



## Analysis of Indian Budget 2017



# EASE OF DOING BUSINESS IN INDIA MULTIPLIES.

*The Finance Minister in his budget speech said-*

"Our Government has already undertaken substantive reforms in FDI policy in the last two years. **More than 90% of the total FDI inflows are now through the automatic route**(Meaning **no approval** is required).....We have now reached a stage where **The Foreign Investment Promotion Board (FIPB) can be phased out**. We have therefore **decided to abolish the FIPB in 2017-18**. A roadmap for the same will be announced in the next few months. In the meantime, **further liberalisation of FDI policy is under consideration and necessary announcements will be made in due course.**"

## Key Analysis

As of now, no permission required by Non Residents to do business in India in 90% cases.

Further liberalisation set to be announced to help even more ease of doing business in India.

Foreign Investment Promotion Board (FIPB) proposed to be phased out is a huge step in commitment to liberalisation.

## WHETHER NON RESIDENTS SHOULD SET UP A LIMITED LIABILITY PARTNERSHIP OR A COMPANY **TO DO BUSINESS IN INDIA?**

From Financial Year 2017-18, the rate of income-tax shall be **25%** of the Total Income for **companies** subject to certain conditions.

The income tax rate for Limited **Liability Partnerships** continue to to be taxed of 30% of its Total Income.

Therefore, now makes much more sense to incorporate and do business in India in a company form.

## REDUCED TAX ON SALE OF PROPERTY.

To qualify as **long term Capital asset**, period of holding for **Land and Building** reduced to **24 months** from **36 months**. This would lead to reduced tax liability as long term capital gains tax is lower than Short term gain tax.

Shifting of base year for cost of acquisition of asset from 1981 to 2001 for computation of capital gains.

Concessional rate of tax at 10% for long term capital gains on sale of unlisted securities for non residents clarified to have effect retrospectively from 1st April 2013.

**More tax saving bonds** introduced by the government.

### Key Analysis

It is a good time to sell property in India by a non resident.

However, sale should be made from 1st April 2017 to take advantage of tax concessions under sale of asset.

Sale of shares in an Indian private company by a non resident individual could be a great tax planning tool.



## NO CAPITAL GAINS WHEN NON RESIDENT ACQUIRES A LISTED INDIAN COMPANY

Where a listed company is acquired by a non resident through **the secondary market** such as rights issue, ipo, bonus issue, no capital gains tax on such transactions.

### Key Analysis

Huge boost to ease of doing business in India for Non residents and is likely to increase secondary market transactions in India.

Transactions must be executed from 1st April, 2017 to be exempted from the tax net.

## START UP BENEFITS IN INDIA TO **CONTINUE IN A BIGGER WAY**

Losses incurred by a start up in the first 7 years can be carried forward to subsequent years.

Profits earned by a registered start up for 3 consecutive years to be waived within first 7 years of its incorporation.

### Key Analysis

Great time to be a Start-up in India. India has the second largest number of start-ups in the world after The US.

Increasingly, many non residents- specially of Indian origin are settling back in India and starting their own ventures.

These measures are going to encourage more people to start up in India.



## DEMERGER OF FOREIGN HOLDING COMPANY HOLDING SHARES OF AN INDIAN COMPANY MORE BENEFICIAL.

Transfer of shares of an Indian company by a demerged foreign company to a resulting foreign company does not result in transfer for purposes of capital gains.

Also, now cost of acquisition of shares of the Indian company in the hands of resulting foreign company shall be same as in the hands of the demerged company.

### Key Analysis

Certainty and clarity on value of Indian assets being shares in case of demerger of a foreign holding entity

Also, where prices of shares of the indian company has reduced, no impact on capital gains on sale of such shares.

---



## EASE OF DOING BUSINESS FOR OFFSHORE FUNDS

- Any investment in India by a non resident in a Foreign Institutional Investor (FII) and duly registered shall be exempt from provisions of income tax.
- This amendment is to be applied retrospectively from **1st April, 2012.**

### Key Analysis

Certainty and clarity on value of Indian assets being shares in case of demerger of a foreign holding entity

Also, where prices of shares of the indian company has reduced, no impact on capital gains on sale of such shares.



# EASE OF DOING BUSINESS FOR FIIS

Tax at concessional rate of 5% to continue on Rupee denominated Bonds.

Tax on interest on FI interest on investments in Government securities and rupee denominated corporate bonds to continue at concessional tax rate of 5% till 2020.

Offshore funds eligible for special relief would now continue to enjoy relief in the year they are being proposed to be wound up with the minimum corpus criteria being waived off in the winding up year.

---

## LEVY OF FEES FOR NON FILING OF **INCOME TAX RETURNS**

- (i) a fee of INR 5000 (USD 75) shall be payable, if the return is furnished after the due date but on or before the 31st day of December of the assessment year;
- (ii) a fee of INR 10000 (USD 150) shall be payable in any other case.

Maintenance of books of accounts and audit requirements eased for Individuals and Hindu undivided family by increasing threshold limit.

## About R.Tulsian and Co. LLP

R.Tulsian and Co. LLP is a full services multinational chartered accountancy and legal services firm having its head quarters in India. We have a multinational presence with clients in USA, Europe and Australia. We also have a strong PAN India presence in important strategic locations including Kolkata, New Delhi, Bangalore, Mumbai and Gujarat, North East India, among other places.

Our practice is more than 60 years old and our services include Tax advisory and compliance including Direct and Indirect taxation, International transactions including Cross Border Transactions and Structuring, Accounting, Bookkeeping, Payroll, Transaction Advisory services, Auditing, Corporate Laws including Companies Act and other allied laws, consulting with FEMA laws and RBI laws, Due Diligence, Risk Management and Mitigation, Outsourcing services and Business development.

For more information about RTC service offerings, visit [www.rtulsian.com](http://www.rtulsian.com)

### Our Offices

#### Kolkata Office:

7/1C, Jatindra Mohan Avenue,  
1st Floor, Kolkata – 700006  
Phone No: 033 – 2543 2271 / 2270  
Mobile No: +91-9830452385  
email: shashwat@rtulsian.com  
rohit@rtulsian.com  
tapas@rtulsian.com

#### Delhi Office:

C-10 Varun Apartments, Rohini, Sector 9  
New Delhi-110085  
Phone No: 033 – 2543 2271 / 2270  
Mobile No: +91-9830452385  
email: shashwat@rtulsian.com  
rohit@rtulsian.com  
tapas@rtulsian.com

#### Mumbai Office:

302 Tarachand Apartment, Gomes Street,  
Station Road, Bhayander (West)- 400101  
Phone No: 033 – 2543 2271 / 2270  
Mobile No: +91-9830452385  
email: shashwat@rtulsian.com  
rohit@rtulsian.com