



# Union Budget

# 2016

Discussion on direct and indirect  
tax proposals

1 March 2016




# Agenda

- 1 Macroeconomic overview

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  - 2 Policy announcements

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  - 3 Direct tax proposals

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  - 4 Indirect tax proposals

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- A stack of colorful books with spines in shades of red, yellow, green, and pink is visible on the right side of the slide. In the bottom right corner, a silver and black pen is lying on a light-colored surface.



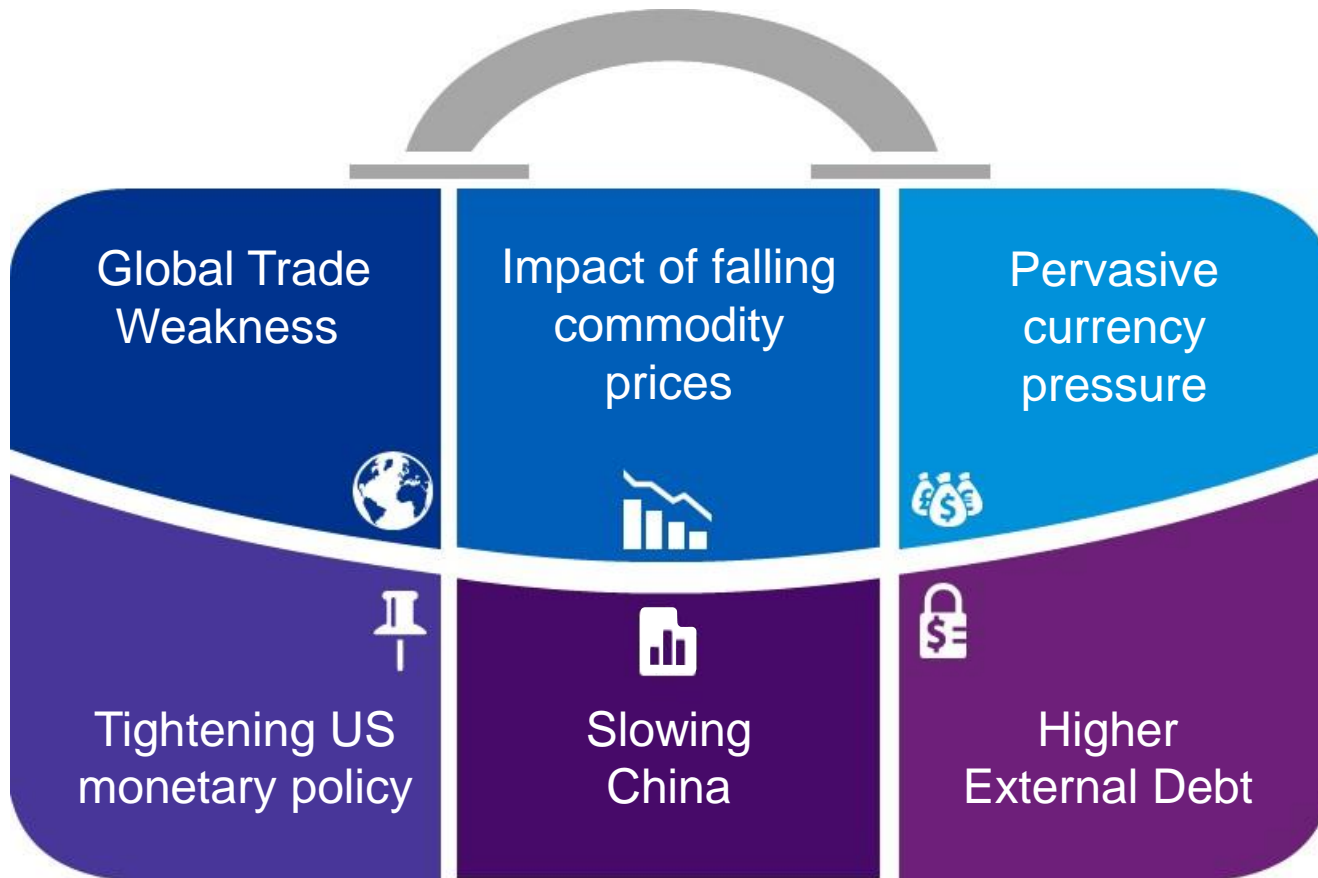


# Macro economic overview



# Global outlook

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## Navigating the global environment

Need for increased government spending, drive investment and consumption

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# Economic Survey

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Global factors will continue to affect Indian growth

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Growth stabilization – Tapering of growth rate expected

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Tax revenue on track

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Reduced Inflation and Current Account Deficit

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Fiscal deficit targets could be under stress

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Monsoon hope for monetary easing

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Focus on agriculture, education and health

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**Downside risks due to global developments remain**

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# Key focus areas

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Incentivising 'Make in India'

Measures to boost growth and employment generation

Ease of doing business

Simplification and rationalization of taxation

Reducing litigation and providing certainty in taxation

Use of Technology for creating accountability



# Direct Tax



# Tax Rates

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- Corporate Tax rate for foreign companies remain **unchanged** – effective rate 43.26%
- For domestic companies with turnover/gross receipts upto **INR 5 crores in FY 2014-15 – rate of 29%** (effective rate 31.97%)
- For companies set-up and registered on or after 1 March 2016 & engaged in the business of **manufacturing or production** of any article or thing – **rate of 25%** (effective rate 28.84%) subject to conditions
- Corporate income tax for other domestic companies remain **unchanged** – effective rate 34.61%
- MAT is not applicable to a foreign company, if it does not have a PE in India



# Key impact areas

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- **No tax holiday u/s 80-IB(9)**, if commercial production commence on or after 1 April 2017.
- Deduction **u/s 80JJAA available to all taxpayers** liable to tax audit – 30% of additional employee cost incurred in the previous year.
- Deduction **u/s 32AC** for assets installed till 31 March, 2017 – irrespective of previous year of acquisition
- Income of a foreign company from **storage & sale of crude oil** in India – exempt u/s 10(48A)
- **Payments to Non-residents** - 206AA rationalized – conditions to be prescribed in relation to payments other than long term bonds
- **Belated return** of income can be **revised** u/s 139(5)
- **Stay of demand** mandatory post payment of **15% of disputed** demand before CIT(A) (*CBDT instruction issued – conditions prescribed*)

# Key impact areas

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- **Tax holiday on power units** - not extended beyond March 2017
- Additional depreciation u/s 32(1)(iia) of 20% extended to **“transmission”** business w.e.f April 2017 (Assessment year 2017-18)
- Highest rate of depreciation restricted to 40% (*affects plant used in field operations for mineral oil concerns*) -IT Rules to be amended
- Appeal effect order u/s 153 to be passed within 3 months from the end of the month of the receipt of the order – Applicable w.e.f. 1 June 2016
- Additional interest u/s 244A @ 3% p.a. if there is delay in giving effect to appellate orders - Applicable w.e.f. 1 June 2016
- Applicability of POEM deferred by one year (i.e. applicable from AY 2017-18)
- ICDS continue to apply from AY 2016-17

# Phasing out

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- Deduction u/s 80-IA : Development, Operation and Maintenance of Infrastructure Facility / 80-IAB – SEZ Development to be available only to “**activity**” **commencing** upto 31 March 2017
- No deduction u/s 10AA for SEZ units **commencing** operations after 1 April 2020
- R&D Deductions
  - Weighted deduction u/s 35(2AB) for recognized in-house unit reduced to 150% from AY 2018-19 and 100% from AY 2021-22
  - Weighted deductions u/s 35(1)(ii) with respect to amounts paid to approved scientific research association for scientific research restricted to 150% from AY 2018-19 & to 100% from AY 2021-22 onwards

# Phasing out

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- Deduction for expenditure on certain eligible social development project or scheme u/s 35AC available only upto 31 March 2017
- The weighted deduction u/s 35CCD for skill development to be available only upto 31 March 2020 (100% will be allowed from 1 April 2020)
- The weighted deduction u/s 35CCC for expenditure incurred on notified Agricultural Extension Project to be reduced from 150% to 100% from 1 April 2017



# Dispute Resolution

- New Direct Tax Dispute Resolution Scheme, 2016 introduced effective 1 June 2016
- Applicable to disputes pending as on 29 February 2016

Particulars	Appeal against		
	Assessment Order	Penalty Order	Retrospective Amendment
Pendency	Before CIT(A) / CWT(A)	Before CIT(A) / CWT(A)	Before any appellate authority or writ or arbitration
Amount Payable	- Tax plus interest (up to the date of assessment) - 25% of minimum penalty (if disputed tax exceeds INR 10 lakhs)	25% of minimum penalty	Disputed tax
Immunity	Prosecution	Prosecution	Prosecution, penalty and interest

- Time and manner of payment prescribed; rules to carry out the provisions of the scheme to be prescribed
- Penalty provisions for under-reporting and misreporting (expenditure not substantiated by evidence / failure to report international transaction) - @ 50% and 200% respectively (applicable to assessment of AY 2017 – 18 and subsequent AY)

# Transfer Pricing

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- Additional CbC and Master File reporting aligned to **BEPS Action Plan 13**
- Country by Country Reporting:
  - Threshold to be prescribed – **EUR 750mn** group turnover indicated
  - Reporting obligation on **Indian resident parent** companies
  - Indian subsidiaries of Foreign Parents obligated in certain cases
  - To be furnished by tax **return filing date**
  - **Penalty** prescribed for delayed reporting and furnishing inaccurate particulars
- Master file:
  - Threshold, due date and details to be prescribed via Rules
  - Penalty of INR 5 Lakhs for non-furnishing
- Preponing of time limit for completion of TP assessments

# Transfer Pricing

- Additional CbC and Master File reporting aligned to BEPS Action Plan 13

CbC Template –Page 1*									
Country	Revenue			Profit(loss) before income tax	Income tax paid (on a cash basis)	Income tax accrued – current year	Stated capital and accumulated earnings	Number of employees	Tangible assets other than cash and cash equivalents
	Related party	Unrelated party	Total						
Country A	X	X	X	X	X	X	X	X	X
Country B	X	X	X	X	X	X	X	X	X

CbC Template –Page 2* (onwards)													
Country	Constituent entities resident in country	Country of organisation or incorporation in different from country of residence	Activities										
			R&D	Purchasing & procurement	Manufacturing & production	Sales, marketing & distribution	Administrative, management & support services	External service business	Regulated financial services	Insurance	Holding company	Dormant	Other
Country A	Entity A	Country B	✓			✓							
	Entity B			✓	✓				✓				

# The personal touch!

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## Personal tax

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- No change in tax rates and basic threshold limits
- Rebate u/s 87A raised to INR 5,000 from INR 2,000 for resident individuals with income up to INR 500,000. Potential annual savings up to INR 3,090.
- Surcharge on income exceeding INR 1 crore (for individuals/ HUF/ AOP/ BOI) raised to 15% from 12%. Maximum Marginal Rate has been increased to 35.535% from current 34.608%.
- Dividend income in excess of 10 Lacs taxable in the hands of the recipient at the rate of 10%

## Retirement benefits

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- Retirement schemes brought under the EET regime – withdrawals only up to 40 % of accumulated balance of PF (limits prescribed) , SAF and NPS exempt from tax
- Contribution to approved PF and SAF upto INR 150,000 (for SAF currently INR 100,000) not taxable
- One time exemption for transfer for accumulated PF amount and Superannuation amount to NPS will be tax exempt.



# The personal touch!

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## Housing

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- Deduction towards rent payment (non-HRA) u/s 80GG raised to INR 60,000 p.a. from INR 24,000 p.a. Potential annual savings up to INR 12,793.
- Threshold for completion of property construction for interest deduction u/s 24 on self-occupied property **raised to 5 years** from 3 years, from year of sanction of loan
- Additional interest deduction u/s 80EE of **INR 50,000** for loan up to INR 35 lakhs (sanctioned during FY 2016-17) for first time home buyers, where house cost up to INR 50 lakhs.

# Other relevant provisions

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## Income Declaration Scheme 2016

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- With the thrust on bringing undisclosed income in the tax net, a 'Voluntary Income Disclosure Scheme' introduced.
- Taxpayers to pay 45% (tax of 30% plus 7.5% interest plus 7.5% penalty) on undisclosed income under the scheme.

## Other procedural proposals

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- Time limit of completion of assessment/re-assessment reduced by 3 months
- Assessing Officer not allowed to file appeal before the tribunal against final order passed pursuant to DRP directions
- Time limit for rectifying mistake apparent on record by the tribunal reduced to 6 months from 4 years
- Return to be processed under 143(1) before making an assessment



# Indirect Tax

# At a Glance

## FOCUS AREAS

Make in India	<ul style="list-style-type: none"><li>• Customs and Excise duty rates changed in select industries to make domestically manufactured product more attractive than imported</li></ul>
Credits	<ul style="list-style-type: none"><li>• Liberalization in CENVAT credit</li><li>• Procedural relaxations</li></ul>
Taxpayer friendly environment	<ul style="list-style-type: none"><li>• Simplified Excise compliances</li><li>• Rationalization in interest rates and enforcement provisions</li><li>• Attempts to reduce litigation</li></ul>

## WHAT WAS MISSING?

GST	<ul style="list-style-type: none"><li>• No concrete road map</li></ul>
Service tax	<ul style="list-style-type: none"><li>• Industry expected various clarifications/ exemptions which largely went unaddressed</li></ul>



# Central Sales Tax

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An explanation has been inserted to clarify that with respect to purchase/sale of gas which gets mingled with other gases during the course of its movement through a pipeline, etc., such a sale/purchase shall be deemed to be interstate, if the same is introduced into the pipeline in one state and is taken out in another state

# Customs

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- General BCD rates remain unchanged. Thus, the general effective customs duty rate continues to be 26.43 per cent (specific capital goods)/ 29.44 per cent (other goods)
- Customs duty rate increased on certain capital goods (100+ tariff lines) from 7.5 per cent to 10 per cent
- Exemption extended on specified goods imported by ONGC or OIL in connection with petroleum operations undertaken under Petroleum Exploration Licenses (PEL) or Mining Leases (ML) issued or renewed before 1st April 1999
- BCD increased from nil to 10 per cent on plans, drawings and designs
- Limitation period extended from one year to two years
- The facility of deferred payment of customs duty to be extended to specified importers and exporters
- Interest rate on demand reduced to 15 per cent

# Central Excise

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- Standard rate of Central Excise duty remains unchanged
- Oil industry development cess on domestically produced crude oil revised from INR 4500 per metric tonne to 20 per cent ad valorem
- Limitation period extended from one year to two years
- Interest rate on demand reduced to 15 per cent

# Service tax

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- Krishi Kalyan cess to be imposed at the rate of 0.5 per cent on the value of all taxable services effective from 1 June 2016
- Services by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance excluded from the negative list effective from 1 June 2016
- Service recipient shall be liable to pay tax on any service provided by government/ local authority to business entities effective from 1 April 2016
- Annual return introduced for service tax assesseees above a certain threshold
- Limitation period extended from 18 months to 30 months
- Interest on delayed payment reduced to 15 per cent, however applicable at 24 per cent on tax collected not paid

# CENVAT Credit

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- Rationalization of provisions for service tax CENVAT credit distribution by an ISD
- Rule 6 prescribing the CENVAT credit mechanism in case of both taxable and exempt activities amended
- Restriction of availing CENVAT credit on equipment or appliances used in the office located within a factory is deleted
- All capital goods of value less than INR10,000 are to be treated as inputs
- Capital goods are ineligible for CENVAT credit if used for exempt goods or services for the first two years
- Order of utilization of CENVAT credit prescribed last year for recovery of CENVAT credit wrongly availed/ utilized is done away with

# Miscellaneous

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- Indirect tax dispute resolution scheme introduced – cases to be dropped pending at first appellate level if taxes, interest and 25% penalty paid
- Eleven (11) new CESTAT benches to be set up to fast track clearance of pending litigations





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