

Tax & You: Budget 2016 - Direct Tax

Budget 2016 proposes many, and far reaching, changes to tax laws. Many affect all of us and it is important that we are well informed. This Note is an attempt to explain the proposed changes to you in plain English.

Each change proposal comes with fine print, conditions and details. This note only highlights the changes and gives an overview. It is important to understand all the details before taking action.

Most changes are proposals presently. They will undergo debates in Parliament and possible amendments. The final changes will come about after that, likely in May 2016.

All the changes are applicable from AY 2017-18 (April 1, 2016) except a few.

We have attempted to explain only the important changes, and those relating to resident Indians. If you are interested in other changes, including for non-residents, please contact G&G.

Table of Contents

TABLE OF CONTENTS.....	2
1. TAX RATES & SLABS.....	4
RESIDENT INDIANS/HUF'S	4
RESIDENT COMPANIES: REDUCTION OF CORPORATE TAX RATE	4
SURCHARGE.....	4
EDUCATION CESSSES	5
BUDGET IMPACT ON EFFECTIVE TAX RATES	5
2. ADVANCE TAX - ALL TAXPAYERS.....	6
3. TAX ON DIVIDENDS	6
4. TAXATION OF UNREALISED RENT AND ARREARS OF RENT	6
5. INTEREST ON HOUSING LOAN	6
6. PRESUMPTIVE TAXATION SCHEME – REVAMPED	6
IN CASE OF BUSINESS.....	6
IN CASE OF PROFESSION	7
7. TAXATION OF INCOME FROM PATENTS	7
8. PHASING OUT OF DEDUCTIONS AND EXEMPTIONS	7
9. RATIONALISING CLAIM OF ADDITIONAL DEPRECIATION	7
10. RATIONALISING CLAIM OF TAX INCENTIVES U/S 32AC	7
11. NO SET-OFF OF LOSSES AGAINST DEEMED UNDISCLOSED INCOME	8
12. SEC 50C – RATIONALISED	8
13. ‘SECURITY’ TO ALSO INCLUDE SHARES OF PVT. LTD COMPANIES	8
14. SOVEREIGN GOLD BONDS	8
15. GOLD MONETIZATION SCHEME, 2015 – INCOME & WITHDRAWAL EXEMPT	8
16. TAX INCENTIVES FOR STARTS UPS	9
17. RATIONALISATION OF TAX TREATMENT OF RECOGNISED PROVIDENT FUNDS, PENSION FUNDS AND NATIONAL PENSION SCHEME	9
18. INCENTIVES TO FIRST TIME HOME BUYERS	9
19. DEDUCTION U/S 80GG – LIMIT INCREASED	9
20. TAX INCENTIVE FOR EMPLOYMENT GENERATION – 80JJAA	10
21. NO TDS ON RENTAL INCOME UPON SUBMISSION OF FORM 15G/15H	10
22. RATIONALISATION OF TDS LIMITS AND RATES	10
23. TAX COLLECTION AT SOURCE (TCS)	11
24. FILING OF RETURNS - MANDATORY IN FEW MORE CASES	11
26. BELATED RETURNS CAN NOW BE REVISED	11

27. FILING OF RETURNS WITHOUT PAYMENT OF TAX & INTEREST	11
28. EXEMPTION FROM REQUIREMENT OF FURNISHING PAN TO CERTAIN NON-RESIDENTS	12
29. EQUALISATION LEVY	12
30. POEM (PLACE OF EFFECTIVE MANAGEMENT) BASED RESIDENCE TEST DEFERRED	12
31. DEPARTMENT EMPOWERED TO ISSUE ELECTRONIC NOTICES.....	12
32. TIME LIMIT FOR ASSESSMENT, REASSESSMENT AND RE-COMPUTATION	13
33. INCOME DECLARATION SCHEME, 2016.....	13
34. DIRECT TAX DISPUTE RESOLUTION SCHEME, 2016 (DTDRS).....	14
DISCLAIMER.....	14

Direct Taxes

1. Tax Rates & Slabs

Resident Indians/HUF's

Tax rates have remained the same.

Amount in ₹

Rates	Individuals /HUF's	Sr Citizens	Very Sr Citizens
Nil	Upto 2.50 L	Upto 3.0 L	Upto 5 L
10%	2.50 to 5.0 L	3.0 to 5.0 L	NA
20%	5.0 to 10.0 L	5.0 to 10.0 L	5.0 to 10.0 L
30%	10.0 L+	10.0 L +	10.0L +

Maximum rebate of income tax for Resident Individuals with total income not exceeding ₹ 5 lakh is increased from ₹2,000 to ₹ 5,000

Resident Companies: Reduction of Corporate tax rate

The corporate tax rate of an Indian company is 30%. The rate is proposed to be reduced to 29% if the total turnover or gross receipts of the company in the FY 2014-15 does not exceed five crore rupees.

In case of new manufacturing companies setup after 1.3.2016 the company can opt to tax rate of 25% provided other Income Tax sops are foregone.

Surcharge

The rate of Surcharge is increased from 12% to 15% in case of Individuals and HUFs having total income exceeding One Crore Rupees.

In the case of domestic companies, and Foreign Companies surcharge remains unchanged. This is given as under:

Slabs (₹) for total income	Domestic Company	Foreign Company
Upto 1 Cr.	NIL	NIL
Between 1 Cr. to 10 Cr.	7%	2%
Above 10 Cr	12%	5%

Surcharge @ 12% is applicable on tax for total income exceeding ₹ 1 Crore in all other cases (other than companies and Individuals/HUF).

Education cesses

Education Cess remains as before at 3% of the income tax and surcharge.

Budget Impact on Effective Tax Rates

a) Income Tax

Domestic Company			
If Total Income is →	less than 1 Cr	between 1Cr to 10 Cr	Above 10 Cr
In case Gross Receipts (FY 2014-15) ≤ ₹5 Cr	29.87	31.96	33.45
If Gross Receipts (FY 2014-15) > ₹5 Cr	30.90	33.06	34.61

Foreign Company			
If Total Income is →	less than 1 Cr	between 1Cr to 10 Cr	Above 10 Cr
Tax Rate	41.2	42	43.2

b) Minimum Alternate Tax

Assessee	If Book Profit is		
	less than 1 Cr	between 1Cr to 10 Cr	Above 10 Cr
Indian Company	19.06	20.39	21.34
Foreign Company	19.06	19.44	20.01

c) Dividend Distribution Tax

Assessee	
All Companies	20.92

2. Advance Tax - All Taxpayers

The provisions for payment of advance tax by non corporate assesseees are now aligned with that of corporate assesseees. The following table summarises the due dates of advance tax and the amount of advance tax payable

Due Date	Amount Payable
On or before 15 th June	At least 15% of Tax on total income for the year.
On or before 15 th Sept	At least 45% of Tax on total income for the year less advance tax already paid.
On or before 15 th Dec	At least 75% of Tax on total income for the year less advance tax already paid.
On or before 15 th March	100% of Tax on total income for the year less advance tax already paid.

3. Tax on Dividends

Currently, dividend income is exempt in the hands of the shareholder. It is proposed to levy an additional income tax of 10% in the hands of shareholders, being an individual, Hindu undivided family (HUF) or a firm, being resident in India, in case amount of dividend received exceeds ₹10 lakhs on gross basis.

4. Taxation of unrealised rent and arrears of rent

The amount of rent received in arrears and the amount of unrealised rent realised subsequently will be taxable in the year of receipt and shall be eligible for 30% standard deduction

5. Interest on Housing Loan

Interest paid on borrowed capital for acquisition or construction of a self occupied property will now be eligible for deduction if the acquisition or construction is completed within five years from the end of financial year in which capital is borrowed. Earlier this was restricted to three years.

6. Presumptive taxation scheme – Revamped

In case of Business

- The existing threshold turnover limit of ₹ 1 crore to qualify for presumptive taxation is increased to ₹ 2 crores for assesseees engaged in eligible businesses,

- Such taxpayers can pay advance tax by 15 March of the financial year.
- Expenditure in the nature of salary, remuneration, interest paid to partners will not be deductible while computing income u/s 44AD

In case of Profession

- An option of presumptive taxation is provided to professionals having total receipts less than ₹50 lakhs in a year. Deduction will be allowed at 50% of the total gross receipts.
- Consequently, the threshold limit for tax audit of having income from profession is increased from ₹25 lakhs to ₹50 lakhs in a year.

7. Taxation of Income from Patents

Royalty income from Patents developed and registered in India is now taxable at flat rate of 10% (plus applicable surcharge and cess).

8. Phasing out of Deductions and Exemptions

The budget has laid down various phase - out measures for doing away with profit linked deductions and weighted deduction provided under the various sections of Income Tax Act. This is in line with Govt's proposal of reducing the corporate tax rate to 25% over the next four years along with phasing out of deductions and exemptions.

9. Rationalising Claim of Additional Depreciation

Companies engaged in the business of generation and distribution of power are eligible for additional depreciation @ 20% on plant and machinery acquired and put to use in the year of acquisition.

To rationalise the claim for additional depreciation, it is proposed that the additional depreciation shall also be allowed to companies engaged in the business of transmission of power.

10. Rationalising Claim of Tax Incentives u/s 32AC

Under existing law, Manufacturing Companies are eligible for Investment allowance @ 15% on new plant and machinery acquired and installed in the previous year exceeding 25 crores upto 31.03.2017. The investment allowance was rejected completely in case the plant and machinery acquired is not installed in the same year.

To rationalise the claim of Investment allowance, it is now proposed that the investment allowance shall be allowed in the year of installation if the new asset is acquired before 31.03.2017.

11. No Set-off of Losses against Deemed Undisclosed Income

Some clarity is brought in taxation of undisclosed income. It is proposed that no set off of any loss shall be allowable in respect of income under the sections 68, 69, 69A, 69B, 69C or 69D.

12. Sec 50C – Rationalised

Section 50C provides for computation of deemed value of sale consideration in cases where agreement value is less when compared to the value adopted for stamp duty valuation.

Budget 2016 clarifies that in cases where date of agreement fixing the amount of consideration for the transfer of immovable property and the date of registration are not the same, then the stamp duty value on the date of the agreement will be taken for the purposes of computing the full value of consideration.

13. 'Security' to also include Shares of Pvt. Ltd Companies

The word 'security' was on many occasions interpreted as shares of a public limited company only. This budget proposes to make a specific mention in the sec 112(1)(c) that even shares of Pvt. Ltd Companies shall be reckoned as capital asset for taxability of long term capital gains @ 10%. This is possibly to remove instances of tax evasion in case of sale of shares in Pvt. Ltd. Companies.

14. Sovereign Gold Bonds

Capital gains on redemption of Gold Bonds issued under Sovereign Gold Bond Scheme, 2015 will now be exempt in the hands of individuals in order to provide parity in tax treatment between the physical gold and these bonds.

15. Gold Monetization Scheme, 2015 – Income & Withdrawal Exempt

Interest on Deposit Certificates issued under Gold Monetization Scheme, 2015 and Gain on redemption of such certificates is now exempt from tax.

16. Tax Incentives for Starts Ups

- 100% of profits of eligible start-ups set up before 01.04.2019 whose turnover does not ₹ 25 crores in a year will be exempt from tax. The exemption is available in 3 years out of first 5 years.
- Long term capital gain from sale of residential property by an Individual or HUF will be exempt from tax if capital gain are invested in shares of a company which qualifies to be an eligible start up subject to condition that the Individual or HUF holds more than 50% of the shares of the company and the company utilises the amount invested to purchase new assets before the due date of filing of return of investor.
- Long term Capital Gains will be exempt from tax if the capital gains are invested for minimum 3 years in Specified Funds set up by Central Govt as a part of "Start up India Action Plan" upto ₹50 lakhs

17. Rationalisation of tax treatment of Recognised Provident Funds, Pension Funds and National Pension Scheme

In order to bring greater parity in tax treatment of different types of pension plans, Section 10 will be amended to provide that in respect of the contributions made on or after the 1st day of April, 2016 by an employee participating in a recognized provident fund and superannuation fund, up to 40 % of the accumulated balance attributable to such contributions on withdrawal shall be exempt from tax.

18. Incentives to First time Home Buyers

First-home buyers get an additional interest deduction of ₹ 50,000 per year till the repayment of loan provided the value of house property is less than ₹ 50 lakhs and the amount of loan borrowed is less than ₹ 35 lakhs. The loan should have been sanctioned during FY 16-17. This deduction is over and above interest deduction of ₹ 2 lakhs provided for a self-occupied property.

19. Deduction u/s 80GG – Limit Increased

The maximum limit of deduction for rent paid by an individual who is not in receipt of HRA is increased from ₹ 2,000 per month to ₹ 5,000 per month.

20. Tax Incentive for employment generation – 80JJAA

Deduction u/s Section 80JJAA for employment generation are now extended to all sectors in respect of cost incurred on any employee employed for more than 240 days and whose total emoluments are up to ₹25,000 per month subject to certain specified conditions. Deduction is available for 3 years @30% of additional emoluments paid to new employees. In case of first year of new business, 30% of all emoluments paid to the employees shall be allowed as deduction.

21. No TDS on Rental Income upon Submission of Form 15G/15H

Assessees can now receive rental income without TDS, (which is otherwise taxable) upon submission of form 15G/15H. 15G and 15H is a self declaration form declaring the fact that the tax on estimated total income would be NIL.

22. Rationalisation of TDS Limits and Rates

The threshold limits for applicability of TDS have been increased in some cases while in certain cases the rate of TDS has been decreased. Section 194K and 194L have been OMITTED. New Limits and Rates are applicable from 01.06.2016. This is tabulated as under:

Section	Nature of Payment	Threshold		Rate of TDS	
		Existing	Proposed	Existing	Proposed
192A	Payment of accumulated balance due to an employee	30,000	50,000	10%	No Change
194BB	Winnings from Horse Race	5,000	10,000	30%	No Change
194C	Payments to Contractors	Annual 75,000	Annual 1,00,000	1% & 2 %	No Change
194LA	Payment of Compensation on acquisition of certain Immovable Property	2,00,000	2,50,000	10%	No Change
194D	Insurance commission	20,000	15,000	10 %	5%
194G	Commission on sale of lottery tickets	1,000	15,000	10 %	5%
194H	Commission or brokerage	5,000	15,000	10 %	5%
194DA	Payment in respect of Life Insurance Policy	1,00,000	No Change	2%	1%
194EE	Payments in respect of NSS Deposits	2,500	No Change	20%	10%

23. Tax Collection at Source (TCS)

Sellers will have to collect tax at source (TCS) @1 % from the purchaser in case of the following transactions from June 1, 2016

- Sale of motor vehicle of the value exceeding ₹ 10 lakhs.
- Sale in cash of goods (other than bullion and jewellery) exceeding ₹ 2 lakhs by buyers other than class of buyers to be prescribed.
- Providing of any services in cash (other than payments on which tax is deducted at source) exceeding two lakh rupees.

24. Filing of Returns - Mandatory in few more cases

Under existing law, section 10(38) exempts long term capital gains earned from sale of share/securities/units on recognized stock exchange after payment of relevant securities transaction tax. Further, a taxpayer is not required to file his return of income if his total income includes income exempt under sec 10(38) and income other than exempt income does not exceed the basic exemption limit.

In order to promote culture of compliance, it is proposed now to mandate such tax payers [having exempt income u/s 10(38) and other income less than basic exemption limit] to file return of income.

25. Time period for filing belated returns - Reduced

Existing law provides for filing belated return of income within one year from the end of relevant assessment year. This is now reduced by 12 months. Accordingly all belated returns can now be filed only up to the end of relevant assessment year.

Eg: Return of AY 2017-18(FY 2016-17) can only be filed till 31.03.2018. Earlier it was allowed to be filed till 31.03.2019

26. Belated Returns Can Now Be Revised

Earlier, returns filed after due date were not allowed to be revised. Budget 2016, proposes to allow revision of returns filed belatedly. Time limit to revise returns is unchanged i.e., one year from the end of relevant assessment year.

27. Filing of Returns without Payment of Tax & Interest

Returns filed without payment of self assessment tax or interest will not be treated as defective return.

28. Exemption from requirement of furnishing PAN to certain Non-Residents

Section 206AA, provides that any person who is entitled to receive any sum on which tax is deductible under the Act shall be liable to furnish PAN. Non-furnishing of PAN attracts minimum TDS @ 20%. The provisions of section 206AA also apply to non-residents with an exception in respect of payment of interest on long-term bonds.

The requirement of furnishing PAN will not be applicable to a non-resident (other than a company) or a foreign company in respect of any payments, other than interest on bonds, subject to such conditions as may be prescribed from 1 June 2016.

29. Equalisation Levy

Consideration received by Non Residents for specified services in excess of ₹ 1 lakh is now subject to Equalisation levy of 6%. Equalisation levy will have to be paid by way of remittance of withholding tax by Resident Payer. In the case of failure to withhold and remit Equalisation levy by Payer, such expense will not be allowed as expense while computing taxable income.

The amount of consideration on which equalisation levy is paid shall be exempt from tax in India.

Specified services' is defined to mean online advertising or any provision for digital advertising space or any other facility or service for the purpose of online advertisement, or any other service as may be notified by the Central Government

Further, Central Government shall notify the date from which this change shall be applicable.

30. POEM (Place of Effective Management) based Residence Test Deferred

Implementation of POEM based residence test is deferred by one year and will apply from April 1st 2017 (AY 2017-18 onwards)

31. Department Empowered to Issue Electronic Notices

To avoid undue delays in service of notice, tax department is now empowered to issue notices and exchange other documents electronically over email. Current practice of signing of notice by authority in manuscript is now relaxed. This change calls for taxpayers (while filing tax returns) to quote functional / working email ID's for timely departmental correspondence.

32. Time Limit for assessment, reassessment and re-computation

Proceedings	Existing Time Limit	Proposed Time Limit
Sec 143, Sec 144	2 years from end of assessment year	21 months from end of assessment year
Sec 147	1 year from end of financial year in which notice u/s 148 is served	9 months from end of financial year in which notice u/s 148 is served
Fresh assessment in pursuance of order u/s 254/263/264	1 year from the end of financial year in which order u/s 254 is received or order u/s 263/264 is passed by the prescribed authority	9 months from the end of financial year in which order u/s 254 is received or order u/s 263/264 is passed by the prescribed authority
Effect of appellate order or 263/264 order or order settlement commission wholly or partly without fresh assessment or reassessment	No time limit at present	3 months from the end of the month in which order is received or passed by the prescribed authority
Effect of appellate order or 263/264 order or order of any court requiring assessment, reassessment or re-computation	No time limit at present	12 months from the end of the month in which order is received by the relevant authority
Similar changes have been made to time limits for assessment in search cases.		

33. Income Declaration Scheme, 2016

An opportunity is provided to taxpayers to declare the undisclosed income of any financial year upto 2015-16 and pay 45% of such declared income. The taxpayer will get immunity from further scrutiny, prosecution, wealth tax and Benami law.

This scheme is not applicable in following cases

- Where notices have been issued u/s 142(1), 143(2), 148, 153A or 153C
- Where a search or survey has been conducted
- Where information is received under an agreement with foreign countries regarding such income
- Cases covered under Black Money Act

- Persons notified under Special Court Act
- Cases covered under Indian Penal Code , the Narcotic Drugs and Psychotropic Substances Act, the unlawful Activities Act and the Prevention of corruption Act

34. Direct Tax Dispute Resolution Scheme, 2016 (DTDRS)

For speedy disposal of tax cases and faster recovery of tax dues, Govt. proposed Direct Tax Dispute Resolution Scheme, 2016 and is made effective from 01.06.2016. The scheme will be applicable to "tax arrears" meaning amount of tax, interest or penalty determined under the Income-tax Act or the Wealth-tax Act in respect of which appeal is pending before the CIT (Appeals) or the CWT (Appeals) as on the 29th Feb, 2016. Salient features of the scheme are hereunder :

a. Full tax in dispute plus interest till date of assessment becomes payable

b. Penalty

If Disputed Tax is :	Penalty under	
	DTDR Scheme	Regular Proceedings
Up to 10 lacs	Nil	100% to 300% of tax
Above 10 lacs	25% of tax	100% to 300% of tax

c. Relief from Prosecution Proceedings

d. Upon declaration under scheme respective appeal shall be deemed to be withdrawn.

e. Commissioner of income tax to dispose cases under this scheme in 60 days. Tax/penalty to be paid in 30 days of Commissioner's order.

f. Scheme not available in the cases where :

- Cases where prosecution has been initiated before 29.02.2016
- Search or survey cases
- Cases relating to undisclosed foreign income and assets
- Cases based on information received under Double Taxation Avoidance Agreement
- Cases covered under Narcotic Drugs and Psychotropic Substances Act, Indian Penal Code, Prevention of Corruption Act or Conservation of Foreign Exchange and Prevention of Smuggling Activities Act, 1974.

Disclaimer

This document is aimed at explaining in broad terms the proposals of the Budget according to our understanding of the law. It should not be taken as professional advice for decision making. It is intended to make you more informed. To take decisions on such issues, please consult a professional. E&OE