P. R. BHUTA & Co.

CHARTERED ACCOUNTANTS

BUDGET 2015

IN-DEPTH ANALYSIS OF BUDGET PROVISIONS AFFECTING NON-RESIDENTS

21-Mar-15

Prepared by:

CA PANKAJ BHUTA

CA HARSHAL BHUTA

CA TANVI VORA

TABLE OF CONTENTS

FINANCE BILL, 2015

BUDGET SPEECH

FINANCE BILL, 2015

1. Tax Rates - Abolition of Wealth Tax & Change in Rate of Surcharge

There has been no change in slab rates of tax for the Assessment Year 2016-17. However, the following amendments proposed have an effect on the final rate of tax applicable to the taxpayers.

The FM in his speech explained that the wealth tax collected during the Financial Year 2012-13 was Rs.844.12 and Financial Year 2013-14 was Rs.1008 crore only. The collection of wealth-tax over the years has not shown any significant growth and has only resulted into disproportionate compliance burden on the taxpayers and administrative burden on the department.

It is, therefore, proposed to abolish the levy of wealth tax under the Wealth-tax Act, 1957 with effect from the 1st April, 2016.

However, it is proposed that the objective of taxing high net worth taxpayers which was earlier achieved by the levy of wealth tax shall now be achieved by increasing the rate of surcharge payable by taxpayers earning higher income as levy of surcharge is easy to collect & monitor and also does not result into any compliance burden on the taxpayer and administrative burden on the department. Therefore, to compensate for wealth tax, the rate of surcharge has been increased by 2% for incomes above rupees one crore. However, such increase in surcharge shall not apply to foreign companies.

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. The rate of surcharge has been amended as follows:

Total Income	**Individuals, HUFs, AOP, BOI, Co-Operative Societies & Firms**		**Domestic Companies**		**Foreign Companies**	
	A.Y. 2015-16	**A.Y. 2016-17**	**A.Y. 2015-16**	**A.Y. 2016-17**	**A.Y. 2015-16**	**A.Y. 2016-17**
Above Rupees 1 Crore but up to Rupees 10 Crores	10%	12%	5%	7%	2%	2%
Above Rupees 10 Crores	10%	12%	10%	12%	5%	5%

Therefore further,

- The surcharge applicable on domestic companies on Minimum Alternative Tax shall be 7% for income above Rs.1 Crore and 12% for income above Rs.10 Crores (Section 115JB)
- The surcharge applicable to persons covered under Section 115JC (Alternate Minimum Tax) shall be 12% for income above Rs.1 Crore
- Such increased 12% rate shall also be applicable on taxes chargeable under section 115-O, 115R, 115TA and 115QA.

Effectively, the maximum marginal rates (including surcharge and cess) applicable to various persons as defined under Income Tax Act shall be as follows:

Person	Total Income		
	Upto Rupees 1 Crore	**Above Rupees 1 Crore but up to Rupees 10 Crores**	**Above Rupees 10 Crores**
Individual, HUF etc.	30.90%	34.608%	34.608%
Firm	30.90%	34.608%	34.608%
Domestic Company	30.90%	33.063%	34.608%
Foreign Company	41.20%	42.024%	43.26%

(**PRB Analysis:** *Though the decision to abolish Wealth Tax is very positive and greatly welcomed by the taxpayers, a fine comb of the Budget brings out some harrowing discoveries. On a reading of Para 113 of the Budget Speech it is clearly indicated that the wealth held by the taxpayers which was earlier required to be furnished under Wealth Tax Act, 1957 shall now be captured in the Income Tax Returns itself. Therefore, the earlier requirements of application of wealth tax rules for valuation of assets and documentation such as obtaining valuation reports, etc shall continue to apply to the taxpayer. Hence, effectively, the burden of compliance shall continue to sit on the shoulders of the taxpayers though reducing the administrative burden of the department by indirectly merging the compliance of Wealth Tax Act into Income Tax Act itself. Notably, small taxpayers that were earlier not liable to Wealth Tax shall now be required to furnish details (to be prescribed) in their Return of Income. The compensatory amendment to the abolishing of wealth tax was brought about by the increase in surcharge. This increase in surcharge by 2% shall be applicable to all taxpayers excluding Foreign Companies. This intelligently brought about amendment shall ensure that high net worth individuals shall be taxed at an higher rate under Income Tax which was earlier done through Wealth Tax thereby continuing to apply the socialist theory of taxing the rich. This amendment will ensure an increase of approximately rupees 9000 crores collection of taxes without any increase in the administrative costs as compared to the meagre rupees 1000 crores collected under Wealth Tax*)

2. Residential Status of Member of Crew of Foreign Bound Ship (Sec. 6)

The residential status of an individual is based on the number of days of presence of the individual in India. As per Section 6, an individual is resident in India if - (i) that individual stays in India for more than 181 days in a year; or (ii) that individual stays in India for 60 days or more in a year coupled with the condition of stay in India for 365 days or more in the preceding 4 years. However, in the case of an Indian Citizen leaving India as a member of crew of an Indian ship, the second condition of 60 days shall be substituted by 182 days.

The Finance Minister (FM) has proposed 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, in respect of such voyage, shall be determined in the manner and subject to such conditions as may be prescribed.

This amendment is effective retrospectively from Assessment Year 2015-16.

(**PRB Analysis:** *In the case of a crew of a foreign bound ship it is difficult to ascertain the number and manner of days of stay in India of an Indian citizen. This uncertainty arises with regard to the manner of calculation of period of stay in India. This hardship arises in determining the stay of such crew member "in India". The passport of such person is stamped at the immigration counter on the day he passes immigration. However, there could be a place where the ship is docked at the port even after the person has boarded the ship, or in a case where the ship has left shore however continues to sail on the Indian territorial waters for a few days. In such cases, the passport of a crew member shall* *indicate dissimilar number of days of stay in India as compared to the certificate provided by the shipping companies based on the passage through Indian and international territorial waters. | A CBDT clarification was also issued in 1990 vide Circular No. 586 dated 28/11/1990, through which it was elucidated that Indian ships operating beyond Indian territorial waters does not fall within the term India as defined under 2(25A) of the Income Tax Ac, 1961. Such analogy can be drawn on the above circular to say that the determination of number of days of stay in India by a crew member shall include the days on which such foreign bound ship was present on Indian shore and territorial waters of India. However, the controversy of manner and basis of determination of periods of stay in India for crew members of a foreign bound ship continues. This issue of determining the stay of 182 days or more in India of an individual citizen of India who is a crew member of a foreign bound ship shall be dealt with soon based on the manner and conditions <u>to be prescribed</u> for the determination of period of stay in India.)*

3. Residential Status of Foreign Company (Sec. 6)

Currently, the residential status of a Company in India is determined based on the place of control and management of the affairs of the company. If during the previous year, the control and management of the affairs of the company is *wholly* situated in India, then it shall be characterized as a Company resident in India.

The requirement of "control and management" has been amended. As per the proposed amendment the Foreign Company shall be resident in India if its Place of Effective Management (POEM), <u>at any time</u> in that year, is in India.

POEM has been defined as "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."

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 tax payers as well as the administration.

This amendment will take effect from 1st April, 2016 and will, accordingly, apply in relation to the assessment year2016-17and subsequent assessment years.

*(**PRB Analysis:** As stated in the Memorandum to Finance Bill 2015, the principle intention of the Government in introducing changes in criteria for determination of residence of a company is to reign in overseas shell companies which are controlled and managed from India. It is difficult to reconcile the language of the proposed amendment with such intention since the stated qualifying period which refers to "any time in the (previous) year" indeed works to expand the scope of the provision rather than solely discourage the setting up of shell companies abroad. The shell companies could in anyway be disregarded by the tax authorities by application of the principle of lifting the corporate veil or the doctrine of substance over form or the concept of beneficial ownership when the shell company's executive directors' decision making has become fully subordinate to the controlling company. Such opinion has been rendered by the Supreme Court in Vodafone International Holdings B.V. [341 ITR 1]. The mere administrative difficulty in applying such principle(s) could hardly be justified in expanding the scope of the provision. The Government draws support from the OECD Model Tax Convention to justify the adopting of POEM criteria. In fact, the wording of OECD Commentary on Model Tax Convention has been verbatim adopted in the proposed amendment. Such wording focuses on the place where the key decisions are undertaken. It seems that the Government fails to recollect its stated international position as expressed in its Position on the OECD Commentary on Model Tax Convention on Article 4 wherein it explicitly states that it is of the view that the place where the main and substantial activity of the entity is carried on is also to be taken into account when determining*

the place of effective management. This position has also been expressed clearly in its correspondence (through the Permanent Mission of India to UN to the President of the Economic and Social Council, UN – letter dated 13th August 2012) after the launch of Model UN Convention on Double Taxation 2011. It cannot be comprehended that such key understanding could be left to be introduced later on by CBDT rather than at the inception of introduction of POEM criteria. The Government has stated in the Memorandum that POEM is an internationally well accepted concept and that there are well recognized guiding principles for determination of POEM whereas the number of Observations on the OECD Commentary on Model Tax Convention on Article 4 as well as Reservations to Article 4 of the OECD Model Tax Convention reveal the immense divergence in the country practices in interpreting the concept of POEM. Perhaps, being aware of such diverse country practices and the varied principles applied by different countries, India itself has expressed in its Position on the OECD Commentary on Model Tax Convention on Article 4 of a right to include a provision that would refer to a Mutual Agreement Procedure for determination of the country of residence in case of a dual resident person other than an individual if the State in which its effective place of management is situated could not be determined. It may also be noted that due to high number of abuse cases of dual tax residency of companies based on POEM criteria, OECD in BEPS Action Plan 6 proposes to do replace POEM criteria with MAP as the main approach to solving tie breaker tests besides giving countries the option to retain POEM criteria as an alternative approach.)

4. Capital Gains in case of merger of similar schemes of Mutual Funds (Sec. 2(42A), Sec. 47 & Sec. 49)

Under the existing provisions mergers or consolidations of schemes of Mutual Funds were treated as a transfer and capital gains were payable by the unit holders of such schemes.

As per the proposed amendment, tax neutrality has been provided to the mergers of two or more similar schemes of mutual funds. It is clarified that equity oriented schemes can be merged with other equity oriented schemes and other than equity oriented schemes can be merged with other than equity oriented schemes only.

Consequently, it has been proposed to amend Section 2(42A) and Section 49 relating to the period of holding and cost of acquisition. The period of holding shall include the period for which the units of the consolidating scheme (ie original scheme) were held by the taxpayer. And the cost of acquisition shall be the cost of acquisition of the consolidating scheme (ie original scheme).

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.

(***PRB Analysis:*** *Mutual Funds have several different equity or debt (or combination) oriented schemes with comparable features. In order to do away with the several schemes, Securities and Exchange Board of India (SEBI) has been encouraging mutual funds to consolidate different schemes having similar features so as to have simple and fewer number of schemes. As per the erstwhile provisions fund mergers were considered as redemption of investments from one fund and a new purchase in another fund and were therefore brought to tax under capital gains. However, through such amendment the consolidation of such schemes of mutual fund in the interest of investors has been made tax neutral in the hands of the investors. However, it is pertinent to note that such tax exemption shall be provided only on consolidation of two or more schemes of an equity oriented fund or two or more schemes of a fund other than equity oriented fund. The above amendment will be beneficial to the investors since they will be brought to tax only at the time of sale of such mutual fund units. Consequently, the period of holding and cost of acquisition of the consolidated mutual* *funds is also proposed to be amended. The Finance Bill 2015 states that the period of holding shall relate to the period for which the units of the original scheme were held by the taxpayer and the cost of acquisition of the units in consolidated scheme shall be the cost of units in the original scheme.)*

5. Fund Managers in India not to constitute Permanent Establishment (PE) in India (Sec. 9)

Presently, the presence of a fund manager in India may constitute a business connection PE of the offshore fund in India even if the fund manager is an independent person. Therefore if the fund manager undertakes fund management activities of an offshore fund from India, the profits earned by the fund from such investments made in India and outside India may be taxed in India by application of Section 6 and Section 9(1)(i) of the ITA owing to the presence of the fund manager in India. Hence, apart from the taxation of the fees received by the fund manager for the fund management activities, income of the offshore fund from investments made in various countries may also get taxed in India.

Due to the above provisions, fund managers would prefer to be located overseas to avoid imputation of tax of such income. To overcome the above and facilitate location of such fund managers in India, it is proposed to amend the provisions so that the income arising from such funds from investments in India and outside India would not be liable to tax in India merely on the fact that the fund manager is located in India.

In order to avail of the above benefit / exemption the offshore fund shall be subject to the following conditions:

(1) The offshore fund shall be required to fulfill 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 India has entered into a DTAA;
- (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;
- (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.

(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 also provided that every eligible investment fund shall furnish within 90 days from the end of the financial year, the statement in the prescribed form regarding the fulfillment of the above conditions along with any other conditions that may be prescribed. In case of default, a penalty of rupees five lakhs shall be charged to the fund.

It is specifically mentioned that the above provisions shall not be applicable to any investment fund that would anyway have been taxed in India for any other reasons.

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.

(***PRB Analysis:*** *In a typical offshore fund structure investing in India, the fund manager is generally located outside India in order to avoid the risk of attracting provisions of either business connection ("agent having an independent status works mainly or wholly on behalf of a non-resident") under Income tax Act, 1961 or dependent agency PE under the relevant DTAA containing similar provisions. Since the India investment would require local knowledge of macro and/or micro economic and financial parameters, the fund manager usually procures research / investment advice from an Indian group entity and does not directly employ research personnel in India. The consequences of the fund manager being treated as a PE of the offshore fund could result in double taxation i.e. taxation in India which cannot be relieved by the country in which the fund is organized (since the fund is typically invested in a country offering preferential investment fund tax regime) and taxation in the home country of the investor unless such investor is tax exempt. Either way, it could result in lower returns for the ultimate investor. The proposed amendment would thus allow the fund manager to operate out of India which could also result in streamlining of fund management costs due to co-location of research and management activities in India. Vide Finance Act No 2 (2014), the investment made by Foreign Portfolio Investors (FPIs) has been mandated to be characterized as capital gains under the Income tax Act 1961. The application of provisions of business connection in their case thus does not arise and therefore the proposed provisions would not benefit them in anyway. Further, the purpose behind introducing the broad based investor requirement seems to be ambiguous since the broad based investor test is in practice satisfied only by certain categories of FPIs and not all types of offshore funds. It is also stated in the proposed amendment that the fund cannot carry on or control and manage, directly or indirectly, any business in India or from India. In the research article 'Can pre-emptive, exit & negative control rights in SHAs create AEs?' (written by our firm member Harshal Bhuta for IFA Conference 2013), the ambiguity of the interpretation of control and/or management for negative control rights had been pointed out for the purpose of application of transfer pricing regulations. Therefore, although the proposed provisions relax the requirement of permanent establishment in the case of the fund manager, such ambiguity would create a hurdle for relocating* *the fund managers based on the existing fund structures for Financial Investors such as Venture Capital funds / Private Equity funds under the proposed new provisions.)*

6. Taxability of Indirect Transfers (Sec 9(1)(i))

The Hon'ble Finance Minister expressed in his previous budget speech the issues of numerous litigation and uncertainty of investor sentiment brought about by the retrospective applicability of Explanation 5 to Section 9(1)(i) inserted vide Finance Act 2012 pertaining to Indirect Transfers. This amendment made taxable in India, the transfer of share or interest in a foreign company or entity by a non-resident outside India, if such interest in the entity derived its value "substantially" from the assets located in India. The meaning of the word substantially however was not clarified.

In order to streamline the above, upon recommendations of the Expert Committee formed under the chairmanship of Dr. Parthasarathi Shome, it is now proposed to amend the following:

"Characterization of Substantiality"

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

(a) exceeds the amount of ten crore rupees; and
(b) represents <u>at least fifty percent</u> of the value of all the assets owned by the company or entity.

"Valuation of Indian Assets"

Value of an asset shall mean the <u>fair market value</u> of such asset without reduction of liabilities, if any, in respect of the asset.

The manner of determination of fair market value of the Indian assets vis-a vis global assets of the foreign company shall be prescribed in the rules.

"Specified Date of Valuation"

The specified date of valuation shall be the date on which the accounting period of the company or entity, as the case may be, ends preceding the date of transfer.

However, if the book value of the assets of the company on the date of transfer exceeds by at least 15% of the book value of the assets as on the last balance sheet date preceding the date of transfer, then the date of transfer shall be the specified date of valuation.

"Proportionate Taxability"

The taxation of gains arising on transfer of a share or interest deriving, directly or indirectly, its value substantially from assets located in India will be on proportional basis. The methods for determination of proportionality are proposed to be provided in the rules.

"Exemptions"

(i) Where the non-resident transferor along with its associated enterprises constitute minority shareholders, the following two scenarios are exempted:

a. Direct Holding: the non-resident shareholder shall not be taxable in India if he (such non-resident shareholder) does not hold the right of control or management, nor holds voting power or share capital or interest in excess of five percent of the total voting power or total share capital, in the foreign company or entity directly holding the Indian assets.
b. Indirect Holding: the non-resident shareholder shall not be taxable in India if he (such non-resident shareholder) does not hold the right of management or control in relation to such company or the entity, nor holds any rights in such company which would entitle it to either exercise control or management of the direct holding company or entity or entitle it to voting power exceeding five percent in the direct holding company or entity.

(ii) Exemption of capital gain shall be available in a scheme of amalgamation or demerger, in respect of any transfer of a capital asset being a share of a foreign company which derives, directly or indirectly, its value substantially from the share or shares of an Indian company, held by the amalgamating foreign company / demerged foreign company to the amalgamated foreign company / resulting foreign company, subject to certain conditions.

"Reporting Obligations of the Indian Entity"

The Indian entity shall be obligated to furnish information relating to the off-shore transaction having the effect of directly or indirectly modifying the ownership structure or control of the Indian company or entity. In case of any failure on the part of Indian entity in this regard a penalty shall be leviable. The proposed penalty shall be-

a. a sum equal to two percent of the value of the transaction in respect of which such failure has taken place in case where such transaction had the effect of directly or indirectly transferring the right of management or control in relation to the Indian concern; and
b. a sum of five lakh rupees in any other case.

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

(***PRB Analysis:*** *The Expert Committee on Retrospective Amendments Relating to Indirect Transfer constituted under the Chairmanship of Dr. Parthasarathi Shome had presented its final report to the Finance Ministry on 31st October 2012. Although the final report was not available in the public domain, as per press reports, it was largely similar to the draft report of the aforesaid committee as placed in the public domain on 9th October 2012 for inviting comments. Many recommendations as contained in the draft report have been accepted by the Government and form a part of the proposed amendments albeit with modifications in various provisions as proposed. The critical analysis of some of the main proposed provisions is as follows: (a) The value of liabilities has been rightfully ignored since it is irrelevant for the purpose of determination of nexus with India; (b) Adjustment for fair value has been prescribed only for situations involving increase in fair value by 15% and not in case where there is decrease in value; (c) the minority exemption of 5% is substantially lower than 26% as was proposed by the Expert Committee in its draft report; (d) The much needed exemption for transfer of shares of a frequently traded foreign company listed on recognized stock exchange has not been considered in the proposed amendments. This would cause undue hardship to the foreign shareholder as well as practical challenges to the Indian tax administration; (e) Reporting by Indian company for such transfers of shares of the frequently traded foreign company listed on recognized stock exchange would become burdensome and challenging; (f) The proposed amendments do not provide clarifications for triangular situations resulting from dual source conflict arising out of such Indirect transfers. Para 3(c) r.w. Para 11 of Commentary on Article 23A/B under OECD Model Tax Convention suggests MAP as the only solution to such conflicts.)*

7. Payment of Interest by a branch of a foreign bank to head office etc. (Sec 9(1)(v))

The existing provisions of Section 9(1)(v) provides that the income by way of interest is deemed to accrue or arise in India if it is payable by –

a) the Government ; or
b) a person who is a resident, except where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person outside India or for the purposes of making or earning any income from any source outside India ; or
c) a person who is a non-resident, where the interest is payable in respect of any debt incurred, or moneys borrowed and used, for the purposes of a business or profession carried on by such person in India.

An explanation has now been inserted to Section 9(1)(v)(c) to provide that interest payable by a permanent establishment in India of a non-resident bank to the head office or any other PE outside India shall be deemed to accrue or arise in India therefore taxable in India. This shall be in addition to any income attributable to the PE in India. It is also clarified that such Indian PE shall be deemed to be a person separate and independent of such non-resident.

*(**PRB Analysis:** From a tax policy perspective, the Government has sought to correct the base erosion it suffers following the rendition of several judicial decisions which allow a deduction from the tax base of PE (hypothesizing it as a separate and independent entity), while at the same time allowing the foreign head office to receive the income free of tax charge (under the single entity approach either under the domestic tax law or the relevant DTAA). Unfortunately, the efforts of the Government in amending the domestic tax law to provide for a specific withholding charge to treat such interest as income in the hands of the foreign head office are unlikely to bear any fruit in view of the existence of the numerous DTAAs which would still allow non-taxation of such interest. Although the Government has stipulated that deduction of tax at source has to be made on payment of such interest by PE to its head office, it has not clarified whether the PE would get a deduction of the interest charge under Income Tax Act, 1961. It may be relevant to note here that the proposed amendment mentions that the PE in India shall be deemed to be a person separate and independent of the non-resident person of which it is a PE and that the provisions of the Act relating to computation of total income, determination of tax and collection and recovery would apply to the PE as such. One could contend based on the aforesaid wordings that the PE could claim a deduction under Income Tax Act, 1961 but since such wordings are proposed to be added under an Explanation to Sec. 9(1)(v), their application may be restricted solely to Sec. 9(1)(v) per se.)*

8. Alternate Investment Funds (Sec. 10(23FBA), Sec. 10(23FBB))

Under the SEBI (AIF) regulations, various types of AIFs have been classified under three separate categories as Category I, II & III AIFs. A new proviso to Section 10(23FB) in the Finance Act has been proposed to cover incomes of Category I and II AIFs registered under these AIF Regulations.

As per the proposed amendments, these funds have been accorded a pass through status (ie tax transparent entity). Any income (other than business income) of the fund shall be taxable in the hands of the unit holder and not in the hands of the fund. Such pass through status shall not be applicable to income from profits and gains of business or profession and such income shall be exempt in the hands of the unit holder. However, any loss at the fund shall not be allowed to be passed through to the unit holders but could be carried forward at the fund level to be set of in the subsequent year.

The fund shall be liable to deduct tax at 10% on payments (other than business income) made to the investors as provided under section 194LBB. The provisions relating to Dividend Distribution tax (DDT) shall not apply to the income paid by the fund to its unit holders. The income received by the fund (ie business income) shall be exempt from TDS requirements by notification to be issued under section 197A(1F).

The above provisions shall not apply to venture capital funds registered under the erstwhile SEBI (VCF) Regulations, 1996 to whom the existing provisions under section 10(23FB) shall continue to apply.

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

*(**PRB Analysis:** Category I & II AIFs inter alia include onshore venture capital funds, infrastructure funds, private equity funds and debt funds. Pass through status has been granted to such category I & II AIFs by providing that any income (other than business income) of such AIFs shall be chargeable to tax in the hand of the unit holders and not the AIF. Such pass through status shall provide greater flexibility in structuring such funds in India. It is to be noted that as per the proposed amendment, if the income of an investment fund in a given previous year is not paid or credited to the account of its unit-holders at the end of the previous year, such income will be deemed to have been credited to the account of its unit-holders on the last day of the previous year in the same proportion in which the unit-holders would have been entitled to receive the income had it been paid in the previous year. | As an additional compliance requirement, the fund shall mandatorily have to deduct tax at source on payments (other than business income) made to unit holders and such unit holders shall have to offer such income to tax in their Return of Income and claim credit for the TDS. In view of the rule mandating the deemed credit of income to the accounts of unit-holders, the Finance Bill 2015 also extends the requirement to deduct tax in cases where income is not actually paid or credited but only deemed to be credited to the unit holders. The above tax pass through status provided to AIFs, even though is greatly welcomed, it accompanies with it certain hardships. The current withholding tax can be interpreted to apply even to exempt income such as dividends and long-term capital gains on listed equity shares which causes unnecessary hardships to unit holders to claim refund/credit for such incomes. Further, no clarity has been provided on whether the withholding obligation would also apply in respect of non-resident investors who are eligible to treaty benefits. Section 195(1) of the Income Tax Act casts a withholding obligation only on sums that are chargeable to tax under the provisions of the Act, it would have been preferable if the Bill clarified that section 194LBB would not be applicable in connection to the income of an investor eligible for treaty benefits. | As part of compliance, the AIF shall however be required to furnish Return of Income even if its taxable income is below the exemption limit. Return of Income shall also be required to be furnished in cases where the fund wished to carry forward losses in a year to the subsequent assessment years. | A positive development relating to AIFs was the announcement by the FM in his budget allowing foreign investments in AIFs. However, the implementation of such announcement by the FM is yet awaited.)*

9. Real Estate Investment Trust (REIT) and Infrastructure Investment Trust (INVIT)

The Securities and Exchange Board of India (SEBI) had proposed draft regulations relating to two new categories of investment vehicles namely, the Real Estate Investment Trust (REIT) & Infrastructure

Investment Trust (INVIT) at the time of the Finance Bill (No.2), 2014. These regulations for REITs & INVITs have subsequently been notified.
In furtherance to the special tax regime introduced for REIT and INVIT last year, the Finance Bill, 2015 proposed following further rationalizations:

(i) The sponsor of REIT/INVIT would now be eligible for concessional STT-based capital gains tax regime on par with other investors of the REIT/INVIT (i.e. LTCG on transfer of units would be exempt and STCG would be taxable at the rate of 15 per cent provided STT at 0.2 per cent is paid on the sale of such units) at the time of disposal (which may be under an IPO listing or sale thereafter) of the units of the REIT/INVIT.
(ii) The rental income arising to REIT from the real estate property directly held by the REIT would now be eligible for pass through benefit. Accordingly, such rental income shall be chargeable to tax in the hands of the unit holders of the REIT on distribution. There would be no withholding tax obligation on the tenant or lessee on payment of rent to the REIT, but the REIT in turn is required to withhold tax at 10 per cent on distribution of such income to the resident unit holders and at applicable rates on the distribution to the nonresident unit holders.

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

(***PRB Analysis:*** *Hitherto, the rental income earned by business trust from the real estate property directly held by it was taxed at the Maximum Marginal Rate in the hands of the business trust since it was not treated as pass through. The effect of the proposed amendment to grant pass through status to such rental income would be different for different types of assesses. Eg: a resident / non-resident Individual would benefit since (s)he would now be liable to tax at the applicable slab rates instead of the Maximum Marginal Rate although the TDS rate for them would differ respectively; whereas for a foreign company, the taxation could be worse off since they would be liable to tax @ 40% (plus applicable surcharge and education cess).)*

10. Domestic Transfer Pricing (Sec. 92BA)

The existing provision contained in Section 92BA of the Act contains the threshold limit of Rupees Five Crores to cover certain domestic transactions under the purview of Domestic Transfer Pricing.

It is proposed to amend Section 92BA to increase such threshold limit to Rupees Twenty Crores.

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

(***PRB Analysis:*** *In a welcome move by the FM, in order to address the issue of compliance cost in case of small businesses on account of low threshold of five crores rupees, as mentioned in Memorandum to Finance Bill and also to reduce the adversities faced by them, it is proposed to increase the threshold limit to cover specified domestic transactions under the purview of Domestic Transfer Pricing w.e.f. 1st April, 2016 in case of specified domestic transactions entered into by the assesse to Rupees Twenty Crores. However, the revision of threshold limit still does not permit the taxpayer to undertake transactions with its related parties at any price other than Arm's Length Price (ie Fair Market Price). The threshold limit only exempts the taxpayer from transfer pricing compliance and maintenance of detailed documentation.)*

11. Taxation of Royalty and Fees for Technical Services (Sec. 115A)

Previously vide Finance Act 2013, the rate of income tax on royalty and fees for technical services in case of non-residents was increased from 10% to 25%.

To remove hardships faced by small entities, it is proposed to restore the tax rate back to 10% of income on royalty and fees for technical services in case of non-residents.

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

(***PRB Analysis:*** *As mentioned in the Memorandum to Finance Bill, in order to remove hardships faced by Indian entities, it has been proposed to restore (rates prior to Finance Act 2013) the withholding rates pertaining to Royalty and Fees for Technical Services. The Government seems to have acknowledged the reality that in most cases the withholding cost had been passed on to the Indian entity acquiring the technology or technical services following the increase in withholding rates previously.)*

12. Rationalization of MAT – Capital Gains arising to an FII from Securities Transactions (Sec. 115JB)

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 to allow reduction of such capital gains from the Book Profits if they are credited to the profit and loss account while computing MAT liability under Section 115JB. However, such amendment is only applicable to an Foreign Institutional Investor (FII) a defined under Section 115AD. However, deduction for such capital gains from securities transactions shall only apply to capital gains from transactions on which Securities Transaction Tax (STT) has been paid. Therefore, short term capital gains (on which STT is not paid) shall not be reduced from book profits. As a corollary, any expenditure debited to the profit and loss account relating to such capital gains is also required to be added back to the book profits.

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.

(***PRB Analysis:*** *The Advance Authority Ruling in the case of Castleton Investment Ltd. [348 ITR 537] had previously held that provisions of MAT were applicable to foreign companies too irrespective of the presence of permanent establishment in India. The proposed amendment puts to rest such controversy as far as FIIs are concerned. But the proposed amendment could cause collateral damage to foreign companies other than FIIs by endorsing the position of law that MAT indeed applies to all companies be it Indian or foreign. As explained in our previous year's budget note, if the resident country of the FII chooses to characterize such income as business income, then there could arise a qualification conflict in such a case as far as short-term capital gains are concerned since they would be taxable in India under Income tax Act, 1961. The resident country may not follow the guidance given in Para 32.3 of Commentary to Article 23A/B under OECD Model Tax Convention which stipulates that the resident country is obliged to follow the qualification given by the source country if such qualification arises out of the domestic tax law of the source country. As a flipside to this* *proposed amendment, other foreign companies may continue to take shelter under the respective DTAAs if the business income or capital gain clause is more favourable to them.)*

13. Income from Global Depository Receipts

The Depository Receipts Scheme, 2014 has been notified by the Department of Economic affairs (DEA). This scheme replaces "Issue of Foreign Currency Convertible Bonds and Ordinary Shares (through depository receipt mechanism) Scheme, 1993".

Currently, the taxation of depository receipts is limited to issue of Global Depository Receipts (GDRs) issued by companies listed on the recognized stock exchange.

The new scheme has been widened to include GDRs that can be issued securities of listed, unlisted or private or public companies against underlying securities which can be debt instruments, shares or units etc.

However, the tax benefits under the Income Tax Act are to be continued to be restricted to GDRs as defined under the earlier depository scheme. Therefore, the scope of provision relating to tax on income from GDRs purchased in foreign currency or capital gains is restricted in respect of GDRs issued by companies listed on recognized stock exchange in India.

*(**PRB Analysis:** The new scheme called "The Depository Receipts Scheme, 2014" was released based on the recommendations of the Sahoo Committee. As per the new scheme, issuance of GDRs against a wider range of permissible underlying securities (including debt and mutual fund units), by listed and unlisted Indian companies alike was allowed. The Sahoo Committee also recommended the extension of the current tax benefits available to taxation of GDRs to apply to the widened scope of GDRs under the new "Depository Receipts Scheme, 2014". With this recommendation it was highly anticipated that such tax benefits would be extended to all kinds of depositories irrespective of the underlying security. However, the current budget has proposed to limit the tax benefits only to current scope (ie GDRs issued against ordinary shares). Extending such benefits to wider depository instruments would have been beneficial to the overall market conditions of India. Therefore, we shall have to wait and see what the FM has in store for the next budget relating to tax benefits to other depository instruments.)*

14. Relaxing the requirement of obtaining TAN for certain deductors

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) since the Government acknowledges that 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.

In contrast, Sec. 194-IA does not apply to a non-resident transferor, instead Sec. 195 applies and consequently, such non-resident transferor has to obtain TAN even if such transaction is likely to be a one-time transaction and further, file TDS return on the TDS so deducted.

In order to bring parity between resident transferor and non-resident transferor, the Government proposes to amend Sec. 203A to provide relief to the non-resident transferor from obtaining TAN in respect of such transactions.

(***PRB Analysis:*** *Although Form 13 (Form for application of permission to apply lower withholding tax rate under Sec. 197) contains a field for quoting TAN, in practice, the Assessing Officer usually starts processing the application before the TAN is obtained. But the practice may vary from officer to officer and therefore, the proposed amendment would benefit the NRIs hugely.* **|** *One could hope that single time transactions such as the sale of shares of private limited company would also be covered under the relaxation proposed.)*

15. Interest on certain Bonds and Government Securities (Sec. 194LD)

The existing provisions of Section 194LD of the Income Tax Act, 1961 ('Act') provide for lower withholding tax rate of 5% on interest to a Foreign Institutional Investor (FIIs) and Qualified Foreign Investor (QFIs) on rupee denominated bonds of an Indian Company or Government Securities on or after the 1st day of June, 2013 but before the 1st day of June, 2015.

It is now proposed to extend by two years the concessional rate of tax of the Interest paid to FIIs and QFIs up to 30th June 2017. Therefore, the payer of such interest shall be required to deduct TDS at 5% plus applicable surcharge and cess up to 30th day of June, 2017.

(***PRB Analysis:*** *Consequential to the extension (vide Finance Act (No.2) 2014) of period of benefit for reduced tax available under section 194LC in order to extend similar incentives to the FIIs & QFIs and in order to encourage more foreign investments in debt market by Foreign Institutional Investors (FIIs) and Qualified Foreign Investors (QFIs), it has been amended that the benefit of lower withholding tax of 5% in case of interest payable to FIIs and QFIs on their investment in Government securities and rupee denominated corporate bonds would continue upto 30th day of June, 2017)*

16. Furnishing of Information (Sec. 195)

Currently, the provisions of Section 195(1) require a person paying, any interest or other sum chargeable to tax, to a non-resident, to deduct tax from such payments. Information regarding such payments chargeable to tax is required to be furnished in Form 15CA under sub-section 6 of Section 195.

It is now proposed to amend sub-section 6 of Section 195 to provide for furnishing of information of such remittances whether or not they are chargeable to tax, in such Form and manner as may be prescribed.

Section 271-I has been introduced to provide for a penalty of Rs.1,00,000/- if the person required to furnish such information under Section 195 fails to do so.

This amendment is effective from 1st June, 2015.

(***PRB Analysis:*** *Presently, the requirement of furnishing Form 15CA/CB is applicable only in the cases where any interest or other sum – chargeable to tax - is being paid to a non-resident or foreign company. The proposed amendment requires the payer to furnish information in such Form and manner that shall be prescribed. This amendment is being introduced with an objective of the government to obtain information pertaining to all remittances to non-residents and foreign companies in order to identify remittances on which tax would have been deductible but the payer failed to do so. Further, penal provisions of such non-compliance of the amended provision have also been proposed* *to be introduced to ensure filing of such information. Such augmented compliance will be cumbersome and costlier on the taxpayers as every transaction of payment would require to undertake the entire process of lengthy compliance.* **|** *However, at a conference organized by the Chamber of Tax Consultants and IFA Delhi Chapter post the budget, Jt. Secretary Pragya Saxena of the CBDT clarified that such onerous reporting requirements shall not be applied to all cases. She explained that the intent of such amendment was to seek information regarding both tax and non-taxable payments to non-residents or foreign companies. She also clarified that only such 'information' would be required to be furnished as may be 'prescribed'. Therefore, we could interpret such statement to mean that the extensive reporting requirement as earlier prescribed under Form 15CA & Form 15CB may be limited. Therefore, we shall have to await such prescribed form and manner of submission of such information.)*

17. Foreign Tax Credit (Sec. 295)

The provisions of Section 295 have been amended to give power to the Board (CBDT) to make and notify rules for the purpose of granting relief or deduction of foreign taxes paid in other countries with which India has not signed any DTAAs.

This amendment is effective from 1st June 2015.

*(**PRB Analysis:** Although most of the DTAAs that India has entered into, stipulate that allowance as a credit against Indian tax of tax paid in a territory outside India is subject to the provisions of the law of India, the Income Tax Act, 1961 in fact does not contain any provisions with respect procedure of granting credit of such foreign taxes. Since under the respective DTAAs as well as under Sec. 91, the foreign tax paid is creditable in India only upto the amount of Indian tax leviable on the doubly taxed income, there is no scope for carry forward / refund of the excess credits and therefore to that extent, certain types of income may suffer double taxation without full relief (Eg: (a) cases involving gross basis withholding at source vs. net basis taxation eventually in India; (b) cases where due to differences in domestic tax laws of resident state vs. source state, the calculation for a particular source of income may result in positive income as per source state tax laws, whereas at the same time, the calculation may result in a loss situation as per resident state tax laws. This problem may be faced due to timing differences in amounts of deductions allowed in source state vs. resident state against a particular source of income). Further, in view of the language of the specific DTAAs as well as that of Sec. 90 as they are currently drafted, following aggregation approach for various country foreign tax credits seems to be highly precarious. The CBDT could provide rules dealing with the aforesaid. Additionally, it could also indicate the approach to be followed for foreign tax credits arising out of different types of sources of income from a particular country i.e. favouring either source by source limitation or source by source aggregation. Lastly, the CBDT could clarify its position on inclusion (by way of apportionment) or non-inclusion of various types of deductions from Gross Total Income for the calculation of 'Indian tax payable' against a particular source of income arising in the foreign country.)*

18. Measures to curb Black Money

The FM in his speech has proposed a new law on Black Money. Some of the key features of the law enumerated in his speech are as follows:

(1) Concealment of income and assets and evasion of tax in relation to foreign assets will be prosecutable with punishment of rigorous imprisonment upto 10 years. Further,
- this offence will be made non-compoundable;
- the offenders will not be permitted to approach the Settlement Commission; and
- penalty for such concealment of income and assets at the rate of 300% of tax shall be levied.

(2) Non filing of return or filing of return with inadequate disclosure of foreign assets will be liable for prosecution with punishment of rigorous imprisonment up to 7 years.
(3) Income in relation to any undisclosed foreign asset or undisclosed income from any foreign asset will be taxable at the maximum marginal rate. Exemptions or deductions which may otherwise be applicable in such cases, shall not be allowed.
(4) Beneficial owner or beneficiary of foreign assets will be mandatorily required to file return, even if there is no taxable income.
(5) Abettors of the above offences, whether individuals, entities, banks or financial institutions will be liable for prosecution and penalty.
(6) Date of Opening of foreign account would be mandatorily required to be specified by the assessee in the return of income.
(7) The offence of concealment of income or evasion of tax in relation to a foreign asset will be made a predicate offence under the Prevention of Money-laundering Act, 2002 (PMLA). This provision would enable the enforcement agencies to attach and confiscate unaccounted assets held abroad and launch prosecution against persons indulging in laundering of black money.
(8) The definition of 'proceeds of crime' under PMLA is being amended to enable attachment and confiscation of equivalent asset in India where the asset located abroad cannot be forfeited.
(9) The Foreign Exchange Management Act, 1999 (FEMA) is also being amended to the effect that if any foreign exchange, foreign security or any immovable property situated outside India is held in contravention of the provisions of this Act, then action may be taken for seizure and eventual confiscation of assets of equivalent value situated in India. These contraventions are also being made liable for levy of penalty and prosecution with punishment of imprisonment up to five years.

With respect to curbing domestic black money, a new and more comprehensive Benami Transactions (Prohibition) Bill will be introduced in the current session of the Parliament. This law will enable confiscation of benami property and provide for prosecution, thus blocking a major avenue for generation and holding of black money in the form of benami property, especially in real estate.

The current Finance Bill has proposed the amendment of the provisions of Section 269SS Income Tax Act to prohibit acceptance or payment of an advance of Rs. 20,000/- or more in cash for purchase or transfer of immovable property.

(***PRB Analysis:*** *The bill proposes very stringent measures to deal with the problem of black money. The FM has promised a new law with hefty penalties to control the demon of black money. With the limitations in the current legislations, the government has recognized its failure of bringing the black money stashed abroad back to India. By introducing the law which will give the government the ability to seize or confiscate Indian assets for the money lying in foreign accounts illegitimately should certainly address this issue.* **|** *The government has also provided strongly against black money by* *providing for criminal prosecution, imprisonment to offenders and penalty of 300 percent of tax for concealment of income and assets. Such harsh measures should act as a significant deterrent to keeping the illegal monies outside India. To ensure that no more (illegitimate) accounts are opened in foreign banks, the law will make it mandatory to disclose date of opening of bank account along with all other details of foreign assets in their annual tax returns. It is pertinent to note that a beneficial owner or beneficiary of foreign assets will also be mandatorily required to file return, even if there is no taxable income. Further, it is proposed that non filing of return or filing of return with inadequate disclosure of foreign assets will be liable for prosecution with punishment of rigorous imprisonment up to 7 years. To analyze this further, let us understand the following illustration - an individual may have opened a bank account in a foreign country while studying there certain years ago. He returns to India permanently and did not close the bank account having a few US Dollars. Now, while filing his return of income, (s)he forgets to disclose the same in the Return. As per the current strongly worded law, an innocent may have to face the fear of prosecution with punishment of rigorous imprisonment up to 7 years. In view of this, such disproportionate punishments are not justifiable in case of certain minor offences and therefore, the government will have to be extremely cautious in allowing the income tax department to take action under the new black money regime that has been proposed.* **|** *Apart from the above law against black money stashed in foreign countries, the FM has also proposed to counter issues of black money at the domestic level and a new and more comprehensive Benami Transactions (Prohibition) Bill will be introduced in the current session of the parliament. This will help in the confiscation of benami properties and provide for prosecution of the benamies. Through this law, the government hopes to put an end to the parking of black money through the benami and black market route. Currently, the only amendment proposed in the Finance Bill 2015 relates to Section 269SS and Section 269T of the Income Tax Act through which the government has sought to tax the black money component in real estate industry. The two sections state that acceptance or repayment in cash of Rs.20,000 or more would be penalised, in all real estate dealings.)*

19. Implementation of General Anti Avoidance Rule (GAAR)

The Finance Minister (FM) in his Budget Speech deferred the applicability of GAAR by two (2) years. This move by the FM was owing to the positive investment momentum in India and the issues surrounding GAAR have yet not been resolved.

A much needed relief/clarification was also announced by the FM. He stated that GAAR provisions shall only apply prospectively to investments made on or after 1st April 2017.

In clause 25 of the Finance Bill, the FM has made applicable the GAAR provisions from Assessment Year 1st April 2018 onwards.

(***PRB Analysis:*** *It has been stated in the Memorandum to Finance Bill that the Government would like to wait for the outcome of the OECD/G20 BEPS project before implementation of GAAR in India. It is fairly reasonable to state from a tax policy perspective that GAAR is the need of the hour for various Governments losing huge tax revenue due to tax aggressive schemes adopted by various MNCs. In fact, even before the outcome of BEPS project, numerous governments worldwide have started implementing the suggested action plans under BEPS by amending their domestic tax laws. Implementation of GAAR in India need not depend on the outcome of BEPS project, rather the various contentious issues need to be resolved in line with the Report of the Expert Committee on GAAR chaired by Dr. Parthasarathi Shome before GAAR is implemented in India!)*

20. Proposal to reduce corporate tax

The basic rate of corporate tax in India is currently 30% which is higher than the rate of tax in many other Asian countries, making India less competitive. Also, various exemptions available to corporates has also considerably brought down the net rate of corporate tax. Such exemptions has led to various litigations and in some cases tax evasion.

The FM in his speech has therefore proposed to reduce the corporate tax rate from 30% to 25% over a period of next 4 years starting from Assessment Year 2017-18. This reduction in rate shall however also be accompanied by a reduction or removal of various exemptions and incentives provided to corporates.

*(**PRB Analysis:** This step would help India to attract foreign investment. It may also enable certain companies to increase their proportion of retained earnings and thereby facilitating higher reinvestment whereas for certain companies it may be a tax neutral exercise due to phasing out of exemptions enjoyed presently. From a tax policy perspective, this step would improve the horizontal equity in the tax system in India.)*

21. Shelving the introduction of DTC

The Finance Minister in this speech mentioned that most of the provisions of the DTC have already been included in the Income-tax Act. Further, among the very few aspects of DTC which were left out, some of the issues have been addressed in the present Budget 2015. Also, the jurisprudence under the Income-tax Act is well evolved. Considering all these aspects, he stated that there is no great merit in going ahead with the Direct Tax Code as it exists today.

*(**PRB Analysis:** One of the important proposals contained in DTC related to the introduction of CFC regulations. The Report by Standing Committee of Finance had suggested that CFC should be deferred since introducing the CFC regulations would adversely affect the overseas acquisitions by Indian companies especially at a juncture when Indian companies have started to make substantial outbound investments. It also acknowledged that it is common practice to take over companies outside India through intermediate holding companies, which are incorporated to optimize tax implications outside India. In light of these observations, the fate of CFC regulations in India remains to be undecided.)*

22. Implementation of recommendations of Tax Administration Reform Commission (TARC)

The Finance Minister stated in his budget speech that recommendations of TARC are in advanced stage of examination and would be appropriately implemented during the course of this year.

*(**PRB Analysis:** Binding reforms in the tax administration have been eagerly awaited by all the tax payer community since a long time. From a tax policy perspective, reforms such as accountability of tax officers and adoption of a customer based approach towards taxpayers are in dire need of implementation in order to improve the tax compliance environment in India.)*