

## **Union Budget 2018 – Proposals and impact on IT/ITeS sector**

The Union Budget 2018 was presented today reiterating the Government's commitment to leverage technology and digitalization as a key for India's development strategy across sectors. The focus on "ease of living", will inevitably spur deployment of technology across all verticals.

Medium, Small and Micro Enterprises (MSMEs) are instrumental in providing employment to people. Proposals for reduction of income tax to 25% for companies with annual turnover upto INR 250 crore will be helpful and is in line with NASSCOM's ask in rationalising the corporate tax rates. However there is a marginal increase in tax rate for all other companies arising out of increased Cess.

In the context of the growing Digital economy, the budget proposals include additional criteria for taxation that would be applicable to companies who may not have physical presence in India. This could be particularly relevant to the technology sector, as internet driven businesses and cloud based platforms blur geographical boundaries.

NASSCOM welcomes the announcement of a national program to direct efforts in the area of artificial intelligence, including research and development and comprehensive initiative on Cyber-physical systems. This will enable India to leapfrog in areas of emerging technologies globally.

The proposal to review the outward direct investment will be of great relevance to the IT sector as it charts its global growth trajectory.

Focus on digital payments is as per expectations. Use of block chain technology to encourage digital payments will ensure new security technologies.

The Technology sector will also see many emerging opportunities arising out of Government reliance on Technology driven development e.g. web-based Government Integrated Financial Management Information System, E-courts, E-assessments etc. It is for the Startups and Industry to exploit such opportunities and contribute to national objectives.

Some of the key announcements and their impact are summarised below:

### **1. There is continued reliance on technology for Governance and development. This is in line with the digital India vision, and offers opportunities for the technology sector and Startups.**

- Allocation of digital India doubled to INR 3073 crore.
- Disposal of its business by introduction of e-office and other e-governance initiatives in Central Ministries and Departments.
- A web-based Government Integrated Financial Management Information System (GIFMIS), administered by Controller General of Accounts, for budgeting,

accounting, expenditure and cash management for more effective fiscal management of Government.

- Project 'e-Vidhan' to digitize and make the functioning of all State Legislatures paperless.
- E-Courts, to bring about universal computerization of all Districts and Subordinate Courts, use of cloud computing and availability of e-services like e-filing and e-payments as well.

**2. Certain focussed initiatives announced, that underscore the transformative impact of technology in India, and also highlights the need for technology solution for wide ranging issues.**

- Increasing use of technology for safety under railways “Fog Safe” and “Train Protection and Warning System”
- Transforming education sector – by increasing use of digital intensity in education – black board to digital-board - upgrade the skills of teachers

**3. Technology - References were made to cutting edge technology areas like 5G, AI, Robotics, Quantum computing and the Government reiterated its support for Research and Development. While specific were missing, it would be important for NASSCOM and its members to work closely with the Government to shape the digital ecosystem.**

- To invest in research, training and skilling in robotics, artificial intelligence, digital manufacturing, big data analysis, quantum communication and internet of things,
- Department of Science & Technology will launch a Mission on Cyber Physical Systems to support establishment of centres of excellence.
- Niti Aayog to establish a national programme to direct efforts towards Artificial Intelligence, including research and development of its applications
- Department of Telecom will support establishment of an indigenous 5G Test Bed at IIT, Chennai.

**4. Digital Payments**

The Government's on-going focus on Digital Payments was evident. It was announced that there is a group working in the Ministry of Finance on policy measures and institutional mechanism for facilitating digital payments, encourage block chain technology and creating the right environment for Fintech companies.

**5. Globalization**

PM in his Davos speech had referred to the “worrisome situation against globalization” – As India continues to grow, and the IT sector charts its global trajectory, policy instruments to support the journey would be essential. In this context, the proposal to review existing guidelines and processes and bring out a coherent and integrated Outward Direct Investment (ODI) policy will be important for the IT sector, as the Industry undertakes M&A, and sets up Development centers etc.

However, a key ask of the IT sector was a review of the foreign tax credit policy in India. We hope that this will also be looked into during the year.

## 6. Taxing Digital Economy

The budget has expanded the concept of business connection in domestic law. For a long time, **nexus based on physical presence was used as a proxy to identify business connection with a country.** However, in the digital economy where business models are operating remotely through the existing nexus rule is seen to be inadequate. Therefore the budget proposes that a non-resident enterprise would create a taxable presence in a country if it has sustained interaction with the economy by the aid of technology and other automated tools. Revenue factor may be used in combination to determine 'significance economic presence.

This rule could have significant impact in this era of cloud and internet enabled businesses. The chances of a foreign company constituting a BC/PE in India under the new rules proposed now, maybe higher given the extent of digitization.

## 7. Start-up

- Startup India scheme extended to Startups that will be set up till March 2021, and definition harmonised with DIPP definition Startups, - definition of 'eligible business' for a start-up is proposed to be aligned with the modified definition notified by DIPP. It is further proposed to extend the incorporation date for a start-up for availing benefit under section 80-IAC of the Act to 31st March, 2021 from 31st March, 2019 and rationalise the condition of turnover for availing the benefit.
- For startups, aligning the definition of start-ups with the definition of DIPP and extending the availability of start-up scheme till March 20121 is a welcome move however there is a need to relook at the requirement of Inter-Ministerial Board (IMB) certification that is required for start-ups to qualify for the tax holiday so that the benefit can be availed by many start-ups.
- We will continue to engage with the Government to make these announcements effective and also on other unaddressed recommendations related to harnessing domestic and angel investors to strengthen the start-up ecosystem.
- The FM acknowledged the need to create a favourable environment for investors. We look forward to the development of a separate policy for the hybrid instruments for attracting foreign investments. This will have a bearing on the startup ecosystem.

## 8. Incentives for Job creation

**Incentivising employment and job creation – Employment generation was one of the key objectives and suitable measures are announced to meet the same. In line with public pronouncements pertaining to women's empowerment, Budget 2018 made notable announcements for encouraging women employment.**

- To increase in hand salary of women, EPF contribution of women employee's brought down to 8% for first 3 years.
- For new jobs - 12% of the wages of the new employees in the EPF for all the sectors for next three years.
- Facility of fixed term **employment will be extended to all sectors** - encourages alternate employment models like contracts.

## 9. Ease of doing business – notable steps in making business process simpler with the use of technology.

- Amendment in Income tax Act to introduce on assessment to be done in electronic mode to reduce physical interactions.
- A scheme to assign a Unique ID (AADHAAR) for companies – should to lead single registration across Govt etc.
- A Central Public Procurement Portal to provide a single point access for all information on procurement. Around 3.5 lakh contractors and vendors are already registered on this platform. In November, 2017 alone, electronic bids for over one lakh tenders valued at around two lakh forty thousand crore were invited through this Portal.
- Business reforms for ease of doing business deeper and in every State of India, the Government of India has identified 372 specific business reform actions.

## 10. Make in India

- Defence Production Policy 2018 to be introduced to promote domestic production by public sector, private sector and MSMEs.
- Increase in customs duty on Mobile phones from 15% to 20% should support and encourage domestic manufacturing.

## 11. Other announcements

- Income Computation and Disclosure Standards - The ICDS, prescribes methods for recognizing revenue, accruing certain expenses, losses, etc. There were deviations in the methodologies prescribed by the ICDS as compared to the accounting standards. The Delhi High Court held that the ICDS is not meant to overrule the provisions of the Act (since they were contradicting the IT Act in many places), the Rules thereunder and the judicial precedents applicable thereto. To give more legal backing to the ICDS and remove the legal handicap, most of the changes suggested by the ICDS have now been incorporated in the IT Act itself in Budget 2018. This in a way removes the legal lacunae that the Delhi High Court had pointed out. The changes will retrospectively apply from FY 2016-17.

- Amendment in section 80JJA - Extending of incentive to the wage bill of new employees who don't satisfy the threshold is a positive amendment, since it removes the lacunae in the law.
- Long-term capital gains tax on gains arising from the transfer of listed equity shares exceeding Rs 1 Lakh will be taxed at 10 %, without allowing any indexation benefit. However, all gains up to 31st January, 2018 will be grandfathered.
- Rationalisation of provisions relating to filing of Country-by-Country Report by providing the time-limits and the definition of 'agreement'.

*(With inputs from our knowledge partners - Deloitte Touche Tohmatsu India LLP)*