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the India of today
Budget 2015

The Contents

Budget at Glance

Direct Tax Proposals

Indirect Taxes

Karnataka State Budget

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Budget Estimates

- Non-Plan expenditure estimates for the Financial Year are estimated at ₹13,12,200 crore.
- Plan expenditure is estimated to be ₹4,65,277 crore, which is very near to the R.E. of 2014-15.
- Total Expenditure has accordingly been estimated at ₹17,77,477 crore.
- The requirements for expenditure on Defence, Internal Security and other necessary expenditures are adequately provided.
- Gross Tax receipts are estimated to be ₹14,49,490 crore.
- Devolution to the States is estimated to be ₹5,23,958.
- Share of Central Government will be ₹9,19,842.
- Non Tax Revenues for the next fiscal are estimated to be ₹2,21,733 crore.
- Fiscal deficit will be 3.9 per cent of GDP and Revenue Deficit will be 2.8 per cent of GDP.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Tax Proposal

- Objective of stable taxation policy and a non-adversarial tax administration.
- Fight against the scourge of black money to be taken forward.
- Efforts on various fronts to implement GST from next year.
- No change in rate of personal income tax.
- Proposal to reduce corporate tax from 30% to 25% over the next four years, starting from next financial year.
- Rationalisation and removal of various tax exemptions and incentives to reduce tax disputes and improve administration.
- Broad themes:
    - Measures to curb black money;
    - Job creation through revival of growth and investment and promotion of domestic manufacturing – "Make in India" ;
    - Improve ease of doing business - Minimum Government and maximum governance;
    - Improve quality of life and public health – Swachh Bharat;
    - Benefit to middle class tax-payers; and
    - Stand-alone proposals to maximise benefit to the economy.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Key Features Of New Law On Black Money:

- Evasion of tax in relation to foreign assets to have a punishment of rigorous imprisonment upto 10 years, be non-compoundable, have a penalty rate of 300% and the offender will not be permitted to approach the Settlement Commission.
- Non-filing of return/filing of return with inadequate disclosures to have a punishment of rigorous imprisonment upto 7 years.
- Undisclosed income from any foreign assets to be taxable at the maximum marginal rate.
- Mandatory filing of return in respect of foreign asset.
- Entities, banks, financial institutions including individuals all liable for prosecution and penalty.
- Concealment of income/evasion of income in relation to a foreign asset to be made a predicate offence under PML Act, 2002.
- PML Act, 2002 and FEMA to be amended to enable administration of new Act on black money.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Measures to Curb Black Money:

- Generation of black money and its concealment to be dealt with effectively and forcefully.
- Investigation into cases of undisclosed foreign assets has been given highest priority in the last nine months.
- Major breakthrough with Swiss authorities, who have agreed to:
    - Provide information in respect of cases independently investigated by IT department;
    - Confirm genuineness of bank accounts and provide non-banking information;
    - Provide such information in time-bound manner; and
    - Commence talks for automatic exchange of information.
- New structure of electronic filing of statements by reporting entities to ensure seamless integration of data for more effective enforcement.
- Bill for a comprehensive new law to deal with black money parked abroad to be introduced in the current session.
- Key features of new law on black money:
    - Evasion of tax in relation to foreign assets to have a punishment of rigorous imprisonment upto 10 years, be non-compoundable, have a penalty rate of 300% and the offender will not be permitted to approach the Settlement Commission.
    - Non-filing of return/filing of return with inadequate disclosures to have a punishment of rigorous imprisonment upto 7 years.
    - Undisclosed income from any foreign assets to be taxable at the maximum marginal rate.
    - Mandatory filing of return in respect of foreign asset.
    - Entities, banks, financial institutions including individuals all liable for prosecution and penalty.
    - Concealment of income/evasion of income in relation to a foreign asset to be made a predicate offence under PML Act, 2002.
    - PML Act, 2002 and FEMA to be amended to enable administration of new Act on black money.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Measures to Curb Black Money:

- Benami Transactions (Prohibition) Bill to curb domestic black money to be introduced in the current session of Parliament.
- Acceptance or re-payment of an advance of ₹20,000 or more in cash for purchase of immovable property to be prohibited.
- PAN being made mandatory for any purchase or sale exceeding Rupees 1 lakh.
- Third party reporting entities would be required to furnish information about foreign currency sales and cross border transactions.
- Provision to tackle splitting of reportable transactions.
- Leverage of technology by CBDT and CBEC to access information from either's data bases.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Investment

- Foreign investments in Alternate Investment Funds to be allowed.
- Distinction between different types of foreign investments, especially between foreign portfolio investments and foreign direct investments to be done away with. Replacement with composite caps.
- A project development company to facilitate setting up manufacturing hubs in CMLV countries, namely, Cambodia, Myanmar, Laos and Vietnam.

Monetising Gold

- Gold monetisation scheme to allow the depositors of gold to earn interest in their metal accounts and the jewellers to obtain loans in their metal account to be introduced.
- Sovereign Gold Bond, as an alternative to purchasing metal gold scheme to be developed.
- Commence work on developing an Indian gold coin, which will carry the Ashok Chakra on its face.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Financial Market

- Public Debt Management Agency (PDMA) bringing both external and domestic borrowings under one roof to be set up this year.
- Enabling legislation, amending the Government Securities Act and the RBI Act included in the Finance Bill, 2015.
- Forward Markets commission to be merged with SEBI.
- Section-6 of FEMA to be amended through Finance Bill to provide control on capital flows as equity will be exercised by Government in consultation with RBI.
- Proposal to create a Task Force to establish sector-neutral financial redressal agency that will address grievance against all financial service providers.
- India Financial Code to be introduced soon in Parliament for consideration.
- Vision of putting in place a direct tax regime, which is internationally competitive on rates, without exemptions.
- Government to bring enabling legislation to allow employee to opt for EPF or New Pension Scheme. For employee's below a certain threshold of monthly income, contribution to EPF to be option, without affecting employees' contribution.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03. Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Others

- Micro Units Development Refinance Agency (MUDRA) Bank, with a corpus of ₹20,000 crores, and credit guarantee corpus of ₹3,000 crores to be created.
- MUDRA Bank will be responsible for refinancing all Micro-finance Institutions which are in the business of lending to such small entities of business through a Pradhan Mantri Mudra Yojana.
- A Trade Receivables discounting System (TReDS) which will be an electronic platform for facilitating financing of trade receivables of MSMEs to be established.
- Comprehensive Bankruptcy Code of global standards to be brought in fiscal 2015-16 towards ease of doing business.
- NBFCs registered with RBI and having asset size of ₹500 crore and above may be considered for notifications as 'Financial Institution' in terms of the SARFAESI Act, 2002.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Direct Taxes

I. Personal Taxation
II. Taxation of Firm and LLP – Rates of Taxes
III. Corporate Taxation and DDT
IV. Taxation of Profits and Gains from Business and Profession
V. Taxation of Charitable Institutions
VI. Capital Gains
VII. TDS and TCS Provisions
VIII. International Taxation
IX. Assessment Procedure, penalties and prosecution
X. Misc. Provisions

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Personal Taxation

A. Rates of Taxes

The rates of taxes remain unchanged in case of for individuals/HUF.

Tax rates for Individuals/HUF

Income Slabs (₹)	Rate of Tax (%)
Upto 2,50,000	NIL
2,50,001 – 5,00,000	10
5,00,001 – 10,00,000	20
10,00,001 and above	30

Notes:

- For resident senior citizens of 60 years but less than 80 years of age, the basic exemption limit is ₹300,000.
- For resident very senior citizens of 80 years or more, the basic exemption limit remains unchanged at ₹500,000.
- Surcharge of 12% (against 10% for FY 2014-15) on taxable income above ₹10 million will be levied.
- Education cess will continue to be levied at the rate of 3% of Income Tax (including surcharge).

The proposed provisions will be applicable from the financial year 2015-16.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Personal Taxation

B. Tax benefits under section 80C for the girl child under the Sukanya Samriddhi Account Scheme

Currently, investment in Sukanya Samriddhi Scheme is eligible for deduction subject to limits applicable under section 80C of the Act (₹150,000) in respect of subscription to such scheme made in the name of the individual taxpayer.

It is proposed that such subscription can be made even in the name of a girl child of the individual taxpayer or in the name of a girl child of whom taxpayer is the legal guardian.It is also proposed that any payment received from the account opened in accordance with the scheme will be exempt from tax.

The proposed amendments will be retrospectively effective from financial year 2014-15.

C. Amendment in section 80D relating to deduction in respect of health insurance premia

Health Insurance Premia	Existing Limit	Proposed Limit
Non Senior Citizen	Rs. 15,000	Rs. 25,000
Senior citizen	Rs. 20,000	Rs. 30,000
Very senior citizen (above 80 years) where no 80D is available		Rs. 30,000 – medical expenditure

These amendments will take effect from the 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Personal Taxation

D. Raising the limit of deduction under section 80DDB

Currently, deduction of Rs. 40,000 is allowed to a resident individual for self or dependent and Rs. 60,000 for senior citizen for specified medical treatment only when a certificate is obtained from a specialist in a Government hospital and is furnished with the return of income.

The above limits will remain the same and it is proposed to increase the limit to Rs. 80,000 in case of medical treatment of a very senior citizen. It is further proposed to do way with the requirement of furnishing the certificate and a prescription in prescribed form for such treatment from a specialist is to be obtained.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

E. Raising the limit of deduction under section 80DD and 80U for persons with disability and severe disability

	Existing Limit	**Proposed Limit**
Disability	Rs. 50,000	Rs. 75,000
Severe disability	Rs. 1,00,000	Rs. 1,25,000

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Personal Taxation

F. Raising the limit of deduction under 80CCC

Currently, deduction upto Rs. 100,000 is allowed in respect of contributions made to specified pension funds. It is proposed to increase the limit of such deduction to Rs. 150,000.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

G. Additional deduction under 80CCD

Currently, deduction is allowed for contribution to notified pension scheme of Central Government upto 10% of salary or 10% of the gross total income. This was limited to Rs. 100,000, which is now proposed to be removed. It is now proposed that an additional Rs. 50,000 savings be subject to deduction in addition to the overall limit of savings under section 80C, 80CCC and 80CCD (1).

H. Enabling of filing of Form 15G/15H for payment made under life insurance policy

The Finance (No.2) Act, 2014, inserted section 194DA in the Act with effect from 1.10.2014 to provide for deduction of tax at source at the rate of 2% from payments made under life insurance policy, which are chargeable to tax. It has been further provided that no deduction shall be made if the aggregate amount of payment during a financial year is less than Rs. 1,00,000. In spite of providing high threshold for deduction of tax under this section, there may be cases where the tax payable on recipient's total income, including the payment made under life insurance, will be nil. The existing provisions of section 197A of the Act inter alia provide that tax shall not be deducted, if the recipient of the certain payment on which tax is deductible furnishes to the payer a self-declaration in prescribed Form No.15G/15H declaring

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Personal Taxation

that the tax on his estimated total income of the relevant previous year would be nil. It is, therefore, proposed to amend the provisions of section 197A for making the recipients of payments referred to in section 194DA also eligible for filing self-declaration in Form No.15G/15H for non-deduction of tax at source in accordance with the provisions of section 197A.

This amendment will take effect from 1st June, 2015.

I. Determination of residential status of an Indian citizen working on a foreign ship
It is proposed that for determining the residential status of an individual, being a citizen of India and crew member of a foreign bound ship leaving India, manner and basis of computing the period of stay in India in respect of voyage shall be prescribed. The proposed amendments will be retrospectively effective from financial year 2014-15.

J. Exemption for transport allowance
Exemption for transport allowance is to be increased from Rs. 800 per month to Rs. 1,600 per month as per the Finance Minister's speech.

K. Collation of proof by the employer for providing deduction from salary income
Currently, there is no uniformity regarding the documents to be obtained from the employee for allowing deductions, exemptions and set-off of losses while computing the tax to be deducted. It is proposed that the employer, prior to allowing deductions or exemptions, will obtain the proofs from the employee in a form and manner as may be prescribed. The proposed amendment will be effective from 1 June 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Rates of Taxes - Taxation of Firm / LLP / Co Operative Society / Local Authority

The rates of taxation and surcharge are unchanged for Firm / LLP / Co Operative Society / Local Authority.

The amount of income-tax shall be increased by a surcharge at the rate of twelve percent of such income-tax in case of a firm / LLP / Co Operative Society / Local Authority having a total income exceeding one crore rupees.

However, the total amount payable as income-tax and surcharge on total income exceeding one crore rupees shall not exceed the total amount payable as income-tax on a total income of one crore rupees by more than the amount of income that exceeds one crore rupees.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Corporate Taxation

A. Rates of Taxation

Corporate tax rates for domestic companies proposed to be reduced from 30% to 25% over the next four years, starting from FY 2015-16.

Tax rates for foreign companies remain unchanged.

B. Surcharge

Particulars	Existing	Proposed
Domestic Company		
Income exceeding Rs. 10 million	5%	7%
Income exceeding Rs. 100 million	10%	12%
Foreign Company		
Income exceeding Rs. 10 million	2%	2%
Income exceeding Rs. 100 million	5%	5%

It is also proposed to levy a surcharge @12% as against current rate of 10% on additional income-tax payable by companies on distribution of dividends and buyback of shares, or by mutual funds and securitisation trusts on distribution of income.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Corporate Taxation

C. Rationalising the provisions of section 115JB

The existing provisions contained in section 115JB of the Act provide that in the case of a company, if the tax payable on the total income as computed under the Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2012, is less than eighteen and one-half percent of its book profit, such book profit shall be deemed to be the total income of the assessee and the tax payable for the relevant previous year shall be eighteen and one-half percent of its book profit. This tax is termed as minimum alternate tax (MAT). Explanation below sub-section (2) of section 115JB provides that the expression "book profit" means net profit as shown in the profit and loss account prepared in accordance with the provisions of the Companies Act, or in accordance with the provisions of the Act governing a company as increased or reduced by certain adjustments, as specified in the section.

Section 86 of the Act provides that no income-tax is payable on the share of a member of an AOP, in the income of the AOP in certain circumstances. However, under the present provisions, a company which is a member of an AOP is liable to MAT on such share also since such income is not excluded from the book profit while computing the MAT liability of the member. In the case of a partner of a firm, the share in the profits of the firm is exempt in the hands of the partner as per section 10(2A) of the Act and no MAT is payable by the partner on such profits.

In view of the above, it is proposed to amend the section 115JB so as to provide that the share of a member of an AOP, in the income of the AOP, on which no income–tax is payable in accordance with the provisions of section 86 of the Act, should be excluded while computing the MAT liability of the member under 115JB of the Act. The expenditures, if

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Corporate Taxation

any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT.

Further, vide Finance Act (No.2), 2014 it was provided that any securities held by a Foreign Institutional Investor which has invested in such securities in accordance with the regulations made under the Securities and Exchange Board of India Act, 1992 would be capital asset. Consequently, the income arising to a Foreign Institutional Investor from transactions in securities would always be in the nature of capital gains.

It is, therefore, proposed to amend the provisions of section 115JB so as to provide that income from transactions in securities (other than short term capital gains arising on transactions on which securities transaction tax is not chargeable) arising to a Foreign Institutional Investor, shall be excluded from the chargeability of MAT and the profit corresponding to such income shall be reduced from the book profit. The expenditures, if any, debited to the profit loss account, corresponding to such income (which is being proposed to be excluded from the MAT liability) are also proposed to be added back to the book profit for the purpose of computation of MAT.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IV. Taxation of Profits and Gains from Business and Profession

A. Mode of taking or accepting certain loans, deposits and specified sums and mode of repayment of loans or deposits and specified advances

The existing provisions contained in section 269SS of the Income-tax Act provide that no person shall take from any person any loan or deposit otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, if the amount of such loan or deposit is twenty thousand rupees or more. However, certain exceptions have been provided in the section. Similarly, the existing provisions contained in section 269T of the Income-tax Act provide that any loan or deposit shall not be repaid, otherwise than by an account payee cheque or account payee bank draft or online transfer through a bank account, by the persons specified in the section if the amount of loan or deposit is twenty thousand rupees or more.

In order to curb generation of black money by way of dealings in cash in immovable property transactions it is proposed to amend section 269SS/269T, of the Income-tax Act so as to provide that no person shall accept/repay from/to any person any loan or deposit or any sum of money, whether as advance or otherwise, in relation to transfer of an immovable property otherwise than by an account payee cheque or account payee bank draft or by electronic clearing system through a bank account, if the amount of such loan or deposit or such specified sum is twenty thousand rupees or more.

It is further proposed to make consequential amendments in section 271D and section 271E to provide penalty for failure to comply with the amended provisions of section 269SS and 269T, respectively.

These amendments will take effect from 1st day of June, 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IV. Taxation of Profits and Gains from Business and Profession

B. Incentives for the State of Andhra Pradesh and the State of Telangana

It is proposed to insert a new section 32AD in the Act to provide for an additional investment allowance of an amount equal to 15% of the cost of new asset acquired and installed by an assessee, if—

(a) He sets up an undertaking or enterprise for manufacture or production of any article or thing on or after 1st April, 2015 in any notified backward areas in the State of Andhra Pradesh and the State of Telangana; and
(b) the new assets are acquired and installed for the purposes of the said undertaking or enterprise during the period beginning from the 1st April, 2015 to 31st March, 2020.

This deduction shall be available over and above the existing deduction available under section 32AC of the Act.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

C. Deduction for employment of new workmen

The existing provisions contained in section 80JJAA of the Act, inter alia, provide for deduction to an Indian company, deriving profits from manufacture of goods in a factory. The quantum of deduction allowed is equal to thirty per cent of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IV. Taxation of Profits and Gains from Business and Profession

With a view to encourage generation of employment, it is proposed to amend the section so as **to extend the benefit to all assessees having manufacturing units** rather than restricting it to corporate assessees only. Further, in order to enable the smaller units to claim this incentive, it is proposed to extend the benefit under the section to units employing even 50 instead of 100 regular workmen.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

D. Allowance of balance 50% additional depreciation

To encourage investment in plant or machinery by the manufacturing and power sector, additional depreciation of 20% of the cost of new plant or machinery acquired and installed is allowed under the existing provisions of section 32(1)(iia) of the Act over and above the general depreciation allowance. On the lines of allowability of general depreciation allowance, the second proviso to section 32(1) inter alia provides that the additional depreciation would be restricted to 50% when the new plant or machinery acquired and installed by the assessee, is put to use for the purposes of business or profession for a period of less than one hundred and eighty days in the previous year. Non-availability of full 100% of additional depreciation for acquisition and installation of new plant or machinery in the second half of the year may motivate the assessee to defer such investment to the next year for availing full 100% of additional depreciation in the next year. To remove the discrimination in the matter of allowing additional depreciation on plant or machinery used for less than 180 days and used for 180 days or more, it is proposed to provide that the balance 50% of the additional depreciation on new plant or machinery acquired and used for less than 180 days which has not been allowed in the year of acquisition and installation of such plant or machinery, shall be allowed in the

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IV. Taxation of Profits and Gains from Business and Profession

immediately succeeding previous year.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

E. Clarification regarding deduction of tax from payments made to transporters

Currently, tax is not required to be deducted on payments made to contractors of plying, hiring and leasing of goods carriage if the contractors furnish their PAN.

It is proposed to be clarified that the said TDS exemption is only available to transporters which own ten or less goods carriages at any time during the previous year and furnish declaration to this effect along with PAN to the payer.

This amendment is effective from 1 June 2015.

F. Prescribed conditions relating to maintenance of accounts, audit etc to be fulfilled by the approved in-house R&D facility

Section 35(2AB) provides for 200% weighted deduction in relation to expenditure incurred on approved in-house R&D facility, subject to conditions.

It is proposed that to avail the benefit, the company shall have to fulfil such conditions with regard to maintenance of accounts and audit thereof and furnishing of reports in such manner as may be prescribed.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

V. Taxation of Charitable Institutions

a. Rationalisation of definition of charitable purpose in the Income-tax Act

The definition of the term charitable purpose is proposed to be broadened to include "yoga" as a separate category on the lines of education and medical relief.

It is, proposed to amend the definition of charitable purpose to provide that the advancement of any other object of general public utility shall not be a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity, unless,-

(I) such activity is undertaken in the course of actual carrying out of such advancement of any other object of general public utility; and

(ii) the aggregate receipts from such activity or activities, during the previous year, do not exceed twenty percent. of the total receipts, of the trust or institution undertaking such activity or activities, for the previous year .

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

b. Furnishing of return of income by certain universities and hospitals referred to in section 10 (23C) of the Act

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

V. Taxation of Charitable Institutions

Under the provisions of section 10 of the Act, exemption under sub-clause (iiiab) and (iiiac) of clause (23C), subject to specified conditions, is available to such university or educational institution, hospital or other institution which is wholly or substantially financed by the Government.

Under the existing provisions of section 139, all entities whose income is exempt under clause (23C) of section 10, other than those referred to in sub-clauses (iiiab) and (iiiac) of the said clause, are mandatorily required to file their return of income.

It is proposed to amend the Act in order to provide that entities covered under clauses (iiiab) and (iiiac) of clause (23C) of section 10 shall be mandatorily required to file their return of income.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

c. One hundred per cent deduction for National Fund for Control of Drug Abuse

The National Fund for Control of Drug Abuse is a fund created by the Government of India in the year 1989, under the Narcotic Drugs and Psychotropic Substances Act, 1985. Since National Fund for Control of Drug Abuse is also a Fund of national importance, it is proposed amend section 80G so as to provide hundred percent. deduction in respect of donations made to the said National Fund for Control of Drug Abuse.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

V. Taxation of Charitable Institutions

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

d. Tax benefits for Swachh Bharat Kosh and Clean Ganga Fund

Considering the importance of Swachh Bharat Kosh and Clean Ganga Fund, it is also proposed to amend section 10(23C) of the Act so as to exempt the income of Swachh Bharat Kosh and Clean Ganga Fund from income-tax.

These amendments will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to assessment year 2015-16 and subsequent assessment years.

e. Rationalisation of provisions of section 11 relating to accumulation of Income by charitable trusts and institutions

Under the provisions of section 11 of the Act, the primary condition for grant of exemption to trust or institution in respect of income derived from property held under such trust is that the income derived from property held under trust should be applied for the charitable purposes in India. Where such income cannot be applied during the previous year, it has to be accumulated and applied for such purposes in accordance with various conditions provided in the section. While 15% of the income can be accumulated indefinitely by the trust or institution, 85% of income can only be accumulated for a period not exceeding 5 years subject to the conditions that such person submits the prescribed Form 10 to the assessing Officer in this regard and the money so accumulated or set apart is invested or deposited in the specified forms or modes. If the accumulated income is not applied in accordance with these conditions, then such income is deemed to be taxable income of the trust or institution. In order to remove the ambiguity regarding the

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

V. Taxation of Charitable Institutions

period within which the assessee is required to file Form 10, and to ensure due compliance of the above conditions within time, it is proposed to amend the Act to provide that the said Form shall be filed before the due date of filing return of income specified under section 139 of the Act for the fund or institution. In case the Form 10 is not submitted before this date, then the benefit of accumulation would not be available and such income would be taxable at the applicable rate. Further, the benefit of accumulation would also not be available if return of income is not furnished before the due date of filing return of income.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VI. Capital Gains

A. Tax neutrality on merger of similar schemes of Mutual Funds

It is proposed that the transfer of a units held by an assessee in a consolidating scheme of mutual funds will be considered as an exempt transfer provided the consolidation is of two or more schemes of an equity oriented fund or two or more schemes of a fund other than an equity oriented fund.

It is also proposed that the period for which the units were held in the earlier scheme will be included for the purpose of calculating the holding period of units in the consolidating scheme. Further, it is proposed that the cost of acquisition of the units transferred will be the cost of acquisition in a consolidating scheme.

These amendments will take effect from 1st April, 2016 and will accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

B. Cost of acquisition of a capital asset in the hands of resulting company to be the cost for which the demerged company acquired the capital asset

The existing provisions of the Income Tax Act do not have express provisions to determine the cost of acquisition of assets in the course of a demerger. It has been proposed that the cost of the asset in the hands of the resulting company should be cost of such asset in the hands of the demerged company as increased by the cost of improvement, if any, incurred by the demerged company. This amendment will not be applicable to depreciable assets.

This amendment will take effect from 1st April, 2016 and will accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VII. TDS and TCS Provisions

A. Relaxing the requirement of obtaining TAN for certain deductors

Under the provisions of section 203A of the Act, every person deducting tax (deductor) or collecting tax (collector) is required to obtain Tax Deduction and Collection Account Number (TAN) and quote the same for reporting of tax deduction/collection to the Income-tax Department. However, currently, for reporting of tax deducted from payment over a specified threshold made for acquisition of immovable property (other than rural agricultural land) from a resident transferor under section 194-IA of the Act, the deductor is not required to obtain and quote TAN and he is allowed to report the tax deducted by quoting his Permanent Account Number (PAN).

The obtaining of TAN creates a compliance burden for those individuals or Hindu Undivided Family (HUF) who are not liable for audit under section 44AB of the Act. The quoting of TAN for reporting of Tax Deducted at Source (TDS) is a procedural matter and the same result can also be achieved in certain cases by mandating quoting of PAN especially for the transactions which are likely to be one time transaction such as single transaction of acquisition of immovable property from non-resident by an individual or HUF on which tax is deductible under section 195 of the Act. To reduce the compliance burden of these types of deductors, it is proposed to amend the provisions of section 203A of the Act so as to provide that the requirement of obtaining and quoting of TAN under section 203A of the Act shall not apply to the notified deductors or collectors.

This amendment will take effect from 1st June, 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VII. TDS and TCS Provisions

B. Extension of eligible period of concessional tax rate under section 194LD

The existing provisions of section 194LD of the Act, provide for lower withholding tax at the rate of 5 percent in case of interest payable at any time on or after the 1st day of June, 2013 but before the 1st day of June, 2015 to FIIs and QFIs on their investments in Government securities and rupee denominated corporate bonds provided that the rate of interest does not exceed the rate notified by the Central Government in this regard.

The limitation date of the eligibility period for benefit of reduced rate of tax available under section 194LC in respect of external commercial borrowings (ECB) has been extended from 30th June, 2015 to 30th June, 2017 by Finance (No.2) Act, 2014.

C. Rationalisation of provisions relating to deduction of tax on interest (other than interest on securities)

Currently, some co-operative banks do not deduct TDS on payment of interest to depositors, in respect of interest on time deposits, claiming the benefit of general exemptions which are applicable on payments made by co-operative societies to its members. It is proposed to expressly provide that the general exemption as mentioned above will not be available in respect of payment of interest on time deposits by co-operative banks to its members.

- TDS provisions are proposed to apply in respect of interest on 'recurring deposits'.
- Currently, the computation of interest threshold limit of Rs. 10,000 for deduction of TDS by a banking company or co-operative bank or a public company is made branch-wise. It is proposed that such computation will now be made by aforesaid entities (and not branch-wise) which has adopted core banking solutions.
- The existing provisions provide for deduction of TDS from interest paid or credited exceeding Rs. 50,000 on

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VII. TDS and TCS Provisions

compensation received from Motor Accident Claim Tribunal, whichever is earlier. It is proposed that TDS shall be made at the time of payment of such interest in a financial year exceeding Rs. 50,000.

This amendment is effective from 1 June 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

A. Fund Managers in India not to constitute business connection of offshore funds

The existing provisions of section 9 of the Act deal with cases of income which are deemed to accrue or arise in India. Section 9(1)(i) provides a set of circumstances in which income is deemed to accrue or arise in India, and is taxable in India. One of the conditions for the income of a non-resident to be deemed to accrue or arise in India is the existence of a business connection in India. Once such a business connection is established, income attributable to the activities which constitute business connection becomes taxable in India. Similarly, under Double Taxation Avoidance Agreements (DTAAs), the source country assumes taxation rights on certain incomes if the non-resident has a Permanent Establishment (PE) in that country.

Further, section 6 of the Act provides for conditions under which a person is said to be resident in India. In the case of a person other than an individual, the test is dependent upon the location of its "control and management".

In the case of off-shore funds, under the existing provisions, the presence of a fund manager in India may create sufficient nexus of the off-shore fund with India and may constitute a business connection in India even though the fund manager may be an independent person. Similarly, if the fund manager located in India undertakes fund management activity in respect of investments outside India for an off-shore fund, the profits made by the fund from such investments may be liable to tax in India due to the location of fund manager in India and attribution of such profits to the activity of the fund manager undertaken on behalf of the off-shore fund. Therefore, apart from taxation of income received by the fund manager as fees for fund management activity, income of off-shore fund from investments made in countries outside India may also get taxed in India due to such fund management activity undertaken in, and

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

from, India constituting a business connection. Further, presence of the fund manager under certain circumstances may lead to the off shore fund being held to be resident in India on the basis of its control and management being in India. There are a large number of fund managers who are of Indian origin and are managing the investment of offshore funds in various countries. These persons are not locating in India due to the above tax consequence in respect of income from the investments of offshore funds made in other jurisdictions.

In order to facilitate location of fund managers of off-shore funds in India a specific regime has been proposed in the Act in line with international best practices with the objective that, subject to fulfilment of certain conditions by the fund and the fund manager,-

(I) the tax liability in respect of income arising to the Fund from investment in India would be neutral to the fact as to whether the investment is made directly by the fund or through engagement of Fund manager located in India; and

(ii) that income of the fund from the investments outside India would not be taxable in India solely on the basis that the Fund management activity in respect of such investments have been undertaken through a fund manager located in India.

The proposed regime provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager acting on behalf of such fund shall not constitute business connection in India of the said fund.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

Further, it is proposed that an eligible investment fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India. This specific exception from the general rules for determination of business connection and 'resident status' of off-shore funds and fund management activity undertaken on its behalf is subject to the following:-

(1) The offshore fund shall be required to fulfil the following conditions during the relevant year for being an eligible investment fund:

(i) the fund is not a person resident in India;

(ii) the fund is a resident of a country or a specified territory with which an agreement referred to in sub-section (1) of section 90 or sub-section (1) of section 90A has been entered into;

(iii) the aggregate participation or investment in the fund, directly or indirectly, by persons being resident in India does not exceed five percent. of the corpus of the fund;

(iv) the fund and its activities are subject to applicable investor protection regulations in the country or specified territory where it is established or incorporated or is a resident ;

(v) the fund has a minimum of twenty five members who are, directly or indirectly, not connected persons;

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

(vi) any member of the fund along with connected persons shall not have any participation interest, directly or indirectly, in the fund exceeding ten percent.;

(vii) the aggregate participation interest, directly or indirectly, of ten or less members along with their connected persons in the fund, shall be less than fifty percent. ;

(viii) the investment by the fund in an entity shall not exceed twenty percent of the corpus of the fund;

(ix) no investment shall be made by the fund in its associate entity;

(x) the monthly average of the corpus of the fund shall not be less than one hundred crore rupees and if the fund has been established or incorporated in the previous year, the corpus of fund shall not be less than one hundred crore rupees at the end of such previous year;

(xi) the fund shall not carry on or control and manage, directly or indirectly, any business in India or from India;

(xii) the fund is neither engaged in any activity which constitutes a business connection in India nor has any person acting on its behalf whose activities constitute a business connection in India other than the activities undertaken by the eligible fund manager on its behalf.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

(xiii) the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken on its behalf is not less than the arm's length price of such activity.

(2) The following conditions shall be required to be satisfied by the person being the fund manager for being an eligible fund manager:

(I) the person is not an employee of the eligible investment fund or a connected person of the fund;
(ii) the person is registered as a fund manager or investment advisor in accordance with the specified regulations;
(iii) the person is acting in the ordinary course of his business as a fund manager;
(iv) the person along with his connected persons shall not be entitled, directly or indirectly, to more than twenty percent of the profits accruing or arising to the eligible investment fund from the transactions carried out by the fund through such fund manager.

It is further proposed that every eligible investment fund shall, in respect of its activities in a financial year, furnish within ninety days from the end of the financial year, a statement in the prescribed form to the prescribed income-tax authority containing information relating to the fulfilment of the above conditions or any information or document which may be prescribed. In case of non-furnishing of the prescribed information or document or statement, a penalty of Rs. 5 lakh shall be leviable on the fund.

It is also proposed to clarify that this regime shall not have any impact on taxability of any income of the eligible

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

investment fund which would have been chargeable to tax irrespective of whether the activity of the eligible fund manager constituted the business connection in India of such fund or not. Further, the proposed regime shall not have any effect on the scope of total income or determination of total income in the case of the eligible fund manager.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

B. Reduction in rate of tax on Income by way of Royalty and Fees for technical services in case of non-residents

The existing provisions of section 115A of the Act provide that in case of a non-resident taxpayer, where the total income includes any income by way of Royalty and Fees for technical services (FTS) received by such non-resident from Government or an Indian concern after 31.03.1976, and which is not effectively connected with permanent establishment, if any, of the non-resident in India, tax shall be levied at the rate of 25% on the gross amount of such income. This rate of 25% was provided by Finance Act, 2013.

In order to reduce the hardship faced by small entities due to high rate of tax of 25%, it is proposed to amend the Act to reduce the rate of tax provided under section 115A on royalty and FTS payments made to non-residents to 10%.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

C. Enabling the Board to notify rules for giving foreign tax credit

Sub-section (1) of section 91 of the Income-tax Act provides for relief in respect of income-tax on the income which is taxed in India as well as in the country with which there is no Double Taxation Avoidance Agreement (DTAA). It provides that an Indian resident is entitled to a deduction from the Indian income-tax of a sum calculated on such doubly taxed income, at the Indian rate of tax or the rate of tax of said country, whichever is lower. In cases of countries with which India has entered into an agreement for the purposes of avoidance of double taxation under section 90 or section 90A, a relief in respect of income-tax on doubly taxed income is available as per the respective DTAAs.

The Income-tax Act does not provide the manner for granting credit of taxes paid in any country outside India.

Accordingly, it is proposed to amend section sub-section (2) of section 295 of the Income-tax Act so as to provide that CBDT may make rules to provide the procedure for granting relief or deduction, as the case may be, of any income-tax paid in any country or specified territory outside India, under section 90, or under section 90A, or under section 91, against the income-tax payable under the Act.

This amendment will take effect from 1st day of June, 2015.

D. Clarity regarding source rule in respect of interest received by the non-resident in certain cases

There is no specific provision in the Income Tax Act dealing with interest payments from an Indian branch to foreign head office or foreign branches, especially in case of banks.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

It is proposed to provide that in case of a non-resident engaged in business of banking, any interest payable by the PE in India to its head office, other branches or any other part of the non-resident outside India shall be deemed to accrue and arise in India.

Consequently, such interest income will be taxable in India in the hands of the head office in addition to any other income attributable to the PE in India.

It is further proposed that the PE in India and the non-resident will deemed to be separate persons. Therefore, provisions relating to computation of total income, determination of tax and withholding tax will apply accordingly.

These amendments shall be effective from 1st April, 2016 and will, accordingly, apply to the assessment year 2016-17 and subsequent assessment years.

E. Amendment to the conditions for determining residency status in respect of Companies

The existing provisions of section 6 of the Act provides for the conditions under which a person can be said to be resident in India for a previous year. In respect of a person being a company the conditions are contained in clause (3) of section 6 of the Act. Under the said clause, a company is said to be resident in India in any previous year, if-

(I) it is an Indian company; or
(ii) during that year, the control and management of its affairs is situated wholly in India.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

Due to the requirement that whole of control and management should be situated in India and that too for whole of the year, the condition has been rendered to be practically inapplicable. A company can easily avoid becoming a resident by simply holding a board meeting outside India. This facilitates creation of shell companies which are incorporated outside but controlled from India. 'Place of effective management' (POEM) is an internationally recognized concept for determination of residence of a company incorporated in a foreign jurisdiction. Most of the tax treaties entered into by India recognise the concept of 'place of effective management' for determination of residence of a company as a tie-breaker rule for avoidance of double taxation. Many countries prefer the POEM test to be appropriate test for determination of residence of a company. The principle of POEM is recognized and accepted by Organisation of Economic Cooperation and Development (OECD) also. The OECD commentary on model convention provides definition of place of effective management to mean the place where key management and commercial decisions that are necessary for the conduct of the entity's business as a whole, are, in substance, made.

The modification in the condition of residence in respect of company by including the concept of effective management would align the provisions of the Act with the Double Taxation Avoidance Agreements (DTAAs) entered into by India with other countries and would also be in line with international standards. It would also be a measure to deal with cases of creation of shell companies outside India but being controlled and managed from India.

In view of the above, it is proposed to amend the provisions of section 6 to provide that a person being a company shall be said to be resident in India in any previous year, if-

(i) it is an Indian company; or

(ii) its place of effective management, at any time in that year, is in India .

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

VIII. International Taxation

Further, it is proposed to define the place of effective management to mean a place where key management and commercial decisions that are necessary for the conduct of the business of an entity as a whole are, in substance made.

Since POEM is an internationally well accepted concept, there are well recognised guiding principles for determination of POEM although it is a fact dependent exercise. However, it is proposed that in due course, a set of guiding principles to be followed in determination of POEM would be issued for the benefit of the taxpayers as well as, tax administration.

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

F. Furnishing of information relating to foreign remittance

Currently, a person responsible for paying to a non-resident any sum chargeable to tax is required to furnish information as prescribed. It is now proposed to extend the requirement to provide the information in respect of payments to non-residents, whether the sum payable is chargeable to tax or not.

Further, it is also proposed to levy a penalty of Rs. 100,000 for failure to furnish information or furnishing of inaccurate information, if there is no reasonable cause for the failure.

The proposed amended is effective from 1 June 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IX. Assessment Procedure, Penalties and Prosecution

A. Raising the income-limit of the cases that may be decided by single member bench of ITAT

The existing provision contained in sub-section (3) of section 255 of the Income-tax Act provides for constitution of a single member bench and a Special Bench. It provides that single member bench may dispose of any case which pertains to an assessee whose total income as computed by the Assessing Officer does not exceed five lakh rupees. The limit of five lakh rupees for a single member bench was last revised in 1998.

Accordingly, it is proposed to amend sub-section (3) of section 255 of the Income-tax Act so as to provide that a bench constituted of a single member may dispose of a case where the total income as computed by the Assessing Officer does not exceed fifteen lakh rupees.

This amendment will take effect from 1st day of June, 2015.

B. Procedure for appeal by revenue when an identical question of law is pending before Supreme Court

Currently, the assessee has an option to submit a claim before the Assessing Officer or appellate authorities to keep the proceedings in abeyance and apply the decision of the High Court/Supreme Court when such order is issued in the assessee's own case for previous years. There are no corresponding provisions for tax authorities to not file an appeal for subsequent years where the department is in appeal on the same question of law for an earlier year.

It is proposed that the tax authorities can file an application with the Tribunal (with acceptance from the tax payer) in prescribed form stating that the appeal may be filed when the decision on the identical question of law pending before

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IX. Assessment Procedure, Penalties and Prosecution

the Supreme Court becomes final. Further, where the order of the Commissioner of Income Tax (Appeals) is not in conformity with the final order of the Supreme Court (Supreme Court decides in favour of the Department), the tax authorities can file an appeal before the Tribunal within 60 days from the date of communication of the order to the tax authorities. If the acceptance is not received from the tax payer, the tax authorities can file the appeal before the Tribunal in the normal course of an appeal.

This amendment is effective from 1 June 2015.

C. Certain accountants not to give reports/certificates

Currently, section 288 defines the accountant, who can furnish audit reports and issue certificates for ensuring correct reporting and computation of taxable income by the tax payers.

In order to ensure the independence of the accountant, it is proposed to exclude certain related specified persons, except for purposes of representing the tax payer, from the definition of accountant. In the case of a company this includes a person who is not eligible for appointment as an auditor in accordance with section 141(3) of the Companies Act, 2013.

This amendment will be applicable from 1 June 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IX. Assessment Procedure, Penalties and Prosecution

D. Assessment of income of a person other than the person in whose case search has been initiated or books of account, other documents or assets have been requisitioned.

Section 153C of the Act relates to assessment of income of any other person. The existing provisions contained in sub-section (1) of the said section 153C provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing or books of account or documents seized or requisitioned belong to any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

Disputes have arisen as to the interpretation of the words "belongs to" in respect of a document as for instance when a given document seized from a person is a copy of the original document. Accordingly, it is proposed to amend the aforesaid section to provide that notwithstanding anything contained in section 139, section 147, section 148, section 149, section 151 and section 153, where the Assessing Officer is satisfied that any money, bullion, jewellery or other valuable article or thing belongs to, or any books of account or documents seized or requisitioned pertain to, or any information contained therein, relates to, any person, other than the person referred to in section 153A, then the books of account or documents or assets seized or requisitioned shall be handed over to the Assessing Officer having jurisdiction over such other person and that Assessing Officer shall proceed against each such other person and issue such other person notice and assess or reassess income of such other person in accordance with the provisions of section 153A.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IX. Assessment Procedure, Penalties and Prosecution

This amendment will take effect from the 1st day of June, 2015.

E. Simplification of approval regime for issue of notice for re-assessment

Section 151 of the Act provides for sanction from certain authorities before issue of notice for reassessment of income under section 148. Under certain specified circumstances, the Assessing Officer is required to obtain sanction before issue of notice under section 148. Section 151 specifies different sanctioning authorities based on- (i) whether scrutiny under sub-section (3) of section 143 or section 147 has been made earlier or not, (ii) whether notice is proposed to be issued within or after four years from the end of relevant assessment year, and (iii) the rank of the Assessing Officer proposing to issue notice.

To bring simplicity, it is proposed to provide that no notice under section 148 shall be issued by an assessing officer upto four years from the end of relevant assessment year without the approval of Joint Commissioner and beyond four years from the end of relevant assessment year without the approval of the Principal Chief Commissioner or Chief Commissioner or Principal Commissioner or Commissioner.

This amendment will take effect from 1st day of June, 2015.

F. Revision of order that is erroneous in so far as it is prejudicial to the interests of revenue

The existing provisions contained in sub-section (1) of section 263 of the Income-tax Act provides that if the Principal Commissioner or Commissioner considers that any order passed by the assessing officer is erroneous in so far as it is

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IX. Assessment Procedure, Penalties and Prosecution

prejudicial to the interests of the Revenue, he may, after giving the assessee an opportunity of being heard and after making an enquiry pass an order modifying the assessment made by the assessing officer or cancelling the assessment and directing fresh assessment.

The interpretation of expression "erroneous in so far as it is prejudicial to the interests of the revenue" has been a contentious one.

In order to provide clarity on the issue it is proposed to provide that an order passed by the Assessing Officer shall be deemed to be erroneous in so far as it is prejudicial to the interests of the revenue, if, in the opinion of the Principal Commissioner or Commissioner,–

(a) the order is passed without making inquiries or verification which, should have been made;
(b) the order is passed allowing any relief without inquiring into the claim;
(c) the order has not been made in accordance with any order, direction or instruction issued by the Board under section 119; or
(d) the order has not been passed in accordance with any decision, prejudicial to the assessee, rendered by the jurisdictional High Court or Supreme Court in the case of the assessee or any other person.
This amendment will take effect from 1st day of June, 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

IX. Assessment Procedure, Penalties and Prosecution

G. Interest for shortfall in payment of advance tax

Currently, in case of reassessment under section 147 or assessment in case of search or requisition under section 153A, the interest under section 234B for shortfall in payment of advance tax is charged from the date of intimation under section 143(1) or the date of the regular assessment till the date of reassessment under section 147 or section 153A. Here, the interest on additional tax is not charged for the period from the first day of assessment year to the date of intimation or regular assessment. Also, in case an application is filed before the Settlement Commission declaring an additional amount of income-tax, there is no provision in section 234B for charging interest on the additional amount of Income Tax declared in such application from the first day of assessment year to the date of such declaration.

It is proposed that interest will be charged on the additional tax determined in course of reassessment from the first day of the relevant assessment year till the date of reassessment under section 147 or assessment under section 153A. As regards the application before the Settlement Commission, it is proposed that interest will be levied on the additional amount of Income Tax declared from the first day of the assessment year to the date of making an application to the Settlement Commission. If the amount of total income disclosed in the application is increased by an order of the Settlement Commission, then interest will be payable from the first day of the assessment year to the date of such order of the Settlement Commission.

This amendment will be effective from 1 June 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

A. Deferment of provisions relating to General Anti Avoidance Rule ("GAAR")

It is proposed that implementation of GAAR be deferred by two years and GAAR provisions be made applicable to the income of the financial year 2017-18 (Assessment Year 2018-19) and subsequent years by amendment of the Act. Further, investments made up to 31.03.2017 are proposed to be protected from the applicability of GAAR by amendment in the relevant rules in this regard.

B. Taxation Regime for Real Estate Investment Trusts (REIT) and Infrastructure Investment Trusts (Invit) and Pass through status to Category –I and Category – II Alternative Investment Funds

Currently the Act provides for the manner of taxation of income received from a Venture Capital Fund (VCF) (as a sub category of Category 1 Alternative Investment Fund (AIF) under SEBI (AIF) Regulations 2012 (AIF Regulations) and Venture Capital Fund (VCF) registered under erstwhile SEBI (VCF) Regulations 1996 (VCF Regulations). It is proposed to clarify that the existing manner of taxation shall apply only to existing VCF registered under erstwhile VCF Regulations and shall not include Category I AIF and Category II AIF registered under AIF Regulations, which are separately dealt with by insertion of a new regime discussed below.

A new section is proposed to exempt any income of an "Investment Fund", other than the income chargeable under the head "Profit and gains of business or profession". Correspondingly, the income accrued or received by a unit holder isproposed to be exempt from tax.

"Investment fund" means any fund established or incorporated in India in the form of a trust or a company or a limited

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

liability partnership or a body corporate which has been granted a certificate of registration as a Category I or a Category II AIF and is regulated under AIF Regulations.

By virtue of the proposed amendment, the pass-through status is extended to:

- all the Category I AIFs (i.e. AIFs which invest in angle fund, start-up or early stage ventures or social ventures or SMEs or infrastructure); and
- Category II AIFs (i.e. private equity funds or debt funds) which neither undertake leverage or borrowing (except for operational purposes) nor employs diverse or complex trading strategies.

Salient features of the revised tax regime for the Investment Fund are as under:

- Income from investments paid/ credited by fund will be deemed to be of same nature and proportion in the hands of Unit Holder as such income is received by/or accrued to Investment Fund
- Income from profits and gains of business will be taxable in the hands of such Investment Fund. All other income shall be exempt in the hands of the Investment Fund.
- Income received by the Investment Fund from portfolio companies will not be subject to withholding tax – to be effected by way of a subsequent notification
- Income (other than business income) accrued or paid by the Investment Fund to a Unit Holder shall be subject to withholding tax of 10%
- In a year when Investment Fund incurs losses, no loss will be allowed to be passed through to the Unit Holders and would be carried over to the next year by such Investment Fund
- DDT and buyback tax not applicable on payment of income by the Investment Fund to the Unit Holders

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

Income of a Unit Holder of an Investment Fund will be chargeable to tax as if the investments were made directly by him. Business income (taxed at the Investment Fund level) will not be subject to tax in the hands of Unit Holders.

Investment Fund is required to file return of income or loss for every previous year.

REIT

Particulars	Current Provisions	Proposed Provisions
Definition of business trust	Makes reference to trusts registered as REIT or InvIT under SEBI	To make specific reference to SEBI (Infrastructure Investment Trusts) Regulations, 2014 and SEBI (Real Estate Investment Trusts) Regulations, 2014
Exemption of rental Income	No exemption from taxation of rental income arising from an asset held directly by a REIT	Rental income shall be exempt from tax in hands of REIT in relation to asset directly held
Exclusion of income in the hands of unit holders	Any income distributed to Unit Holder other than interest is exempt in the hands of Unit Holder	Rental income will be taxable in the hands of unitholders

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

Particulars	Current Provisions	Proposed Provisions
Exemption of transfer of units in business trust	No exemption from tax on transfer of units in business trust which were acquired by Sponsor in exchange of shares of a SPV	Gains arising from transfer of units held in business trust shall be liable to Securities Transaction Tax (STT) and the long-term capital gains shall be exempt from tax. Short-term capital gains tax will be taxable @ 15% (plus surcharge and education cess)
Withholding tax in rental income payable	No exemption from withholding tax on the rental income payable to a REIT	No taxes shall be withheld on payment of rent to a REIT

C. Clarity relating to Indirect transfer provisions

Currently, share or interest in a company or an entity outside India is deemed to be situated in India if such share or interest derives its value substantially, either directly or indirectly, from assets located in India. Capital gains arising from transfer of such share or interest ('indirect transfer') is liable to tax in India. It is now proposed to provide clarifications on certain terms referred in said provisions.

It is proposed that the share or interest of a foreign company or entity shall be deemed to derive its value substantially from the assets (tangible or intangible) located in India, if on the specified date, the value of Indian assets:

a. Exceeds Rs. 10 crores; and
b. Represents at least 50% of the value of all the assets owned by the foreign entity.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

It is also proposed to grant exemption from taxation of capital gains arising from indirect transfers in the following scenarios:

- Foreign entity that is transferred directly owns Indian assets - Where the transferor of shares or interest in the foreign entity (along with associated enterprises) does not have the right of control and management over the foreign entity and does not hold more than 5% voting power / share capital / interest in such foreign entity.
- Foreign entity that is transferred indirectly owns Indian assets through another company - Where the transferor of shares or interest in the foreign entity (along with associated enterprises) does not have the right of control and management over the foreign entity and other company and does not hold more than 5% voting power / share capital / interest / in the foreign entity / other company.

- Transfer of shares or interest in a foreign company under a scheme of amalgamation or demerger, subject to conditions.

The law proposes reporting obligation on the Indian entity as may be prescribed. It is proposed to levy penalty on the Indian concern through or in which the Indian assets are held by the foreign company, who fails to furnish information or document as required for the purpose of determination of income arising under section 9(1)(I). The penalty will be equal to 2% of the value of transaction, if such transaction had the effect of direct or indirect transfer of management or control in relation to the Indian concern, and in any other case, the penalty will be Rs. 500,000. In the Budget

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

speech, the Finance Minister has also clarified that applicability of indirect transfer provisions to dividends paid by foreign companies will be addressed through a clarificatory Circular. These amendments will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

D. Raising the threshold for specified domestic transaction

In order to address the issue of compliance cost in case of small businesses on account of low threshold of five crores rupees, it is proposed to amend section 92BA to provide that the aggregate of specified transactions entered into by the assessee in the previous year should exceed a sum of twenty crore rupees for such transaction to be treated as 'specified domestic transaction'.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

E. Exemption to income of Core Settlement Guarantee Fund (SGF) of the Clearing Corporations

It is proposed that specified income of the Core Settlement Guarantee Fund by way of contribution received from specified persons, investment made by the Fund and penalties imposed by the Clearing Corporation will be exempt from tax. However, any amount standing to the credit of the Fund and not charged earlier to tax, will be taxed in the year in which such amount is shared with the specified person.

F. Abolition of levy of wealth-tax under Wealth-tax Act, 1957

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year 2016-17 and subsequent assessment years.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

G. Power of Central Board of Direct Taxes to prescribe the manner & procedure for computing period of stay in India

The provisions of sub-section (1) of section 6 provide the conditions under which an individual is held to be resident in India. The determination is based, inter alia, on the number of days during which such individual has been in India during a previous year.

In the case of foreign bound ships where the destination of the voyage is outside India, there is uncertainty with regard to the manner and basis of determination of the period of stay in India for crew members of such ships who are Indian citizens.

In view of the above, it is proposed to amend the Act to provide that in the case of an Individual, being a citizen of India and a member of the crew of a foreign bound ship leaving India, the period or periods of stay in India shall, in respect of such voyage, be determined in the manner and subject to such conditions as may be prescribed.
This amendment will take effect retrospectively from 1st April, 2015 and will, accordingly, apply in relation to the assessment year 2015-16 and subsequent assessment years.

H. Amendments relating to Global Depository receipts (GDRs)

Currently, a concessional tax treatment has been prescribed in relation to income from ADRs / GDRs.
As per the new Depository Receipts Scheme, 2014, ADRs / GDRs can be issued against the securities of listed or unlisted companies. Further, both sponsored and unsponsored issues are permitted. ADRs / GDRs can be freely held and transferred by both residents and non-residents. It is proposed to provide that the concessional tax treatment will be available only in respect of ADRs / GDRs of companies listed on a recognized stock exchange in India.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

I. Amount of tax sought to be evaded for the purposes of penalty for concealment of income under clause (iii) of sub-section (1) of section 271

Under the existing provision contained in clause (c) of sub-section (1) of section 271 of the Act penalty for concealment of income or furnishing inaccurate particulars of income is levied on the "amount of tax sought to be evaded", which has been defined, inter-alia, as the difference between the tax due on the income assessed and the tax which would have been chargeable had such total income been reduced by the amount of concealed income. Problems have arisen in the computation of amount of tax sought to be evaded where the concealment of income or furnishing inaccurate particulars of income occurs in the computation of income under provisions of section 115JB or 115JC of the Act and also under the provisions other than the provisions of section 115JB or 115JC of the Act (hereafter referred as general provisions).

Further, courts have held that penalty under section clause (c) of sub-section (1) of section 271 cannot be levied in cases where the concealment of income occurs under the income computed under general provisions and the tax is paid under the provisions of section 115JB or 115JC of the Act.

Tax paid under the provisions of section 115JB or 115JC over and above the tax liability arising under general provisions is available as credit for set off against future tax liability. Understatement of income and the tax liability thereon under general provisions results in larger amount of such credit becoming available to the assessee for set off in future years.

Therefore, where concealment of income, as computed under the general provisions, has taken place, penalty under

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

X. Misc. Provisions

clause (c) of sub-section (1) of section 271 should be leviable even if the tax liability of the assessee for the year has been determined under provisions of section 115JB or 115JC of the Act.

Accordingly, it is proposed to amend section 271 of the Act so as to provide that the amount of tax sought to be evaded shall be the summation of tax sought to be evaded under the general provisions and the tax sought to be evaded under the provisions of section 115JB or 115JC. However, if an amount of concealment of income on any issue is considered both under the general provisions and provisions of section 115JB or 115JC then such amount shall not be considered in computing tax sought to be evaded under provisions of section 115JB or 115JC. Further, in a case where the provisions of section 115JB or 115JC are not applicable, the computation of tax sought to be evaded under the provisions of section 115JB or 115JC shall be ignored.

This amendment will take effect from 1st April, 2016 and will accordingly apply, in relation to the assessment year 2016-17 and subsequent assessment years.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Indirect Taxes

I. Customs Duty
II. Service Tax
III. Excise Duty

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

A. General

AMENDMENTS IN CUSTOMS ACT, 1962:

AMENDMENTS IN THE FIRST SCHEDULE TO THE CUSTOMS TARIFF ACT, 1975:

Item	Existing	Proposed
Basic Custom Duty of Bituminous Coal	55%	10%
Iron & Steel & articles of Iron or Steel However, there is no change in the existing effective rates of basic customs duty on these goods.	10%	15%

Item	Tariff Rate of Basic Customs Duty		Effective Basic Customs Duty	
	Existing	Proposed	Existing	Proposed
Motor vehicles for the transport of ten or more persons, including the driver and motor vehicles for the transport of goods	10%	40%	10%	20%

However, customs duty on such vehicles in Completely Knocked Down (CKD) condition and electrically operated vehicles of heading 8702 including those in CKD condition will continue to be at 10%.

The above changes will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

B. Proposals involving changes in rates of duty:

I. FERTILISERS

Item	Existing	Proposed
Basic Customs duty on Sulphuric acid for the manufacture of fertilize	7.50%	5%

II. CHEMICALS AND PETRO-CHEMICALS

Item	Existing	Proposed
Basic Customs duty on ulexite	2.5%	NIL
Basic Customs duty on Isoprene & liquefied butane	5%	2.5%
Basic Customs Duty on ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM)	2.5%	2%
Basic Customs Duty on butyl acrylate	7.5%	5%
Basic Customs Duty on anthraquinone	7.5%	2.5%
Basic Customs Duty on antimony metal and antimony waste and scrap	5%	2.5%
Special Additional Duty on naphtha, ethylene dichloride (EDC), vinyl chloride monomer (VCM) and styrene monomer (SM)	4%	2%

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

III. INFRASTRUCTURE SECTOR

Import Motor Spirit & High Speed Diesel Oil Excise rate	Existing (Rs./Lt.)	Proposed (Rs./Lt.)
Schedule Rate of Additional Duty of Customs (Road Cess)	2.00	8.00
Effective Rate of Additional Duty of Customs (Road Cess)	2.00	6.00

IV. ORES & METALS

Particulars	Existing	Proposed
Export duty on upgraded ilmenite	5%	2.5%
Basic Customs Duty on metallurgical coke	2.5%	5%
Special Additional Duty on melting scrap of iron & steel including stainless steel scrap for melting, copper scrap, brass scrap and aluminium scrap	4%	2%
The tariff rate of basic customs duty on goods falling under all the tariff items of Chapters 72 and 73 that is iron and steel and articles of iron or steel	10%	15%

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

V. ELECTRONICS / HARDWARES

Item	Existing	Proposed
Basic Customs Duty on 'metal parts' for use in the manufacture of electrical insulators	10%	7.5%
Basic Customs Duty on Ethylene-Propylene-non-conjugated-Diene Rubber (EPDM), Water blocking tape and Mica glass tape, for use in the manufacture of insulated wires and cables (Subject to Actual User Condition)	10%	7.5%
Basic Customs Duty on magnetron of up to 1 KW for use in the manufacture of domestic microwave ovens	5%	NIL
Basic Customs Duty on zeolite, ceria zirconia compounds and cerium compounds for use in the manufacture of wash coats, which are used in manufacture of catalytic converters	7.5%	5%
Basic Customs Duty on specified components for use in the manufacture of specified CNC lathe machines and machining centres	7.5%	2.5%
Basic Customs Duty on C- Block for Compressor, Over Load Protector (OLP) & Positive thermal co-efficient and Crank Shaft for compressor for use in the manufacture of Refrigerator compressors	7.5%	5%

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

V. ELECTRONICS / HARDWARE

Item	Existing	Proposed
Basic Customs Duty on specified inputs for use in the manufacture of flexible medical video endoscope	7.5%	5%
Basic Customs Duty on HDPE for use in the manufacture of telecommunication grade optical fibre cables	5%	2.5%
Basic Customs Duty on Black Light Unit Module for use in the manufacture of LCD/LED TV panels	7.5%	NIL
Basic Customs Duty on Organic LED (OLED) TV panels	10%	NIL
All goods except populated printed circuit boards, falling under any Chapter of Customs Tariff, for use in the manufacture of ITA Bound Items, are being fully exempted from SAD, subject to actual user condition		
CVD and SAD are being fully exempted on specified raw materials [battery, titanium, palladium wire, eutectic wire, silicone resins and rubbers, solder paste, reed switch, diodes, transistors, capacitors, controllers, coils (steel), tubing (silicone)] for use in the manufacture of pacemakers, subject to actual user condition.		
SAD on inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps is being fully exempted, subject to actual user condition.		

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

V. ELECTRONICS / HARDWARE

Basic Customs Duty on Digital Still Image Video Camera capable of recording video with minimum resolution of 800x600 pixels, at minimum 23 frames per second, for at least 30 minutes in a single sequence, using the maximum storage (including the expanded) capacity and parts and components for use in the manufacture of such cameras is being reduced to Nil.
Excise duty structure of 2% without CENVAT credit or 12.5% with credit is being prescribed for tablet computers Parts, components and accessories (falling under any Chapter) for use in the manufacture of tablet computers and their sub-parts for use in the manufacture of parts, components and accessories are being fully exempted from BCD, CVD and SAD, subject to actual user condition.

Item	With CENVAT Credit		Without CENVAT Credit	
	Existing	Proposed	Existing	Proposed
Mobile Phones	1%	1%	6%	12.50%

Item	Existing	Proposed
NCCD on mobile Phones	1%	1%

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

VI. RENEWABLE ENERGY:

Item
Basic Customs Duty is being fully exempted on Evacuated Tubes with three layers of solar selective coating for use in the manufacture of solar water heater and system, subject to actual user condition
Basic Customs Duty on Active Energy Controller (AEC) for use in the manufacture of Renewable Power System (RPS) Inverters is being reduced to 5%, subject to certification by MNRE.

VII. AUTOMOBILES:

Item
Concessional customs duties of Nil Basic Customs Duty, 6% excise/CVD and Nil SAD on specified goods for use in the manufacture of Electrically operated vehicles and Hybrid motor vehicles, presently available up to 31.03.2015, are being Extended up to 31.03.2016.

VIII. HEALTH:

Basic Customs Duty and CVD is being fully exempted on artificial heart (left ventricular assist device).

IX. MISCELLANEOUS:

- Parts and components of cash dispenser and automatic bank note dispensers [heading 8473 40] are exempt from

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

Basic Customs Duty. However, since the classification of parts was not mentioned in the relevant notification, there were doubts about the scope of the exemption for parts of cash dispenser and automatic bank note dispensers As the 'parts and components of cash dispensers and automatic bank note dispensers' were specifically included in the description of goods even though their classification was not, it is clarified that the benefit of exemption from Basic Customs Duty was available to parts and components of cash dispenser and automatic bank note dispensers Prospectively, the S. No. 408 of the Notification No. 12/2012- Customs dated 17-3-2012 is being amended to include the classification [8473 40] of parts and components of cash dispensers and automatic bank note dispensers

- S. No. 507 of Notification No. 12/2012-Customs dated 17-3-2012 prescribes Nil BCD and NIL CVD for goods imported for setting up a Mega Power Project specified in List No. 32A of the said Notification. In case of imports for a project for which the certificate regarding Mega Power Project status is provisional, the exemption is, inter alia, subject to condition that importer furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipt for a period of 66 months. This condition is also applicable to imports under S. No. 508 of Notification No. 12/2012-Customs dated 17-3-2012.

- Bulk drugs used in the manufacture of the specified drugs (listed in the table annexed to the exemption notification) are either exempt from BCD or attract concessional rate of 5% BCD, under Sl. No. 148(B) and 147(B) respectively of notification No 12/2012-Customs, if the procedure as laid down in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 is followed by the importers Further,

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

I. Customs Duty

these bulk drugs used in the manufacture of the specified drugs are also exempt from excise duty, under S. No. 108 (B) of the notification 12/2012- CE, provided the procedure laid down in the Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, is followed. In this context, clarification has been sought whether a separate certificate issued under the above mentioned Central Excise Rules is required when a similar certificate under the above mentioned Customs Rules issued from the same jurisdictional Central Excise officer is already produced. It is being clarified that there is no need to separately comply with Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 for the purposes of availing of the CVD exemption under notification No.12/2012-CE, if the procedure as laid down in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rule, 1996 is already followed by the importer for availing exemption / concession from BCD on the same bulk drug.

- Notification No.12/2012-Customs [S.No.148(C)] fully exempts Basic Customs Duty and CVD leviable on life saving drugs and medicines imported by an individual for personal use subject to the Condition No.10, which stipulates that importer produces a certificate (in prescribed form) issued by the Director General or Deputy Director General or Assistant Director General, Health Services, New Delhi, Director of Health Services of the State Government or the District Medical Officer/Civil Surgeon of the district, in each individual case, that the goods are lifesaving drugs or medicines. The prescribed Form is being amended so as to provide that such certificate shall be valid for a period of one year in case of patients who have to import such drugs and medicines on a regular basis.
- CVD and SAD exemption on specified goods imported for use by Security Printing and Minting Corporation of India Limited (SPMCIL) are being withdrawn.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

1. The Service Tax Rate has been proposed to be revised from 12.36% to 14% (Inclusive of Cess)
The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall continued to be levied in Service Tax.

2. Swachh Bharath Cess
An enabling provision is being made to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives.

This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.

Changes in the Negative List

- Service Tax to be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

- Service Tax to be levied on service by way of admission to entertainment event of concerts, non-recognized sporting events, pageants, music concerts, award functions, if the amount charged is more than Rs. 500 for right to admission to such an event.

- However, the existing exemption to service by way of admission to entertainment events, namely, "exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets, by way of the Negative List entry shall be continued, irrespective of the amount charged for such service, through the route of exemption.

- Service tax to be levied on contract manufacturing and job work for production of portable liquor for a consideration.

- Service Tax to be levied by the Government or a Local Authority to a business entity for all the services provided by the Government or Local Authority as compared to earlier where service tax levied by Government or Local Authorities was only on the support service provided by Government and Local Authorities.

The above changes will be effective from a date to be notified after the date of enactment of the Finance Bill, 2015.

Changes in Exemption

- Services such as construction, commissioning, erection, etc. provided to the Government, a local authority or a

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

governmental authority. The exemption shall be limited only if the service of construction, commissioning, erection, etc. is done on :

- A historical monument, archaeological site or remains of national importance, archaeological excavation or antiquity;
- Canal, dam or other irrigation work; and
- Pipe line, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

- Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn.

- Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, will be limited only to such cases where amount charged is up to rs 1, 00,000 for a performance.

- Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulse flour, milk and salt.

- Exemptions are being withdrawn on the following services:
  - Services provided by a mutual fund agent to a mutual fund or assets management company,
  - Distributor to a mutual fund or AMC,
  - Selling or marketing agent of lottery ticket to a distributor.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

Service tax on these services shall be levied on reverse charge basis.

- Exemption is being withdrawn on the following service:
  - Departmentally run public telephone,
  - Guaranteed public telephone operating only local calls, and
  - Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued.

All the above changes shall come into effect from the 1st day of April, 2015.

New Exemptions Included:

- Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.

- Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.
- Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.

- Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of its members is being exempted.

- Hitherto, any service provided by way of transportation of a patient to and from a clinical establishment by a clinical

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

establishment is exempt from service tax. The scope of this exemption is being widened to include all ambulance services.

- Service provided by way of admission to a museum, zoo, national park, wild life sanctuary, and a tiger reserve is being exempted.

- Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station, a port or airport is exempt from service tax vide notification No. 31/12-ST dated 20.6.2012.Scope of this exemption is being widened to exempt such services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

The above changes will be effective from 1st April 2015.

Other changes being incorporated in the Finance Act, 1994:

- Services, excluding few specified services, provided by the government have been included in the Negative List. Further, specified services received by the government are also exempt. Hitherto, the term "government" has not been defined in the Act or the notification. This has given rise to interpretational issues. To address such issues, a definition of the term "government" is being incorporated in the Act.

- The intention in law has been to levy Service Tax on the services provided by:

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

- Chit fund foremen by way of conducting a chit.
- Distributors or selling agents of lottery, as appointed or authorized by the organizing state for promoting, marketing, distributing, selling, or assisting the state in any other way for organizing and conducting a lottery.

However, Courts have taken a contrary view in some cases, while in some cases the levy has been upheld.

An Explanation is being inserted in the definition of "service" to specifically state the intention of the legislature to levy service tax on activities undertaken by chit fund foremen in relation to chit, and distributors or selling agents of lottery in relation to lotteries.

- Section 66F (1) prescribes that unless otherwise specified, reference to a service shall not include reference to any input service used for providing such service. An illustration is being incorporated in this section to exemplify the scope of this provision.

- Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for service shall include:
  - All reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically by this provision.
  - amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets;

- Section 73 is being amended in the following manner:
  - a new sub-section (1B) is being inserted to provide that recovery of the service tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73, and
  - Sub-section (4A) that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.

- Section 76 is being amended to rationalize penalty, in cases not involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner:
  - penalty not to exceed ten per cent of service tax amount involved in such cases
  - no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice under section 73 (1)
  - a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
  - if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

- Section 78 is being amended to rationalize penalty, in cases involving fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner:
    - penalty shall be hundred per cent of service tax amount involved in such cases;
    - penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;
    - a reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by an order, is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
    - If the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

- A new section 78 B is being inserted to prescribe, by way of a transition provision, that:
    - amended provisions of section 76 and 78 shall apply to cases where either no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and
    - in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the service tax amount.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

- Section 80 that provided for waiver of penalty in specified situations, is being omitted.

- Section 86 is being amended to prescribe that matters involving rebate of service tax shall be dealt with in terms of Section 35EE of the Central Excise Act.

Rationalisation in Abatement:

- At present, service tax is payable on 30% of the value of rail transport for goods and passengers, 25% of the value of goods transport by road provided by a goods transport agency and 40% for goods transport by vessels. The conditions also vary. A uniform abatement is now being prescribed for transport by rail, road and vessel. Service Tax shall be payable on 30% of the value of such services subject to a uniform condition of non-availment of Cenvat Credit on inputs, capital goods and input services.

- At present, Service Tax is payable on 40% of the value of air transport of passenger for economy as well as higher classes, e.g. business class. The abatement for classes other than economy is being reduced and service tax would be payable on 60% of the value of such higher classes.

- Abatement is being withdrawn from chit fund service. Consequently, Service Tax shall be paid by the chit fund foremen at full consideration received by way of fee, commission or any such amount. They would be entitled to take Cenvat Credit.

The proposed rationalization in abatements shall come into effect from the 1st day of April, 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

Changes in Reverse Charge Mechanism

Existing:

Nature of Service	Provider		Receiver	
	Who?	How Much?	Who?	How Much?
Manpower supply	Individual, HUF, or Partnership Firm	25%	Body Corporate	75%
Security Services	Individual, HUF, or Partnership Firm	25%	Body Corporate	75%

Proposed:

Nature of Service	Provider		Receiver	
	Who?	How Much?	Who?	How Much?
Manpower supply	Individual, HUF, or Partnership Firm	NIL	Body Corporate	100%
Security Services	Individual, HUF, or Partnership Firm	NIL	Body Corporate	100%

The above changes will be effective from 1st April 2015.

Services provided by mutual fund agents, mutual fund distributors and agents of lottery distributor are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

mutual fund agents and mutual fund distributors services shall be paid by assets management company or, as the case may be, by the mutual fund receiving such services. In respect of sub-agents of lottery, Service Tax shall be paid by the distributor or selling agent of lottery.

Changes in Service Tax Rules:

- In respect of any service provided under aggregator model, the aggregator, or any of his representative office located in India, is being made liable to pay Service Tax if the service is so provided using the brand name of the aggregator in any manner. If an aggregator does not have any presence, including that by way of a representative, in such a case any agent appointed by the aggregator shall pay the tax on behalf of the aggregator. In this regard appropriate amendments have been made in rule 2 of the Service Tax Rules, 1994 and notification No. 30/2012-ST dated 20.6.2012.

This change comes into effect immediately i.e. w.e.f. 1.3.2015.

- Rule 4 is being amended to provide that the CBEC, by way of an order, specify the conditions, safeguards and procedure for registration in service tax.
- Provision for issuing digitally signed invoices are being added along with the option of presentation of records in electronic form. The conditions and procedure in this regard shall be specified by the CBEC.
- Rule 6 (6A) which provided for recovery of service tax self-assessed and declared in the return under section 87 is being omitted consequent to amendment in section 73 for enabling such recovery.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

II. Service Tax

- In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates shall also be revised proportionately. Amendments to this effect have been proposed in the Service Tax Rules. These amendments shall come into effect as and when the new service tax rate comes into effect.

Changes in Cenvat Credit Rules, 2004:

- Rule 4(7) is being amended to allow credit of service tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider.

This change will come into effect from 1.4.2015

Miscellaneous:

- Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect. This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of "intermediary" in the Place of Provision of Services Rules, making the place of provision of a service provided by such agents as outside the taxable territory.

The above changes will be effective from 1st April 2015.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

AMENDMENTS IN THE CENTRAL EXCISE ACT, 1944:

Proposals involving changes in rates of duty:

AMENDMENTS IN THE FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT, 1985:

1) Education Cess and Secondary & Higher Education Cess leviable on excisable goods are being fully exempted.

Particulars	Existing	Proposed
Standard CENVAT Rate	12%	12.5%

2)

Item	Existing Rs./Kg.	Proposed Rs./Kg.
Cut Tobacco	60.00	70.00

3)

Item	Existing Rs./Tonne	Proposed Rs./Tonne
Ordinary Portland cement, dry	900.00	1000.00
Ordinary Portland cement, coloured	900.00	1000.00

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

Item	Existing Rs./Tonne	Proposed Rs./Tonne
Portland pozzolana cement	900.00	1000.00
Portland slag cement	900.00	1000.00
Other	900.00	1000.00

4)

Item	Existing	Proposed
Sacks and bags (including cones) of plastics	12%	18%

The changes at 1) to 4) will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

I. PETROLEUM

Tables below summarize the changes in various duties applicable to petrol and diesel:

Duty rates applicable prior up to 28.02.02015					**Duty rates applicable with effect from 01.03.2015**				
CENVAT Rs./Ltr.	SAED Rs./Ltr.	AED Rs./Ltr.	Education Cesses (as % of aggregate of duties of excise)	Total Rs./Ltr.	CENVAT	SAED	AED	Education Cesses	Total
Unbranded Petrol									
8.95	6	2	3%	17.46	5.46	6	6	NIL	17.46
Branded Petrol									
10.1	6	2	3%	18.64	6.64	6	6	Nil	18.64
Unbranded Diesel									
7.96	NIL	2	3%	10.26	4.26	NIL	6	NIL	10.26
Branded Diesel									
14% + Rs. 5 /litre or Rs. 10.25 / litre, whichever is lower	NIL	2	3%	12.62	6.62	NIL	6	NIL	12.62

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

Thus, the total incidence of various duties of excise on petrol and diesel remains unchanged.

II. FOOD PROCESSING SECTOR:

1) All goods falling under Chapter sub-heading 2101 20, including iced tea, are being notified under section 4A of the Central Excise Act for the purpose of assessment of Central Excise duty with reference to the Retail Sale Price with an abatement of 30%.

2) Goods, such as lemonade and other beverages, are being notified under section 4A of the Central Excise Act for the purpose of assessment of Central Excise duty with reference to the Retail Sale Price with an abatement of 35%.

3)

Item	Existing	Proposed	
		Without CENVAT Credit	With CENVAT Credit
Condensed Milk put up in Unit Containers	-	2%	6%
Peanut Butter	-	2%	6%

Condensed milk is also being notified under section 4A of the Central Excise Act for the purpose of valuation with reference the Retail Sale Price with an abatement of 30%.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

III. AUTOMOBILES:

1)

Item	Existing	Proposed
Chassis for Ambulances (subject to actual user condition)	24%	12.50%

2) Concessional excise duty of 6% on specified goods for use in the manufacture of electrically operated vehicles and hybrid vehicles, presently available up to 31.03.2015, is being extended up to 31.03.2016.

IV. HEALTH:

1. Cigarettes

Description (length in mm)	BED Rs./1000 sticks (Existing Rate)	BED Rs./1000 sticks (New Rate)
Non filter not exceeding 65	990	1,280
Non-filter exceeding 65 but not exceeding 70	1,995	2,335
Filter not exceeding 65	990	1,280
Filter exceeding 65 but not exceeding 70	1,490	1,740

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

Description (length in mm)	BED Rs./1000 sticks (Existing Rate)	BED Rs./1000 sticks (New Rate)
Filter exceeding 70 but not exceeding 75	1,995	2,335
Other	2,875	3,375

2) Excise duty on cigars, cheroots & cigarillos and cigarettes & cigarillos of tobacco substitutes is also being increased by 25% for cigarettes of length not exceeding 65mm and 15% for cigarettes of other length.

3) Maximum speed of packing machine for packing of notified goods of various retail sale prices is being specified as a factor relevant to production for determining excise duty payable under the Compounded Levy Scheme presently applicable to pan masala, gutkha and chewing tobacco. Accordingly, deemed production and duty payable per machine per month are being notified with reference to the speed range in which the maximum speed of a packing machine falls.

V. ELECTRONICS/HARDWARE:

1)

Item	Existing	Proposed
Wafers for manufacture of integrated circuit (IC) modules for smart cards (subject to actual user condition)	12%	6%

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

Item	Existing	Proposed
Inputs for use in the manufacture of LED drivers and MCPCB for LED lights, fixtures and lamps (subject to actual user condition)	12%	6%

2)

Item	With CENVAT Credit		Without CENVAT Credit	
	Existing	Proposed	Existing	Proposed
Tablet	NIL	2%	NIL	12.50%
Mobile Phones	1%	1%	6%	12.50%

3)

Item	Proposed
Components and accessories for use in manufacture of tablet computers and their sub-parts for use in manufacture of parts, components and accessories	NIL
Specified raw materials [battery, titanium, palladium wire, eutectic wire, silicone resins and rubbers, solder paste, reed switch, diodes, transistors, capacitors, controllers, coils (steel), tubing (silicone)] for use in manufacture of pacemakers	NIL

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

4) Suitable amendment is being carried out to expressly provide that LED lights or fixtures including LED lamps are liable to assessment of excise duty with reference to retail sale price. Similar changes are being made in the Third Schedule to the Central Excise Act, 1944.

VI. RENEWABLE ENERGY

Item	Existing	Proposed
Pig iron SG grade and Ferro-silicon-magnesium for manufacture of Cast components of wind operated electricity generators (subject to certification by MNRE)	12%	NIL

Item	Proposed
Round copper wire and tin alloys for manufacture of Solar PV ribbon for manufacture of solar PV cells (subject to certification by Department of Electronics and Information Technology (DeitY))	NIL
Solar Water Heater (without CENVAT Credit)	NIL
Solar Water Heater (with CENVAT Credit)	12.50%

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

VII. CONSUMER GOODS

1)

Item	Existing	Proposed
Leather footwear of Retail Sale Price of more than ₹ 1,000 per pair	12%	6%

2)

Item	Basic Excise Duty		Additional Excise Duty	
	Existing	Proposed	Existing	Proposed
Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	12%	18%	5%	NIL

VIII. SWACHH BHARAT AND ENERGY SECTOR

1)

Clean Energy Cess levied on Coal, Ignite and Peat	Existing Rs./Tonne	Proposed Rs./Tonne
Schedule Rate	100.00	300.00
Effective Rate	100.00	200.00

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

The increase in rate of Clean Energy Cess will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

2)

Item	Existing	Proposed
Sacks and bags of polymers of ethylene, other than for industrial use	12%	15%

IX. MISCELLANEOUS:

1) Full exemption from excise duty is being extended to captively consumed intermediate compound coming into existence during the manufacture of Agarbattis. Agarbattis attract NIL excise duty.

2) S. No. 337 of Notification No. 12/2012-CE dated 17-3-2012 provided nil excise duty on goods for setting up Ultra Mega Power Project specified in List No. 10 of the said Notification. In case of goods for a Project for which certificate regarding Ultra Mega Power Project status is provisional, the exemption is subject inter alia to condition that the Chief Executive Officer of the Project furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipts for a period of 42 months.

3) S. No. 338 of Notification No. 12/2012-CE dated17-3-2012 provided nil excise duty on goods for setting up Mega

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

Power Project specified in List No. 11 of the said Notification. In case of goods for a Project for which certificate regarding Mega Power Project status is provisional, the exemption is subject inter alia to condition that the Chief Executive Officer of the Project furnishes a bank guarantee or fixed deposit receipt for a term of 36 months or more. This condition is being amended to prescribe furnishing of bank guarantee or fixed deposit receipts for a period of 66 months.

4) Goods manufactured domestically and supplied against International Competitive Bidding are eligible for full excise duty exemption provided that such goods when imported attract Nil Basic Customs Duty and Nil CVD [S.No.336 of notification No.12/2012-CE dated 17.03.2012 read with Condition No.41]. The condition is being amended so as to provide that if imported goods are eligible for Nil Basic Customs Duty and Nil CVD subject to certain conditions, then the said conditions shall also apply mutatis mutandis to such goods when manufactured domestically and supplied against International Competitive Bidding for the purposes of availing of the said excise duty exemption.

Amendments in the CENVAT Credit Rules, 2004
The following changes will be effective from 1 March 2015:

- CENVAT credit may be taken by the manufacturer or provider of output service immediately on receipt of inputs directly in the premises of the job worker.

- CENVAT credit on capital goods can be taken by the manufacturer or provider of output service in respect of goods received directly in the premises of job worker, not exceeding 50% in the first year.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

- Time limit for availing CENVAT credit on inputs and input services is enhanced from six months to one year from the date of CENVAT document.

- In case of CENVAT credit on inputs / capital goods sent to job worker:
  - CENVAT credit on inputs to be allowed where inputs are sent directly to job worker, subject to receipt of processed inputs within 180 days from the date of receipt of such inputs by job worker.
  - CENVAT credit on inputs to be allowed where the processed inputs are sent from one job worker to the another job worker for further processing, subject to receipt of processed inputs within 180 days from the date of sending inputs from the factory of manufacturer or premises of provider of output service.
  - CENVAT credit on capital goods to be allowed where capital goods are sent by manufacturer or provider of output service to the job worker, subject to receipt of capital goods within a period of two years from the date of sending such capital goods from the factory of manufacturer or provider of output service.
  - CENVAT credit on capital goods to be allowed where capital goods are sent directly to a job worker, subject to receipt of such capital goods within a period of two years from the date of receipt of capital goods by the job worker.
- Exempted goods or final products would include non-excisable goods cleared for a consideration from the factory for the purposes of CENVAT credit reversal.

- Importer issuing invoices on which CENVAT credit can be taken is required to comply mutatis mutandis with the provisions applicable to first stage dealer or second stage dealer issuing such invoices.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

III. Excise Duty

- Manufacturer or provider of output service would not be required to pay interest in cases where CENVAT credit has been wrongly availed but not utilized.

- Manufacturer or provider of output service would be required to pay interest in cases where CENVAT credit has been wrongly availed and utilized.

- For the purpose of recovery of wrongly utilized CENVAT credit, the manner of determining the utilization of credit is prescribed.

The following change will be effective from 1 April 2015.

- Where service recipient is liable to pay service tax under partial reverse charge, CENVAT credit can be availed on discharge of such service tax liability without waiting for payment to provider of output service.

The following change will be effective from the date on which the Finance Bill, 2015 receives the assent of the President.

- Penal provisions relating to wrong availment and utilization of CENVAT credit have been amended to align with certain specified penal provisions under Central Excise and Service tax laws.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Karnataka State Budget

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Karnataka State Budget 2015-16 – Tax Proposals

I. GOODS AND SERVICES TAX:

- Necessary steps to prepare Trade and Industry and department for smooth transition to Goods and Services Tax (GST) System. **This in line with the proposal made in the union Budget on implementation of GST w.e.f 1st April, 2016**

II. VALUE ADDED TAX:

- Successful implementation of online uploading of purchase and sales details. **This was the e-governance initiatives by the Government of Karnataka during FY 2014-15 aimed at making tax compliance easier and tax administration more effective by online uploading of purchase and sales details, which is preparatory for smooth transition to the impending GST regime.**

Reliefs:

- Increase in registration limit from Rs.7.5 lakhs of annual turnover to Rs.10 lakhs.
- Tax exemption on paddy, rice, wheat, pulses and products of rice and wheat continued for one more year.
- Tax exemption on Footwear costing upto Rs.500 per pair, certain solar PV panaels and Solar invertors, Handmade products like Floor Mats, Table Mats and Runners, Utility Bags made of Banana Fibre excluding Rubberized Banana Fibre products.
- Tax reduction from 14.5% to 5.5% on Wick stoves, Mobile phone charger, M-sand, M-sand manufacturing machinery/ equipment, Industrial cables namely XLPE Cables, Jelly Filled Cable, Optical Fibre Cable and PVC Cable, Pre-Sensitized Lithographic Plates used in printing industry, Packing materials like Pallets, Box Pallets and other Load Boards, pallet collars.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Karnataka State Budget 2015-16 – Tax Proposals

Additional Resource Mobilization Measures:

- VAT on Cigarettes, Cigars, Gutkha and other manufactured tobacco hiked from 17% to 20%.
- Sales tax rate increased by 1% on Petrol and Diesel.

Rationalization Measure:

- Provision for single First appeal against re-assessment for several tax periods of one financial year.
- Enhancement of period for disposal of appeal by KAT from 180 days to 365 days from the date of stay order.
- Provision to claim input tax credit of previous tax periods in the returns, filed during subsequent tax periods by amending sub section 3 of section 10 of KVAT Act, 2003. **This amendment is proposed in order to provide relief to the dealers due to recent outcome of the ruling in Centum Industries Case by Hon'ble High Court of Karnataka, where in it was held that "there is nothing in law stipulating that if input tax is not claimed during the month succeeding the month in which purchases is effected, the dealer would forfeit his claim of input tax". As per the budget speech time limit allowed for claiming of input tax credit is for a period of five months from the month in which it has accrued.**
- Provision to limit input tax credit to the extent of output tax paid on a particular commodity by amending section 11 of KVAT Act, 2003. **This amendment is brought in order to restrict input credit where Dealers are selling goods at a price lower than its purchase price.**
- Provision to deduct tax at source, at applicable rate, on goods purchased by Government department or Local Authority or Local body or others. **Presently Deduction tax at source under KVAT, Act was applicable only for amount payable by Government department or Local Authority to any dealer in respect of any works contract, by**

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Karnataka State Budget 2015-16 – Tax Proposals

this proposal payments made towards purchases to the dealers will also come under the preview of tax deduction at source. Rate of tax deducted at source is yet to be notified.

- Granting permission for Special Accounting Scheme is to be brought under 'Sakala.'
- Enabling dealers to file an appeal electronically before the first Appellate Authority and to receive orders electronically.
- Enabling the dealers to upload the details of CST statutory forms which will be linked to the turnover declared by the dealers in their returns.

III. PROFESSION TAX ACT:

Relief:

- Profession Tax exemption to senior citizens who have attained age of 60 years and above.
- Professional tax exemption to persons drawing salary/wages less than Rs.15,000/- in a month. **The earlier limit was Rs. 10,000/- in a month.**

IV. AGRICULTURAL INCOME TAX:

Relief:

- Replanting allowances hiked from Rs.900/- to Rs.2050/- per Metric Tonne Coffee produced.

V. EXCISE

- Revenue collection target of Rs.15,200 crores fixed for the year 2015-16.

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03 Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Karnataka State Budget 2015-16 – Tax Proposals

Additional Resource Mobilization Measures:

- Rate of Additional Excise Duty increased by 6% to 20% across all the 17 slabs.

Relief:

- New Karasamadhana Scheme providing relief on interest dues for those who pay the principal amount in respect of Arrack/Toddy rentals.

VI. STAMPS AND REGISTRATION

Reforms/Reliefs

- Levying stamp duty on Chit Agreements and the Limited Liability Partnership instruments. Rationalizing/ revising rates of stamp duty.
- Levying of **one percent** advalorem registration fee on **agreement for sale** without the possession of the property being delivered subject to a maximum of Rupees Two Hundred.
- Levying of one percent advalorem registration fee on the market value of the property or the consideration whichever is higher, in respect of agreement for sale, wherein the possession of the property is delivered or is agreed to be delivered and one percent advalorem registration fee in respect of document of sale executed in pursuance of such agreement for sale, subject to a maximum of Rs.500/-.
- The Sulabha Nondani Software will facilitate online time slot booking for registration of documents in any of the sub-registrar' offices in the district. **If this scheme is implemented in true spirit, it can eliminate middlemen and gradually bring down the bribery.**

01. Budget at Glance
02. Budget Proposals - Direct Taxes
03. Budget Proposals - Indirect Taxes
04. Karnataka State Budget

Karnataka State Budget 2015-16 – Tax Proposals

- Kaveri Software and Bank Software will be integrated to facilitate farmers
- Making the Banks, Financial Institutions etc., liable for payment or collection of proper stamp duty payable on optionally registerable documents.
- Additional resource mobilization of Stamp Duty have been rationalized through which Rs.125 crores of Revenue is anticipated.
- Providing for composition/consolidation of duties in respect of certain instruments
- Optionally registrable documents affecting immovable property will be required to be compulsorily filed online under section 89 of Registration Act, 1908.

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