

HEMANT ARORA & CO.
Chartered Accountants

India Budget Statement 2014

Direct Tax Proposal

HEMANT ARORA & CO.

Chartered Accountants

Offices

- Gurgaon

1118-1119, 11th Floor, DLF Galleria Tower
DLF Phase IV, Gurgaon 122002

Tel.: + 91 124 257 8088

Fax.: + 91 124 257 0888

- Dehradun

1, Tyagi Road, Dehra Dun - 248001

Tel.:+ 91 135 262 6795

Fax: + 91 135 262 7795

- Roorkee

354B, 30 Civil Lines, Roorkee - 247667

Tel.:+ 91 1332 27 3343

Fax:+ 91 1332 27 7272

Partners

- Hemant K Arora
- Jeetan Nagpal
- Sanjay Arora
- Prabhat Rastogi
- Kamal Nagpal
- Sudhir Gautam

www.hemantarora.in

Contacts

Hemant K. Arora
hemant.arora@hemantarora.in
+ 91 98370 39666

Jeetan Nagpal
jeetan.nagpal@hemantarora.in
+ 91 98370 28795

Sanjay Arora
sanjay.arora@hemantarora.in
+ 91 97562 08586

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 2014.

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

Foreword	6-7
At a glance	8-10
Income Tax proposals	11-25

Foreword

Union Budget 2014 – the new Government’s maiden budget – was undoubtedly the most keenly awaited event on the national scene since the declaration of the Election results about eight weeks back. On the direct tax front, both the industry and also the small taxpayers had a long wish-list for the Finance Minister Mr. Arun Jaitley. In our judgment, the Finance Minister has not disappointed anybody even in the face of an adverse and complex economic situation inherited by the present Government.

For the present Government, to deliver on the big promises it made to come to power it needs big money and that made a strong case for increasing the tax revenues. To shore up the tax revenues, increasing the tax rates was not an option that could have been exercised given the clamour for making India a more investment-friendly destination and that included offering competitive tax rates. The Finance Minister, while maintaining the tax rates, has relied upon an expectation that the overall tax revenue will grow by 17.7 percent as against 11.8 percent in the last financial year, led primarily by a revival in economic growth.

For the individuals, there are three tax-soaps of Rs. 50,000 each in the form of raising the basic tax exemption limits, increasing the investment limit in tax efficient schemes, a hike in limit for deduction of interest on loan borrowed to finance self occupied residential properties.

On the tax policy and administration front, the three commitments, viz. (i) to introduce the revamped Direct Tax Code bill after considering the feedback of the stakeholders, (ii) to abstain from initiating fresh action on already indirect share transfer transactions on the basis of retrospectively amended law introduced in 2012 except under the authority of a specialized committee to be set up to examine such cases, and (iii) to refrain from making retrospective amendments in future while asserting the sovereign right to legislate retrospectively, are all welcome steps towards improving the investment climate which had been partly vitiated by taxation related issues.

A few measures have been directed towards reducing the plethora of tax litigation that clogs the appellate hierarchy. The most notable one is rollback provision introduced in advance pricing legislation which would go a long way in resolving the protracted high-stakes transfer pricing litigation. The clarity on taxing income of foreign asset managers residing in India as capital gains is another step in mitigating vexed tax litigation on income characterization issue of business income v/s capital gains. Likewise, widening the ambit of advance ruling authority to cover residents, expanding the bandwidth of AAR by adding more benches is a step towards avoiding initiation of tax litigation. Also reinforcing the settlement commission forum is a measure in direction of timely dispute resolution.

On sector specifics - with an aim to boost the capital goods sector is a proposal to provide investment allowance of fifteen percent of actual cost of new plant and machinery exceeding Rs. 250 millions installed in a financial year. The sunset date for being eligible to claim tax holiday for power generation, distribution or transmission has been extended to 31 March 2017. A new tax regime is proposed for taxation of real estate investment trusts and infrastructure investment trust.

Amongst the tax proposals which would lead to increase in tax bills of corporate are the new method of computation of Dividend Distribution tax on gross basis and dis-allowance of CSR expense for tax purposes.

The proposed amendments in transfer pricing regime also by and large meet with the expectations of the concerned taxpayers. Various other proposals have been elaborately dealt with in the following sections of this presentation.

Considering the timing of presentation of this Budget on July 10 - when we are already into the fourth month of the financial year and have only eight more to go, when the next budget presentation date is just over seven months away and more importantly when the whole exercise of budget making was carried out in less than forty five days of assuming power, we would say that this Union Budget is more about providing an initial design of the shape of things to come and the more detailed blue print would probably be unveiled in the full year Budget to be presented in February 2015.

To sum up, we would like to add that the Budget 2014 can best be described as an acknowledgement by the Finance Minister that he is abreast of the concerns of the taxpayers and investors and at the same time providing an assurance that the Income tax and corporate tax would not put a spanner in the wheel that would roll in the investment required for reviving the economy and generation of employment.

HEMANT ARORA & CO.

Chartered Accountants

July 18, 2014

At a glance

Income Tax

- Personal income tax exemption limit for Individuals below 60 years of age/ Hindu undivided Family (HUF)/ Association of Person (AOP)/ Body of Individual (BOI) and artificial juridical person raised by Rs. 50,000/-, i.e. from Rs. 2,00,000/- to Rs. 2,50,000/-.
- The exemption limit for Individuals residents, of age 60 years or more but less than 80 years raised by Rs. 50,000/-, i.e. from Rs. 2,50,000/- to Rs. 3,00,000/-.
- No change in taxation rates for co-operative societies, firms, local authorities & Companies.
- No change in the rate of surcharge either for the corporate or the individuals, HUF's, firms etc.
- Education Cess for all taxpayers to continue at 3%.
- Cancellation of the registration of the trust or institution in certain cases.
- Rationalization of taxation regime in the case of charitable trusts and institutions.
- Deduction of Interest on borrowed capital pertaining to self-occupied house property raised from Rs. 1,50,000/- to Rs. 2,00,000/-.
- The benefit of Investment allowance @15% for a manufacturing company under section 32AC of the Act would now be available till 31st March 2017. Also, the limit for claiming the allowance now reduced from Rs. 100 cr. to Rs. 25 cr.
- Scope of section 35AD, which provides for deduction in respect of expenditure on specified business, now extended to include two new businesses:
 - a) Laying and operating a slurry pipeline for the transportation of iron ore;
 - b) Setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the board in accordance with the prescribed guidelines.
- Disallowance on non-deduction/ non-payment of tax at source on payments made to residents, the disallowance shall now be restricted to 30% as against 100% earlier, of the amount of expenditure claimed.

- The scope of disallowance of expenses under section 40(a)(ia) now extended to expenditure on salaries, director fees and all other expenditure on which tax is deductible under chapter XVII-B of the Act.
- Section 44AE proposed to be modified to provide for a uniform amount of presumptive income of Rs. 7,500/- for all types of goods carriage without any distinction between heavy goods vehicles and other than heavy goods vehicles.
- Long term capital gains on debt oriented mutual fund and its qualifications as short term capital asset.
- Income generated due to forfeiture of advances for transfer of capital asset to be taxable as 'Income from other Sources' in the year of receipt. Consequently, no reduction in cost to be claimed by the transferor at the time of actual sale of the capital asset.
- Investment limit eligible under section 80C raised to Rs. 1,50,000/- from Rs 1,00,000/-
- Investment limit in Public Provident Fund also raised to Rs. 1,50,000/- from Rs 1,00,000/-.
- Kisan Vikas Patra to be reintroduced.
- Extension of tax benefits under section 80CCD to private sector employees.
- Extension of the terminal date up-to 31 March 2017 for commencement of eligible activity by the power sector undertakings to avail the tax incentive.
- Grossing up of Dividend Distribution Tax (DDT) (w.e.f. 01st October 2014). The company declaring dividend will have to shell out additional taxes as now it is proposed to gross up the dividend amount for the purpose of calculating the dividend distribution tax.
- Conducive tax regime for new categories of Investment vehicles namely the Real Estate Investment Trust and Infrastructure Investment Trust have been specified.
- Corporate Social Responsibility expenditure incurred in accordance with the provisions of Companies Act, 2013 is not allowable as deductible business expenditure except in cases where such expenditure is otherwise allowable under provisions of sections 30 to 36 of the Act.
- Time limit for payment of taxes deducted from payments made to non-residents, proposed to be extended upto the date of filing of Return of Income under Section 139(1) of the Act.

- Introduction of Rollback provision to the Advance Pricing Agreement (APA) Scheme. The applicability of APA scheme for determination of Arms Length Price (ALP) of an international transaction is proposed to apply to past four preceding financial years from the previous year in which APA is entered.
- Inter-quartile range as a concept of benchmarking international transaction is followed widely internationally. The same is proposed to be implemented as a part of transfer pricing provisions replacing the concept of arithmetic mean with limited use of provisions of arithmetic mean where comparable are inadequate. The same is under analysis and appropriate rules would be framed.
- Under the transfer pricing provisions currently only one year data is permitted to be used for benchmarking. The same is proposed to be amended for use of multiple year data. This will also be in line with the International practices.
- Section 92B(2) covers agreements between two unrelated parties with substantial influence from related parties generally referred to as deemed international transactions'. To end an uncertainty on whether such unrelated party to be a resident or non-resident, it is proposed to amend the definition to include non-residents and residents in unrelated parties.
- Power to levy penalty for failure to furnish documents and information in respect of international transactions or specified domestic transactions now also vests with Transfer Pricing Officers.
- With an incentive for attracting repatriation of dividend income earned by Indian companies from a specified foreign company, the concessional rate of 15 percent has now been continued for subsequent financial years.
- Advance Ruling regime made applicable to resident persons also.
- Concessional rate of withholding tax of 5 percent to long term infrastructure bond is now proposed to be extended to any long term funds/bond.
- Tax deduction at source from non-exempt payments made applicable to life insurance policies.

Direct Tax Proposals

This section summarizes significant proposals on direct taxes announced in Union Budget 2014. These proposals are generally effective from financial year commencing April 1, 2014 relevant to Assessment year 2015-16. 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* are as follows

For Individuals, HUF, AOP, BOI and artificial juridical person:

Upto Rs. 2,50,000	Nil
Rs. 2,50,001 to Rs. 5,00,000	10 percent
Rs. 5,00,001 to Rs. 10,00,000	20 per cent
Above Rs. 10,00,000	30 per cent

For every individual, being a resident in India, who is of the age of sixty years or more but less than eighty years at any time during the previous year:

Upto Rs. 3,00,000	Nil
Rs. 3,00,001 to Rs. 5,00,000	10 percent
Rs. 5,00,001 to Rs. 10,00,000	20 per cent
Above Rs. 10,00,000	30 per cent

For every individual, being a resident in India, who is of the age of eighty years or more at anytime during the previous year:

Upto Rs. 5,00,000	Nil
Rs. 5,00,001 to Rs. 10,00,000	20 per cent
Above Rs. 10,00,000	30 per cent

Definitions

- A new clause (13A) to section 2 proposed to be inserted w.e.f. 01st October 2014 defining the term **'business trust'** as
"business trust" means a trust registered as an Infrastructure Investment Trust or a Real Estate Investment Trust, the units of which are required to be listed on a recognized stock exchange, in accordance with the regulations made under the Securities Exchange Board of India Act, 1992 and notified by the Central Government in this behalf.
- Section 2(14) defining **'capital asset'** amended to include any security held by foreign institutional investor which has invested in such security in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 so that any income arising from transfer of such security by a Foreign Portfolio Investor (FPI) would be in the nature of capital gain. *To be effective from 1st April, 2015.*
- It is proposed to **amend clause (42A) of section 2** so as to provide that an unlisted security and a unit of a mutual fund (other than an equity oriented mutual fund) shall be a short-term capital asset if it is held for not more than thirty-six months. *To be effective from 1st April, 2015.*

Exempt Incomes

- In **Section 10(23C)**, w.e.f. 01st April 2015, after sub-clause (iiiic), **the following Explanation shall be inserted**, namely:—
For the purposes of sub-clauses (iiiib) and (iiiic), any university or other educational institution, hospital or other institution referred therein, shall be considered as being substantially financed by the Government for any previous year, if the Government grant to such university or other educational institution, hospital or other institution exceeds such percentage of the total receipts including any voluntary contributions, as may be prescribed, of such university or other educational institution, hospital or other institution, as the case may be, during the relevant previous year.
- In **Section 10(23C)**, w.e.f. 01st April 2015, after the seventeenth proviso, **the following proviso and the Explanation shall be inserted**:
Provided also that where the fund or institution referred to in sub-clause (iv) or the trust or institution referred to in sub-clause (v) has been notified by the Central Government or approved by the prescribed authority, as the case may be, or any university or other educational institution referred to in sub-clause (vi) or any hospital or other medical institution referred to in sub-clause (via), has been approved by the prescribed authority, and the notification or the approval is in force for any previous year, then, nothing contained in any other provision of this section [other than clause (1) thereof] shall operate to exclude any income received on behalf of such fund or trust or institution or university or other educational institution or hospital or other medical institution, as the case may be, from the total income of the person in receipt thereof for that previous year.

Explanation.—In this clause, where any income is required to be applied or accumulated, then, for such purpose the income shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under this clause in the same or any other previous year.

- In **Section 10**, w.e.f. 01st April 2015, after clause (23FB), **the following clauses shall be inserted:**
(23FC) any income of a business trust by way of interest received or receivable from a special purpose vehicle
Explanation — For the purposes of this clause, the expression “special purpose vehicle” means an Indian company in which the business trust holds controlling interest and any specific percentage of shareholding or interest, as may be required by the regulations under which such trust is granted registration.

(23FD) any distributed income, referred to in section 115UA, received by a unit holder from the business trust, not being that proportion of the income which is of the same nature as the income referred to in clause (23FC)
- In **Section 10**, w.e.f. 01st April 2015, in clause 38, the words ‘or a unit of a business trust **to be inserted** after the words ‘unit of an equity oriented fund’.

Income from House Property

Sec 24 – Deduction from Income from House Property

- It is **proposed to amend the second proviso to clause (b) of section 24** which allows for deduction from income from house property. The maximum limit for deduction of interest in respect of self occupied house property is **proposed to be raised from Rs. 1,50,000/- to Rs. 2,00,000/- per annum. To be effective from 1st April, 2015.**

Income from Business & Profession

Sec 32AC – Investment in new Plant & Machinery

- It is **proposed to amend** Sec 32AC, which provides for an investment allowance to manufacturing companies who invest in new plant and machinery with the following:
 - a) The eligibility limit i.e. Investment in plant and machinery **to be reduced to Rs. 25 cr.** as against Rs. 100 cr. earlier.
 - b) The time period for making the investment is **extended up-till 31 March 2017** as against 31 March 2015 earlier.
To be effective from 01st April 2015

Sec 35AD – Deduction in respect of expenditure on specified business

- It is ***proposed to amend*** section 35AD, which provides for investment linked tax incentive in respect of whole of expenditure of capital nature to some specified businesses. The scope of said section has now been extended to ***include two new businesses*** as follows:-

(a) laying and operating a slurry pipeline for the transportation of iron ore;

(b) setting up and operating a semiconductor wafer fabrication manufacturing unit, if such unit is notified by the Board in accordance with the prescribed guidelines.

To be effective from 1st April, 2014

- In order to ensure that the capital asset on which deduction is claimed and allowed, is used for the specified business, it is ***proposed to insert sub-section (7A)*** to provide that the asset shall be used only for the specified business ***for a period of eight years*** beginning with the previous year in which such asset is acquired or constructed. *To be effective 1st April, 2015*
- It is also ***proposed*** is to ***insert sub-section (7B)*** to provide that if the asset on which deduction is claimed is used for any purpose other than the specified business, then the total amount of deduction so claimed and allowed in any previous year in respect of such asset, as reduced by the amount of depreciation allowable shall be deemed to be the income of the assessee chargeable under the head “Profits and gains of business or profession” of the previous year in which the asset is so used. *To be effective 1st April, 2015*
- It is ***proposed to amend*** section 35AD so as to provide that where any deduction has been availed of by the assessee on account of capital expenditure incurred for the purposes of specified business in any assessment year, no deduction under section 10AA shall be available to the assessee in the same or any other assessment year in respect of such specified business.

A consequential amendment to section 10AA is also ***proposed*** so as to provide that no deduction under section 35AD shall be available in any assessment year to a specified business which has claimed and availed of deduction under section 10AA in the same or any other assessment year. *To be effective 1st April, 2015*

Sec. 40 – Amounts not deductible

- It is ***proposed to amend section 40(a)(i)*** which provides for certain payments made to non-residents subject to tax deduction at source to be allowed as deduction for computing business income. Earlier, the deduction in respect of the expenses was not allowed if the TDS was not paid within time prescribed under section 200(1) of the Act. Now, the time limit for deposit of TDS has been extended up-to the date of filing of income tax return u/s 139(1).

- Further, it is ***proposed to amend section 40(a)(ia)*** in order to restrict the disallowance of expense for non-payment/ non-deduction of TDS to 30% of the amount of expenditure claimed as against 100% earlier.
- Further, ***section 40(a)(ia)*** of the Act ***is proposed to be amended*** to enlarge its ambit by providing that other payments such as salary, director fees etc. paid without deduction of tax shall also not be allowable as deductible expenditure for the purposes of computation of income under the head “Profits and gains from business or profession”.
- *To be effective from 1st April, 2015.*

Sec 43 - Definitions of certain terms relevant to income from profits and gains of business or profession

- It is ***proposed to amend clause (e) of the proviso to clause (5) of section 43*** which defines the term '*speculative transaction*' so as to provide that eligible transaction in respect of trading in commodity derivatives which are carried out in a recognized institutions and are subjected to commodity transaction tax shall not be considered a speculative transaction. *To be effective retrospectively from 1st April, 2014.*

Sec 44AE - Special provision for computing profits and gains of business of plying, hiring or leasing goods carriages

- The existing provisions of section 44AE of the Act are ***proposed to be amended*** to provide for a uniform amount of presumptive income of Rs.7,500/- per month (or part of a month) for all types of goods carriage by removing the distinction between heavy goods vehicle and other vehicles. *To be effective from 1st April, 2015.*

Income from Capital Gains

Sec 45(5) – Capital gains arising from transfer of an asset by way of compulsory acquisitions

- It is ***proposed to amend clause (b)*** of said section, so as to provide that the amount of compensation received in pursuance of an interim order of acquisition shall be deemed to be income chargeable under the head ‘Capital gains’ in the previous year in which the final order of such court, tribunal or other authority is made. *To be effective from 1st April, 2015*

Sec 47 – Transaction not regarded as transfer

- It is ***proposed to insert clause (viib)*** in section 47 so as to provide that where a transfer of a capital asset, being a Government Security which carries a periodic payment of interest, is made outside India through an intermediary, by a non-resident to another non-resident the same shall not be considered as transfer for the purpose of charging capital gains. *To be effective from 1st April, 2015*

Sec 51 – Advance money received

- It is ***proposed to amend*** the said section to provide that where any sum of money is received as an advance during the course of negotiations for transfer of a capital asset and the same has been included in the total income of the assessee for any previous year as per new clause (ix) of sub-section (2) of section 56 inserted, then such amount shall not be deducted from the cost for which the asset was acquired or the written down value or the fair market value, as the case may be, in computing the cost of acquisition. *To be effective from 1st April, 2015.*

Sec 54 – Profit on sale of property used for residence

- It is ***proposed to amend*** sub-section (1) of section 54 so as to provide that the rollover relief by investing the amount of capital gains arising from transfer would now be available under this section if the investment is made in ***one residential house situated in India***. *To be effective from 1st April 2015*

Sec 54F – Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house

- It is ***proposed to amend*** sub-section (1) of section 54F so as to provide that the rollover relief by investing the amount of capital gains arising from transfer would now be available under this section if the investment is made in ***one residential house situated in India***. *To be effective from 1st April 2015.*

Sec. 54EC - Capital gain not to be charged on investment in certain bonds

- It is ***proposed to insert a proviso in sub-section (1)*** so as to provide that the maximum deduction for investment made by an assessee in the long-term specified asset, out of capital gains arising from transfer of one or more original asset, ***during the financial year in which the original asset or assets are transferred and in the subsequent financial year shall not exceed Rupees fifty lakh.***

Sec. 112 – Tax on long term capital gains

- It is ***proposed to amend*** section 112 so as to ***allow a concessional rate of tax of 10%*** on long term capital gain to listed securities (other than unit) and zero coupon bonds. *To be effective from 1st April, 2015 and will accordingly apply.*

Income from Other Sources

Sec – 56(2) – Taxability of advance for transfer of a capital asset

- It is ***proposed to insert a new clause (ix) in sub-section (2)*** to provide for the taxability of advance received in the course of negotiations for transfer of a capital asset. Such sum shall now be chargeable to income tax in the year in which such advance is received, if such sum is forfeited and the negotiations do not result in transfer of such capital asset. *To be effective from 1st April, 2015*

Carry forward & Set off of business Loss

Sec. 73 – Losses in speculation of business

- It is ***proposed to amend Explanation*** to section 73 which presently provides that if a company derives its income from Income from business and profession and any part of such business consists of purchase and sale of shares, then such transaction shall be deemed to be a speculative transaction for the purpose of section 73. Now such transactions of sale and purchase of shares would not be deemed to be speculative transaction for the company whose principal business is that of trading in shares. *To be effective from 1st April, 2015.*

Deduction from Taxable Income

Sec – 80C - Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc

- It is ***proposed to raise the limit of deduction*** allowed under section 80C to ***Rs. 1.5 lakh from Rs. 1 lakh.*** In view of the same, consequential amendments are proposed in sections 80CCE and 80CCD of the Act. *To be effective from 1st April, 2015*

Sec – 80CCD - Deduction in respect of contribution to pension scheme of Central Government

- It is ***proposed to amend*** section 80CCD so as to provide that the ***condition of the date of joining the service on or after 1.1.2004*** as mentioned earlier is not applicable to private sector employees for the purposes of claiming deduction under the said section. *To be effective from 1st April, 2015*

Sec – 80IA - Deduction in respect of profits and gains from industrial undertakings or enterprises engaged in infrastructure development, etc

- It is ***proposed to amend section 80-IA*** which provides for availing of tax incentive by certain power sector undertakings so as to ***extend the terminal date*** for undertakings ***to commence the eligible activity*** for a further period up to 31st March 2017. *To be effective from 01st April 2015*

Transfer Pricing

Sec. 92B – Meaning of International Transaction

- It is ***proposed to amend*** section 92B of the Act which defines the term 'international transaction' to clarify that if a transaction is entered with a person other than an associated person and there exists a prior agreements between such other person and the associated enterprise, transaction shall be deemed to be an international transaction entered into between two associated enterprises, ***whether or not such other person is a non-resident***. *To be effective from 1st April, 2015*

Sec. 92CC – Advance Pricing Agreements

- It is ***proposed to amend Sec 92CC*** which provides for Advance Pricing Agreements. This agreement determines the manner in which ALP is determined in relation to international transaction entered by a person for a period not exceeding 5 previous years. Now, the roll back provision is proposed to be included in the APA scheme ***to allow the applicability of the APA to determine the ALP in respect of international transactions entered into by a person during a period not exceeding four previous years preceding the first previous year for which the APA applies***. *To be effective from 1st October, 2014.*

Taxation of Companies

Section 115-O – Tax on distributed profits of domestic companies

- Section 115-O which contains provisions relating to dividend distribution tax is ***proposed to amend*** to provide for ***grossing up the amount of distributable income and dividends*** for computation of tax there on payable by the domestic company. *To be effective from 1st October, 2014.*

Section 115R – Tax on distributed income to unit holders

- It is ***proposed to amend*** section 115R in order to provide that for the purposes of determining the additional income-tax payable, the amount of distributed income shall be increased to such amount as would, after reduction of the additional income-tax on such increased amount at the rate specified, be equal to the amount of income distributed by the Mutual Fund. *To be effective from 1st October, 2014.*

Sec 115BBC – Anonymous donations

- It is ***proposed to amend*** section 115BBC to provide that the income-tax payable shall be the aggregate of the amount of income-tax calculated at the rate of thirty per cent on the aggregate of anonymous donations received in excess of five per cent of the total donations received by the assessee or one lakh rupees, whichever is higher, and the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate of the anonymous donations which is in excess of the five per cent of the total donations received by the assessee or one lakh rupees, as the case may be. *To be effective from 1st April, 2015*

Sec 115BBD – Tax on certain dividends received from foreign companies

- It is ***proposed to amend*** Section 115BBD, ***to extend the benefit of lower rate of taxation @ 15% on dividends repatriated into India by foreign companies without limiting it to a particular assessment year.*** Thus, such foreign dividends received in financial year 2014-15 and subsequent financial years shall continue to be taxed at the lower rate of 15%. *To be effective from 1st April, 2015.*

Sec 115JC – Special provisions for payment of tax by certain persons other than a company

- The existing provisions of section 115JC (Alternate Minimum Tax) are ***proposed to be amended*** so as to ***provide that total income shall be increased by the deduction claimed under section 35AD for purpose of computation of adjusted total income.*** The amount of ***depreciation allowable*** under section 32 shall, however, be ***reduced in computing the adjusted total income.*** *To be effective from 1st April, 2015.*

Sec 115JEE – Credit of Alternate Minimum Tax

- It is ***proposed to amend section 115JEE*** so as to provide that the ***credit for tax paid under section 115JC shall be allowed in accordance with the provisions of section 115JD,*** notwithstanding the conditions mentioned in sub-section(1) or (2) of section 115JEE which are

- a) sub-section (1) of section 115JEE provide that the provisions of Chapter-XII BA shall be applicable to any person who has claimed a deduction under part C of Chapter VI-A or claimed a deduction u/s 10AA.
- b) sub-section (2) of section 115JEE provide that the Chapter shall not be applicable to an individual or an HUF or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person if the adjusted total income does not exceed twenty lakh rupees.

Taxation of Trusts

Sec 12A- Applicability to earlier years of registration granted to a trust or institution

- It is ***proposed to amend*** section 12A of the Act to provide that in case where a ***trust or institution has been granted registration under section 12AA*** of the Act, ***the benefit of sections 11 and 12*** shall be ***available in respect of any income derived from property held under trust in any assessment proceeding for an earlier assessment year*** which is pending before the Assessing Officer as on the date of such registration, if the objects and activities of such trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been granted.

Further, it is proposed that no action for reopening of an assessment under section 147 shall be taken by the Assessing Officer in the case of such trust or institution for any assessment year preceding the first assessment year for which the registration applies, merely for the reason that such trust or institution has not obtained the registration under section 12AA for the said assessment year.

However, the above benefits would not be available in case of any trust or institution which at any time had applied for registration and the same was refused under section 12AA or a registration once granted was cancelled. *To be effective from 1st October, 2014*

Sec 12AA – Procedure for registration of trust

- It is ***proposed to amend*** section 12AA of the Act to provide that where a trust or an institution has been granted registration, and subsequently it is noticed that its activities are being carried out in such a manner that:-
 - i) its income does not enure for the benefit of general public;
 - ii) it is for benefit of any particular religious community or caste (in case it is established after commencement of the Act);
 - iii) any income or property of the trust is applied for benefit of specified persons like author of trust, trustees etc.; or
 - iv) its funds are invested in prohibited modes,

then the Principal Commissioner or the Commissioner may cancel the registration if such trust or institution does not prove that there was a reasonable cause for the activities to be carried out in the above manner. *To be effective from 1st October, 2014*

- It is ***proposed to amend*** the Act to provide specifically that where a trust or an institution has been granted registration for purposes of availing exemption under section 11, and the registration is in force for a previous year, then such trust or institution cannot claim any exemption under any provision of section 10. Similarly, entities which have been approved or notified for claiming benefit of exemption under section 10(23C) would not be entitled to claim any benefit of exemption under other provisions of section 10.

It is also ***proposed to amend*** the Act to provide that under section 11 and section 10(23C), ***income for the purposes of application shall be determined without any deduction or allowance by way of depreciation*** or otherwise in respect of any asset, acquisition of which has been claimed as an application of income under these sections in the same or any other previous year. *To be effective from 1st April, 2015*

Withholding Tax

Sec 194DA – Tax deduction at source from non-exempt payments made under life insurance policy

- A ***new section 194DA*** has been ***proposed to be inserted*** to provide for ***deduction of tax at the rate of 2 per cent*** on sum paid under a life insurance policy, including the sum allocated by way of bonus, which ***are not exempt*** under section 10(10D) of the Act. No deduction under this provision shall be made if the aggregate sum paid in a financial year to an assessee is less than Rs.1,00,000/-. *To be effective from 1st October, 2014.*

Sec 194LBA – Tax on distributed income by Business Trust

- It is ***proposed to insert a new section 194LBA*** wherein where any distributed income referred to in section 115UA, being of the nature referred to in section 10(23FC), is payable by business trusts to its unit holder being a resident, the person making the payment, ***deduct income tax thereon at the rate of 10 percent*** for resident unit holder and at the rate of 5 percent in case of non-resident unit holder.

Sec 194LC – Income by way of interest from Indian Company

- It is ***proposed to amend*** section 194LC to ***extend the benefit*** of the concessional rate of withholding tax to borrowings by way of issue of any long-term bond, and ***not limited to a long term infrastructure bond***. It is also ***proposed to extend the period of borrowing*** for which the said benefit shall be available ***by two years***. The concessional rate of withholding tax will now be available in respect of borrowings made before 1st day of July, 2017. *To be effective from 1st October, 2014*

Returns of Income & Assessment

Sec 133C – Verification of information in possession of Income Tax Authority

It is proposed to ***insert a new section 133C*** in the Act to provide that income tax authorities may, for verification of information in their possession relating to any person, ***issue a notice to such person*** requiring him, on or before a date to be therein specified, to furnish information or documents specified therein which may be useful for, or relevant to, any enquiry or proceeding under this Act. ***To be effective from 1st October, 2014***

Sec 139 – Return of Income

- It is proposed to ***amend sub-section (4C)*** of section 139 to provide that Mutual Fund referred to in clause (23D) of section 10, securitization trust referred to in clause (23DA) of section 10 and Venture Capital Company or Venture Capital Fund referred to in clause (23FB) of section 10 shall, ***if the total income in respect of which such fund, trust or company is assessable, without giving effect to the provisions of section 10, exceeds the maximum amount which is not chargeable to income-tax, furnish a return of such income*** of the previous year in the prescribed forms.

Sec 142 – Inquiry before assessment

- It is ***proposed to amend*** the provisions of the said section so as to provide that if a ***person willfully fails to produce accounts and documents*** as required in any notice issued under sub-section (1) of section 142 or willfully fails to comply with a direction issued to him under sub-section (2A) of section 142, ***he shall be now be punishable with both rigorous imprisonment for a term which may extend to one year and with fine.*** ***To be effective from 1st October, 2014.***

Sec 142A – Estimate by Valuation Officer in certain cases

- It is ***proposed to substitute*** the said section 142A so as to provide that the Assessing Officer may, make a reference to the Valuation Officer ***whether or not he is satisfied about the correctness or completeness of the accounts of the assessee.*** ***It is also proposed to provide that the Valuation Officer shall send a copy of his estimate to the Assessing Officer and the assessee within a period of six months from the end of the month in which the reference is made.*** ***To be effective from 1st October, 2014***

Sec 200 – Duty of person deducting Tax

- It is ***proposed to amend*** section 200 of the Act to now allow the deductor ***to file correction statement for rectification/update*** of information furnished in the original TDS return for which there was no express provision earlier.

Sec 201(1) – Consequence of failure to deduct or pay

- It is proposed to omit clause (i) of sub-section (3) of section 201 which provides a limit of 2 years for passing of an order under section 201(1) where TDS statement had been filed, by deeming an deductor as assessee in default as the TDS defaults are generally in respect of transaction not reported in the TDS statement.

Section 269SS & 269T – Mode of taking or accepting/ repayment certain loans and deposits

- It is ***proposed to amend*** the provisions of the sections 269SS and 269T so as to ***include use of electronic clearing system through a bank account*** as a permissible mode of payment along with account payee cheque or account payee draft for acceptance or repayment of any loan or deposit provided the condition regarding the quantum i.e. Rs. 20,000/- is satisfied. *To be effective from 1st April, 2015.*

Sec 281B – Provisional attachment to protect revenue in certain cases

- It is ***proposed to amend the proviso to sub-section (2) of section 281B*** so as to provide that the ***Chief Commissioner, Commissioner, Director General or Director may extend the period of provisional attachment*** so that the total period of extension ***does not exceed two years or up-to sixty days after the date of assessment or reassessment***, whichever is later. *To be effective from 1st October 2014.*

Sec 285BA – Obligation to furnish annual information return

- It is ***proposed to amend*** section 285BA so as to ***now also provide for furnishing of statement by a prescribed reporting financial institution in respect of a specified financial transaction or reportable account to the prescribed income-tax authority***. Also proposed that the statement of information shall be furnished within such time, in the form and manner as may be prescribed. It is proposed to provide that where any person, who has furnished a statement of information, comes to know or discovers any inaccuracy in the information provided in the statement, then, he shall, within a period of ten days, inform the income-tax authority or other authority or agency of the inaccuracy in such statement and furnish the correct information in the manner as may be prescribed.

Penalty

Sec 220 – When tax payable and when assessee deemed in default

- It is ***proposed to insert a new sub-section*** in section 220 to provide that where any notice of demand has been served upon an assessee and any appeal or other proceeding is filed in respect of the amount specified in the said demand notice,

then such demand shall be deemed to be valid till the disposal of appeal by the last appellate authority or disposal of proceedings.

It is ***further proposed*** to provide that where as a result of an order, the amount on which interest was payable under this section had been reduced and subsequently as a result of the order, the amount on which interest was payable under section 220 is increased, the assessee shall be liable to ***pay interest under the said section on the amount payable as a result of such order, from the day immediately following the end of the period mentioned in the first notice of demand and ending with the day on which the amount is paid.*** To be effective from 1st October, 2014

Sec 271FAA – Penalty for Failure to furnish a statement of financial transaction or reportable account

- It is also ***proposed to insert a new section 271FAA*** to provide a ***penalty of Rs. 50,000/-*** if a person referred under section 285BA, ***provides inaccurate information in the statement in respect of financial transaction or reportable account*** and where, (a) the inaccuracy is due to a failure to comply with the due diligence requirement prescribed under sub-section (7) of section 285BA or is deliberate on the part of the person; or (b) the person knows of the inaccuracy at the time of furnishing the statement of financial transaction or reportable account, but does not inform the prescribed income-tax authority or such other authority or agency; or (c) the person discovers the inaccuracy after the statement of financial transaction or reportable account is furnished and fails to inform and furnish correct information within the time specified under sub-section (6) of section 285BA.

Sec 271G – Penalty for failure to furnish information or documents under section 92D

- It is ***proposed to amend and include Transfer Pricing Officer*** as an authority competent to ***levy the penalty under section 271G*** in addition to the Assessing Officer and the Commissioner (Appeals) in section 271G. *To be effective from 1st October, 2014*

271H – Penalty for failure to furnish Statements, etc.

- It is ***proposed to amend*** section 271H to expressly provide that penalty under the said section shall be levied by the Assessing Officer.

Income Tax Authorities

Sec 116 – Income Tax Authorities

- It is ***proposed to amend the section 116*** of the Act so as to ***include the newly created income-tax authorities i.e. “Principal Chief Commissioner of Income-tax”, “Principal Commissioner of Income-tax”, “Principal Director General of***

Income-tax” and “Principal Director of Income-tax” to mean a person appointed to be an income-tax authority under section 117 of the Act. To be effective retrospectively from 1st June, 2013.

Search & Seizure

Sec 153C –Assessment of Income of any other Person

- Section 153C of the Act provides for the assessment of such other person in respect of whom the book of accounts, documents or assets are seized or requisitioned during a search carried out in respect of a person referred under section 153A. It is now proposed to amend section 153C in order to provide that the Assessing Officer having jurisdiction over such other person shall proceed to make the assessment of income and issue notice to such other person and assess or reassess income of such other person, in respect of whom the books of accounts, document or assets are handed over to the AO only ***if he is satisfied that the books of account or documents or assets seized or requisitioned have a bearing on the determination of the total income of such other person for the relevant assessment year or years referred to in sub-section (1) of section 153A.*** To be effective from 1st October, 2014.

Sec. 133A –Power of Survey

- Section 133A is proposed to be amended in order to provide that an income-tax authority under section 133A at the time of survey shall not retain in his custody any such books of account or other documents ***now for a period exceeding fifteen days (exclusive of holidays)*** without obtaining the approval of the Principal Chief Commissioner or Principal Director General or Chief Commissioner or Director General or Principal Commissioner or Principal Director or Commissioner or Director ***as against 10 days (exclusive of holidays) earlier without obtaining the previous approval of Chief Commissioner or Director General.***
- It is also ***proposed to amend section 133A*** to provide that an income-tax authority may now ***for the purpose of verifying that whether tax has been deducted or collected at source may enter any office, or a place where business or profession is carried on,*** within the limits of the area assigned to him, or any such place in respect of which he is authorized for the purposes of this section by such income-tax authority who is assigned the area within which such place is situated where books of account or documents are kept. The income-tax authority may also ***place marks of identification on the books of account or other documents inspected by him and take extracts and copies thereof. He may also record the statement*** of any person which may be useful for, or relevant to, any proceeding under the Act. However, while acting under sub-section (2A) he ***shall not impound and retain in his custody any books of account or documents inspected*** by him or make an inventory of any cash, stock or other valuables. To be effective from 1st October, 2014.

www.hemantarora.in