 percent, if the taxable income exceeds Rs. 10 crores.

- In all other cases such as dividend distribution tax or tax on distributed income, current surcharge increased from 5 to 10 percent.

- Additional surcharges to be in force for only one year.

- Permissible premium rate increased from 10 percent to 15 percent of the sum assured by relaxing eligibility conditions of life insurance policies for persons suffering from disability and certain ailments.

- Contributions made to schemes of Central and State Governments similar to Central Government Health Scheme, eligible for section 80.

- Donations made to National Children Fund eligible for 100 percent deduction.

- Investment allowance at the rate of 15 percent to manufacturing companies that invest more than Rs. 100 crore in plant and machinery during the period 1.4.2013 to 31.3.2015.

- ***'Eligible date'*** for projects in the power sector to avail benefit under Section 80-IA extended from 31.3.2013 to 31.3.2014.

- Concessional rate of tax of 15 percent on dividend received by an Indian company from its foreign subsidiary proposed to continue for one more year.

- Securitization Trust to be exempted from Income Tax. Tax to be levied at specified rates only at the time of distribution of income for companies, individual or HUF etc. No further tax on income received by investors from the Trust.

- Investor Protection Fund of depositories exempt from Income-tax in some cases.
- Parity in taxation between IDF-Mutual Fund and IDF-NBFC.
- Category I AIF set up as Venture capital fund allowed pass through status under Income-tax Act.
- TDS at the rate of 1 percent on the value of the transfer of immovable properties where consideration exceeds Rs. 50 lakhs. Agricultural land to be exempted.
- A final withholding tax at the rate of 20 percent on profits distributed by unlisted companies to shareholders through buyback of shares.
- Proposal to increase the rate of tax on payments by way of royalty and fees for technical services to non-residents from 10 percent to 25 percent.
- Reductions made in rates of Securities Transaction Tax in respect of certain transaction.
- Proposal to introduce Commodity Transaction Tax (CTT) in a limited way. Agricultural commodities will be exempted.
- Modified provisions of GAAR will come into effect from 1.4.2016.
- Rules on Safe Harbour will be issued after examining the reports of the Rangachary Committee appointed to look into tax matters relating to Development Centres & IT Sector and Safe Harbour rules for a number of sectors.
- Fifth large tax payer unit to open at Kolkata shortly.
- A number of administrative measures such as extension of refund banker system to refund more than Rs. 50,000, technology based processing, extension of e-payment through more banks and expansion in the scope of annual information returns by Income-tax Department.

Direct Tax Proposals

This section summarizes significant proposals on direct taxes announced in Union Budget 2013. These proposals are generally effective from financial year commencing April 1, 2013 relevant to Assessment year 2014-15. However some of the proposals are effective either prospectively or retrospectively in which case the dates from which they become applicable have been mentioned against respective proposals.

Income Tax

Rates of Tax

- The ***tax slabs for individual / HUF/ AOP/ BOI/ artificial juridical person***, remain unchanged.

- ***Surcharge on persons (other than companies)*** having a total income exceeding Rs. 10,000,000 proposed to be levied at 10%.

- ***Surcharge on domestic companies*** having a total income exceeding :
  a) Rs. 10,000,000 but not more than Rs. 100,000,000/- shall continue to be levied at a rate of 5%.
  b) Rs. 100,000,000 proposed to be increased to 10% from the current rate of 5%.

- ***Surcharge on foreign companies*** having a total income exceeding:
  a) Rs. 10,000,000 but not more than Rs. 100,000,000 shall continue to be levied at a rate of 2%.
  b) Rs. 100,000,000 proposed to be increased to 5% from the current rate of 2%.

- ***Surcharge in all other cases*** (including sections 115-O, 115QA, 115R or 115TA) related to dividend distribution tax and tax on other distributed incomes, proposed to be increased to 10% from the current rate of 5%.

- The ***EC and the SHEC*** shall continue at old rates of two percent and one percent respectively.

- ***Section 115A*** - Tax rate in case of non-resident persons, in respect of income by way of royalty and FTS, proposed to be increased to 25% from the existing rate of 10%. The said rate of 25% is proposed to be applicable to any income by way of royalty or FTS received by a non-resident under an agreement entered into after 31.03.1976. *To be effective prospectively from 01.04.2013.*

- For all other classes of taxpayers the tax rates remain unchanged.

- MAT continues to be levied at 18.5% of book profits *(plus applicable surcharge and cess).*

Definitions

- Definition of the term ***'capital asset'*** as contained in section 2(14) is proposed to be amended to ***include*** any land:
  a) not being more than two kms. *(measured aerially)*, from the local limits of any municipality or cantonment board, which has a population exceeding 10,000 but not more than 100,000; or
  b) not being more than six kms. *(measured aerially)*, from the local limits of any municipality or cantonment board, which has a population exceeding 100,000 but not more than 1,000,000; or
  c) not being more than eight kms. *(measured aerially),* from the local limits of any municipality or cantonment board, which has a population exceeding 1,000,000.

  Similar amendments are proposed in the definition of the term 'agricultural income', provided under section 2(1A) of the Act and also 'urban land' under the Wealth Tax Act, 1957.

- Explanation to section 167C & 179 is proposed to be inserted to clarify that for the purpose of ***recovery of tax due from directors of a closely held company in case of liquidation***, or from ***partners of a LLP in case of dissolution***, ***"tax due"*** shall include penalty, interest or any other sum payable under the Income Tax Act. *To be effective from 01.06.2013.*

- Explanation 2 to section 132B is proposed to be inserted to clarify that for the purpose of recovery, the term ***'existing liability'***, as used in the section shall ***not include any advance taxes***. *To be effective from 01.06.2013.*

Exempt Incomes

- Clause (10D) to section 10 proposed to be amended to provide that sums received under an ***insurance policy issued on or after 31.03.2013***, for the insurance on life of any person suffering with disability/severe disability as referred to in section 80U; or disease or ailment specified under section 80DDB, the premium of which, payable for any of the years during the term of policy ***exceeds fifteen percent*** *(as against ten percent prescribed earlier)* ***of the sum assured***, shall not be eligible for exemption.

- Explanation 1, to section 10(10D) is proposed to be amended to clarify, that in respect of sums, received by the keyman on maturity of keyman insurance policy assigned to them, with or without consideration, before its maturity would not be eligible for exemption applicable to maturity proceeds of life insurance policy.

- New clause (23DA) is proposed to be inserted under section 10 to provide ***exemption for incomes earned by securitization vehicles*** set up as a trust and regulated by SEBI or RBI.

- New clause (23ED) is proposed to be inserted to section 10 to provide ***exemption for incomes earned by the IPF*** set up by the depositories in accordance with the SEBI (Depositories and Participants) Regulation, 1996. However, where any amount standing to the credit of the fund, not charged to tax during any previous year, to the extent it is shared wholly or partly with the depository shall be charged to tax in the previous year in which it is so shared.

- Explanations to clause (23FB) to section 10 are proposed to be amended to enlarge the scope of exemption granted to SEBI registered VCF and VCC by providing that, ***income earned by companies and trusts registered as VCF under AIF Regulations (as sub category of Category I AIF) from investments made in VCU shall be exempt*** from tax under Section 10(23FB) of the Act, subject to fulfilment of the following conditions:
  (i) at least two-thirds of the investible funds are invested in unlisted equity shares or equity linked instruments of VCU (as defined in the AIF Regulations);
  (ii) no investment has been made by such AIFs in a VCU which is an associate company;
  (iii) the units or the shares of the AIF are not listed on a recognised stock exchange This amendment will take effect retrospectively from 1 April 2013.

- New clause (34A) proposed to be inserted to section 10, to provide that any ***income, arising to an assessee, on account of buy back of any unlisted shares, shall be exempt from taxation***. The same has been made taxable in the hands of the company by way of DDT.

- New clause (35A) proposed to be inserted to section 10, to provide that ***any income received by an assessee, from a securitization trust***, by way of distribution of income, shall also be ***exempt from taxation.***

Profit and gains from business or profession

- New section 32AC proposed to be introduced to provide deduction to an aassessee, being a ***company, engaged in manufacturing activity***, who during the period ***01.04.2013 to 31.03.2015, acquires and installs new plant and machinery*** the aggregate amount of ***actual cost*** of which ***exceeds Rs. 100 crores***. Deduction under said section shall be allowed as under:
  a) For the assessment year 2014-15 – ***15% of the actual cost*** of new assets acquired and ***installed during the financial year 2013-14***, provided the aggregate cost exceeds Rs. 100 crores;
  b) For the assessment year 2015-16 - ***15% of the actual cost*** of new assets acquired and ***installed during the period 01.04.2013 to 31.03.2015***, as reduced by deduction, if any, allowed under clause (a) *supra.*

  It is further proposed that, ***in case the new asset is sold or transferred within a period of 5 years*** from the date of its installation, the ***deduction already allowed*** would be ***taxable as business income*** in the year in which such new asset is sold or transferred. This would be in addition to capital gains, if any, taxable on sale of asset.

In case of amalgamation or demerger within 5 years from the date of installation of new assets, ***the restriction on sale or transfer*** of new assets would ***continue to apply to the amalgamated company*** or resulting company as it would have applied to the amalgamating company or demerged company.

- Section 36(vii), providing for ***deduction on account of bad debts*** in the case of banks is proposed to be modified to ***clarify*** that for the purpose of claiming deduction in respect of bad debts actually written off, ***no distinction shall be made in provision for doubtful debts in respect of rural advances and other advances***.

- New clause (xvi) is proposed to be inserted to section 36, to provide ***deduction on account of CTT*** paid by an assessee for the purpose of earning any income from business/profession.

- New clause (iib) is proposed to be inserted under section 40, to provide ***deduction on account of any sums paid by way of royalty***, license fee, service fee or any ***other cess*** to the ***state government*** or any of its undertaking.

- New section 43CA is proposed to be introduced to provide that where ***land and/ or building(held other than as capital assets)***, is transferred for a consideration less than the stamp duty value of such land/ building, the stamp duty value shall be deemed to be the full value of consideration taxable as business income. *The said amendment is in parity with the provisions of section 50C, w.r.t. transfer of immovable properties, held as capital assets.*

Income from other sources

- Section 56(vii) is proposed to be amended to provide that, where ***immovable property*** is received by an ***individual or HUF*** for ***inadequate consideration*** and such consideration is less than the stamp duty value of the property by an amount exceeding INR 50,000, the stamp duty value reduced by the consideration received, would be taxable as income from other sources.

  Further, where the date of agreement fixing the consideration value for the transfer is different from the date of registration of the transfer, the stamp duty value as on the date of agreement for transfer will be considered. This will apply only where part or full consideration is paid by any mode other than cash on or before the date of agreement for transfer.

Deductions from taxable income

- Section 80C(3A) proposed to be amended to provide deduction in respect of ***life insurance policies*** purchased on life of any person suffering with severe disability/disease/ailment, provided the ***premium paid during any time of the***

year does not exceed 15% (substituted for the words 10%) of the actual capital sum assured.

- New section 80EE, proposed to be inserted to provide for an ***additional deduction upto Rs. 100,000/-*** to ***individuals availing housing loan from financial institutions*** for the purpose of acquiring/construction of a residential property, subject to the following conditions:
  (i) The loan is sanctioned between ***01.04.2013 and 31.03.2014;***
  (ii) The ***amount of loan*** does ***not exceed Rs. 2,500,000/-;***
  (iii) The ***value of the residential property*** does ***not exceed Rs. 4,000,000/-;*** and
  (iv) Individual ***does not own any residential property*** as on the date of sanction of loan.

  Such deduction shall be in addition to the existing deduction available under income from house property. Where the deduction of interest claimed is less than Rs. 100,000, the balance can be carried forward to the next financial year.

- Section 80G proposed to be amended to provide that ***individuals*** with ***gross total income up to Rs. 1,200,000/-*** are ***eligible to invest*** under the ***Rajiv Gandhi Equity Scheme***. The scope of investment has been extended to include listed units of equity oriented funds. The ***deduction*** will now be ***available for 3 consecutive financial years***.

- Section 80G proposed to be amended to provide ***100% deduction*** (substituted for 50%), on account of ***donations made to the National Children's Fund.***

- Section 80GGB & 80GGC proposed to be amended to clarify that ***no deduction*** shall be allowed, in respect of the ***sums contributed by it to any political party/electoral trust***, if the said contribution is made ***in cash.***

- ***Sunset clause*** for ***commencement of business*** (to claim tax holiday) ***extended from 31.03.2013 to 31.03.2014*** for undertakings which are ***set up for generation and/ or distribution, transmission or distribution of power*** or which undertake substantial renovation and modernization of the existing transmission or distribution lines.

- Section 80JJAA proposed to be amended to ***restrict the eligibility of deduction*** w.r.t. additional wages paid to new workmen, for ***only those Indian companies,*** which ***derive profits from manufacture of goods in a 'factory'***. The definition of the term factory shall be the same as provided under the Factories Act, 1948.

  It has been further clarified that no deduction shall be allowed in cases where the factory is hived off; transferred from another existing entity or acquired by amalgamation.

Rebate under Chapter VIII

- New section 87A is proposed to be inserted to provide, a ***rebate to the extent of Rs. 2,000/-***, from the total tax liability for ***resident individuals*** having a ***total***

income upto Rs. 500,000/-. However, the said rebate cannot result into a refund to the assessee.

Double Taxation Relief

- Amendments have been proposed in section 90 & 90A to clarify that ***though*** in view of the amendments made vide Finance Act, 2012, it is ***necessary to obtain a TRC,*** containing prescribed particulars, from the Government of foreign country or specified territory, for claiming relief under the DTAA, the ***same shall not be a sufficient condition for claiming the relief under the DTAA***. *To be effective retrospectively w.r.t. assessment year commencing from 01.04.2013.*

General Anti Avoidance Rules

- ***Applicability*** of GAAR has been ***deferred to assessment year 2016-17.***

- Modifications proposed:

  - ***Impermissible avoidance arrangement*** – Definition of the term *'impermissible avoidance agreement'* has been proposed to be amended to enlarge its scope by including within its ambit, ***any arrangement, the main purpose of which is to obtain a tax benefit***.

  - Definition of the term ***'tax benefit'*** is also proposed to be amended from an exhaustive definition to an inclusive one, thereby enlarging the scope of the term.

  - **Factors determining commercial substance** – It has been clarified that:
    a) factors like, period or time for which the arrangement (including operations therein) exists, payment of taxes and provisions of exit, though insufficient, yet are relevant for determining the commercial substance of an arrangement;
    b) Also, an arrangement which does not have a significant effect upon business risks or net cash flows of any party, apart from a tax benefit, shall be deemed to lack commercial substance.

  - ***Onus for demonstrating*** that the ***arrangement*** is ***not*** entered into ***only for deriving tax benefit*** is proposed to be shifted to the taxpayer.

  - ***Constitution/ powers of approving panel :***
    a) The constitution of the approving panel is proposed to be amended to comprise of three members being:
       (i) a chairperson, who is or has been a Judge of a High Court
       (ii) one member of Indian Revenue Service not below the rank of Chief Commissioner of Income-tax
       (iii) one member, who shall be an academician or scholar having special knowledge of matters such as direct taxes, business accounts and international trade practices

b) Powers of the approving panel have been enhanced to include:
   (i) the powers of a civil court under the Code of Civil Procedure, 1908.

c) The directions of approving panel shall now be binding on the taxpayer as well.

d) Appeal against orders passed pursuant to the directions of the approving panel, shall lie to the appellate tribunal.

Dividend Distribution Tax

- Section 115BBD, proposed to be amended to ***extend the validity of the concessional tax rate of 15%***, applicable to the dividends received by an Indian company from specified foreign companies, ***uptill 31.03.2014.***

  For the purposes of this section ***'specified foreign company'*** has been defined to mean a foreign company in which the Indian company holds 26% or more of the nominal value of the equity share capital.

- With a view to ***remove the cascading effect of DDT*** in respect of dividend received from a foreign company, clause (i) to section 115-O(1A) is proposed to be amended to provide that, while computing DDT, the dividend received from a foreign subsidiary on which income-tax has been paid by the Indian company can be reduced. *To be effective from 01.06.2013.*

- Sub-section (2) to section 115R proposed to be amended to ***increase the rate of tax*** on ***income distributed by a mutual fund*** (other than an equity oriented fund, money market fund or a liquid fund) to an ***individual or a HUF*** increased ***to 25%*** from the current rate of 12.5%. *To be effective from 01.06.2013.*

  It is further proposed to ***reduce the tax rate*** applicable in the case of ***incomes distributed by an IDF mutual fund to non residents to 5%***. *To be effective from 01.06.2013.*

Special Provisions relating to tax on distributed income of domestic companies for buy back of shares

- New Chapter XII-DA proposed to be introduced to provide for ***payment of a 20% tax***, by the ***unlisted Indian companies*** on incomes distributed on buy back of shares.

  For this purpose, the term ***'distributed income'*** is defined to mean, consideration paid by the unlisted Indian company as reduced by the amount which was received by the company for issue of shares.

  To be effective from 01.06.2013.

Special Provisions relating to tax on distributed income by securitization trusts

- New Chapter XII-E, consisting of sections 115TA-115TC, proposed to be introduced, to provide for payment of tax at the rate of :
  (i) 25% on incomes distributed to an individual/HUF;
  (ii) 30% on incomes distributed to any other person;
  by a securitization trust.

  To be effective from 01.06.2013

Return of income

- New clause (aa) proposed to be inserted to section 139(9), to provide that a ROI filed ***without payment of self-assessment*** tax as provided in section 140A shall be ***treated as defective***. *To be effective from 01.06.2013.*

Procedures for Assessment and Reassessment

- Sub-section (2A) to section 142 is proposed to be amended to ***enlarge the scope of the power*** of the Revenue authorities ***to direct special audit*** if they find it necessary having regard to the volume of accounts, multiplicity of transactions or specialized nature of the business of the assessee. *To be effective from 01.06.2013.*

- New section 144BA is proposed to be inserted to provide for the procedure to be followed by the Assessing Officers, in making a reference to the Commissioner for the purpose of declaring an arrangement as an IAA and to ascertain the consequences thereof within the meaning of provisions of Chapter X-A. *To be effective from 01.04.2016.*

- New sub-section (14A) is proposed to be inserted to section 144C to provide that any assessment/reassessment order passed with the prior approval of the Commissioner as provided in section 144BA(12), i.e. reference made by AOs for declaring an arrangement as IAA, shall not be appealable before the DRP.

- Explanation 1 to Section 153 is proposed to be amended to ***exclude the following durations*** for the purpose of ***computing the time limit for completion of assessment/reassessment*** proceedings:
  (i) Where the direction of special date is challenged before a court, the period up to the date of receipt of the order of the court by the Revenue
  (ii) Where revenue authorities seek information from the foreign tax authorities under the relevant DTAA, vide multiple requests or the information is received in parts, the period commencing from the date on which first request is made upto the date of receipt of the last part of the information, provided the same shall not exceed a period of one year.

Similar amendments are proposed in respect of assessment/reassessment proceedings in case of search/requisition. To be effective from 01.06.2013.

Withholding Tax

- Proviso to section 194LC(2)(ii) proposed to be inserted to provide that, for the purpose of applying a lower withholding tax rate of 5%, ***LTIB's issued*** by an ***Indian company*** and ***subscribed to by a NR*** from ***monies deposited in foreign currency in designated account*** as converted in rupees will be ***deemed to have been subscribed in foreign currency.***

  Further, definition of the term ***"designated account"*** introduced to mean an account opened solely for the purpose of deposit of money in foreign currency and utilization of such money for subscription of LTIB. *To be effective from 01.06.2013.*

- New section 194-IA proposed to be inserted to provide for a ***withholding tax rate of 1%*** on the amount of consideration received, ***on transfer of immovable properties*** (other than by way of compulsory acquisition), at the time of credit or payment, whichever is earlier, where such consideration equals to or exceeds a sum of Rs. 50 lakhs.

  Immovable property has been defined as land (other than agricultural land) or any building or part of a building. *To be effective from 01.06.2013.*

Penalty & Prosecutions

- Section 271FA proposed to be amended to provide that where the Revenue authorities have issued a notice for ***furnishing of an AIR*** under section 285BA, within specified date and the assessee fails to do so, a ***penalty of Rs. 500*** shall be levied for each day of default commencing from the date following the specified date and upto the date on which such return is furnished.

STT on transactions in securities

- STT rates on transactions in specified securities have been reduced as follows:

Particulars	***Existing rate (%)***	***Proposed rate (%)***
Delivery based purchase of units of equity oriented fund entered into on a recognized stock exchange*	0.100	Nil
Delivery based sale of units of equity oriented fund entered into on a recognized stock exchange**	0.100	0.001
Sale of futures in securities**	0.017	0.010
Sale of unit of equity oriented fund to the mutual fund**	0.250	0.001

* STT payable by purchaser
** STT payable by seller

To be effective from 01.06.2013.

Commodities Transaction Tax

- New Chapter VII, proposed to be introduced to provide for levy of CTT. The brief provisions are as under:
  a) CTT to be levied at 0.01% on sale of commodity derivatives, other than agricultural commodities traded in recognized associations.
  b) Provisions with regard to furnishing of return, assessment, filing of appeal, chargeability of interest, levy of penalty etc introduced.
  c) CTT will be levied from a date to be notified in the official Gazette.
  d) Deduction in respect of CTT paid will be available against the income arising from commodity derivative transactions subject to CTT and chargeable as profits and gains of business or profession.

Wealth Tax

Return of Net Wealth

- In parity with the existing provisions of the Income Tax Act, amendments are proposed to provide for filing of electronic - paperless returns under the Wealth Tax Act also. Certain classes of persons, to be notified, shall be required to file their return of net wealth in electronic form, without enclosing any annexures. The same shall be required to be produced before the AO only on demand. *To be effective from 01.06.2013.*

Glossary

Act	The Income Tax Act, 1961 (except as otherwise stated)
AIR	Annual Information Return
AIF	Alternate Investment Fund
AOP	Association Of Persons
BOI	Body Of Individuals
CTT	Commodity Transaction Tax
DDT	Dividend Distribution Tax
DRP	Dispute Resolution Panel
DTAA	Double Tax Avoidance Agreement
EC	Education Cess
FTS	Fee for Technical Services
GAAR	General Anti Avoidance Rules
HUF	Hindu Undivided Family
IAA	Impermissible Avoidance Agreement
IPF	Investor Protection Fund
LLP	Limited Liability Partnership
LTIB	Long Term Infrastructure Bond
MAT	Minimum Alternate Tax
NR	Non Resident
ROI	Return of Income
RBI	Reserve Bank of India
SEBI	Securities and Exchange Board Of India
SHEC	Secondary & Higher Education Cess
STT	Securities Transaction Tax
VCC	Venture Capital Company
VCF	Venture Capital Funds
VCU	Venture Capital Undertaking
TRC	Tax Residency Certificate

Notes

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