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Understanding the impact

Union Budget 2018

Oil and Gas Sector

Agenda

- Economic / Policy update
- Direct tax
- Indirect tax
- Questions and answers

Economic update

Economy snapshot

GDP likely to move up

GDP growth budgeted at 7.2% FY19

CAD to remain under control

CAD at 2% of GDP in FY19

Monetary policy in neutral mode

RBI likely to go in for a long pause on rates

Foreign fund inflows have improved

FDI inflow of USD~43.5 billion in FY17, added USD 25.4 bn as of 2QFY18

Fiscal consolidation paused

New roadmap, deficit budgeted at 3.3% of GDP in FY19

Inflation pressures to remain

CPI at 5.2% in Dec'17, likely to remain above 5% in the near term

INR expected to weaken through the year

At 63.61, likely to move towards 66 per US$

Exports likely to move up as global growth gathers pace

Exports rose by 12.4% in Dec'17

Policy Updates

- As a base to launch future exploration and production activities, appraisal of all un-appraised areas have been approved and would be instrumental in increasing the investments in domestic production of oil and gas
- Increase of refining capacity from 230.06 MMTPA in 2016-17 to 237.06 MMTPA at present with addition of 1 MMTPA capacity in HPCL, Mumbai refinery and capacity expansion of BPCL, Kochi from 9.5 MMTPA to 15.5 MMTPA
- Development of an additional 15,000 km long pipeline network to have an ecosystem of National Gas Grid in the country
- Government has set a disinvestment target of 80,000 crore. We are expecting another transaction in O&G sector this year to support this
- Given the success under Pradhan Mantri Ujjwala Yojana (already 3.34 crore connections provided), target to provide 5 crore LPG connections has been increased to 8 crore LPG connections to Below Poverty Line families

Direct tax

Corporate taxation
Corporate tax rate card

- Tax rate reduced from 30% to 25% for domestic companies with turnover not exceeding INR 2,500 million for financial year (FY) 2016-17
- "Education Cess" of 3% removed and replaced by "Health and Education Cess" of 4%

Type of entity	Turnover less than INR 2,500 million for FY 2016-17	Turnover more than INR 2,500 million for FY 2016-17
Corporate tax[1]		
- Domestic companies[2]	29.12%	34.94%
- Foreign companies	Tax rates continue at 40% (Effective maximum rate of 43.68%)	
- Limited liability partnership	Tax rates continue at 30% (Effective maximum rate of 34.94%)	
Minimum alternate tax[1]	Tax rates continue at 18.5% (Effective maximum rate of 21.55%)	
Dividend distribution tax[1]	Tax rates continue at 15% (Effective maximum rate of 20.56%)	

[1] Surcharge of 12% for domestic companies / 5% for foreign companies and health and education cess of 4% has been considered for determining the tax rates above

Corporate taxation

Corporate tax rate card – illustration

Particulars	Domestic company with turnover less than INR 2,500 million for FY 2016-17	Domestic company with turnover more than INR 2,500 million for FY 2016-17	LLP	Indian Branch of a Foreign Company
Income > 100 million				
Income	100	100	100	100
Less: Corporate tax	29.12	34.94	34.94	43.68
Net distributable income	**70.88**	**65.06**	**65.06**	**56.32**
Less: Dividend distribution tax at 20.56%	12.09	11.10	-	-
Net amounts distributed to shareholder / partner	58.79	53.96	65.06	56.32
Effective tax rate	**41.21%**	**46.04%**	**34.94%**	**43.68%**

Corporate taxation

Specific benefits related to oil & gas industry

Exemption extended to foreign company on sale of leftover stock of crude oil on termination of agreement

- Currently, any income of a foreign company on account of sale of leftover stock of crude oil after the expiry of the notified agreement / arrangement is exempt from tax subject to certain conditions. However, the said exemption is not available in case of premature termination of the said agreement / arrangement
  - Propose to exempt the aforesaid income on account of sale of the leftover stock of crude of foreign company if the agreement / arrangement is terminated in accordance with the terms mentioned therein and subject to such conditions as may be notified by the Central Government

Clarification on non-applicability of MAT to specific non-residents

- Retrospective clarification provided with respect to non-applicability of MAT to foreign companies (engaged in shipping / aircraft business, business of exploration of mineral oils or civil construction) offering income on presumptive basis
  - This provides clarity and puts litigation in this aspect to rest

Corporate taxation
Tax on long term capital gains

- Long term capital gains tax exemption on sale of listed equity shares, units of equity oriented fund, units of business trust undertaken on stock exchange and subject to STT, is withdrawn with effect from 1 April 2018
- Now taxable at 10% of capital gains exceeding INR 100,000 without indexation benefit and benefit of computation of capital gains in foreign currency in case of a non-resident
- Capital gains up to 31 January 2018 proposed to be grandfathered
- Foreign Institutional Investors also to be taxed on long term capital gains at 10%
- The cost of acquisition in respect of the long term capital asset acquired before 1 Feb 2018, shall be deemed to be the higher of – a) the actual cost of acquisition of such asset; and b) the lower of – I)the fair market value of such asset; and II) the full value of consideration received or accruing as a result of the transfer of the capital asset
- Illustrative long-term capital gains for possible scenarios:

Particulars	Example 1	Example 2	Example 3
Actual Cost of acquisition, say January 2014	80	80	80
Fair Market Value as on 31 January 2018	100	100	100
Sale Consideration, say on 30 September 2018 (A)	120	90	60
Cost of acquisition (as per proposed amendment) (B)	100	90	80
Long-term capital gains (A) – (B) [Taxable @ 10%]	20	0	(20)

Corporate taxation

Transfer pricing – clarifications in respect of CbC Report

Indian headquartered group

- Country by Country (CbC) report filing due date extended to twelve months from end of reporting accounting year

Overseas headquartered group

- Indian constituent entity to also file CbC report in India where no obligation for parent to file CBC report – additional condition introduced
- Definition of "Agreement" amended - Both DTAA AND agreement for exchange of CbC report required to avoid Indian filing obligation
- CbC filing due date changed to twelve months from end of reporting accounting year
- Where Alternate Reporting Entity is appointed, CbC report to be filed before due date in its jurisdiction, to avoid Indian filing obligation

These amendments are clarificatory in nature and will take effect retrospectively from 1 April 2017 in relation to the AY 2017-18 onwards

Corporate taxation
Other direct tax proposals

Income Computation and Disclosure Standards (ICDS)

- Considering ICDS provisions applicable from FY 2016-17 and to bring certainty in light of recent judicial precedents, retrospective amendments (effective from 1 April 2017) made under relevant provisions of the Act

Definition of business connection widened

- Definition of ‘business connection’ widened to include ‘significant economic presence’ and ‘agency PE’ in alignment with BEPS Action Plan 1 and 7 respectively

Compensation taxability

- Any compensation received or receivable in connection with termination or modification of the terms and conditions of any contract relating to its business or employment shall be taxable as business income and income from other sources respectively

Dividend Distribution Tax on deemed dividend at 30% (without grossing up)

- Applicable on loans / advances to shareholder / entity in which shareholder owns substantial interest etc.
- Earlier, such deemed dividend taxable in the hands of recipient at applicable rates and not subject to DDT

Corporate taxation
Compliance and procedure aspects

Mandatory tax filing requirement

- Mandatory filing of tax return by due date extended for taxpayers claiming benefit under the heading “C - deductions in respect of certain incomes” in Chapter VIA (i.e., under section 80H to 80TT) as against earlier mandate only for taxpayers claiming profit linked incentives under section 80IA, 80IB, 80IAB, 80IC, 80ID, 80IE

Rationalization in assessment procedure

- Introduction of new scheme for rationalization in assessment procedure by eliminating interface between the assessing officer and assessee, optimal utilization of the resources and introduction of team-based assessment

Entities to apply for PAN

- Non-individual entities which enters into financial transactions of an amount aggregating of INR 250,000 (0.25 million) or more in a financial year is required to apply for allotment of PAN
  - Requirement to obtain the PAN is also extended to managing director, director, partner, principal officer, office bearer, etc., of the aforesaid entities

Prosecution for failure to furnish return

- Prosecution for failure to furnish return where exception provided to a person if tax payable on total income determined on regular assessment less advance tax / TDS does not exceed three thousand rupees, shall not be applicable to companies

Indirect tax

Indirect Tax Budget Proposals
Amendment in Customs Act

- BCD changed for few products
- Provision to empower government to grant conditional exemption to goods imported / re-imported for repair, further processing or manufacture from payment of Customs Duty introduced (notification for re-import exists as on date)
- Pre-notice consultation to be held with assesses in cases not involving collusion, willful mis-statement, suppression before issue of demand notice
- Proceedings of a show cause notice shall be deemed to be concluded if adjudication not completed within timelines specified below:
  - 6 months for notices issued under normal limitation period
  - 1 year for cases involving collusion, willful mis-statement, suppression
  - Time limit extendable up to 6 months / 1 year subject to approval from the higher authorities
- Application for Advance Rulings can be filed by: (i) any person holding IEC or (ii) exporting any goods to India (except for an applicant having a justifiable cause as per authorities)
- Government may notify additional topics for Advance Rulings in addition to currently specified topics
- Time limit to pronounce Advance Ruling reduced from 6 months to 3 months

Indirect Tax Budget Proposals
Amendment in Customs Act / Service Tax

- Amendment to the customs act to provide for valuation of warehoused goods, which are sold to another person before clearance for home consumption or export, for the purposes of Integrated Tax and Goods and Services Tax Compensation Cess.
- Presentation of Bill of entry/Shipping Bill/Bill of export can also be made through Customs Automated System for import and export of goods
- Provision made for clearance of goods by Customs Automated System in addition to existing system
- Provision for advance payment of duty under Electronic Cash Ledger introduced
- Provision to issue supplementary SCN introduced, subject to specified timelines and circumstances
- A new section inserted to empower the Board to prescribe regulations to provide trade facilitation measures or separate procedure or documentation for a class of importers or exporters or for categories of goods or on the basis of the modes of transport of goods for:
  - maintenance of transparency in import and export documentation and procedure
  - expeditious clearance or release of goods entered for import or export
  - reduction in the transaction cost of clearance of importing or exporting goods
  - maintenance of balance between customs control and facilitation of legitimate trade

Indirect Tax Budget Proposals

Amendment in Customs Act / Service Tax (Cont'd)

- Retrospective exemption of service tax on consideration paid to Government in the form of government's share of profit petroleum for the period commencing from 1st April 2016 and ending with 30th June, 2017. This retrospective amendment brings into closure a number of disputes around applicability of service tax on profit petroleum and is a beneficial move for Exploration and Production companies.

Indirect Tax Budget Proposals
Amendment in Customs Act

Custom Implications on motor spirit and high speed diesel

- Road and infrastructure cess is being imposed on imported motor spirit and high speed diesel at Rs. 8 per litre.
- Simultaneously, the additional duties of customs (road cess) of Rs. 6 on imported motor spirits and high speed diesel under customs is being abolished
- Additional duty of customs under section 3(1) of custom tariff Act on motor spirits and high speed diesel oil (branded and unbranded) is being reduced by Rs. 2 per litre.
- Education cess and higher education cess on imported goods is being abolished and social welfare surcharge on motor spirit and high speed diesel oil is being levied at the rate of 3% of aggregate of duties of customs

	Duty rates applicable prior to 01.02.2018				Duty rates applicable w.e.f 02.02.2018			
Product	Add duty u/s 3(1)	ACD (road cess)	SAED	Ed cess and Higher Edu Cess	Add duty u/s 3(1)	Road and infrastructure cess	SAED	Social welfare surcharge
Petrol (unbranded)	6.48	6	7	3%	4.48	8	7	3%
Petrol (branded)	7.66	6	7	3%	5.66	8	7	3%
Diesel (unbranded)	8.33	6	1	3%	6.33	8	1	3%
Diesel (branded)	10.69	6	1	3%	8.69	8	1	3%

Indirect Tax Budget Proposals
Amendment in Excise

Excise duty implications on motor spirit and high speed diesel

- Road and infrastructure cess is being imposed on motor spirit and high speed diesel at Rs. 8 per litre.
- Simultaneously, the additional duties of excise (road cess) on motor spirits and high speed diesel under excise is being abolished
- Further, the basic excise duty on motor spirits and high speed diesel oil (branded and unbranded) is being reduced by Rs. 2 per litre.
- Road and infrastructure cess on ethanol blended petrol and bio-diesel is proposed to be exempted subject to the condition that appropriate excise duties have been paid on petrol or diesel and appropriate GST has been paid on ethanol or bio-diesel used for making such blends
- Road and infrastructure cess on petrol and diesel manufactured and cleared from #4 specified refineries in the North-East to be levied at Rs. 4 per litre

	Duty rates applicable prior to 01.02.2018 [Rs. Per litre]				Duty rates applicable w.e.f 02.02.2018 [Rs. Per litre]			
Product	BED	AED (road cess)	SAED	Total ED	BED	Road and infrastructure cess	SAED	Total ED
Petrol (unbranded)	6.48	6	7	19.48	4.48	8	7	19.48
Petrol (branded)	7.66	6	7	20.66	5.66	8	7	20.66
Diesel (unbranded)	8.33	6	1	15.33	6.33	8	1	15.33
Diesel (branded)	10.69	6	1	17.69	8.69	8	1	17.69