

Connection



LALIT BAJAJ & ASSOCIATES

JUST TO REMIND YOU

- July 15 - E-Payment of PF for June
- July 21 - Payment of MVAT for June
- July 31 - Filing of IT Returns by Individual, HUF, AOP, BOI, Partnership Firms, Trusts (without Audit)
- July 31 - Filing of Wealth Tax Returns (without Audit)

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UNION BUDGET 2014-15 DIRECT TAX PROPOSALS

The Hon'ble Finance Minister Shri. Arun Jaitley on 10.07.2014 presented the Union Budget 2014 and mentioned that slowdown in Indian economy has to be seen in the context of slowing global economic growth.

Some of the gist amendments carried out in the bill regarding the Direct Tax Proposals are as follows:

- Personal Income-tax exemption limit raised by Rs. 50,000/- that is, from Rs. 2 lakh to Rs.2.5 lakh in the case of individual taxpayers, below the age of 60 years. Exemption limit raised from Rs. 2.5 lakh to Rs. 3 lakh in the case of senior citizens.
- No change in the rate of surcharge either for the corporates or the individuals, HUFs, firms etc.
- The education cess to continue at 3 percent.
- Investment limit under section 80C of the Income-tax Act raised from Rs. 1 lakh to Rs. 1.5 lakh.

- Deduction limit on account of interest on loan in respect of self occupied house property raised from Rs. 1.5 lakh to Rs. 2 lakh.



- Conducive tax regime to Infrastructure Investment Trusts and Real Estate Investment Trusts to be set up in accordance with regulations of the Securities and Exchange Board of India.
- Investment allowance at the rate of 15 percent to a manufacturing company that invests more than Rs. 25 crore in any year in new plant and machinery. The benefit to be available for three years i.e. for investments upto 31.03.2017.
- Investment linked deduction extended to two new sectors, namely, slurry pipelines for the transportation of iron ore, and semi-conductor wafer

fabrication manufacturing units.

- 10 year tax holiday extended to the undertakings which begin generation, distribution and transmission of power by 31.03.2017.
- Income arising to foreign portfolio investors from transaction in securities to be treated as capital gains.
- Concessional rate of 15 percent on foreign dividends without any sunset date to be continued.
- The eligible date of borrowing in foreign currency extended from 30.06.2015 to 30.06.2017 for a conces-

sional tax rate of 5 percent on interest payments. Tax incentive extended to all types of bonds instead of only infrastructure bonds.

- Introduction of a "Roll Back" provision in the Advanced Pricing Agreement (APA) scheme so that an APA entered into for future transactions is also applicable to international transactions undertaken in previous four years in specified circumstances.
- Introduction of range concept for determina-

tion of arm's length price in transfer pricing regulations.

- To allow use of multiple year data for comparability analysis under transfer pricing regulations.
- To remove tax arbitrage, rate of tax on long term capital gains increased from 10 percent to 20 percent on transfer of units of Mutual Funds, other than equity oriented funds.
- Income and dividend distribution tax to be

levied on gross amount instead of amount paid net of taxes.

- In case of non deduction of tax on payments, 30% of such payments will be disallowed instead of 100 percent.
- Government to review the DTC in its present shape and take a view in the whole matter.
- Net Effect of the direct tax proposals to result in revenue loss of Rs. 22,200 crore.



UNION BUDGET 2014-15 INDIRECT TAX PROPOSALS

"To develop Renewable Energy various items exempted from excise duty"

Some of the gist amendments carried out in the bill regarding the Direct Tax Proposals are as follows:

- To boost domestic manufacture and to address the issue of inverted duties, basic customs duty (BCD) reduced on certain items.
- To encourage new investment and capacity addition in the chemicals and petrochemicals sector, basic customs duty reduced on certain items.
- Steps taken to boost domestic production of electronic items and reduce our dependence on imports. These include imposition of basic customs duty on cer-

tain items falling outside the purview of IT Agreement, exemption from S A D on inputs/components for PC manufacturing, imposition of education cess on imported electronic products for parity etc.

- Colour picture tubes exempted from basic customs duty to make cathode ray TVs cheaper and more affordable to weaker sections.
- To encourage production of LCD and LED TVs below 19 inches in India, basic customs duty on LCD and LED TV panels of below 19 inches reduced from 10 percent to Nil.
- To give an impetus to the stainless steel industry,

increase in basic customs duty on imported flat-rolled products of stainless steel from 5 percent to 7.5 percent.

- Concessional basic customs duty of 5 percent extended to machinery and equipment required for setting up of a project for solar energy production.
- Specified inputs for use in the manufacture of EVA sheets and back sheets and flat copper wire for the manufacture of PV ribbons exempted from basic customs duty.
- Reduction in basic customs duty from 10 percent to 5 percent on forged steel rings used in the manufacture of bearings of wind operated



electricity generators. Exemption from SAD of 4 percent on parts and raw materials required for the manufacture of wind operated generators.



- Concessional basic customs duty of 5 percent on machinery and equipment required for setting up of compressed biogas plants (Bio-CNG).
- Anthracite coal, bituminous coal, coking coal, steam coal and other coal to attract 2.5 per cent basic customs duty and 2 per cent CVD to eliminate all assessment disputes and transaction costs associated with testing of various parameters of coal.
- Basic customs duty on metallurgical coke increased from Nil to 2.5 percent in line with the duty on coking coal.
- Duty on ship breaking scrap and melting scrap of iron or steel rationalized by reducing the basic customs duty on ships imported for breaking up from 5 percent to 2.5 percent.
- To prevent mis-use and avoid assessment disputes, basic customs duty on semiprocessed, half cut or broken diamonds, cut and polished diamonds and coloured gemstones rationalized at 2.5

percent.

- To encourage exports, pre-forms of precious and semi-precious stones exempted from basic customs duty.
- Duty free entitlement for import of trimmings, embellishments and other specified items increased from 3 percent to 5 percent of the value of their export, for readymade garments.
- Export duty on bauxite increased from 10 percent to 20 percent.
- For passenger facilitation, free baggage allowance increased from Rs. 35,000 to Rs. 45,000.
- To incentivize expansion of processing capacity, reduction in excise duty on specified food processing and packaging machinery from 10 percent to 6 percent.
- Reduction in the excise duty from 12 percent to 6 percent on footwear of retail price exceeding Rs. 500 per pair but not exceeding Rs. 1,000 per pair.
- Withdraw concessional excise duty (2 percent without Cenvat benefit and 6 percent with Cenvat benefit) on smart cards and a uniform excise duty at 12 percent.
- To develop renewable energy, various items exempted from excise duty.
- Exemption to PSF and PFY manufactured from plastic waste and scrap including PET bottles from excise duty with effect from 29th June, 2010 to 7th May, 2012.
- Prospective levy of a nominal duty of 2 percent without Cenvat benefit and 6 percent with Cenvat benefit on such PSF and PFY.
- Concessional excise duty of 2

percent without Cenvat benefit and 6 percent with Cenvat benefit on sports gloves.

- Specific rates of excise duty increased on cigarettes in the range of 11 per cent to 72 per cent.
- Excise duty increased from 12 percent to 16 percent on pan masala, from 50 percent to 55 percent on unmanufactured tobacco and from 60 percent to 70 percent on gutkha and chewing tobacco.
- Levy of an additional duty of excise at 5 percent on aerated waters containing added sugar.
- To finance Clean Environment initiatives, Clean Energy Cess increased from Rs. 50 per tonne to Rs. 100 per tonne.

Service Tax

- To broaden the tax base in Service Tax, sale of space or time for advertisements in broadcast media, extended to cover such sales on other segments like online and mobile advertising. Sale of space for advertisements in print media however would remain excluded from service tax. Service provided by radio-taxi brought under service tax.
- Services by air-conditioned contract carriages and technical testing of newly developed drugs on



human participants brought under service tax.

- Provision of services rules to be amended and tax incidence to be reduced on transport of goods through coastal vessels to promote Indian Shipping industry.
- Services provided by Indian tour operators to foreign tourists in relation to a tour wholly conducted outside India to be taken out of the tax net and Cenvat credit for services of rent-a-cab and tour operators to be allowed to promote tourism.
- Service tax exempted on loading, unloading, storage, warehousing and transportation of cotton, whether ginned or baled.
- Services provided by the Employees' State Insur-

ance Corporation for the period prior to 1st July 2012 exempted, from service tax.

- Exemption available for specified micro insurance schemes expanded to cover all life micro-insurance schemes where the sum assured does not exceed Rs..50,000 per life insured.
- For safe disposal of medical and clinical wastes, services provided by common biomedical waste treatment facilities exempted.
- Tax proposals on the indirect taxes side are estimated to yield Rs. 7525 crore.
- 24X7 customs clearance facility extended to 13 more airports in respect of all export goods and to 14 more sea ports in respect of specified

import and export goods to facilitate cargo clearance.

- 'Indian Customs Single Window Project' to facilitate trade, to be implemented.
- The scheme of Advance Ruling in indirect taxes to be expanded to cover resident private limited companies. The scope of Settlement Commission to be enlarged to facilitate quick dispute resolution.
- Customs and Central Excise Acts to be amended to expedite the process of disposal of appeals.



“Service Tax to extend to segments like Online and Mobile Advertising”

HIGHER LIMITS FOR ISSUING TAX NOTICES

In a move to raise the quality of tax assessments and to reduce avoidable disputes, the income tax department has substantially raised the monetary limit for scrutinising high value investors and spenders who do not file tax returns. The move is part of an action plan prepared by the department to reduce tax disputes while ensuring a 19% growth in direct tax receipts in 2014-15.

The department would therefore consider issuing notices

this fiscal to individuals with aggregate savings bank deposit of Rs. 25 lakh or above if tax returns are not filed. The limit on aggregate unreported savings deposits was Rs. 10 lakh for the notices it had issued in 2013-14.

Similarly, the limit of credit card purchases that would attract the tax man's attention for not filing returns has been raised to Rs. 5 lakh or above for this fiscal from Rs. 2 lakh or above last year. The transactions that would be

scrutinised this year would be of 2012-13.

Capital market investments including investments in mutual funds, bonds, debentures and shares of Rs. 10 lakh or above could attract a tax notice for not filing returns this year. Last fiscal, such investments had separate sub limits.

In the case of purchase of immovable property, scrutiny would now start at Rs. 50 lakh against Rs. 30 lakh applied previously.



DECLARATION FORM 15CA



Form 15CA is a Declaration of Remitter and is used as a tool for collecting information in respect of payments which are chargeable to tax in the hands of recipient non-resident. This is starting of an effective Information Processing System which may be utilized by the Income tax Department to independently track the foreign remittances and their nature to determine tax liability. In the modern times, the system for selection of cases into scrutiny have reduced drastically and without scrutiny there was no check to ensure that taxable foreign remittances have been made after deduction of tax or not. Therefore, the remittance channel i.e. Banks have been directed to obtain Form 15CA and 15CB before making any remittance. Authorised Dealers/ Banks are now becoming more vigilant in ensuring that such Forms are received by them before remittance is affected since now as per revised Rule 37BB a duty is casted on them to furnish Form 15CA received from remitter, to an income-tax authority for the purposes of any proceedings under the Income-tax Act.

The issue which has arisen here is that whether Form 15CA has to be submitted in all cases since the Bankers demand it invariably?

In this regards the attention is invited to the Headings of the Form which provides as under:

“Information to be furnished for payments, chargeable to tax, to a non-resident not being a company, or to a foreign company”

“(To be filled up if the remittance is chargeable to tax and does not exceed fifty thousand rupees and the aggregate of such remittances made during the financial year does not exceed two lakh fifty thousand rupees)”

As can be seen from above the Form clearly states that it needs to be filled only if the remittance is chargeable to tax in India. Therefore on the first blush it appears crystal clear that Form 15CA is not required to be filled if the remittance/ payment to non-resident are not chargeable to tax. However the confusion has been created to Banks since a list has been provided in Rule 37BB where no information in Form 15CA is required and therefore except for the items provided in the list, Banks are insisting for Form 15CA even though the payment is not chargeable to tax. In such cases, the possible recourse is to submit a declaration in form of a note to Bank stating the nature of remittance and reason as to why it is not chargeable to tax and consequently exempted from the submission of Form 15CA.

How would one come to know that the remittance is chargeable to tax or not?

The answer is Form 15CB. Chargeability can be ascertained and certified by obtaining the Certificate from a Chartered Accountant in Form no. 15CB. This certificate has been pre-

scribed under Section 195(6) of the Income tax Act and is an alternate channel of obtaining Tax clearance apart from Certificate from Assessing Officer.

Perusal of Form 15CB makes it clear that there is no condition or exemption to obtain such certificate when the remittance is not chargeable to tax. In fact this Form 15CB is the Tax Determination Certificate where the Issuer CA examines the remittance having regard to chargeability provisions under Section 5 and 9 of Income tax Act along with provisions of Double tax Avoidance Agreements with the Recipient's Residence Country. It is advisable to obtain 15CB even in cases where 15CA is not mandated. Though there is no penal provision prescribed in the Act if such Certificates in Form 15CB and Declaration in Form 15CA are not obtained, but it is in the interest of Assessee to have a tax determination in Form 15CB from a CA, since Non-resident taxation involves various complex issues and the consequences of Non deduction are severe.



CASE LAW - TDS CREDIT MISMATCH IN FORM 26AS

Rakesh Kumar Gupta v/s Union of India & another

In the instant case, it is apparent that there is a mismatch between the details uploaded by the deductor and the details furnished by the assessee in the income tax returns. The Court finds that when the assessment was processed and a refund of Rs.43,740/- was issued, no intimation was given by the department as to why the balance TDS amount could not be credited in favour of the petitioner. The Court further finds that the assessing officer was under a duty to verify whether or not the deductor had made the payment of the T.D.S. in the government account.

The petitioner has suffered a

tax deduction at source, but has not been given due credit inspite of the fact that he has been issued a TDS certificate by a government department. There is a presumption that the deductor has deposited TDS amount in the government account especially when the deductor is a government department. By denying the benefit of TDS to the petitioner because of the fault of the deductor causes not only harassment and inconvenience, but also makes the assessee feel cheated. There is no fault on the part of the petitioner. The fault, if any, lay with the deductor. In the instant case, nothing had been indicated that the fault lay with the petitioner in furnishing false details.

From the perusal of the counter affidavit, that the respondents have denied refunding the TDS on the ground that the refund would only be granted when the TDS matches with the details mentioned in Form 26AS. Since the mismatching is not attributable to the assessee and the fault solely lay with the deductor, we find that a case has been made out for grant of a mandamus for refund of the TDS amount. The petitioner has also made out a case for payment of interest since we find that the delay in refunding the amount was attributable solely with the Income Tax Department and there is no fault on the part of the assessee.



VARIABLE RATE OF INTEREST FOR DELAYED PAYMENT OF SERVICE TAX

To encourage prompt payment of service tax, it is being proposed to introduce interest rates which would vary on the extent of delay [Notification No.12/2014-ST]. Simple interest rates per annum payable on delayed payments under section 75, are prescribed as follows:

Upto six Months- 18%

More than six months & upto one year- 18% for first six months, and 24% for the period of delay beyond six months

More than one year- 18% for first six months, 24% for sec-

ond six months, and 30% for the period of delay beyond one year

This new interest rate regime will become operational only on 1st October 2014. In other words, upto 1st October, 2014, the rate of interest of 18%, presently applicable, will continue to apply. The variable interest rates will apply only on or after 1st October, 2014.

As an illustration, assume a case where service tax became due, say, on the 6th of July, 2012 and the assessee pays the dues on 6th of De-

cember, 2014. In such a case, the interest to be charged would be as below:

18% simple interest upto September, 30th, 2014.

For the period from 1st October, 2014 to 6th December, 2014, the rate of interest will be 30% since the period of delay is beyond one year.

As specified in the proviso to section 75, three per cent concession on the applicable rate of interest will continue to be available to the small service providers.



CBDT TO SHARE WEALTH TAX RETURN DETAILS WITH BANKS



During a review meeting on the performance of Public Sector Banks (PSBs) taken by Finance Minister on 5.3.2014, the PSBs raised concern that the details of assets as available in the Wealth Tax Returns of loan defaulters are not being shared by Income Tax Department with the Banks despite repeated requests.

In this context, kind attention is drawn to Section 42B of the Wealth Tax Act 1957 which states that where a person makes an application to the Chief Commissioner or Commissioner in the

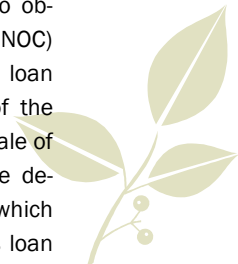
prescribed form, seeking any information relating to any assessee in respect of any assessment made under this Act, the Chief Commissioner or Commissioner may, if he is satisfied that it is in the public interest so to do, furnish or cause to be furnished the information asked for in respect of that assessment.

In view of the fact that every Return of Wealth filed by the assessee is subject to assessment under section 16 of the Wealth Tax Act, the information contained therein qualifies for being supplied u/s 42B of the Wealth Tax Act, provided the CCWT/CWT is satisfied that supply of such information to PSBs is in public interest. CBDT in this context clarifies that information on assets of loan defaulters to enable recovery of loans by PSBs from such defaulters is in public interest.

It is further clarified that such information may be provided in respect of the

borrower/mortgager/guarantor of the loan only. At the time of supply of such information a confidentiality clause may be included specifying that such information be used only for the purpose of recovery of loan and will not be shared with any other person/agency. An undertaking to this effect shall be obtained from the Bank (to be signed by an officer not below the rank of the Manager of the Branch concerned) before furnishing the information.

In order to ensure that the tax dues of the Department against the defaulter (if any) are safeguarded, an undertaking be obtained from the PSB to obtain a No Objection Certificate (NOC) from the jurisdictional CIT of the loan defaulter before appropriation of the surplus amount recovered from sale of immovable/movable asset of the defaulter, information in respect of which is shared, after adjustment of its loan dues.



MAHARASHTRA STATE BUDGET 2014-15

The Finance Minister of Maharashtra presented the state budget for 2014-15 on 5 June 2014 in the State assembly. The key changes in Indirect Taxes are as follows:

Administrative amendments

To ensure and augment effective tax collection of sales tax, State Excise and the Transport Departments, some of the Border Check Posts shall be made operational with online facilities. Specific rules shall be published for implementation of the same whereby incoming and outgoing details needs to be uploaded.

Legislative amendments

If the declaration forms 'C' and 'F' are not collected within two years from the end of the assessment year, the full differential tax will be payable at the time of filing appeal against an assessment order and no stay shall be granted beyond two

years from the end of the assessment year. Stay granted earlier shall stand vacated on completion of two years from the end of the assessment year. This will apply to appeals filed from 1 July 2014.

Application to cancel ex-parte order will have to be disposed-off within three months by the assessing authorities, failing which the said as-

essment will deem to be cancelled after three months from the end of the month in which application is received.

The period of one month allowed for filing of audit report beyond due date due to circumstances beyond control of dealer is proposed to be deleted.

Where the differential tax liability which arises on account of audit or investigation proceedings or on non-production of declarations, is less than 10 per cent of the tax paid with returns, additional 25 per cent interest under Section 30(4)



shall not be payable.

Reduction of late fee for Value Added Tax (VAT) return from Rs. 5000 to Rs. 2000 for delay up to one month. For a delay beyond one month, the late fee of rupees five thousand will be applicable. All pending returns on 1st April 2014 can be filed

along with payment of full tax and interest by paying late fee of rupees one thousand only.

Turnover limit for registration under VAT increased from Rs. 0.5 million to Rs.1 million from the year 2013-14. Dealers whose turnover in the previous year was below Rs.1 million can apply for cancellation of registration certificate up to 30th September 2014.

Turnover limit for filing of VAT

audit report increased from Rs. 6 million to Rs. 10 million including liquor dealers.

Rate amendments / exemptions

Reduction in tax rates/fees

Tax rate on cotton reduced from 5 per cent to 2 per cent.

Inter-state sales of notified capital goods to department of Central or State Government liable to tax at 5 per cent instead of 12.5 per cent.

Exemptions

Sales/Lease of copyrights of cinematographic films for theatrical exhibition exempted from VAT for the period 1 April 2005 to 30 April 2011. Such transactions were earlier exempt from 1 May 2011 onwards.

Aeroplane spares exempted

from VAT.

Others

Maximum Stamp duty payable on instruments executed relating to deposit of title

deeds, pawn, pledge or hypothecation shall be Rs. 1 million.

The basic salary exemption limit for liability under Profession Tax Act increased from Rs. 5000 to Rs. 7500.

Exemption from Luxury tax for hotels in 'B' & 'C' zone under the Tourism Policy, 2006



MANDATORY E-FILING OF WEALTH TAX RETURNS

Vide Notification No. 32/2014 dated 23-06-2014, CBDT has made mandatory filing of Wealth Tax Return only by electronic means for certain persons including Company and an assessee being individual or HUF who is liable to audit u/s 44AB.

From Assessment Year 2014-2015 onwards, Company and an assessee being individual or HUF who is liable to audit u/s 44AB are required to furnish Form BB (Return of Net Wealth) electronically under digital signature. Some of the important points are:

New wealth tax return form BB (E-Filing) shall be applicable from assessment year 2014-15 for Years Prior to this Form BA will continue to remain applicable.

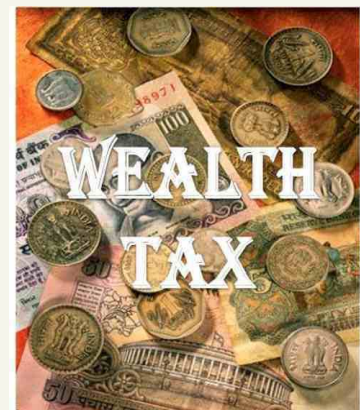
E filing of wealth tax return is mandatory for all type of persons for assessment year 2014-15 onwards except for Individual / HUF to whom provision of section 44AB (tax audit) is not applicable in assessment year 2014-15.

Individual / HUF to whom provision of section 44AB (tax audit) is not applicable in assessment year 2014-15

may file wealth tax return on paper form.

Exemption to Individual / HUF from e-filing of form BB is granted only for AY 2014-15. So from next year (AY 2015-16) all person are required to e file wealth tax return with digital signature.

Form BB shall not be accompanied by any document i.e. - statement of computation of tax payable, valuation report of registered valuer, proof of tax or interest deposit.



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MGT - 14 THROUGH STP MODE

Vide Notification No. 28/2014 dated 9th July 2014, In order to simplify procedures and with a view to ensure timely disposal of E-Forms in the office of Registrars of Companies and keeping in view the penal provisions for false declaration as contained in section 448 read with section 447, the following E-Forms with the conditions mentioned along with will be processed and taken on record using the Straight Through process mode.

MGT -14: All cases except for change of Name, change of object, resolution for further issue of capital and conversion of companies will be STP Mode.



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