

Budget 2014-15

Vispi T. Patel & Associates

Chartered Accountants

**322, 3rd floor, Tulsiani Chambers,
212, Nariman Point,
Mumbai – 400 021, India**

**Email ID: vispitpatel@vispitpatel.com
rajivshah@vispitpatel.com**

**Contact Nos.: +91 22 2288 1091 / 1092
+91 9867 635 555**

CONTENTS

INCOME TAX

I	Individuals and HUFs	3
II	Corporates	4
III	Capital Gains	9
IV	Non-residents	11
V	Other amendments	12
VI	Tax rates	15

GLOSSARY OF TERMS

Note: The amendments are generally effective from 1st April 2015 (i.e. FY 2014-15 / AY 2015-16), except as provided otherwise

INCOME TAX

I. *Individuals and HUFs*

Deduction limits under Section 80C / 80CCD / 80CCE	<ul style="list-style-type: none">For the purposes of Section 80C [deduction in respect of life insurance premia, contribution to provident fund, etc.], Section 80CCD [deduction in respect of contribution to pension scheme] and Section 80CCE [limit on deduction under Sections 80C, 80CCC and 80CCD], the overall existing limit of INR 1 lakh has been proposed to be increased to INR 1.5 lakh
Deduction of interest on housing loan in respect of self-occupied property under Section 24	<ul style="list-style-type: none">The deduction on account of interest on loan taken in case of self-occupied property, where the acquisition or construction of the property is completed within three years from the end of the financial year in which the capital is borrowed, has been proposed to be increased from INR 1.5 lakh to INR 2 lakh

Deduction of tax at source from payment in respect of life insurance policy [Section 194DA]

Amendment w.e.f. 1 October 2014	<ul style="list-style-type: none">Section 194DA newly inserted in Chapter XVII to provide that tax to be deducted at source at the rate of 2 per cent at the time of payment 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 ActIn order to reduce the compliance burden on the small tax payers, it has also been proposed that no deduction of tax under this provision shall be made if the aggregate sum paid in a financial year to an assessee is less than INR 1,00,000
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II. Corporates

Transfer Pricing

Definition of deemed international transaction [Section 92B(2)]

Amendment	<ul style="list-style-type: none">• Amendment seeks to broaden the scope of a deemed international transaction by providing that a transaction between two otherwise non-associated enterprises shall, under certain conditions, be deemed to be an “international transaction” between associated enterprises• Further, the deeming fiction would continue to apply irrespective of whether the non-associated enterprise is a resident or not
VTPA’s comments	<p>The amendment has made two critical changes:</p> <ul style="list-style-type: none">• That the deeming fiction does not only characterize a transaction as being between two associated enterprises, but that such transaction is now also deemed to be an “international transaction”• Further, the deeming fiction would now also extend to transactions between two resident enterprises• The amendment tries to overcome various Tribunal decisions (for e.g. Swarnandhra IJMII Integrated Township Development Company Pvt Ltd, 2013-TII-152-ITAT-HYD-TP) which laid down the principle that even if a transaction qualifies to be a deemed international transaction, it has to still satisfy the condition that either or both of the parties have to be non-resident(s)

Range concept and use of multiple year data

VTPA’s comments	<ul style="list-style-type: none">• The Finance Minister in his speech has referred to amendments in the transfer pricing regulations to introduce ‘the range’ concept for determination of arm’s length price and the use of ‘multiple year data’ for benchmarking purposes. However, these changes are not there in the Finance Bill and most likely may be introduced later by way of a Circular/ Rules or while passing the Finance Bill
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Levy of penalty under Section 271G by Transfer Pricing Officers

Amendment w.e.f. 1 October 2014	<ul style="list-style-type: none">• It is proposed to amend Section 271G of the Act to empower the transfer pricing officer, in addition to the Assessing Officer or the Commissioner (Appeals), as an authority competent to levy penalty for non-furnishing of information or documents under Section 92D of the Act
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Roll back provision in Advance Pricing Agreement (APA) Scheme [Section 92CC]

Amendment w.e.f. 1 October 2014	<ul style="list-style-type: none">• Currently, an APA entered into by a taxpayer with the Government is applicable only prospectively for a period up to 5 years• It is now proposed to provide a “roll-back” mechanism in the APA scheme whereby the APA may, subject to such prescribed conditions, procedure and manner, provide for determining the arm’s length price or for specifying the manner in which arm’s length price is to be determined in relation to such international transaction entered into by a person, during any period not exceeding four previous years preceding the first of the previous years for which the APA applies
VTPA’s comments	It will be important to understand the context of the roll-back in case of pending litigation and also in case of completed assessments

Dividend Distribution Tax [Section 115-O] / Income Distribution Tax [Section 115-R]

Amendment w.e.f. 1 October 2014	<ul style="list-style-type: none">• In order to ensure that tax is levied on proper base, it is proposed to insert sub-section (1B) to Section 115-O such that the amount of distributable dividends which are actually received by the shareholders of the domestic company need to be grossed up for computing the additional tax• It is also proposed to insert sub-section (2A) to Section 115-R such that the amount of distributable income which is actually received by the unit holder of mutual fund needs to be grossed up for the purpose of computing the additional tax
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Tax on certain dividends received from foreign countries [Section 115BBD]

Amendment	<ul style="list-style-type: none">• The current provisions relating to taxation of gross dividends received by an Indian company from a specified foreign company at the concessional rate of 15%, if such dividend is included in the total income for the AY 2012-13 or 2013-14 or 2014-2015 have now been proposed to be extended to AY 2015-16 and subsequent years
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New Investment Vehicles proposed by SEBI i.e. business trust (Real Estate Investment Trust i.e. REIT and Infrastructure Investment Trust i.e. Invit) [Chapter XII-FA; Section 115UA, Section 10(23FC), etc.]

Amendment w.e.f. 1 October 2014	<p>It is proposed to introduce two new categories of investment vehicles i.e. REIT and Invit</p> <p>Tax implications from the perspective of the business trust</p> <ul style="list-style-type: none">• The interest and dividend received by the business trust from SPV is accorded pass through treatment i.e. no taxation of such income in the hands of the trust• Withholding tax in case of payment of interest component of income distributed;<ul style="list-style-type: none">- At 5 per cent to non-resident unit holders- At 10 per cent to resident unit holders• The income by way of capital gains on disposal of assets by the trust shall be taxable in the hands of the trust at the applicable rate• Any other income of the trust shall be taxable at the maximum marginal rate• In case of borrowings by the business trust, the benefit of reduced rate of 5 per cent tax on interest payments to non-resident lenders shall be available on similar conditions, for such period as is provided in Section 194LC of the Act• The business trust is required to furnish its return of income• The business trust shall meet the reporting requirements as prescribed to implement the scheme in accordance with SEBI regulations
	<p>Tax implications from the perspective of the SPV (which holds income bearing assets)</p> <ul style="list-style-type: none">• No withholding tax on the interest paid to the business trust as per Section 194A• Dividend distributed by the SPV shall be subject to DDT

New Investment Vehicles proposed by SEBI i.e. business trust (Real Estate Investment Trust i.e. REIT and Infrastructure Investment Trust i.e. Invit) [Chapter XII-FA; Section 115UA, Section 10(23FC), etc.] (Contd.)

<p>Amendment</p>	<p>Tax implications from the perspective of unit holders of business trust</p> <ul style="list-style-type: none"> • The listed units of a business trust, when traded on a recognised stock exchange: <ul style="list-style-type: none"> - Long term capital gains would be exempt; and - Short term capital gains would be taxable at the rate of 15% • Dividend component of the income distributed by the trust will be exempt • Any income other than interest distributed by the trust would also be exempt
	<p>Tax implications from the perspective of the Sponsor (from whom the business trust acquires the controlling interest in the SPV)</p> <ul style="list-style-type: none"> • Taxation of capital gains arising to the sponsor at the time of exchange of shares in SPVs with units of the business trust shall be deferred till the time of disposal of units by the sponsor • Such capital gains, whenever taxable, shall be taxed without preferential regime • For the purpose of computing capital gain, the cost of these units shall be considered as cost of the shares to the sponsor • The holding period of shares shall also be included in the holding period of such units

Extension of Sunset Clause for Tax Holiday for Power Sector [Section 80-IA (4)(iv)]

<p>Amendment</p>	<ul style="list-style-type: none"> • The terminal date of availing deduction for an undertaking engaged in business of generation and distribution of power, transmission and distribution of power by laying network of transmission and distribution lines, undertaking renovation or modernization of existing distribution lines is extended from 31st March 2014 to 31st March 2017 i.e. till the end of the 12th Five Year Plan.
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Non deduction of expenditure incurred on Corporate Social Responsibility [Section 37(1)]

Amendment w.e.f. 1 October 2014	<ul style="list-style-type: none">• Section 37(1) of the Act provides deduction for any expenditure incurred wholly and exclusively for the purpose of carrying on business or profession• Explanation 2 to Section 37(1) is proposed to be inserted to clarify that any expenditure incurred by an assessee on the activities relating to corporate social responsibility referred to in Section 135 of the Companies Act, 2013 shall not be deemed to be an expenditure incurred by the assessee wholly and exclusively for the purposes of the business or profession, expenditure on CSR being application of income
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Investment incentive for Manufacturing Companies [Section 32AC]

Amendment	<ul style="list-style-type: none">• Currently, manufacturing companies are eligible for an incentive by way of a additional deduction of 15% of the cost of new plant and machinery (new asset) acquired and installed after the 1 April 2013 but before 1 April 2015, if the aggregate amount of actual cost of such new assets exceeds INR 100 crores• It is now proposed to extend this incentive till 1 April 2018 with the condition that the investment should not be less than INR 25 crores in one year
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III. Capital gains

Capital gains arising from transfer by way of compulsory acquisition [Section 45(5)(b)]

Amendment	<ul style="list-style-type: none">• The current provision of taxation of capital gains arising from transfer by way of compulsory acquisition, where the compensation is enhanced or further enhanced by a court, Tribunal or other authority shall be deemed to be the income chargeable in the previous year in which amount is received by the assessee has been amended to be taxed as capital gains in the previous year in which the final order of such court, Tribunal or other authority is made
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Profit on sale of property used for residence [Section 54]

Capital gain on transfer of certain capital assets not to be charged in case of investment in residential house [Section 54F]

Amendment	<ul style="list-style-type: none">• The existing provisions of Section 54(1) have been proposed to be amended such that where capital gain arises from the transfer of a long-term capital asset, being a residential house, and the assessee within a period of one year before or two years after the date of transfer purchases, or within a period of three years after the date of transfer constructs, 'a' residential house, has now been restricted to 'only one residential house situated in India', then the amount of capital gains to the extent invested in the new residential house is exempted• Further, the existing provisions of Section 54F(1) have been proposed to be amended such that where capital gain arises from transfer of a long-term capital asset, not being a residential house, and the assessee within a period of one year before or two years after the date of transfer purchases, or within a period of three years after the date of transfer constructs, 'a' residential house, has now been restricted to 'only one residential house situated in India', then the portion of capital gains in the ratio of cost of new asset to the net consideration received on transfer is exempted
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Capital gain not to be charged on investment in certain bonds [Section 54EC(1)]

Amendment	<ul style="list-style-type: none">• The existing proviso to the said sub-section provides that the investment made in the long-term specified asset during any financial year shall not exceed fifty lakh rupees• It is now proposed to insert a proviso after the above proviso so as to provide that the investment made by an assessee in the long-term specified asset, from capital gains arising from transfer of one or more original assets, ‘during the financial year in which the original asset or assets are transferred and in the subsequent financial year’ does not exceed fifty lakh rupees
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Long-term Capital Gains on debt oriented Mutual Fund and its qualification as Short-term capital asset [Section 2(42A)]

Amendment	<ul style="list-style-type: none">• The definition of capital asset has been proposed to be amended, 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
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Tax on long-term capital gains on units [Section 112]

Amendment	<ul style="list-style-type: none">• The provisions of Section 112 have been proposed to be amended so as to allow the concessional rate of tax of 10% (without indexation) only on long-term capital gain on transfer of capital asset, being listed securities (other than units) and zero coupon bonds• Thus, long-term capital gains arising on transfer of units of mutual fund specified under section 10(23D) or Unit Trust of India shall be taxable at 20%
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IV. Non-Residents

Characterization of Income in case of Foreign Institutional Investors (FIIs) [Section 2(14)]

Amendment	<ul style="list-style-type: none">• It is proposed to amend the definition of “capital asset” to provide that any security held by FII which has invested in such security in accordance with the regulations made under SEBI would be treated as capital asset only, and consequently income arising from transfer of such security would be taxable as capital gains
VTPA’s comments	The amendment aims to set at rest the controversy whether the income earned by FIIs should be characterized as business income or income from capital gains. This probably gives clarity to the aspect of taxation of offshore funds in India.

Income by way of interest from Indian company [Section 194LC]

Amendment w.e.f. 1 October 2014	<ul style="list-style-type: none">• The scope of lower withholding tax rate of 5% on interest paid by Indian company to non-residents on monies borrowed by it in foreign currency from a source outside India under a loan agreement or through issue of long-term infrastructure bonds has now been extended to any long-term bond• The concessional rate of withholding tax will now be available in respect of borrowings made before 1 July 2017• Further, Section 206AA of the Act provides for levy of higher rate of withholding tax in case the recipient of income does not provide permanent account number.• An exception from applicability of Section 206AA in respect of payment of interest on long-term infrastructure bonds has now been proposed to be extended even to payment of interest on any long-term bond
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V. *Other Amendments*

Amendment relating to deduction of tax at source

Payment to non-residents [Section 40(a)(i)]	<ul style="list-style-type: none">• Any payment made to a non-resident is disallowed while computing income if tax is not deducted at source from the said payment. Currently, the deduction is available in the subsequent year if the tax is paid in the subsequent year, even though the said payment is made before the due date of filing the return of income• It is now proposed that if the deductor pays the tax before the due date of filing the return of income, the said payment will be allowed as deduction while computing the income of the previous year itself
Payment to residents [Section 40(a)(ia)]	<ul style="list-style-type: none">• The disallowance under Section 40(a)(ia) is now extended to all payments from which tax is deductible under Chapter XVII-B i.e. it is now extended to salary, director's fees, etc• In the case of non-deduction / non-payment of tax at source made to residents, the disallowance of the expenditure will be confined only to 30% of such expenditure and not the full amount
Correction of quarterly statement [Section 200] [w.e.f. 1 October 2014]	<ul style="list-style-type: none">• Currently, the deductor is required to file quarterly statement of tax deduction at source containing prescribed particulars. The amendment clarifies that the deductor can file a correction statement
Extension of time limit for passing order under Section 201(1) [w.e.f. 1 October 2014]	<ul style="list-style-type: none">• The existing sub-section (1) deems a payer as an assessee in default, if he does not deduct or after deduction does not pay the whole or part of the tax as required under the Act. Sub-section (3) provides for time limit for passing of order under sub-section (1). The current time limit of 6 years from the end of the financial year in which payment/ credit is made is now made to 7 years in order to align the same in accordance with Section 148 of the Act
Penalty for failure to furnish TDS/ TCS statement or furnish incorrect statement [Section 271H] [w.e.f. 1 October 2014]	<ul style="list-style-type: none">• It is proposed that the Assessing Officer shall be the competent authority to levy penalty under this section

Power of survey [Section 133A] [w.e.f. 1 October 2014]	<ul style="list-style-type: none"> • It is proposed to confer the power of survey upon Income-tax authority for the purpose of verifying whether tax has been deducted or collected at source in accordance with the provisions of the Act. For this purpose, it may enter an office or a place of business/ profession after sunrise and before sunset
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Losses in speculation business [Section 73]

Amendment	<ul style="list-style-type: none"> • The existing provisions provide that losses incurred in respect of a speculation business cannot be set off or carried forward and set off except against the profits of any other speculation business • The existing Explanation to Section 73 provides that in case of a company deriving its income mainly under the head business (other than a company whose principal business is business of banking or granting of loans and advances), and where any part of its business consists of purchase or sale of shares such business shall be deemed to be speculation business for the purpose of this section • It is proposed to amend the Explanation to Section 73 such that the provisions of the said Explanation shall also not be applicable to a company whose principal business is trading in shares
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Definitions of certain terms relevant to income from profits and gains of business or profession [Section 43(5)]

Amendment with retrospective effect from 1 April 2014 i.e. AY 2014-15	<ul style="list-style-type: none"> • The existing provisions define the term speculative transaction which excludes certain category of transactions as speculative transactions • It is proposed to amend clause (e) of the said Proviso so as to provide that eligible transaction in respect of trading in commodity derivatives carried out in a recognised association which is chargeable to commodities transaction tax under Chapter VII of the Finance Act, 2013 shall not be considered to be a speculative transaction
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Alternate Minimum Tax (AMT) [Section 115JC and 115EE]

Amendment	<ul style="list-style-type: none">• Under the Act, non corporate taxpayers, if their regular income tax payable is less than AMT, then tax is payable at the rate of 18.5% of adjusted total income• With a view to also include the investment linked deduction claimed under Section 35AD in computing adjusted total income for the purpose of calculating AMT, it is proposed to amend the section 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• Credit for AMT paid would now be available even if the assessee may not be liable for AMT as well as adjusted total income is below rupees twenty lakh
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Accounting and disclosure standards for computation of income [Section 145]

Amendment	<ul style="list-style-type: none">• Currently, sub-section (2) of Section 145 conferred power on the Central Government to notify accounting standards to be followed by any class of assessee or in respect of any class of income• It is now clarified that the said standards are to be followed only for computation of income and disclosure of information and are not meant for maintenance of books of accounts
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Taxability of advance for transfer of a capital asset [Section 56(2), 2(24) and 51]

Amendment	<ul style="list-style-type: none">• Any sum of money received as an advance or otherwise in the course of negotiations for transfer of a capital asset shall be charged to income-tax under the head '<i>Income from other sources</i>' if such sum is forfeited and the negotiations do not result in transfer of such capital asset• Consequentially, the existing provisions which provide that any advance retained or received, which is subsequently forfeited, were to be reduced from the cost of acquisition of the asset or the written down value or the fair market value of the asset, are omitted in order to avoid double taxation of the advance received and retained
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VI. Tax rates

1. For Individuals, Hindu Undivided Families, Association of Persons and Body of Individuals

Existing		Proposed	
Income (INR)	Rate (%)*	Income (INR)	Rate (%)*
0 – 2,00,000 [#]	Nil	0 – 2,50,000 [#]	Nil
2,00,001 - 5,00,000	10	2,50,001 - 5,00,000	10
5,00,001 - 10,00,000	20	5,00,001 - 10,00,000	20
10,00,001 and above	30	10,00,001 and above	30

*** Education cess of 3% is leviable on the amount of income-tax**

The basic exemption limit is INR 250,000 in case of every individual below the age of 60 years, INR 300,000 in case of resident individuals of the age of 60 years or more and INR 500,000 for ‘Very Senior Citizen’ in case of resident individuals of age 80 years and above

Notes:

- An assessee, whose total income does not exceed INR 500,000, shall be entitled to a credit on the income-tax payable, of an amount equal to hundred percent of the income-tax payable or INR 2,000, whichever is less
- An assessee having taxable income of more than INR 10 million is liable to pay his tax along with 10% surcharge, provided the surcharge does not exceed the amount equivalent to the income over INR 10 million

2. For Others

Description	Existing Rate (%)		Proposed Rate (%)	
	Having Income from INR 10 million to 100 million	Having Income more than INR 100 million	Having Income from INR 10 million to 100 million	Having Income more than INR 100 million
A) Domestic company				
Regular tax	32.445**	33.99**	32.445**	33.99**
MAT	20.008 (of book profits)*	20.96 (of book profits)*	20.008 (of book profits)*	20.96 (of book profits)*
DDT	16.995**	16.995**	16.995**^	16.995**^
Dividend Received from Foreign subsidiary company	16.995**	16.995**	16.995**	16.995**
B) Foreign company				
Regular tax	42.024 [§]	43.26 *	42.024 [§]	43.26 *
C) Firm and LLP				
Regular tax	33.99**		33.99**	
Alternate Minimum Tax (AMT)	20.008*		20.008*	

**Inclusive of surcharge @ of 10% and education cess of 3%

* Inclusive of surcharge @ of 5% and education cess of 3%

§ Inclusive of surcharge @ of 2% and education cess of 3%

^Effective rate of DDT after grossing up on a dividend of INR 100, ~20%

GLOSSARY OF TERMS

Abbreviation	Meaning
AMT	Alternate Minimum Tax
AO	Assessing Officer
AY	Assessment Year
CBDT	Central Board of Direct Taxes
DDT	Dividend Distribution Tax
DTAA	Double Tax Avoidance Agreements
FY	Financial Year
HUF	Hindu Undivided Family
ITA / Act	Income-tax Act, 1961 as amended from time-to-time
SEBI	Securities and Exchange Board of India
SPV	Special Purpose Vehicle

Disclaimer

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.