

## ICAI Suggestions Accepted in Direct Tax and Indirect Tax Proposals of Union Budget 2014-15



Continuing to discharge its duty towards the nation, the ICAI had submitted the Pre-Budget Memoranda to the Ministry of Finance comprising its suggestions that were based on the concerns of our membership on the one hand and of our society on the other. This year all of ICAI's significant suggestions were considered while as many as 19 of them were incorporated in the direct tax and indirect tax proposals made in the Finance (No.2) Bill, 2014. The following are the 19 ICAI suggestions accepted...

### Suggestions accepted with regard to direct taxes proposals

Sr. No.	Suggestions of ICAI given through Pre-Budget Memorandum (Direct Taxes) or through other representations.	Proposed Provisions of Finance (No.2) Bill, 2014
1.	Revision of tax slabs to increase the basic exemption limit to ₹3 lakh.	Partially accepted by the Finance (No.2) Bill, 2014 which has proposed to enhance the basic exemption limit from ₹2 lakh to ₹2.5 lakh.
2.	Increase in the limit of investment under 80C from ₹1 lakh to ₹1.50 lakh.	Accepted in toto by the Finance (No.2) Bill, 2014 which proposes to enhance the limit of 80C from ₹1 lakh to ₹1.5 lakh.
3.	Insertion of a provision relating to TDS in Chapter XVIIIB to cover such payments where the exemption under Section 10(10D) is denied to the recipient of income from insurance companies.	Considered by the Finance (No.2) Bill, 2014 by way of insertion of Section 194DA to provide for deduction of tax at source @ 2% on non-exempt payments made under life insurance policies. However, no deduction is proposed in a case where such payment to payee in a financial year is less than ₹1 lakh.
4.	Increase in deduction in respect of interest on housing loan in case of self-occupied property from ₹1.5 lakh to ₹3 lakh.	Partially accepted by the Finance (No.2) Bill, 2014. The limit is proposed to be enhanced from ₹1.5 lakh to ₹2 lakh.

# Union Budget 2014-15

Sr. No.	Suggestions of ICAI given through Pre-Budget Memorandum (Direct Taxes) or through other representations.	Proposed Provisions of Finance (No.2) Bill, 2014
5.	In order to ensure clarity and certainty as regards the period within which the undertaking under Section 80-IA should be set-up or within which it should start transmission <i>etc.</i> , the terminal date may be extended till such time the country has acquired self-sufficiency in the supply of power, <i>i.e.</i> , the terminal date may be kept open-ended.	Reasonably considered by the Finance (No.2) Bill, 2014 which has proposed to extend the said terminal date for a period upto 31 <sup>st</sup> March, 2017.
6.	With regard to provisions of Section 32AC, the following suggestions were made in the Post Budget Memorandum, 2013: a) The threshold limit may be fixed at a moderate level of say, ₹10 crore, so as to attract investment in plant and machinery by small and medium enterprises, which are the “drivers” or economic growth. b) The permissible period of investment may be increased to atleast five years for proper planning and execution of medium and large-sized projects.	Reasonably considered by the Finance (No.2) Bill, 2014 which proposes to : a) reduce the limit of investment from Rs.100 crores to ₹25 crore for investments made on or after 01-04-2014. b) extend the date of allowability of deduction with respect to investments made under this Section upto 31-03-2017.
7.	With regard to provisions of Section 115BBD, it was suggested that a longer period of time, say three years should be provided for distribution to shareholders (Post-Budget Memorandum, 2013).	Considered by the Finance (No.2) Bill, 2014, which proposes to extend the benefit of lower rate of tax without limiting it to a particular assessment year.
8.	Since there was no provision in Section 12A of the Act to provide for condonation of delay in applying for registration under Section 12A/12AA, ICAI in its earlier Pre-Budget memorandum had suggested that one-time scheme may be framed or a time slot may be allowed so that such unregistered charitable organisations may obtain registration under Section 12AA/ 12A with condonation of delay.	The suggestion of ICAI to bring the unregistered charitable organisations in the main stream of taxation, has been appropriately dealt by the Finance (No.2) Bill, 2014. The said Bill proposes to amend Section 12A to provide that in case where a trust or institution has been granted registration under Section 12AA, the benefit of Sections 11 and 12 shall be available in respect of any income derived from property held under the trust in any assessment proceeding for an earlier assessment year which is pending before the Assessing Officer as on the date of registration, if the objects and activities of the trust or institution in the relevant earlier assessment year are the same as those on the basis of which such registration has been granted. Further, it has been proposed that no action for re-opening of an assessment under Section 147 shall be made, merely for the reason that such trust or institution in the relevant assessment year has not obtained registration under Section 12AA for the said assessment year.

# Union Budget 2014-15

Sr. No.	Suggestions of ICAI given through Pre-Budget Memorandum (Direct Taxes) or through other representations.	Proposed Provisions of Finance (No.2) Bill, 2014
9.	To clarify the intention of the statute, ICAI had suggested that Section 115BBC(1)(ii) may be re-worded as follows:- “the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate amount of anonymous donations received which are subject to tax in Clause (i) above.”	The suggestion of ICAI has been accepted and Section 115BBC(1)(ii) has been amended and re-worded as follows: “the amount of income-tax with which the assessee would have been chargeable had his total income been reduced by the aggregate amount of anonymous donations received in excess of the amount referred to in sub-Clause (A) or sub-Clause (B) of Clause (i), as the case may be.”
10.	Advance Rulings should be introduced for resident’s tax purposes also.	The Hon’ble Finance Minister in his Budget speech has proposed to enable resident tax payers to obtain an advance ruling in respect of their income tax liability above a defined threshold.
11.	With regard to Section 115JEE, the provisions should be amended appropriately to clarify that the specified persons are entitled to set-off AMT credit even when their adjusted total income falls below ₹20 lakh in the year of set-off.  Further, even if the tax payer has discontinued the business, he should be allowed to set-off AMT credit, in line with the set-off of business losses allowed even after discontinuance of business.	Appropriately considered in the Finance (No.2) Bill, 2014 by amending Section 115JEE to provide that the credit of tax under Section 115JC shall be allowed in accordance with the provisions of Section 115JD, notwithstanding the conditions mentioned in sub-Section (1) or (2) of Section 115JD.
12.	Mode of transfers like RTGS, NEFT, EFT, ECS <i>etc.</i> be included as valid modes of fund transfers under Section 269SS and 269T of the Income-tax Act, 1961. Alternatively, Section may provide for any mode of payment other than cash on the lines of Section 80D.	Duly considered in the Finance (No.2) Bill, 2014 through a proposed amendment in Section 269SS and 269T to provide that acceptance or repayment of loan or deposit by use of electronic clearing system through a bank account shall not be prohibited under the said sections if the other conditions regarding the quantum are satisfied.
13.	With regard to “Tax Accounting Standards,” the ICAI had submitted that bringing a whole new set of standards would be burdensome for taxpayers and would create confusion, thus the same are not desirable. It was further submitted that if at all these Standards are to be implemented the same should be named as “Tax Computational Rules” and should be notified under Section 295 rather than under Section 145 so that the objective that tax payers should not be required to maintain separate books after the TAS are notified is achieved. If they are so notified under Section 145, the tax payers would also have to face the best judgment assessment under Section 144.	The suggestion of ICAI in this regard has been partially accepted by the Finance (No.2) Bill, 2014. Section 145(2) is proposed to be amended to provide that the Central Government may notify in the official gazette from time to time “Income computation and disclosure standards” and best judgment assessment would be made under Section 144, if the income has not been computed in accordance with such standards. This proposed amendment has made it clear that two sets of books of accounts are not required to be maintained.

## Suggestions accepted with regard to indirect taxes proposals

Sr. No.	Suggestions of ICAI given through Pre-Budget Memorandum (Indirect Taxes) or through other representations.	Proposed Provisions of Finance (No.2) Bill, 2014
1	List of Services received by an educational institution be provided which are exempt under Clause 9 of Notification No. 25/2012 dated 20-06-2012.	Substituting Clause 9 to provide a specified list of services provided to or by an educational institution which are exempted from service tax <i>vide</i> Notification No. 06/ 2014 dated 11-07-2014
2	A separate mechanism for advance ruling for every assessee be in place else advance ruling may be permitted for all assessees.	The scheme of advance ruling in indirect taxes to be expanded to cover resident private limited companies. Definition of resident has been amended <i>vide</i> Notification No. 15/ 2014 dated 11-07-2014.
3	Time limit for adjudication needs to be introduced in provisions of Section 73.	Sub-Section 4B to Section 73 has been inserted to provides to prescribe recommendatory time limits for completion of adjudication : (a) within six months from the date of notice where it is possible to do so, in respect of cases whose limitation is specified as 18 months in sub-Section (1); (b) within one year from the date of notice, where it is possible to do so, in respect of cases falling under the <i>proviso</i> to sub-Section (1) or the <i>proviso</i> to sub-Section (4A).;
4	General rule of location of recipient of services be applied to intermediaries also.	Substitution of Clause f of Rule 2 in the Place of Provision of Services Rules, 2012 to define “intermediary” to include services also.
5	Amend the Customs Tariff Act, 1975 to harmonise UQC's with trade practice.	The suggestion of the ICAI in this regard has been partially accepted by the Finance (No.2) Bill, 2014. Section 145(2) is proposed to be amended to provide that the Central Government may notify in the official gazette from time to time “income computation and disclosure standards” and best judgment assessment would be made under Section 144, if the income has not been computed in accordance with such standards. This proposed amendment has made it clear that two sets of books of accounts are not required to be maintained.
6	Information in respect of assessee be shared between the Central and the State Government on reciprocal Basis	Empowers the Central Government to prescribe an authority or agency to which the information return shall be filed by the specified persons such as Income Tax Authorities, State Electricity Boards, VAT or Sales Tax Authorities, Registrar of Companies. Information can be collected for the purposes of the Act