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Key highlights of India Budget 2016-17

A. Direct taxes

Most direct tax proposals in the Finance Bill, 2016 are effective from the Financial Year ('FY') beginning 1 April 2016 unless otherwise specifically stated.

1. No changes proposed in the tax rates for foreign companies.

2. Minimum Alternate Tax ('MAT') will not be applicable from FY 2000-01 to foreign companies which do not have a Permanent Establishment ('PE') in India or which are not required to seek registration under the corporate law in India.

3. *Equalisation Levy to tax B2B e-commerce transactions*

    a. An Equalisation Levy at 6% of gross consideration received by a non-resident (not having a PE in India) from residents or from non-residents (having a PE in India) to be introduced to address the challenges in taxation of digital transactions.

    b. This levy will apply to consideration exceeding INR 0.1 million (~USD 1,500) for online advertisements, providing digital advertising space or providing any other facility for the purpose of online advertisements.

4. BEPS recommendations on transfer pricing documentation (Country by country reporting and master file) to be made mandatory from FY 2016-17 for MNEs having consolidated revenues exceeding a threshold to be notified.

5. Tax withholding at a higher rate in the absence of a Permanent Account Number ('PAN') will not apply to a NR or a foreign company for payment of interest on long term bonds and any other payments, subject to conditions.

6. Various tax incentives will be provided to entities located in an International Financial Services Centre ('IFSC') such as exemption from Dividend Distribution Tax ('DDT'), reduced base rate of 9% for MAT, exemption from payment of Securities Transaction Tax ('STT') on securities transactions on a recognised stock exchange located in an IFSC and exemption from tax on long term capital gains arising on transactions in securities on a recognised stock exchange located in an IFSC and on which STT has not been paid.

7. Implementation of Place of Effective Management ('POEM') guidelines to determine residential status of foreign companies is proposed to be made effective 1 April 2016, while the date of 1 April 2017 for implementation of GAAR will be adhered to.

8. Various profit linked deductions and exemptions as well as weighted deductions to be phased out. Further, the highest rate of depreciation will be restricted to 40% with effect from 1 April 2017.

9. Dividend income exceeding INR 1 million (~USD 15,000) received by resident individuals and firms will be taxed at 10% on gross basis, in addition to the DDT already paid by the company distributing dividends.

10. No DDT will be payable on distributions made by a Special Purpose Vehicle to a Real Estate Investment Trust ('REIT') or Infrastructure Investment Trust ('InvIT'), holding prescribed shareholding. Further, dividend received by the REITs or InvITS and their investors will be exempt from tax.

11. Computation of disallowance of expenditure relating to income which is exempt from tax will be rationalized and the disallowance will be limited to the actual expenditure.

12. Deduction for 100% of profits for any 3 out of first 5 FYs will be provided to eligible certified Start-ups engaged in the business of innovation, development or commercialisation of new products, processes or services driven by technology or intellectual property.

13. Gross royalty income arising from patents developed and registered in India will be taxed at a concessional rate of 10% (subject to MAT), if in case of a person resident in India, who is the true and first inventor of the patent.

14. Tax Dispute Resolution Scheme will be introduced from 1 June 2016 to resolve pending appeals, including those relating to retrospective amendments. In case of matters relating to retrospective amendments, taxpayers will have an option to pay the disputed tax and will be given immunity from interest, penalty and prosecution.

15. Income Declaration Scheme, 2016 will be introduced to provide an opportunity to taxpayers to disclose domestic undisclosed income for the period upto FY 2015-16, by paying a tax at 30% on such income along with surcharge and penalty at 7.5% each. The Scheme will be effective from 1 June 2016 and will remain open till a date which will be notified subsequently.

16. Various other measures proposed with a view to rationalize and simplify the taxation system and to make a transition towards a non-adversarial tax regime.

B. Indirect taxes

17. Additional cess of 0.5% to be levied on the value of all taxable services, thereby resulting in an effective Service tax rate of 15%.

18. Infrastructure cess to be levied in the range of 1-4% on all motor vehicles, based on the type of fuel, engine capacity and length of the vehicle.