

Budget 2017

Key proposals for Financial Services Sector



February 2017



Key regulatory proposals

Foreign Direct Investment ('FDI')

- Foreign Investment Promotion Board is proposed to be abolished. A road-map for the same is proposed to be announced in next few months
- Certain relaxations are under consideration in FDI regulations - to be announced soon

Other regulatory proposals

- Systemically important non-banking finance companies ('NBFCs') above certain net-worth to now qualify as Qualified Institutional Buyer for participating in Initial Public Offer ('IPO')
- Security Receipts issued by Securitisation Companies or Asset Reconstruction Companies to be permitted to list on recognised stock exchanges
- Bill on resolution of "financial firms" to be introduced, for stability and resilience of financial system and to provide further protection to consumers
- Registration process of financial market intermediaries with the Securities and Exchange Board of India ('SEBI') to be eased through online process
- A new Payments Regulatory Board ('PRB') to be set-up within Reserve Bank of India ('RBI') (comprising members from RBI and nominated by Central Government), replacing the existing Board for Regulation and Supervision of Payment and Settlement Systems. PRB will be responsible for regulating and supervision of payments systems

- Comprehensive review of Payment and Settlement Systems Act, 2007 to be undertaken in light of recommendations from payment committees
- An expert committee to be constituted to study and promote creation of an operational and legal framework to integrate spot market and derivatives market for commodities trading. e-NAM (e-National Agriculture Market) would be an integral part of such framework
- The RBI Act to be amended to enable issuance of electoral bonds in accordance with Government framed scheme. Such bonds to be purchased from authorised banks against cheque and digital payments only and redeemable only in the designated account of a registered political party



Key direct tax proposals

Tax rates

Corporates

- Tax rate reduced to 28.84%* for domestic companies having total turnover/gross receipts up to INR 500 million during financial year ('FY') 2015-16; tax rate for other companies remains unchanged

Others

- In the case of individuals, Hindu Undivided Families ('HUF'), Association of Persons ('AOP') and Body of Individuals ('BOI'):

Slab of income	Proposals
INR 250,000 to INR 500,000	Tax rate reduced from 10% to 5%
INR 500,001 to INR 5 million	No change; applicable slab rates continue
INR 5 million to INR 10 million	Surcharge of 10% on tax introduced
Above INR 10 million	No change; surcharge of 15% continues

- No change in other tax rates

Promoting digital economy

- Limit for claiming deduction for revenue expenditure incurred in cash reduced from INR 20,000 to INR 10,000
- Amount paid in cash for capital expenditure in excess of INR 10,000 to be ignored for the purpose of (i) computing cost of the asset, and (ii) investment linked incentives
- Restriction on receipt of cash in excess of INR 300,000; recipient contravening this provision could be liable to penalty equal to cash so received

* After considering maximum rate of surcharge and education cess

Minimum Alternative Tax (MAT)/ Alternative Minimum Tax (AMT)

- Methodology to compute book profits for MAT amended to align with Indian Accounting Standards ('IndAS') for preparation of financial statements of Indian companies
- MAT/ AMT credit allowed to be carried forward up to 15 assessment years ('AY') as against 10 years provided currently
- If an Indian company has foreign tax credit ('FTC') available, MAT credit to be computed considering the FTC which is actually admissible against the tax computed under the normal provisions

Tax returns

- Time available for filing revised tax returns reduced; tax returns filed for AY 2018-19 and thereafter can be revised only before the end of the relevant AY
- To ensure timely filing of tax returns, a mandatory late fees has been introduced in the range of INR 1,000 to INR 10,000 for tax returns filed after the due date for AY 2018-19 and thereafter

Tax refunds

- Tax officers have been empowered to withhold any refund due to a tax payer pending the tax scrutiny proceeding, if granting such refund could adversely affect the revenue (for AYs commencing on or after 1 April 2017)



Key direct tax proposals...

Rationalisation of timelines for tax proceedings

#	Type of assessment	Current timelines	Proposed timelines
1	Regular/best judgement assessment	21 months from the end of the AY in which income was first assessable	18 months for AY 2018-19 and 12 months from AY 2019-20 onwards
2	Re-assessment	9 months from the end of the FY in which notice for reassessment is served	12 months in respect of re-assessment where notice is served after on or after 1 April 2019
3	An order of fresh assessment as a result of an order setting aside or cancelling an assessment	9 months from the end of the FY in which such order is received by prescribed authorities	12 months in respect of fresh assessment where the order setting aside or cancelling an assessment is passed on or after 1 April 2019
4	Assessments in case of search or requisition	21 months [33 months in case of reference made to transfer pricing officer ('TPO')] from the end of the FY in which the authorisation for search or requisition was executed	18 months (30 months in case of reference made to TPO) for AY 2018-19 and 12 months (24 months in case of reference made to TPO) from AY 2019-20 onwards

Key Transfer Pricing proposals

Secondary adjustments

- Secondary adjustments introduced (subject to conditions) where primary adjustments result in increase in total income or reduction in loss
- Excess money available with the associated enterprise ('AE') as a result of primary adjustment, if not repatriated to India within the prescribed time, to be treated as an interest bearing advance

Limiting interest deductions

- Applicable to borrowings by Indian companies or permanent establishment of foreign companies. Triggers when interest / similar consideration is paid to overseas AE
- Provisions also apply to interest paid to unrelated lenders if the AE has provided implicit or explicit guarantee or equivalent deposit for the debt
- Allowance of interest capped to the lower of the following:
 - 30% of earnings before interest, taxes, depreciation and amortisation
 - Interest paid or payable to AE for the year under consideration
- Interest disallowed is eligible for carry forward up to 8 consecutive years. Set-off subject to the above mentioned cap for that year
- Obligation to deduct tax to continue on the aggregate interest liability to the AE
- Provisions not applicable to taxpayers engaged in Banking or Insurance business

Key Transfer Pricing proposals...

Rationalisation of domestic transfer pricing ('DTP') provisions

- DTP coverage restricted to situations where one of the entities involved in the transaction enjoys tax holiday; amendment applicable from FY 2016-17

Key indirect tax proposals

- Re-assurance provided that preparation for GST implementation are on schedule. Government to reach out to trade and industry associations from 1 April 2017 to create awareness
- No change in peak rate of Excise duty, Customs duty and the base rate of service tax
- Proposal to repeal Research and Development Cess
- Proposal to merge the Authority for Advance Ruling of customs, central excise and service tax with income-tax
- Settlement Commission provision also extended to any person, other than the tax payer, who has been issued a show cause notice
- In case of mergers, acquisitions, amalgamation, etc. the transfer of CENVAT credit to be allowed by the authorities within three months of application



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▶ Asset Management

▶ Private Equity & VCs

▶ Real Estate & Infrastructure

▶ Insurance

▶ Others

Key policy announcements

- INR 100 billion will be provided for recapitalisation of banks in FY 2017-18. Additional allocation will be provided as may be required
- Computer Emergency Response Team for Financial Sector (CERT-Fin) will be established to work closely with all financial sector regulators and other stakeholders for safeguarding the integrity and stability of financial sector
- Individual demat accounts to be linked with Aadhar

Key direct tax proposals

- Deduction of provision for bad and doubtful debts for scheduled domestic banks/non-scheduled banks/specified co-operative bank proposed to be enhanced from 7.5% to 8.5% of total income
- Payment based deduction for interest on loan extended for specified co-operative bank
- Similarly, receipt based taxation of interest from non performing loan extended to specified co-operative banks
- Benefit of lower tax deduction at source of 5% on interest extended to foreign currency loans/bonds made before 1 July 2020
- Provisions relating to thin capitalisation not applicable to taxpayers engaged in banking business

Key indirect tax proposals

- Customs and excise duty not leviable on Micro ATMs, fingerprint reader/scanner, Iris scanner miniaturised POS card reader for mPOS (other than mobile phone or tablets), including parts and components for manufacture of these goods
- Excise duty exemption on POS devices and all goods for manufacture of POS devices extended till 30 June 2017
- Banking companies, financial institutions and NBFCs required to consider interest/discount in the value of exempt income, while opting for proportionate reversal scheme



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Key policy announcements

Foreign Portfolio Investors ('FPIs')

- Common application form for registration, bank account, securities account and Permanent Account Number to be introduced

Key direct tax proposals

FPIs

- Investors in category I and category II FPIs exempted from overseas transfer provisions
- Sunset provisions for interest income earned from rupee denominated bond of an Indian company and Government securities extended till 30 June 2020
- Exemption for long-term capital gains tax on listed equity shares not available with respect to such shares acquired (after 1 October 2004) without payment of securities transaction tax
- Requirement to maintain minimum fund size to avail safe harbour rules for offshore funds, relaxed for the year in which fund is wound up

Mutual funds

- In case of consolidation of plans within a scheme of mutual fund (not regarded as a taxable transfer):
 - Cost of acquisition of units in the consolidating plan deemed to be cost of acquisition of the units in the consolidated plan
 - Period of holding of units in the consolidated scheme to include the period of holding of units in the consolidating scheme
- Deduction not available to new retail investors for investments in listed equity shares or listed units of an equity oriented fund under the Rajiv Gandhi Equity Savings Scheme from AY 2018-19
 - New retail investors who have claimed deduction for AY 2017-18 or prior years entitled to deduction till AY 2019-20, if otherwise eligible



Key direct tax proposals

Taxation on conversion of preference shares

- Conversion of preference shares into equity shares not a tax triggering event
- Period of holding of preference shares to be considered in the period of holding of equity shares
- Cost of preference shares to be treated as cost of equity shares received on conversion

Long term capital gains on listed equity shares

- Exemption for long-term capital gains tax on listed equity shares not available with respect to equity shares acquired (after 1 October 2004) without payment of securities transaction tax
- Central Government to notify acquisitions where exemption shall continue, possibly for cases like IPO, bonus, rights issue of listed companies, acquisition by non-resident in accordance with FDI Policy, etc.

Overseas transfer

- Clarification to be issued for non-applicability of overseas transfer provisions in case of redemption of shares/interests outside India, out of redemption or sale of investment chargeable to tax in India

Safe harbour

- Requirement to maintain minimum fund size to avail safe harbour rules for offshore funds, relaxed for the year in which fund is wound up

Widening scope of other income

- Currently, any individual or HUF receiving any sum of money or property (including immovable property) for nil or inadequate consideration is chargeable to tax as other income
- Similarly, firms or closely held companies receiving shares of another closely held company for nil or inadequate consideration were also chargeable to tax as other income
- It is now proposed to merge the above provisions and extend it to any person receiving any sum of money or property for nil or inadequate consideration
- Tax payable on difference between fair market value ('FMV') and actual consideration, if any
- FMV:
 - For immovable property - stamp duty value
 - For other than immovable property - as per prescribed rules
- Exemptions provided for receipts from any relative, on occasion of marriage of the individual, under a will or inheritance, merger, demerger, etc.
- Such FMV to be treated as cost of acquisition for computing capital gains on subsequent transfer



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Rupee denominated bonds

- Interest on rupee denominated bonds issued before 1 July 2020 subject to tax at the rate of 5%
- Gains on transfer of such bonds overseas to be exempt from tax in India
- Exemption from capital appreciation on account of foreign exchange fluctuation at the time of redemption of Masala bonds, extended to secondary holders as well

Incentives for eligible start ups

- Tax holiday eligibility block increased to first 7 years of existence (earlier 5 years)
- Carry forward of loss available, if
 - all shareholders having voting rights continue to hold shares in the year of loss and in the year of set off, and
 - such loss has been incurred during the first 7 years of existence

Tax on certain dividends received from Indian companies

- 10% tax on dividend income in excess of INR 1 million extended to all resident tax payers except domestic companies and certain specified funds and institutions (AIFs not exempted)

Others

- FMV to be deemed as full value of consideration for computing capital gains where consideration for transfer of unquoted shares is less than its FMV
- Cost of shares of previous owner available in case of demerger of a foreign company meeting certain conditions



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Key policy announcements

- Grant of “Infrastructure” status to affordable housing sector
- Refinancing of individual housing loans by National Housing Bank
- Operation and maintenance of select airports in Tier 2 cities to be undertaken in the PPP mode
- Monetisation of airport land to be permitted - proceeds received to be used for airport upgradation

Key direct tax proposals

Joint development agreement (‘JDA’)

- Taxability of capital gains from JDA has been provided where consideration to the property owner is in the form of built up area in the project
 - *Type of tax payer* - Individual or an HUF
 - *Timing of taxability* - Year in which the completion certificate for the project (whole or part) is issued by the relevant authority. If share in the project is sold prior to receipt of the completion certificate, taxability in the year of actual sale
 - *Deemed consideration for levying tax on share in the project* - aggregate of the stamp duty value of the relevant share of project on the date of issue of the completion certificate and cash consideration received
 - *Tax cost base for eventual sale of built up area* - Deemed consideration to be treated as cost of acquisition for computing taxable income on subsequent transfer
 - *Tax deduction at source* - Tax deduction at the rate of 10% on the portion of cash consideration

Set-off of house property loss restricted

- Set-off of loss from house property against any other head of income limited to INR 200,000 in the same financial year
- Any excess loss eligible to be carried forward for a period of 8 years and can be set-off against income from house property only

Taxation of notional rental income

- Notional rental income in respect of land and/or building not taxable for a period up to 1 year from the end of the financial year in which the construction completion certificate is obtained from the relevant authority

Affordable housing

- Relaxation in conditions for tax holiday for affordable housing projects:
 - Size of residential unit to be measured basis ‘carpet area’* and not as ‘built-up area’
 - Period of completion of project for claiming tax holiday increased from 3 years to 5 years from receipt of approval
 - Size restriction of 30 square metres for residential units shall apply only to metro cities (i.e. municipal limits of Chennai, Delhi, Kolkata and Mumbai) and not for its peripheral areas, where size restriction of 60 square metres apply



*Carpet area as defined in Real Estate (Regulation and Development) Act, 2016

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▶ Insurance

▶ Others

Key direct tax proposals...

Others

- Period of holding for immovable property for long term characterisation reduced to 24 months
- Tax deduction at source at the rate of 5% on rent payable by an individual/HUF (other than those liable to tax audit) to any resident, where such rent exceeds INR 50,000 for a month or part thereof
- No deduction of tax on compensation paid for acquiring immovable property under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013
- Capital gains exemption extended to specific capital asset transferred by an Individual/HUF under the Andhra Pradesh Capital City Land Pooling Scheme (Formulation and Implementation) Rules, 2015

Key indirect tax proposals

- Retrospective amendment in case of works contracts involving transfer of undivided share in land/ land, to overcome the dispute on taxability involving value of land:
 - Service tax to be paid on service portion excluding actual value of land; or
 - If actual value of land not ascertainable, service tax payable on prescribed percentage on the gross value



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Key policy announcements

- LIC to implement a scheme for senior citizens to provide assured pension with a guaranteed return of 8% p.a. for 10 years
- Allocation towards Crop Insurance Scheme under the Prime Minister Fasal Bima Yojana increased to INR 90 billion from INR 55 billion

Key direct tax proposals

National Pension Scheme ('NPS')

- Partial withdrawals by an employee out of an NPS Trust to be exempt from tax, to the extent it does not exceed 25% of the amount of contributions made by such employee
- Self-employed individuals to be eligible for deduction up to 20% (instead of the existing limit of 10%) of the gross total income in respect of contribution made to NPS Trust

Others

- No requirement to deduct tax at source from payments made to insurance agents (other than a company or a firm), subject to such agents providing a self-declaration stating that their income is below the taxable limit
- Provisions relating to thin capitalisation not applicable to taxpayers engaged in insurance sector



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Other key proposals

Deduction for SEZ units restricted

- Deduction from the total income, being profits and gains from operation of unit in SEZ, restricted to the total income of such unit

Change in base year for indexation

- Base year for claiming indexation benefit (i.e. inflation adjustment to cost of an asset) shifted from 1 April 1981 to 1 April 2001

Investment basket for capital gains exemption expanded

- Capital gains on transfer of long term capital asset was exempt if whole or part of the gains was invested in bonds issued by National Highway Authority of India or Rural Electrification Corporation Limited; exemption also extended to investment made in any bonds redeemable on or after 3 year as may be notified by the central government

Terms defined under tax treaty

- It is clarified that the definition of terms defined under a tax treaty are to be considered first. The provisions of income-tax law can be referred for terms not defined in the tax treaty

Carbon credit

- Gross income from transfer of carbon credit taxable at 10%; no deduction for expenses in relation to generation of carbon credit

Lower rate for tax deduction for payment to call centres

- Payment of fees for professional/technical services to payee engaged in the business of operation of call center shall be subject to tax deduction at source at 2%

Interest on refunds to tax deductor

- Deductor of tax shall be eligible for interest at 0.5% per month on refund due to him



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