



Union Budget 2014

A brief analysis- Direct Taxes

July 10, 2014

Integrity, Quality, Consistency and Creativity

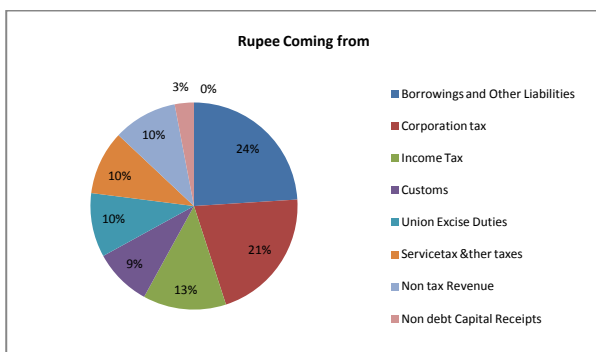
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Introduction

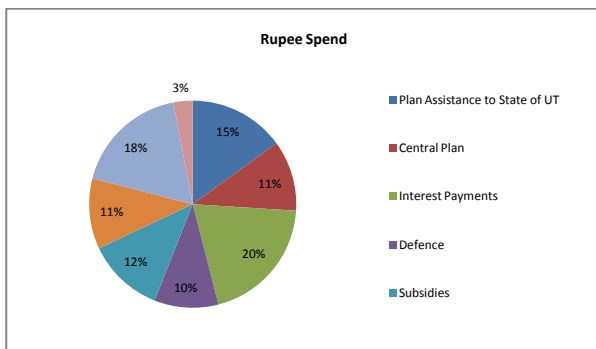
Today the Finance Minister (FM) has laid Union Budget 2014 before the Parliament of India. While presenting the budget FM has highlighted the facts that the people of the country has voted for a change for betterment.

However considering the present state of economy, every efforts of the government will take some time to bring the results for the revival of economy.

A summary of Budget showing every Rupee coming is depicted below:



A chart showing the every Rupee spend by the Government is given below



The Finance Minister in his budget speech has provided that the power for retrospective amendments would be exercised with extreme caution and judiciousness, duly considering the impact of each such measure in the economy and the overall investment climate in the Country. No such more amendment would be brought ordinarily.

The Finance Minister in his budget speech has also given assurance that government is committed to provide a stable and predictable taxation regime that

would be investor friendly and accelerate growth. With this objective it has been decided that all the new cases that would be arising due amendment brought in 2012 in respect of indirect transfer, would be first analyse by the High Level Committee proposed to be constituted by CBDT before taking any action.

Budget Proposals

Direct Tax

- **Corporate Taxation**

- **Corporate Tax Rate**

The Budget proposal does not provide for any changes in the basic corporate tax rates including applicable surcharge and education cess.

- **Dividend and Income Distribution tax**

The rate of dividend distribution tax has been increased from 15% to 17.64% (approx) excluding surcharge and cess in case of declaration of dividend by domestic companies.

- **Investment Allowance to Manufacturing Companies**

The manufacturing sector is of the paramount importance for the growth of the economy. As a measure to encourage capital formation and generation of the employment opportunities in the sector, last year an incentive in the form of Investment allowance to manufacturing company who invest more than Rs. 100 crores in plant and machinery during the period from April 01, 2013 to March 31, 2015 was announced.

Now in order to boost the sector, especially smaller entrepreneurs, it has been proposed to provide investment allowance @ 15% to manufacturing companies that invests more than 25 Crores in any year in new plant & machinery up to March 31, 2017.

The provision which made last will continue to operate in parallel till March 31, 2015.

- **Extension of tax benefit to Power Sector**

The Supply of power is remains a major concern for the country. With an objective to provide incentive and attract the sector for further investment, it has been proposed to extend the terminal date for availing tax exemption for a period of ten years; it has prescribed that undertaking which

- is setup for generation and distribution of power and begins to generate power up-till year ending March 31, 2017
- starts transmission or distribution by laying network of new transmission lines or distribution lines at any time up-till March 31, 2017
- undertakes substantial renovation and modernization of existing network of transmission or distribution lines at any time up-till March 31, 2017

are eligible to avail tax incentive for the period of ten years.

Earlier the incentive is set to expire on for undertaking those has commenced generation/transmission /distribution up-till March 31, 2014.

- **Deduction for capital expenses for Specified Business**

The Finance Act has proposed to extend the benefit of deduction available to specified business to two new sectors namely slurry pipelines for the transportation of iron ore and semi conductor wafer fabrication manufacturing units from the April 01, 2014. The existing provision provides that a deduction in respect of the capital expenditure incurred (except for acquisition of Land or good will or financial instruments) wholly and exclusively for the purpose of specified business.

The Act further provides that if any deduction has been claimed no deduction under Chapter VI-A under the heading Deductions in respect of certain income shall be allowed. The provisions has been further proposed to be amended so as to provide that no deduction u/s 10AA of the Act will be allowed if such specified businesses has claimed deduction u/s 35AD of the Act.

- **Taxation for Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (Invit)**

The SEBI had proposed a draft regulations relating to two new categories of investment vehicles namely, the Real Estate Investment Trust (REIT) & Infrastructure Investment Trust (Invit). The said regulations were placed in public domain for comments. The final regulations are yet to be notified by SEBI.

In order to provide a proper taxation regime for the above two new categories the law has been proposed to be amended.

The above two categories which has been referred as the Business Trust under the proposed changes. The income-investment model of such Business Trust has the following distinctive features:

- The trust would raise capital by way of issue of units (listed) and can also raise debt directly from both resident as well non resident investors.
- The income bearing assets would be held by the trust by acquiring controlling or other specific interest in an Indian company from the sponsor.

As the proposition of PPP model has increased, the number of assets available for financing has also increased, for this purpose REITS and Invit have been successfully used as instruments for pooling of investment in

several countries. Considering the future taxation provisions of these trusts is necessary. The distinctive feature in the taxation regime proposed is the pass through status.

- **Lower tax on dividend from Foreign companies**

The section 115BBD of the Act was introduced as an incentive for attracting repatriation of income earned by Indian companies from investment made abroad, it provides for taxation of gross dividend received by an Indian company from specified foreign company i.e. in which Indian company holds more than 25% or more of the equity capital. Earlier the above concessional rate of 15% is available for such dividend which is included in the total income for the AY 2012-13, or 2013014, or 2014-15 only.

Now the Act is proposed to amend to extend the benefit of lower rate of taxation without limiting it to a particular assessment year. Accordingly, such foreign dividend received in FY 2014-15 or subsequent FY shall continue to be tax @ 15%.

- **Taxability of income of Foreign Institution Investor**

The law provides for the mechanism for the computation of Capital Gain, accordingly, the gain arising on the capital assets is taxable as capital gain attract lower tax. The Capital assets as defined under the Act include property of any kind held by assessee, but does not include any stock in trade.

The Foreign Portfolio Investor (FPI) faces difficulty in characterisation of their income arising from transaction in securities as to capital gain or business income. It has been proposed to amend the definition of capital asset u/s 2(14) of the Act, so as to provide the benefit to FPI and treat the income from

sale and purchase of securities as Capital Gain and accordingly lower tax rate benefit.

Further, the above will also provide the benefit to FPI, as the Fund managers may now make their presence in India, without any apprehension of adverse tax consequences.

- **Non-deductibility of CSR expenditure**

The Companies Act, 2013 provides for companies having net worth of Rs. 500 Crore or more or Turnover of Rs. 1000 Crore or a net profit of Rs. 5 Crore or more are required to spend certain percentage of their profit on activities relating to CSR. The Act provides that the above expenses is not incurred for the benefit of the business rather it is an application of income and accordingly the same would not be an allowable business expenditure while computing taxable income.

- **Disallowance of Expenses due to Non Deduction of tax or Non-deposit of Tax**

It was provided under the Act that in case of payment to non-resident no tax was deducted or after deduction tax was not deposited than the corresponding expenditure would not be allowable as deductible expenditure. However, the same would allowable as deductible in the year in which payment was made by the assessee.

Some relief has been provided to the deductor in the cases wherein the tax has been deducted and the same was deposited with authority before the due date of return of income.

The Act also provide that in the case of payment made to resident towards commission, or brokerage, professional fee interest or payment to contractors, without deduction of tax or after deduction the same

is not deposited before the filing of return of income then corresponding expenditure would not be allowable as deductible,

Now it has been proposed that in case wherein the tax has not been deposited within due or date of filing of return of income only 30% of the corresponding expenditure would not be allowed as deduction. The 30% amount which was disallowed can be claimed in the year in which the tax has been deposited by the deductor. Apart from the above provision would now propose to be made applicable for all type of payments instead of only specific payments as mentioned above.

- **Losses on Speculative Business**

The Section 73 of the Act provides that the losses from the speculative business can be carried forward and set off only against the profits from the speculative business of the assessee. Existing provisions provide that in case of a company deriving its income mainly under the head business 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.

The Finance Bill 2013 proposed to amend the above provisions so as to provide that the principal business of the which is business of trading in shares shall not be considered speculative in nature accordingly the losses, if any can be set off against profits of any other business also.

- **Filing of Returns by MF, VCF**

Presently the Mutual Funds, Securitisation Trust and Venture Capital Companies or Venture Capital Companies are required to submit a statement giving details of the nature of the income paid and credited

during the year along with such other details instead of filing of return of income u/s 139.

The Proposed provision required the Mutual Funds, Securitisation Trust and Venture Capital Companies or Venture Capital Companies and Business Trusts to file their return of income for the Financial Year ending on March 31, 2015.

- **Transfer Pricing**

- **Roll back of advance pricing Agreements (APA)**

In order to reduce the litigation on account of transfer pricing issues, the provisions has been made in the law to provide the roll back provisions in the APA scheme so that an APA entered for future transaction may also be applied to international transaction undertaken in the previous four years according to prescribed conditions, procedure and manner.

- **Multiple year data for comparables**

During the budget speech FM has announced that the rules will be amended to provide to take the multiple year data for the purpose of comparables for determining arm's length price.

- **Individual taxation**

- **Basic Exemption limit**

Increase in Basic exemption limit for taxation. It has proposed for the increase in the basic exemption limit from present 2.00 Lakhs to 2.50 Lakhs in the case of individuals below 60 years. For Senior Citizen the limit has been increased from 2.50 lakhs to 3.00 lakhs. There is no change has been proposed for the rate of tax, surcharge and cess.

- **Increase in Limit for Housing Loan Interest**

Presently the interest paid on housing loan taken for the property which is self occupied

by the taxpayer is allowable as deduction from taxable income up-to a limit of Rs. 1,50,000/-. In order to provide support to the real estate sector and considering the high rate of interest it has been proposed to increase this limit to Rs. 2,00,000/-.

- **Increase in limit for deduction u/s 80C of the Act**

An Individual or a Hindu Undivided Family, is allowed a deduction from income of an amount not exceeding 1 Lakh rupees with respect to sums paid/deposited in certain specified instruments like insurance premium, contribution to provident fund, tuition fees, repayment of housing loans etc. The taxpayers are free to invest in any one or more specified instruments within overall limit of limit of Rs. 1 Lakh.

The said limit was last fixed by the Finance Act 2005, now Finance Bill 2013 has proposed to increase this limit to 1.50 Lakhs.

- **Taxability of advance forfeited for transfer of capital asset**

The tax base has been widened by including the amount of advance forfeited by the taxpayer received against the transfer of capital assets but the capital asset has not been transferred, as income under the head income from other sources.

Earlier this amount is adjusted against the cost of the capital assets while computing capital gain in the case of subsequent sale by the taxpayer.

- **Others**

- **Deduction of tax from payment made under Life Insurance policy**

Under the law, any sum received under a life insurance policy is exempt to tax subject to fulfilment of certain conditions. Accordingly

any sum received under life insurance premium which does not fulfil the conditions specified u/s 10(10D) of the Act are taxable under the provisions of the Act.

It has been proposed that in case where the payment made exceeding Rs. 1,00,000 is taxable under the Act, tax is required to be deducted @ 2% on such payments.

- **Taxation of the charitable trusts and institutions**

The law has proposed to be amended with respect to the taxation of trust and institutions which have been granted registration for availing exemption u/s 11 of the Act and registration is in force, no deduction u/s 10 (except u/s 10(23C) or agriculture income exemption) would be allowed.

It has also been proposed that income for the purpose of application shall be determined without any deduction or allowance by way of depreciation or otherwise in respect of any assets, acquisition of which has been claimed as application of income in any previous years.

It is further proposed that the registration of granted under the existing provision of 12 AA can also be cancelled if the activities of trust or institutions are being carried out in such manner that-

- Its income does not ensure for the benefit of general public
- It is for benefit of any particular religious community or caste
- Any income or property of the trust is applied for benefit of specified persons like author of trust, trustees etc. Or
- Its funds are invested in prohibited modes.

- **Transfer of Government Security by NR to NR**

It has been proposed that the transfer of Government securities listed outside on which carrying periodic payment of interest are transferred by the Non-resident to Non resident outside India through intermediary shall not be considered as transfer for the purpose of Capital gains.

- **Administration proposals**

- **Computation of Income and Disclosure of Accounting Standards**

An Accounting Standard Committee 2010 was constituted by CBDT, the final report submitted by the Committee provides that Accounting Standards Notified under the Act should be made applicable only to the computation of taxable income and taxpayer should not be required to maintain books of accounts on the basis of AS notified under the Act. .

Considering the comments it is now proposed that AS notified u/s 145(2) of the Act are to be followed for computation of income and disclosure of information by any class of taxpayer or any class of income. The Central Government has also been empowered to notify the AS through publication in Official Gazette form time to time.

The Assessing officer during the course assessment proceedings may make assessment u/s 144 Best Judgment assessment if the taxpayer has not computed taxable income in accordance with the notified accounting standards.

Presently the return of income filed online wherein no disclosure methodology has been prescribed, which is expected to be there

from April 01, 2015, the date which provisions proposed to be made available.

Hope you will the above useful, in case of any clarification, please feel free to contact us.

Contact us

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Source : **Union Budget 2014.**

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