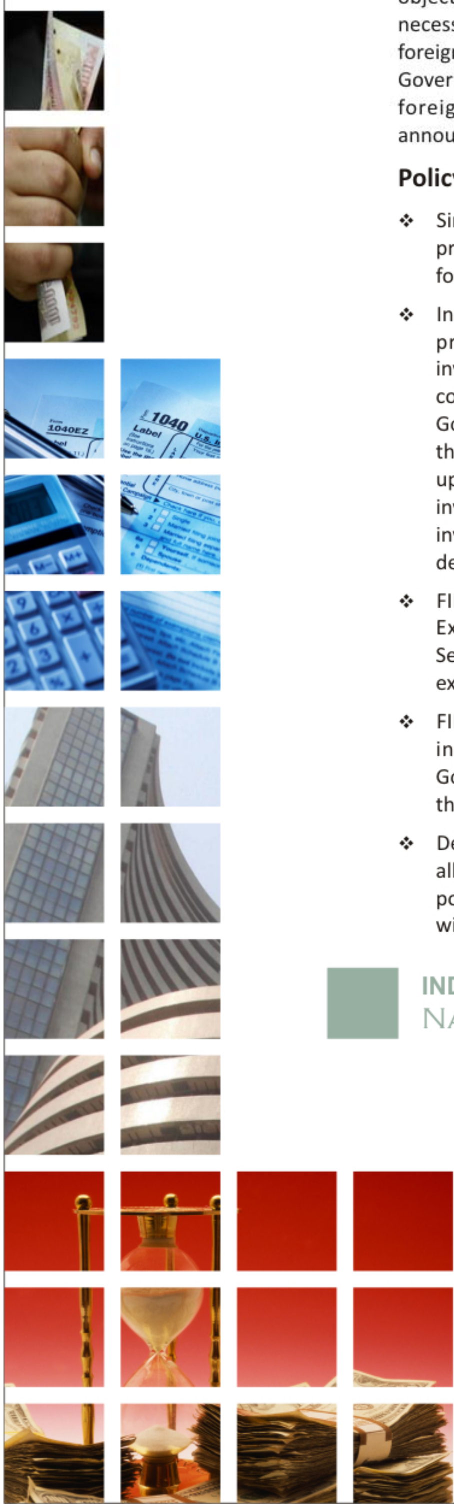
BUDGET 2013 NEWS FLASH

KEY PROPOSALS CONCERNING FOREIGN INVESTMENTS IN INDIA



In his Budget speech, the Finance Minister recognized the role which foreign investments could play in addressing the worry of prevailing current account deficit. He conceded that foreign investment is imperative for garnering much desired foreign investment for economic objectives of India. He also assured that necessary support shall be extended to the foreign trade policy to be announced by the Government next month that would boost the foreign trade. Summary of few of the announcements are provided below:-

Policy announcements

- Simplification and uniformity of registration procedures and other norms for entry for foreign portfolio investors.
- In order to remove the ambiguity that prevails under categorization of FDI investments vis a vis FII investments, a committee will be constituted by the Government to examine the application of the broad principle (of treating investments upto 10 percent as FII investments and investments of more than 10 percent as FDI investments) and also to work out other details expeditiously.
- FIIs will be permitted to participate in the Exchange Traded Currency Derivative Segment to the extent of their Indian rupee exposure in India.
- FIIs will also be permitted to use their investment in Corporate Bonds and Government Securities as collateral to meet their margin requirements.
- Designated depository participants will be allowed to register different classes of portfolio investors, subject to compliance with KYC guidelines issued by SEBI.

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Direct Tax Proposals:

- The modified provisions of GAAR as recommended by Shome Committee Report to come into effect from 01.04.2016.
- In case of foreign companies whose taxable income exceeds Rs. 100 millions, the rate of surcharge has been increased from 2 percent to 5 percent.
- In case of Dividend Distribution Tax, the rate of surcharge has been increased from 5 percent to 10 percent.
- The additional rate of surcharge would be in force for only one Financial Year 2013-2014.
- The concessional rate of tax of 15 percent on dividend received by an Indian company from its foreign subsidiary would be proposed to continue for the financial year 2013-2014. Further, dividend distributed by such Indian company in favour of shareholders (including foreign shareholders) shall not attract dividend distribution tax, subject to fulfillment of conditions as specified.
- Withholding tax rates on payment for Royalties and Fees for Technical Services to non residents proposed to be increased from 10 percent to 25 percent. However, the rate of tax under the Income Tax Act vis-a-vis the Tax Treaty, whichever is beneficial, would apply.
- Securities Transaction Tax to be reduced in respect of certain transactions.
- There is a proposal to introduce Commodities Transaction Tax (CTT) in a limited manner.
- A Foreign Company shall be required to produce Tax Residency Certificate (TRC) in the prescribed format and in the prescribed manner to claim Tax Treaty benefits. It has been proposed to amend the law to provide that a Foreign Company securing TRC shall not be a sufficient condition for claiming any relief under the Tax Treaty.