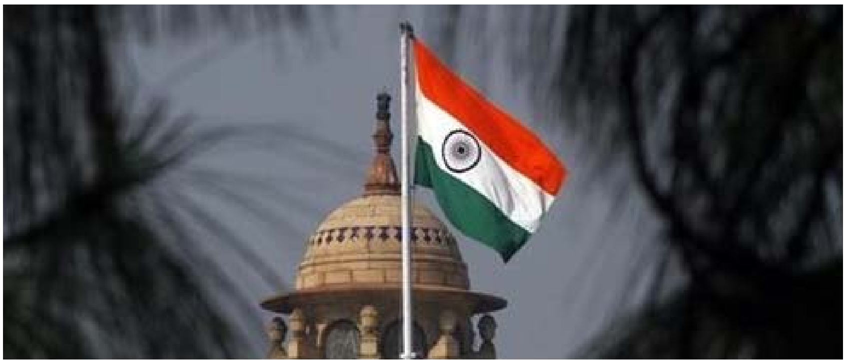


BUDGET 2013

KNAV COMMENTS:

In a quest to give a major impetus to the investment climate in the country, especially in the infrastructure sector, the Honorable Union Finance Minister in current year's budget announced a number of steps to boost growth - including raising INR 50,000 crore through tax-free bonds, setting up of two new ports, seven new smart cities and creation of two new industrial corridors.

Proposed amendment to Section 90 and 90A with respect to just the tax residency certificate not being sufficient and insistence on beneficial ownership verification seems to be a step forward in ushering the GAAR era.

The budget is designed at sparing the common man and taxing the super-rich : both individuals and corporates.

The much debated Direct Tax Code may come to the floor of the house in this Budget Session of the Parliament; and, as to GST...it is still caught in lack of political consensus across states and the centre over revenue sharing: both of these path breaking legislations could have been pushed through with better consensus politics.

IN THIS ISSUE:

ECONOMY

The Government has managed its expenditure carefully. But, where is the recipe for growth...is the startling question? There could have been more action on stimulating growth. Overseas investors and analysts are wondering what was this all about - where is the reform?
Here are some of the key economic indicators and budget announcements on infrastructure, investments and capital markets:

ECONOMIC INDICATORS:

- Plan expenditure is placed at INR 5,55,322 Crore. Non Plan Expenditure is estimated at INR 11,09,975 Crore. Fiscal deficit for the current year contained at 5.2% and for the year 2013-14 aimed at 4.8%. Revenue deficit for the current year at 3.9% and for the year 2013-14 at 3.3%. By 2016-17 fiscal deficit to be brought down to 3%, revenue deficit to 1.5% and effective revenue deficit to 0%.
- All flagship programmes fully and adequately funded and sufficient funds provided to each Ministry or Department consistent with their capacity to spend funds.
- Budget for 2013-14 has an overarching goal of creating opportunities for our youth to acquire education and skills that will get them decent jobs or self-employment.

INFRASTRUCTURE & INVESTMENTS PUSH:

- Delhi Mumbai Industrial Corridor (DMIC) to be provided additional funds during 2013-14 within the share of the Government of India in the overall outlay, if required. Chennai Bengaluru Industrial Corridor to be developed. Preparatory work has started for Bengaluru Mumbai Industrial Corridor.
- The Cabinet Committee on Investment (CCI) has been set up. Decisions have been taken in respect of a number of gas, power and coal project.
- Benefits or preferences enjoyed by MSME to continue up to three years after they grow out of this category.
- Technology Upgradation Fund Scheme (TUFS) for the Textiles Sector to continue in 12th Plan

with an investment target of INR 1,51,000 crore.

CAPITAL MARKETS PUSH:

- SEBI has proposed a new rule, where if an investor has a stake of 10% or less in a company, it will be treated as an FII. Where an investor has a stake of more than 10%, it will be treated as an FDI.
- Small and medium enterprises, to be permitted to list on the SME exchange without being required to make an initial public offer (IPO).

DIRECT TAX

IMPACT FOR INDIVIDUALS

Tax rates for non-companies:

No revision proposed in slabs as well as rates of personal income tax. Also, there are no changes in tax rates for other non-company assesses. Education Cess of 3% continues.

Proposal to levy Surcharge of 10% on persons (other than companies) whose taxable income exceeds INR 1 crore to augment revenues.

"I believe there is a little bit of spirit of Azim Premji in every affluent taxpayers and I am confident when I ask relatively affluent taxpayers to bear a small burden for one year they will do so cheerfully," said Honorable Finance Minister, adding that the tax proposal will be only for one year.

Additional deduction for Housing Loan Interest:

Any individual taking a first time home loan up to INR 25,00,000 during the financial year 2013-14 shall be allowed an additional tax deduction of interest up to INR 1,00,000 under the proposed section 80EE.

The move is likely to promote home ownership and give a fillip to a number of industries including steel, cement, brick, wood, and glass besides providing jobs to thousands of construction workers.

TDS on Sale of Immovable Property:

It is proposed to insert a new section 194IA to provide for TDS at the rate of 1% on the value of the transfer of immovable properties (other than agricultural land) where consideration exceeds INR 50 lakhs.

Transactions in immovable properties are usually undervalued and underreported. One-half of the transactions do not carry the PAN of the parties concerned. The TDS of 1% to be charged on the transfer of immovable property is an obvious move to bring improved compliance and accountability in high-value immovable property transactions.

Taxability of immovable property received for inadequate consideration:

Provisions of clause (vii) of sub-section (2) of section 56 have been proposed to be amended to include the situation where an individual or HUF receives any immovable property for a consideration which is less than the stamp duty value of the property by an amount exceeding fifty thousand rupees, it shall be chargeable to tax in the hands of the individual or HUF as income from other sources.

This amendment will take effect from 1st April, 2013 and will apply to subsequent financial years.

Currently any immovable property received without consideration having stamp value in excess of fifty thousand rupees is taxed in the hands of individual or HUF. This provision has now been extended to cover less than adequate consideration. This could lead to valuation disputes and associated litigation.

Keyman Insurance policy:

It is proposed to amend the provisions of clause (10D) of section 10 to provide that a Keyman insurance policy which has been assigned to any person during its term, with or without consideration, shall continue to be treated as a Keyman insurance policy.

This amendment will plug the loophole in law wherein Keyman insurance policy is being assigned to the Keyman before its maturity and then Keyman pays the remaining premium on the policy and claims the sum received there under as exempt under section 10(10D) on the ground that the policy is no longer a Keyman insurance policy.

Rebate for Individuals:

The Finance Bill has proposed to provide a tax rebate of INR 2,000 against the tax payable by an assessee being an individual assessee resident in India whose income does not exceed INR 5,00,000.

Though marginal, it will provide relief for individuals with low taxable income.

IMPACT FOR BUSINESSES:

Tax Rate for Companies:

No change in basic tax rate including MAT either for domestic or foreign companies. Education Cess of 3% continues.

It is proposed to increase surcharge from 5 to 10% on domestic companies whose taxable income exceed INR 10 crore. In case of foreign companies who pay a higher rate of corporate tax, surcharge to increase from 2 to 5%, if the taxable income exceeds INR 10 crore.

With this proposed amendment, the effective tax rate for domestic companies having taxable income exceeding INR 10 crore will be 33.99%. There will also be 20.96% effective MAT rate for domestic companies. In case of foreign companies an effective tax rate will be 43.26%.

Tax Residency Certificate:

It is proposed to amend sections 90 and 90A in order to provide that submission of a tax residency certificate is a necessary but not a sufficient condition for claiming benefits under the agreements referred to in sections 90 and 90A. This position was earlier mentioned in the memorandum explaining the provisions in Finance Bill, 2012, in the context of insertion of sub-section (4) in sections 90 & 90A.

These amendments will take effect retrospectively from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

The Mauritius tax route has come under threat with the budget stipulating that the tax residency certificate will be necessary but not sufficient for availing of the tax benefit. This proposal has diluted the famous circular of CBDT which had been upheld by the Supreme Court in the Azadi Bachao Andolan case. The implication of this amendment is that the tax officer can carry out further scrutiny in order to determine beneficial ownership which could be a question of fact as also a question of law. This could have the same chilling effect on the markets as was the case with GAAR and Vodafone in the 2012 budget, as it again leads to an uncertainty among the foreign investors. So also, P-Note taxability has again become ambiguous and could very well have adverse implications.

Investment allowance:

It is proposed to insert a new section 32AC wherein Investment Allowance at the rate of 15% (being in addition to normal depreciation) will be available to manufacturing companies that invest more than INR 100 Crore in plant and machinery during the period 1st April, 2013 to 31st March, 2015.

This additional allowance will be a huge incentive for manufacturing sector. It will surely attract new investment and quicken the implementation of projects, especially those that were stalled for lack of incentive.

Withholding on buyback of shares:

It is proposed to insert new Chapter XII-DA to provide for levy a final withholding tax at the rate of 20% on profits distributed by unlisted companies to shareholders through buyback of shares. The income arising to the shareholders in respect of such buy back by the company would be exempt where the company is liable to pay the additional income-tax on the buy-back of shares.

The amendment will take effect from 1st June, 2013.

This proposed levy of withholding tax on buyback by unlisted companies will reduce the attractiveness of investment into India.

Consideration w.r.t. immovable property held as stock-in-trade:

A new section 43CA is proposed to be inserted to cover the transfer of an asset, being land or building or both, which is less than the stamp duty value. The value adopted for stamp duty shall be deemed to be the full value consideration for computation of income under the head "Profits and gains of business or profession". This amendment will take effect from 1st April, 2013 and will apply to subsequent financial years.

The similar provision which is currently applicable to capital asset being an immovable property is proposed to be extended to immovable property held as stock-in-trade.

Dividends received from Foreign Subsidiary:

Concessional rate of tax of 15% under section 115BBD on dividend received by an Indian company from its foreign subsidiary proposed to continue for one more year i.e. Assessment Year 2014-15.

This move will encourage repatriation of funds from overseas companies.

Removal of cascading effect of DDT

Section 115-O provides that the tax base for Dividend Distribution Tax is to be reduced by an amount of dividend received from its subsidiary if such subsidiary has paid the DDT which is payable on such dividend. This section has been now amended to include dividends received from a foreign subsidiary and taxed under section 115BBD.

This amendment is an attempt to further eradicate the cascading effect of double taxation brought by DDT in a multi-tier structure.

Securities Transaction Tax:

There is a proposal to make reductions in rates of Securities Transaction Tax in respect of certain transactions. The proposed reduced STT rates will be effective from 1st June, 2013. The proposed rates vis-à-vis existing ones are as under-

Sr. No.	Nature of taxable securities Transaction	Payable By	Existing rates (%)	Proposed rates (%)
1	Delivery based purchase of units of an equity oriented fund entered into in a recognized stock exchange.	Purchaser	0.1	NIL
2	Delivery based sale of units of an equity oriented fund entered into in a recognized stock exchange.	Seller	0.1	0.001
3	Sale of futures in securities.	Seller	0.017	0.01
4	Sale of a unit of an equity oriented fund to the mutual fund.	Seller	0.25	0.001

Reduction of STT across financial instruments will provide a boost to the capital markets.

Commodities Transaction Tax:

There is a proposal to levy Commodities Transaction Tax (CTT) of 0.01% on taxable commodities transaction. However, agricultural commodities will be exempted from CTT. Additionally, it is proposed to amend Section 36 of the Income Tax Act to consider CTT as allowable deduction if the income arising from such taxable commodities transactions is included in the income computed under the head "Profits and gains of business or profession."

This goes in the negative basket for MCX and FT players. Finance Minister has provided some respite to traders by treating CTT not as speculative transaction and accordingly granting deduction for the same.

TDS on non-resident Royalty and FTS payments:

There is a proposal to increase the rate of tax under Section 115A on payments by way of royalty and fees for technical services to non-residents from 10% to 25%.

Majority of tax treaties allow India to levy tax on gross amount of royalty and FTS at the rates ranging from 10% to 25%, whereas the tax rate as per section 115A is currently 10%. This has resulted in taxation at a lower rate of 10% even if the treaty allows the income to be taxed at a higher rate. This proposal seeks to correct this anomaly. This will impact technology transfers and service providers from the US and the UK as their tax bill will increase from 10% to 15%.

Extension of exemption under 80IA:

'Eligible Date' for projects in the power sector to avail benefit under Section 80IA is proposed to be extended to 31.3.2014 from earlier 31.3.2013.

This is positive for power generators.

Pass through status for investment funds:

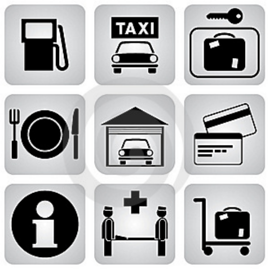
Sec 10(23FB) and Sec 115U proposed to be amended to align the definitions of Venture Capital Undertaking with that provided in SEBI Regulations and to remove the sectoral restrictions. Income accruing to VCF/ VCC proposed to be taxable in the hands of investor on accrual basis with no deferral. Income credited or paid by VCF/ VCC to investors to be subject to TDS. These amendments are effective retrospectively from A.Y. 2013-14.

This will align the conditions imposed by SEBI and RBI with the Income Tax Act and remove underlying anomalies.

Deferral of General Anti Avoidance Rules (GAAR):

Finance Minister in his budget speech said that the modified version of controversial General Anti Avoidance Rules (GAAR) provisions will come into effect from April 1, 2016. He further mentioned that modified version would preserve the basic thrust and purpose of GAAR. The impermissible tax avoidance arrangements will be subjected to tax after a determination is made through a well laid out procedure involving an assessing officer and an Approving Panel headed by a Judge.

SERVICE TAX



In order to maintain stability in tax regime, no change in normal rate of 12% for Service Tax. Education Cess at the rate of 3% remains.

Vocational courses offered by institutes affiliated to the State Council of Vocational Training and testing activities in relation to Agricultural produce additionally included in the negative list for service tax.

This is a much desired and a welcome step in direction of creating a skilled workforce in an emerging economy like India

Proposals to levy Service Tax on all air conditioned restaurants.

Eating out at air conditioned restaurants will become more expensive.

Exemption of Service Tax on copyright on cinematography limited to films exhibited in cinema halls.

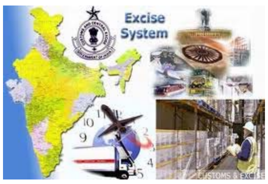
For homes and flats with a carpet area of 2,000 sq.ft. or more OR of a value of INR 1 crore or more, which are high-end constructions, where the component of services is greater, rate of abatement reduced from 75% to 70%.

Residential premises become dearer.

Out of nearly 17 lakh registered assesses under Service Tax only 7 lakhs file returns regularly. Finance Minister believes a need to motivate them to file returns and pay tax dues. A onetime scheme called 'Voluntary Compliance Encouragement Scheme' proposed to be introduced. Defaulter may avail of the scheme on condition that he files truthful declaration of Service Tax dues since 1st October 2007 and makes the payment before prescribed dates. In such a case, interest, penalty and other consequences will be waived.

Great news for assesses who were sitting on the fence undecided as to whether they should file the return after they obtain the Service Tax number. The obligation to file NIL service tax return continues till the Service Tax registration is withdrawn and therefore assesses may take advantage of this scheme.

CENTRAL EXCISE DUTY



There are no changes in normal rates of 12% for excise duty.

In case of cotton, there is zero excise duty at fibre stage. In case of spun yarn made of man-made fibre, duty of 12% at the fibre stage. Handmade carpets and textile floor coverings of coir and jute totally exempted from excise duty.

This is a major boost for the ready-made garment industry.

To provide relief to ship building industry, ships and vessels exempted from excise duty. No CVD on imported ships and vessels.

This is happy news for shipping sector.

Specific excise duty on cigarettes increased by 18%. Similar increase on cigars, cheroots and cigarillos.

Smokers will also have to shell out more for their puffs.

Excise duty on SUVs increased from 27% to 30%. Not applicable for SUVs registered as taxis.

"SUVs occupy greater road and parking space and ought to bear a higher tax", says Honorable Finance Minister.

Excise duty on marble increased from INR 30 per square meter to INR 60 per square meter.

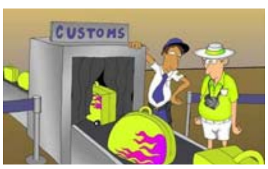
Proposals to levy 4% excise duty on silver manufactured from smelting zinc or lead.

Duty on mobile phones priced at more than INR 2,000 has risen to 6%.

Communication on smart phones gets expensive.

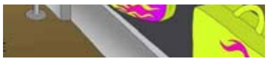
MRP based assessment in respect of branded medicaments of Ayurveda, Unani, Siddha, Homeopathy and bio-chemic systems of medicine to reduce valuation disputes.

CUSTOMS DUTY



There is no change in the peak rate of basic customs duty of 10% for non-agriculture products.
Proposal to reduce the interest free period for payment of import duty from five days to two days.

The period for concession available for specified part of electric



and hybrid vehicles extended up to 31 March 2015.

This will encourage manufacture of environment-friendly vehicles.

Duty on specified machinery for manufacture of leather and leather goods including footwear reduced from 7.5% to 5%.

Finance Minister believes this step will upsurge export of these goods.

Duty on pre-forms of precious and semi-precious stones reduced from 10% to 2%.

This will boost export of these products.

Concessions to air craft maintenance, repair and overhaul (MRO) industry.

This is with a view that encouraging the MRO sector will generate employment besides other benefits.

Duty on Set-top boxes increased from 5% to 10%.

This will aid import substitution.

Increase in duty on imported raw silk from 5% to 15%.

This will boost the domestic sericulture industry.

Duty on imported luxury goods such as high end motor vehicle, motor cycles, yachts and similar vessels increased.

Again a stick on super rich class who Finance Minister believes will not mind paying a "little" more.

Duty free gold limit increased to INR 50,000 in case of male passenger and INR 1,00,000 in case of a female passenger subject to conditions.

This will surely bring big smile on faces of jewellery loving people.

Sincerely**,**

TEAM KNAV

ABOUT US

KNAV is a firm of International Accountants, Tax and Business Advisors.

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