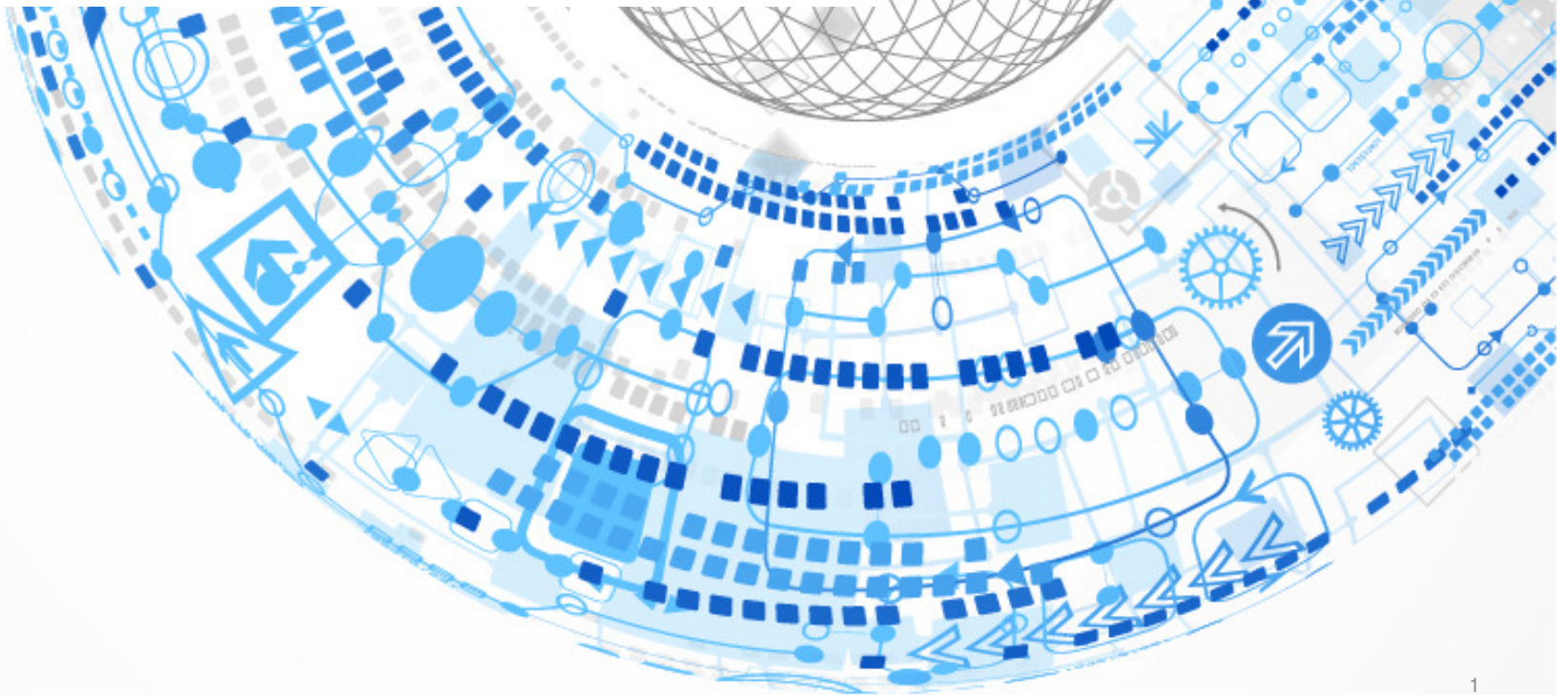


BUDGET 2016

Understanding the Business Impact

April 2016



BUDGET 2016

Understanding the Business Impact

Indirect Taxes



Service Tax

Service Tax

Legislative Changes

Key changes

- Proposal to levy Krishi Kalyan Cess, on any or all taxable services @ 0.5% of value of taxable services (Effective from 1 June 2016)
 - Credit of this Cess will be allowed to be used for payment of proposed Cess
- Assignment by Government of right to use radio-frequency to spectrum & subsequent transfers proposed to be included as declared service
- Normal limitation period for recovery of Service Tax enhanced from 18 months to 30 months
- Interest rates on delayed payment of Service Tax rationalised to 15% except for cases where Service Tax collected but not deposited
 - In cases where Service Tax is collected but not deposited, the rate would be 24%

Above changes other than specified effective from date of enactment of Finance Bill

Service Tax

Legislative Changes

Beneficial Changes with Retrospective effect

- Allowance of rebate of Service Tax on services used by exporter of goods beyond factory, or any other place or premises of production to be given retrospective effect from 1 July 2012
- Service Tax exemption to canal, dam or other irrigation works now given retrospective effect to cover period from 1 July 2012 to 29 January 2014

Service Tax

Legislative Changes

Re-instatement of mega exemption (Effective from 1 March 2016):

- Services to Government/local authority/ Governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of:
 - Civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession;
 - Structure meant predominantly for use as an educational/ clinical/art or cultural establishment
 - Residential complex predominantly meant for self-use or use of their employees or other persons specified under definition of service

Applicable only to contract entered prior to 1 March 2015 where appropriate stamp duty paid prior to such date

Exemption not applicable on or after 1 April 2020

Service Tax

Legislative Changes

Re-instatement of mega exemption (Effective from 1 March 2016):

- Services by way of construction, erection, commissioning, or installation of original works pertaining to an airport or port
 - If Ministry of Civil Aviation or Ministry of Shipping certifies that contract entered into before 1 March 2015

Applicable only to contract entered prior to 1 March 2015 where appropriate stamp duty paid prior to such date

Exemption not applicable on or after 1 April 2020

Service Tax

Legislative Changes

Other changes in provisions

- Monetary limit for punishable offences proposed to be enhanced to Rs. 2 Crores from Rs. 50 Lacs
- Power to arrest proposed to be restricted only to situations where tax is collected but not deposited and amount not paid above Rs. 2 Crores
- Penalty for offences by Director/Managers etc. will be deemed to be closed in cases where main demand & penalty proceedings have been closed

Above changes effective from date of enactment of Finance Bill

Service Tax

Changes in Negative List

- Service tax will now be levied on transportation of passengers (with or without accompanied belongings) by air-conditioned stage carriage
- Services by way of transportation of goods by vessel from a place outside India up to customs station of clearance in India will now be taxable
- Services by way of transportation of goods by aircraft from a place outside India up to customs station of clearance in India moved to Mega Exemptions
- Specified educational services removed from Negative List and included in list of Mega Exemptions (Effective from Enactment of Finance Bill)

Above changes other than specified effective from 1 June 2016

Service Tax Exemption

- For transactions involving supply of media with recorded information technology software under RSP, service tax has been exempted.

Above changes effective from 1 March 2016

- Certain services relating to education, specified certified courses, general insurance have been exempted.

Above changes effective from various date as specified

Service Tax

Reverse Charge Mechanism

- Amendments in Reverse Charge Mechanism**

Services	Impact on Exemptions		
	Existing	Proposed	Effective Date
Any services provided by Government or local authority	Reverse charge only on support services	Covered under reverse charge	1 April 2016
Services by a mutual fund agent or distributor, to a mutual fund or asset management company	Reverse charge applicable	Forward charge applicable	1 April 2016

- Legal services provided by a senior advocate to business entity would be applicable to forward charge i.e. not subject to reverse charge (Effective from 1 April 2016)

Service Tax

Rationalization of Abatements

Credit of input services being allowed (Effective from 1 April 2016)

Description of Services`	Abatement Rate Pre-Budget	Abatement Rate Post-Budget
Transport of passengers by rail	70% without CENVAT credit	70% with only input service credit
Transport of goods, other than in containers, by rail	70% without CENVAT credit	70% with only input service credit
Transport of goods in containers by rail	70% without CENVAT credit	60% with only input service credit
Transport of goods by vessel	70% without CENVAT credit	70% with only input service credit

Service Tax

Rationalization of Abatements

Abatement rate in respect of services (Effective from 1 April 2016)

Description of Services	Abatement Rate Pre-Budget	Abatement Rate Post-Budget
Services by way of construction of residential complex, building, civil structure, or a part thereof	75%/70%	70%
Services by tour operator:		
- in relation to packaged tour and other than packaged tour	75%/60%	
- Only for arranging or booking accommodation		90%
- Others		70%
Shifting of used household goods by GTA	70%	60%

Service Tax

Service Tax (Amendment) Rules, 2016

Service Tax liability on single premium annuity (insurance) policies

- New effective alternate service tax rate (composition rate) prescribed at 1.4% of as against earlier rate of 3.5% of total premium charged

Service Tax on services provided by Government or local authorities

- Amendments made to make business entities liable to make payment under reverse charge mechanism on any service (as compared to only support services) received by them from Government or local authority

Above changes effective from 1 April 2016

Service Tax

Service Tax (Amendment) Rules, 2016

Filing of Annual Return

- Assessee required to file annual return by 30 November of succeeding financial year for previous financial year
- Annual return filed by assessee may be revised within a period of one month from date of submission of said annual return
- Late filing fees of Rs. 100 per day of delay will be payable by assessee subject to a maximum of Rs. 20,000

CENVAT Credit

Cenvat Credit Rules

Definition of Inputs and Capital goods amended

- Definition of inputs amended to include:
 - All capital goods having value up to INR 10,000 per piece
 - goods used for pumping of water
- Definition of capital goods amended to include:
 - Wagons of sub heading 8606 92
 - Equipment or appliance used in an office located within a factory
- Cenvat credit eligibility extended to tools falling under Chapter 82 even in the following situations:
 - Where the tools are sent to another manufacturer or a job worker for manufacture on behalf of the principal manufacturer
 - Directly sent to another manufacturer or job worker without bringing to the premises of the principal manufacturer

(Effective 1 April 2016)

Cenvat Credit Rules

Cenvat reversal

Significant amendment in provisions relating to reversal of Cenvat credit on inputs and input services commonly used for manufacture of taxable and exempted goods or provision of taxable or exempted services:

- In case of option for payment of amount based on value of exempted goods or services; maximum amount not to exceed the total credit available
- Full credit on inputs and input services used exclusively for taxable goods/services
- Proportionate reversal to be restricted to the credits on common inputs and input services used for taxable and exempted goods/services
- Failure to follow procedure for selecting an option for reversal of credit to attract penal interest subject to permission from the service tax authorities
- Existing provisions to be applicable till 30 June 2016 for the financial year 2015-16
- Banks and financial institutions will now have option to either reverse on actual basis in addition to the option of 50% reversal provided earlier

(Effective 1 April 2016)

Cenvat Credit Rules

Input Service Distributor (ISD)

Distribution of credit by ISD expanded and rationalized:

- Credit distribution permitted to an outsourced manufacturing unit – definition to be adopted from Rule 10A of the Central Excise Valuation Rules
- Outsourced manufacturing unit to maintain separate account for each ISD and utilization to be restricted to payment of duty for respective ISD
- Credits as on 31 March 2016 will not be eligible for distribution to outsourced manufacturing unit
- Credit pertaining to input services attributable to one unit to be distributed to that unit
- For services attributable to multiple units but not all units- distribution to be restricted to only those units based on turnover of such units
- For services attributable to all units- distribution to be based on turnover of all the units
- Provisions pertaining to reversal of credit on common inputs and input services will not be applicable to ISD

(Effective 1 April 2016)

Cenvat Credit Rules

Other procedural changes

- Manufacturers will be eligible to take Cenvat credit on an invoice issued by his own warehouse receiving inputs – warehouse to be regarded as first stage or second stage dealer
- Manufacturer and service providers required to submit annual return by November 30 of the succeeding year.
- Utilization of ineligible credit to be determined by examination of minimum balance of credit – FIFO method introduced in the previous year omitted

(Effective 1 April 2016)

Excise Duty

Excise Duty

Legislative Changes

- Interest liability on provisional assessment will arise from the original date of payment of duty till the date of actual payment
- Single registration to be allowed for manufacturers having two or more premises subject to following conditions:
 - the premises are located within a close area
 - the premises fall within the jurisdiction of a Range Superintendent
 - the manufacturing processes are interlinked
 - the units are not operating under area based exemption
- Duplicate copy of invoice meant for transporter if digitally signed would not be required to be self attested by the manufacturer

Above changes are effective 1 March 2016

Excise Duty

Legislative changes

- Interest rates on delayed payment of Excise Duty reduced from 18% to 15%
- Requirement of filing Annual Financial Information Statement and Annual Installed Capacity Statement will be replaced by Annual Return
- Requirement of filing Annual Return shall apply to 100% Export Oriented Unit also
- Simplified rules allowing duty exemptions to importer/manufacture based on self-declaration instead of obtaining permissions from the Central Excise authorities

Above changes are effective 1 April 2016

Excise Duty

Legislative Changes

- The period of limitation in cases not involving fraud, collusion, suppression of facts, wilful mis-statement, etc. has been increased from one to two years
- Facility of filing revised return introduced for manufacturers by the end of the calendar month in which the original return is filed
- Facility for filing revised Annual Return within one month from date of filing Annual Return introduced- to be applicable for EOUs also

Above changes are effective from date to be notified

Excise Duty

Refunds and Rebates

- Limitation period prescribed for Refund Claim under Rule 5 of CENVAT Credit Rules, 2004
 - For Manufacturer- before the expiry of the period specified in section 11B of the Central Excise Act
 - For Service Provider-
 - a.before expiry of 1 year from the date of receipt of payment in convertible foreign exchange, where provision of service had been completed prior to receipt of such payment; or
 - b.issue of invoice, where payment for the service had been received in advance prior to the date of issue of the invoice
- Limitation period of one year to be applicable in case of rebate on export of goods under Rule 18

Above changes are effective 1 March 2016

Excise Duty

Jewellery Sector

- SSI threshold exemption to manufacturer of specified jewellery articles is increased to INR 6 Crores
- Such manufacturer are now required to pay Basic Excise Duty at 1% (without CENVAT credit) or 12.5% (with CENVAT credit)
- Following facilities provided to jewellery manufacturer (other than manufacturer of silver jewellery without studded with specified precious stones):
 - Optional centralized central excise registration
 - Requirement of post registration verification of premises is removed
 - Quarterly payment of Excise Duty liability if aggregate value of clearances of excisable goods for home consumption does not exceed INR12 Crores
 - Removal of prescribed tariff value for the purpose of levy of Excise Duty
 - No physical visits by authorities in normal course

Above changes are effective 1 March 2016

Excise Duty

Other changes

Infrastructure Cess (a Duty of Excise) will be imposed on motor vehicles under Chapter 8703 effective 1 March 2016

Effective Rate of Infrastructure Cess is as follows:

Excisable Goods	Rate
Three wheeled vehicles, Electrically operated vehicles, Hybrid vehicles, Hydrogen vehicles based on fuel cell technology, Motor vehicles which after clearance have been registered for use solely as taxi, Cars for physically handicapped persons, Motor vehicles cleared as ambulances or registered for use solely as ambulance	Nil
Petrol/LPG/CNG driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1200cc	1%
Diesel driven motor vehicles of length not exceeding 4m and engine capacity not exceeding 1500cc	2.5%
All Categories of motor vehicles other than those listed above (to include SUVs)	4%

Excise Duty

Others

- Tools and kits procured by specified person for maintenance, repair and overhauling of aircraft has been exempted
- Clean Energy Cess is renamed as Clean Environment Cess, the change would be effective from date of assent to Finance Bill, 2016
- Effective rate of Clean Environment Cess on coal, lignite and peat is increased from INR 200 per tonne to INR 400 per tonne
- Oil Industrial Development Cess on domestic crude oil is reduced from 4500 PMT to 20% ad valorem

Custom Duty

Custom Duty

Legislative Changes

- Normal limitation period for issuance of notice for recovery increased from one year to 2 years
- Deferred payment of duties for importers and exporters with proven track record introduced
- Transit of goods and conveyance without payment of Custom duty to be allowed subject to conditions to be prescribed by the Board

Custom Duty

Legislative Changes - Warehousing

- Licensing for warehouses and permission for manufacture and other operations now to be issued by Principal Commissioner or Commissioner as against Deputy / Assistant Commissioner
- Shift from physical control to record based control for Custom bonded warehouse
- New class of warehouse requiring continued physical control of Custom authorities introduced
- Limit of warehousing bond increased from twice to thrice the amount of duty assessed on warehoused goods
- Time limit for warehousing of goods meant for EOU / STP / EHTP and other warehouse undertaking manufacture or other operations dispensed with till their clearance or consumption, as the case may be
- Provisions relating to warehousing station removed

Custom Duty

Rate change – Export Duty

Custom duty on the following goods reduced:

Product	Rate of Duty (in %)	
	Up to 29 February 2016	From 1 March 2016
Exported goods		
Iron ore fines with Fe content below 58%	10%	NIL
Iron ore lumps with Fe content below 58%	30%	NIL
Chromium ores and concentrates, all sorts	30%	NIL
Bauxite (natural), not calcined or calcined	20%	15%

Common Changes

Common Changes

Indirect Tax Dispute Resolution Scheme, 2016

Salient features

- Applicable for declarations made upto 31 December 2016
- Applicable in case of Service Tax/Excise/Customs disputes pending before Commissioner (Appeals) as on 1 March, 2016
- Designated authority will issue an acknowledgment of declaration received
- Declarant will be required to pay tax, interest and 25% of penalty imposed within 15 days of receipt of an acknowledgment
- Declarant will intimate designated authority within 7 days of making such payment giving details of payment
- Within 15 days from date of receiving an intimation from declarant, designated authority will pass an order of discharge of dues

Common Changes

Indirect Tax Dispute Resolution (Contd...)

Salient features

- Scheme is not applicable in following cases –
 - Impugned order is in respect of search and seizure
 - Prosecution has been instituted before 1 June 2016
 - Impugned order is in respect of narcotic drugs and other prohibited goods
 - Impugned order is in respect of any offence punishable under Indian Penal Code, Narcotic Drugs and Psychotropic Substances Act, 1985 or prevention of Corruption Act, 1988
 - Any detention order has been passed under the Conservation of Foreign Exchange and Prevention of Smuggling Act, 1974

Common Changes

Other changes in dispute resolution

- Eleven new benches of CESTAT proposed to be set up
- Monetary limit for deciding an appeal by a single member Bench proposed to be enhanced from INR 15 lakhs to INR 50 lakhs

Thank You