Executive summary

In the first full budget presented, Finance Minister (FM) did take positive steps which would give a boost to economic prospects and global competitiveness of India.

Key announcements which should lift the spirits of India Inc included proposed reduction in corporate tax rates by 5% over four years, deferral of GAAR by two year, clarity in provision relating to indirect transfers, introduction of GST from next fiscal year and additional incentives to boost domestic manufacturing.

Among others, on announcements specifically related to Life science sector, though the FM did make a mention in his speech about fostering a culture of innovation, R&D and scientific research, unfortunately no direct measures which could support the aforesaid intention were announced in the budget.

Holistically, the budget has provided the much needed signs of optimism for the economy and Life science sector in general, but the specific demands for Life science sector seems to have gone unattended.
Policy level measures

► Setting up of All India Institutes of Medical Sciences (AIIMS) in Jammu & Kashmir, Punjab, Tamil Nadu, Himachal Pradesh and Assam
► Setting up of AIIMS like institution in Bihar
► Setting up of new Institute of Pharmaceuticals Education and Research in Maharashtra, Rajasthan & Chattisgarh

Key direct tax proposal

Personal Income-tax rates

► Rates of income-tax remain unchanged for individuals. However, an additional surcharge of 2% leviable if the total income exceeds INR 10 mn

Benefits for individual tax payers

► The limit of deduction under section 80CCC in respect of amount paid to effect or keep in force a contract of annuity plan of Life Insurance Corporation of India or any other insurer for receiving pension from a fund set up under a pension scheme has been increased from INR 100,000 to INR 150,000, within the overall limit of INR 150,000 under section 80CCE
► The limit of deduction of INR 100,000 for individual’s contribution to New Pension Scheme has been omitted. Further, an additional deduction of INR 50,000 has been provided for contribution to the New Pension Scheme by individuals
► The limit of deduction for premium paid for health insurance of self and family has been increased from INR 15,000 to INR 25,000.
► The limit of deduction of premium paid for health insurance of senior citizens has been increased from INR 20,000 to INR 30,000. Further, in order to ensure that very senior citizens are able to avail tax deduction, deduction for medical expenditure up to INR 30,000 is provided if no payment has been made to keep in force insurance on the health of such very senior citizens.

Corporate Income-tax rates

► Rates of corporate tax remains unchanged for both domestic and foreign companies
► However, the rates of surcharge for a domestic company has been increased from 5% to 7% for income exceeding INR 10 mn and up to INR 100 mn and from 10% to 12% for income exceeding INR 100 mn
► Surcharge on income distributed by domestic company increased from 10% to 12%. Accordingly, the effective dividend distribution tax rate has gone up from 19.99% to 20.36% for financial year (FY) 2015-16
► Further, FM in his budget speech has proposed to reduce the corporate tax rates for domestic companies from 30% to 25% over the next 4 years. This shall be accompanied by phased rationalization/reduction in exemptions available to corporate

Wealth Tax

► The levy of wealth tax under the Wealth-tax Act, 1957 has been abolished with effect from assessment year (AY) 2016-17
► Also, the information relating to assets which is currently required to be furnished in the wealth-tax return shall be captured by suitably modifying income-tax return. This will ensure that the abolition of wealth-tax does not lead to escape of any income from the tax net

Residence test for a foreign company

► A foreign company can be treated as resident in India, if it's place of effective management (POEM), at any time in that year, is in India
  ▪ POEM is defined to mean a place where key management and commercial decision that are necessary for the conduct of the business of an entity as a whole are, in substance made
► Set of guiding principles for determination of POEM for benefit of tax payers and tax administration to be introduced

GAAR
Finance Act 2012 introduced GAAR to curb transactions lacking commercial substance and undertaken with main purpose of obtaining a tax benefit.

Applicability of GAAR provisions have been deferred by 2 years. Further, grandfathering has been extended to investments made till 31 March 2017.

Indirect transfer

Finance Act 2012 introduced clarificatory amendments to tax indirect transfers where substantial value is derived from Indian assets.

Clarification inserted provide that shares of a foreign company shall be deemed to derive substantial value from Indian assets if the value of Indian assets, on specified date:

- Represents atleast 50% of value of all assets owned by company; and
- Exceeds INR 100 mn

Value of an asset shall mean its fair market value (without deduction of liabilities): Manner of computing fair market value to be prescribed.

Taxation of gains on proportional basis (in the manner to be prescribed).

Exemption in certain cases for:

- Small shareholder (not having management or control and holding less than 5% of voting power/ share capital)
- Foreign amalgamations and demergers subject to certain conditions

Reporting obligation on Indian concern

Penalty of 2% of value of transaction if the indirect transfer results in transfer of right of management or control in Indian concern

Royalty and FTS

Tax rate for income of non-residents (including foreign companies) by way of royalty or FTS reduced from to 25% to 10%. This will however, not impact the lower tax rate, if any, applicable under the relevant tax treaty.

Deduction for employment of new workmen

Section 80JJAA provides for deduction of 30% of additional wages on employment of new workmen by a corporate assessee engaged in manufacturing of goods.

The aforesaid deduction is now extended to all the assessee having manufacturing units rather than restricting it to corporate assessee only.

Further, the benefit is extended to units employing even 50 new regular workmen instead of 100 regular workmen under the existing provision.

Allowance of balance 50% additional depreciation

Section 32(1)(iia) provides for additional depreciation of 20% on new plant or machinery acquired and installed during the year.

However, the deduction is restricted to 50% of the additional depreciation where the plant or machinery is used for less than 180 days during the year.

The balance 50% of such additional depreciation shall be allowed in the immediately succeeding year.

Transfer Pricing

The threshold limit for applicability of domestic transfer pricing has been increased from aggregate transaction value of INR 50 mn to INR 200 mn from FY 2015-16 onwards.

Concessional rate of withholding on interest

Section 194LD provided for lower withholding of tax at 5% on interest paid or credited to a Foreign Institutional Investor (FII) or Qualified Foreign Investor (QFI) up to 1 June 2015.

The benefit of concessional withholding tax rate is extended up to 30 June 2017.
Additional investment allowance

- Given the Government’s commitment to promote backward areas of Andhra Pradesh and Telangana, an additional investment allowance shall be available for setting up manufacturing undertaking, at 15% of the cost of new plant and machinery. Certain specified assets have been carved out from the definition of plant and machinery for the purposes of the said section.

- The incentive shall be available on plant and machinery acquired and installed during 1 April 2015 to 31 March 2020, in the year of installation, subject to conditions.

- This incentive is over and above the existing deduction available under Section 32AC.

Key measures to curb black money

- Prohibition on acceptance/ repayment of advance of INR 20,000 or more in cash for purchase of immovable property.

- Bill for a comprehensive new law to deal with black money parked abroad to be introduced in the current session of Parliament.

- For concealment of income and assets and tax evasion in relation to foreign assets, following measures are laid out:
  - Prosecution with punishment of rigorous imprisonment up to 10 years.
  - Offences will be non-compoundable.
  - Offenders will not be allowed to approach the Settlement Commission.
  - Penalty at rate of 300% of tax.

- For non-filing of return or filing return with inadequate disclosure:
  - Prosecution with punishment of rigorous imprisonment up to 7 years.

- Undisclosed income from any foreign assets to be taxable at the maximum marginal rate.

- New Benami Transactions Prohibition Act on the anvil.

Key indirect tax proposal

Central Excise Duty

- The median basic excise duty rate has been increased from 12% to 12.5%.
  - Effective excise duty on pharmaceutical goods from 6.18% to 6%.
  - Education cess and secondary & higher education cess exempt.

- Time period for availment of Cenvat credit increased from 6 months to 12 months.

- Reversal of Cenvat credit also applicable to non-excisable goods (in addition to exempted goods and services).

- Provisions introduced for issue of digitally signed invoices and preservation of records in electronic form (similar amendment in service tax).

- Registration process simplified:
  - Registration to be granted within 2 working days of the receipt of a duly completed application form.
  - Physical verification of premises within 7 days of receipt of online application.
  - Certificate to be amended within 3 months, if the business transaction numbers such as IEC, CIN, VAT/ CST, Service tax registration etc not provided earlier (similar amendment in service tax).

- Provision relating to job working transactions rationalized and time limit for return of capital goods increased to two years (from 180 days).

Customs Duty

- BCD and CVD exemption on artificial heart (left ventricular assist device).

- Prescribed form of certificate to be issued by Director General of Health Services for BCD and CVD exemption on life saving drugs.
imported by an individual for personal use, amended to provide that such certificate shall be valid for 1 year for regular importers

- Clarification provides that there is no need to separately comply with the provisions of Central Excise (Removal of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 2001 for the purposes of availing of the CVD exemption on manufacture of specified drugs, if the procedure as laid down in the Customs (Import of Goods at Concessional Rate of Duty for Manufacture of Excisable Goods) Rules, 1996 is already followed by the importer for availing the said exemption / concession from BCD on the same bulk drug

- Reduction of BCD from 5% to 2.5% on specified goods for use in the manufacture of Flexible Medical Video Endoscope (heading 9018), subject to conditions

- Scheme of Advance Ruling extended to resident firms (LLP, sole proprietorships and One Person Company) - similar amendments made under central excise and service tax

- Rationalization of penal provisions
  - Reduced penalties for bonafide cases
  - Reduced penalties if tax, interest & penalty paid within 30 days of issue of notice/ order
    
    *(similar amendments made under central excise and service tax)*

- Cases remanded to adjudicating authority for fresh adjudication or decision not entitled for Settlement Commission
  - Prior to this, only cases referred back in appeal / revision were not entitled for Settlement Commission
    
    *(similar amendment in central excise)*

*(Amendments effective from 1 March 2015 ie the date of issue of notifications)*

Service tax

- Service tax rate to be increased from 12.36% to 14% (date to be notified after enactment of Finance Bill)

- Exemption to health care services provided by clinical establishment by way of transportation of a patient to and from a clinical establishment extended to ambulance services (effective from 1 April 2015)

- Uniform 70% abatement on transport of goods by road or vessel - ie service tax payable on 30% value (effective from 1 April 2015)

- All services provided by the Government or local authority to a business entity shall be liable to service tax subject to specific exemptions, if any

- Manpower supply and security services provided by individual, HUFs or Partnership firms liable to service tax under full reverse charge mechanism – this amendment will be effective from 1 April 2015

- Finance Act amended to clarify that “value of services” to include all reimbursable expenditure or costs incurred and charged by the service provider

- Cenvat credit of service tax paid under partial reverse charge mechanism allowed without linking it to the payment to the service provider (effective from 1 April 2015)

- Enabling provision for levy of Swachh Bharat Cess @ 2% on services for the purpose of financing and promoting Swachh Bharat initiatives
  
  *(To be notified post enactment of the Finance Bill, 2015)*
Comments

Like most other sectors, the Life science sector also had high expectations from this budget especially considering the intent and long term vision of “Health for all” laid out in last year’s budget and much spoken “Make in India” campaign. While the announcements made certainly appear to have laid down a roadmap for growth and development, Life science industry would have been happier if some of its specific demands were addressed; especially where the issue on inverted duty structure has been corrected for range of products but pharmaceutical products have been left out. Life science industry should make representations to the Government for extension of similar correction to pharmaceutical products.
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