Union Budget 2011-12

Direct Tax Proposals

Preliminary Highlights

1. Increase in basic exemption limit

(a) General basic exemption limit to be increased from Rs.1,60,000 to Rs.1,80,000. The exemption limit for women assessees to be retained at Rs.1,90,000.

(b) Basic exemption limit for senior citizens to be increased from Rs.2,40,000 to Rs.2,50,000

2. Relaxation for Senior Citizens

(a) Age criterion for senior citizens to be relaxed from 65 years to 60 years.

(b) New category of very senior citizens of 80 years and above to be eligible for higher basic exemption limit of Rs.5,00,000.

3. Reduction in Corporate Surcharge v. Increase in rate of MAT

Corporate surcharge to be reduced from 7.5% to 5%. MAT is proposed to be increased from 18% to 18.5%.

4. LLPs to be subject to Alternate Minimum Tax [New Chapter XII BA] – Clause 18

LLPs to be subject to Alternate Minimum Tax@18.5%, in line with companies. However, the tax base in the case of LLPs would be the adjusted total income computed under the provisions of the Income-tax Act, 1961 and not book profit as in the case of corporates.

5. Increase in monetary limit to qualify as a "Charitable Purpose" [Section 2(15)] – Clause 3

A charitable purpose includes the advancement of any other object of general public utility. However, the advancement of any other object of general public utility is not a charitable purpose, if it involves carrying any activity in the nature of trade, commerce or business for a cess, fee or any other consideration irrespective of the nature of use or application or retention of the income from such activities and receipts from such activities is more than Rs.10 lakhs in the previous year.

The above limit of Rs.10 lakhs is proposed to be increased to Rs.25 lakhs with effect from A.Y. 2012-13. Therefore, if such receipts are Rs.25 lakhs or less, it would continue to be a charitable purpose.

6. Transfer Pricing provisions streamlined [Section 92C, 92CA & 139] – Clauses 12, 13 & 23

(a) The existing fixed margin of 5% (variation between the actual price of the transaction and ALP) across all segments of business activity and range of international transaction outlived its utility. Therefore, section 92C to be amended to provide that instead of a variation of 5%, the allowable variation to be such percentage as may be notified by the Central Government in the behalf.

(b) Section 92CA provides that the Transfer Pricing Officer (TPO) can determine the ALP in relation to an international transaction which has been referred to the TPO by the Assessing Officer.

Section 92CA to be amended to provide that the TPO can determine the ALP in respect of other international transactions which are noticed by him subsequently in the course of the proceedings before him. These international transactions would be in addition to the international transaction referred to the TPO by the Assessing Officer.

(c) Section 92CA(7) provides that for the purpose of determining the ALP, the TPO can exercise powers available to an Assessing Officer under section 131(1) and section 133(6). These are powers of summoning or calling for details for the purpose of enquiry or investigation in the matter.

In order to enable the TPO to conduct on the spot enquiry and verification, the TPO to be enabled to exercise the power of survey conferred upon an Income -tax Authority under section 131(1).

(d) To avoid practical difficulties faced by corporate assessees in accessing contemporary comparable data before 30th September in order to furnishing a report in respect of their international transaction, the due date for filing transfer pricing report in Form No.3CEB and the return of income by such corporate assessees has been extended to 30th November.

7. Anti-avoidance measures [Section 94A] – Clause 14

This section specifically deals with transactions undertaken with persons located in any country or jurisdiction which does not effectively exchange information with India.

(i) The Central Government to notify any such country or territory outside India which will be accordingly considered as a non-cooperation jurisdiction area.

(ii) In case one of the parties to the transaction is a person located in notified jurisdictional area then all the parties to the transaction would be deemed to be associated enterprises. In such a case, the transaction would be an international transaction and transfer pricing regulations would apply.

(iii) No deduction in respect of any payments made to any financial institutions located in such areas to be allowed unless the assessee authorizes the Department to seek the relevant information from the financial institution.

(iv) The assessee should maintain the relevant documents and furnish the prescribed information. Otherwise, no deduction in respect of any other expenditure or allowance including depreciation arising from the transaction with a person located in the notified jurisdictional area will be allowed.

(v) If any sum is received from a person located in the notified jurisdictional area, then, the onus is on the assessee to satisfactorily explain the source of such money in the hands of such persons or in the hands of the beneficial owner. If he fails to do so, the amount shall be deemed to be the income of the assessee.

(vi) The TDS in respect of any payment made to a person located in the notified jurisdictional area will be the higher of the following rates –

(1) rates specified in the Act
(2) rates in force
(3) 30%.

8. Increase in scope of "Investment linked tax deductions" [Section 35AD] – Clause 6

Investment linked tax deduction to be extended to two new businesses –

(i) developing and building a housing project under a notified scheme for affordable housing; and

(ii) production of fertilizer in India.

The date of commencement of such business should be on or after 1.4.2011.

9. Investment in notified infrastructure bonds to continue for one more year [Section 80CCF] – Clause 9

The additional deduction of Rs.20,000 for investment in notified infrastructure bonds to be extended for one more year i.e. Assessment Year 2012-13.

10. Monetary limits for related persons - Settlement Commission [Section 245C] – Clause 28

The additional amount of income-tax payable for a case to be admitted before the Settlement Commission in search and requisition cases is Rs.50 lakhs. This condition is proposed to be relaxed by reducing the above limit to Rs.10 lakhs in case of a person who is related to the applicant under section 153A or section 153C and in whose case proceedings have been initiated as a result of search.

Therefore, the limit of Rs.50 lakhs would be applicable to the tax payer who is the subject matter of search and the limit of Rs.10 lakhs would be applicable to entities related to such a tax payer.

11. Reduction in rate of tax on dividend received by Indian companies from foreign subsidiaries [Section 115BBD] – Clause 16

The dividend received by Indian companies from foreign subsidiaries would now be subject to a concessional rate of tax of 15% instead of the applicable marginal rate of tax. However, no expenditure is allowable in respect of such dividends.

12. Exemption of specified income of notified entities not engaged in commercial activity [New Clause (46) in section 10] – Clause 4

The Central Government to specify the nature and extent of income which would be exempt in the hands of a body, authority, board, trust or commission set up or constituted by a Central, State or Provincial Act or constituted by the Central or State Government with the object of regulating or administering an activity for the benefit of the general public.

13. Exemption of income of Infrastructure Debt Fund [Section 10(47)] and Concessional tax rate on interest received by non-residents from such fund [Section 115A] and tax deductible thereon [Section 194LB] – Clauses 4, 15, 23 & 27

Central Government to notify any infrastructure debt fund to be set up in accordance with the prescribed guidelines, the income of which would be exempt from tax. They have to file return of income.

Interest income received by a non-resident from such fund would be subject to tax @5% on the gross amount of such interest income. Accordingly, TDS would be attracted @ 5% under new section 194LB.

14. Sunset for MAT in respect of SEZ developers and units and for DDT in respect of SEZ developers [Sections 115JB(6) & 115-O(6)] – Clause 17

SEZ developers were entitled to exemption from applicability of MAT and DDT. SEZ units were entitled to exemption from applicability of DDT. A sunset clause is now proposed to be introduced to remove these exemptions w.e.f. A.Y.2012-13.

15. Increase in weighted deduction for scientific research [Section 35(2AA)] – Clause 5

The weighted deduction in respect of any sum paid to a National Laboratory or a university or an IIT or a specified person for the purpose of an approved scientific research programme is proposed to be increased from 175% to 200% w.e.f. A.Y.2012-13.

16. Employer's contribution to the account of the employee under New Pension Scheme [Section 36] – Clause 7

The employer's contribution to the account of an employee under New Pension Scheme as referred to in section 80CCD is proposed to be allowed as deduction under section 36 instead of under section 80CCD. However, the restriction of such deduction to the extent of 10% of salary would continue.

17. Extension of sunset clause for tax holiday under power sector [Section 80-IA(4)] – Clause 10

The terminal dates for deduction of profits and gains of an undertaking engaged in generation and distribution of power, transmission or distribution by laying a network of new transmission or distribution lines, substantial renovation and modernization of existing network or transmission or distribution lines to be extended from 31.3.2011 to 31.3.2012.

18. Extension of sunset clause for tax holiday for certain undertakings engaged in commercial production of mineral oil [Section 80-IB(9)] – Clause 11

An undertaking which is located in any part of India and engaged in commercial production of mineral oil is eligible for deduction if it has begun commercial production on or after 1.4.1967. So far, no sunset date has been provided for such business.

However, it is proposed to provide that the deduction for commercial production will not be available for blocks licensed under a contract awarded after 31.3.2011 under the New Exploration Licencing Policy or in pursuance of any other State or Central Law in any other manner.