Direct & Indirect Tax Amendments in Budget 2009-10

1. Income Tax & Wealth Tax:

A) Tax Rates:

1. New slabs for income tax of Individuals which is as follows:

For	Existing (Rs.)	New (proposed) Rs.
a. Resident Women below 65 years	180000	190000
b. Senior Citizens (65 years or above)	225000	240000
c. Other Individuals	150000	160000

2. Surcharge has been eliminated for all type of assessees other than corporate assessees. But education cess will remain the same as per last year.

3. No change in corporate tax rates.

B) Minimum Alternate Tax (MAT):

1. Rate of MAT to be increased to 15% from existing rate of 10% (w.e.f. A/Y 2010-11)
2. Carry forward and set-off period of MAT Credit is extended to 10 years from existing period of 7 years.
3. By way of a retrospective amendment, for the purpose of calculation of book profit, it is proposed that the provision for diminution in value of any asset debited to the profit and loss account shall be added back to the book profit.

C) TAX DEDUCTED AT SOURCE:

(a) The provisions relating to tax deducted at source has been rationalized from 1st October, 2009. Surcharge and Education cess is not applicable on any TDS other than salary. On TDS on salary, surcharge will not be applicable but education cess will be levied.

(b) The difference between payments to contractor & sub-contractors and advertising & other contracts has been eliminated.

(c) In case of payments to Contractors being individuals & HUF, the single rate of TDS @ 1% will be applicable.

(d) In case of payments to contractors other than Individual & HUF, the single rate of TDS @ 2% will be applicable.

(e) In case of Sec. 194A, rate of TDS on interest on other than securities has been reduced to 10% from existing 20% in case of domestic companies.

(f) The new rates of TDS on rent are:

	RENT PAYMENTS (Sec. 194-I)	NEW RATES	OLD RATES
(i)	For Plant, Machinery or Equipments	2%	10%
(ii)	For Land, Building, Furniture & Fittings	10%	15 & 20%

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(g) No TDS will be applicable on payment to transport contractors if he furnishes a valid PAN to the deductor and in turn the deductor shall furnish the detail of such transport contractors with PAN to Income Tax Department.

- If PAN is not quoted by the transporter the rate will be 1% for an individual / HUF transporter and 2% for other transporters upto 31.03.2010.

(h) If however, PAN is not quoted by the deductee, the rate of TDS will be higher of 20% or applicable rates, in all the cases, with effect from 1st April, 2010.

(i) NO TDS will be deducted on any payment made to New Pension Scheme Trust.

(j) TDS will not be deducted on work of manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person other than such customer as such a contract is a contract for 'sale'. If material is purchased from such customer then TDS is applicable on non-material part of invoice (if separately mentioned) otherwise on full invoice value. (w.e.f. 01.10.2009)

D) Salary/ Business Income:

1. As FBT is abolished, the following perquisites are now taxable in the hands of employee:
   a) Value of any specified security (ESOP) or sweat equity shares allotted to employees.
   b) Contribution to approved superannuation fund by employer in excess of Rs. 100000/-
   c) Any other fringe benefit or amenity as may be prescribed.

2. Limit for disallowances of cash expenditure u/s 40A (3A) has been increased from Rs. 20000 to Rs. 35000 in case of payment to transporters only w.e.f. 01.10.2009

3. Limited Liability Partnership would be taxable as partnership firms and there would be no capital gain on conversion of existing partnership firm into LLP (w.e.f. A/Y 2010-11)

4. Sec. 40(b) amended to increase the limit of allowable partners remuneration to firms as follows:
   a) In case of loss or book profit upto Rs. 300000/- - Higher of Rs. 150000 or 90% of book profits
   b) Above Rs. 300000/- - 60% of balance book profits

5. *Presumptive Taxation*:

(i) *Business other than Goods Carriage*:

The concept of "Presumptive Taxation" for retail business has been extended to all businesses carried on by an Individual, HUF and Partnership Firm (but not LLP) with effect from Asst. Year 2011-12 subject to following conditions:

(a) The turnover / gross receipts should not exceed Rs. 40 lakhs.

(b) The assessee claiming the income based deduction under Chapter VI-A and Chapter-III (Sec. 10A, 10AA, 10B, 10BA, etc.) are not eligible. Accordingly payment based deduction of Chapter VI-A like 80C, 80D, 80E, 80G, 80GG, etc. will be allowed.

(c) Goods transport business u/s 44AE will not be eligible for the scheme.

(d) The presumptive rate of income will be 8% of the gross turnover / receipts.

(e) The assessee opting for the scheme will not be required to maintain the books of account for this business.

(f) Assessee claiming profit less than 8% of the gross turnover / receipts will be required to maintain books of accounts and will be subject to Tax Audit also.

(g) Not required to pay advance tax.

(ii) *Goods Carriage Business*:

The existing rates of presumptive income for goods carriage (transporters) upto 10 (ten) trucks have been revised as under: (w.e.f. A/Y 2011-12)

Per Truck per Vehicle:

	Vehicles	**Existing Limit (Rs.)**	**Proposed Limit (Rs.)**
(a)	Heavy Goods Vehicle	3500	5000
(b)	Light Goods Vehicle	3150	4500

E) Income from Other Sources:

1. Interest received by an assessee on delayed compensation or enhanced compensation shall be taxable in the year in which such interest is received irrespective of the method of accounting followed by the assessee after allowing deduction of 50% of such income. (w.e.f. 01-04-2009)

2. Section 56(2) is to be amended to include gifts in kind i.e. any movable and immovable property (land, building, shares and securities, jewellery, archaeological collections, drawings or paintings, sculptures, any art work) received as gift shall be treated as income w.e.f. 01-10-2009 if value of that property exceeds Rs. 50,000/-. Similarly if any movable or immovable property is purchased for less than stamp duty value or fair market value than the difference shall be treated as income of the buyer if difference exceeds Rs. 50,000/-

Note: Amended 56(2) not to apply to any money or property received from relative or on occasion of marriage of individual or under will or in contemplation of death or from local authority or any fund referred in Sec. 10(23C) or institution registered u/s 12AA.

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F) Exemptions & Deductions:

1. Industrial Undertakings in Free Trade Zones (Sec.10A) and 100% Export oriented undertaking (Sec. 10B) will continue to enjoy exemption upto Asst. Year 2011-12 (i.e. one more year).
2. The limit of deduction u/s. 80DD of Rs. 75,000/- for medical expenses for disabled dependents per person has been increased to Rs. 1,00,000/-.
3. Power Generation / Transmission Units will enjoy tax holiday u/s. 80-IA upto Asst. Year 2011-12
4. The deduction for interest on loan u/s. 80E for higher education has been extended to any course of study pursued after Class XII.
5. VRS exemption under section 10 (10C) will not be applicable if a person has claimed relief under section 89.
6. The weighted deduction @ 150% on in-house research and development expenditure will be allowed to a company engaged in the manufacture or production of any article except those items specified in the Eleventh schedule. However, the research and development facilities shall have to be approved by the Dept. of Scientific and Industrial Research, Govt. of India (Sec. 35).
7. Donation to electoral trusts to be allowed as 100% deduction to the donor. Further income of such electoral trust is proposed to be exempted if the trust utilizes atleast 95% of total donations received for the specified purposes.
8. A relief is also given to registered charitable trust on account of exemption of anonymous donations received by such trust to the extent of higher of Rs. 100000 or 5% of their total income. Further, meaning of charitable purpose is extended to include the preservation of environment and preservation of monuments, places or objects of artistic or historic interest.
9. A new section 35AD has been introduced to allow 100% deduction on Capital expenditure (other than land, Goodwill etc.) incurred for the following business: (No any other deduction including depreciation will be allowed)

(I) Cold Chain facilities for agricultural, forest, dairy products, etc. (w.e.f. 01.04.09)
(II) Warehousing Facilities for agricultural produce. (w.e.f. 01.04.2009)
(III) Cross Country natural gas or oil pipeline network for storage and distribution (w.e.f. 01.04.2007)

G) Proceedings:

1. *Assessment Proceedings:*
The Assessing officer may now assess / reassess any income in respect of any issue which come to his notice during the course of re-assessment proceedings u/s. 147 even if no reason was recorded for such issue at the time of re-opening the case. The amendment is retrospective from Asst. Year 1989-90.

2. *TDS Return Processing & Assessment*:
    a) New section 200A inserted to provide for processing of TDS return and intimation of processing of TDS return to be sent within one year from end of financial year in which return is filed.
    b) Filing of TDS returns: The present system of Quarterly filing of TDS / TCS return has been amended w.e.f. 01/10/2009. The Govt. will prescribe periodicity of TDS / TCS returns, forms & manner thereof.
    c) No TDS assessment order shall be passed after the expiry of 2 years from the end of financial year in which TDS return is filed or 4 years from the end of the financial year in which payment is made where such return is not filed

3. *Penalty Proceedings in Search & Seizure:*
   A vital change in the perception of penalty proceedings in case of search operations has been brought in with retrospective effect from 1st June, 2007. The penalty for concealment will be attracted in the following cases:
    a. Where the return has been filed, but the income though recorded in the books of accounts are not disclosed in such returns.
    b. Where the income is duly recorded in the books of accounts, but no return has been filed till the date of search and the due date as specified u/s 139 (1) for filing of return for such previous year has expired.

H) Others:

1. Fringe Benefit Tax is abolished from FY 2009-10 and instalment paid for the first quarter ended June 30, 2009 may be adjusted as advance income tax.

2. Commodity Transaction Tax (CTT) to be abolished from 01.04.2009.

3. Wealth tax exemption limit increased to Rs. 30 lacs from existing limit of Rs. 15 lacs.

4. Advance tax-limit enhanced from Rs. 5,000 to Rs. 10,000

5. Every document, notice, order, letter or any other correspondence issued or received by the Income Tax Authority on or after 01.10.2010 shall bear a computer generated document identification no. without which it will be treated as invalid.

6. *New Pension Scheme (NPS):*

a) Any income of New Pension System Trust is exempt from tax
b) Dividend paid to NPS Trust is exempt from dividend distribution tax u/s 115-O
c) All purchases and sale of equity and derivates by NPS Trust shall be exempted from STT.
d) The tax benefit under section 80CCD was hitherto available to “employees” only. Therefore, it is proposed to amend sub-section (1) of section 80CCD so as to extend the tax benefit there under also to “self-employed” individuals.

7. *Transfer pricing*:
    a) If the transfer price is not equal to the arm's length price, it is proposed to empower the Board to formulate safe harbour rules i.e. to provide the circumstances in which the Income-tax authorities shall accept the transfer price declared by the assessee. (w.e.f. 01.04.2009)

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(b) It is proposed to amend the proviso to section 92C to provide that where more than one price is determined by the most appropriate method, the arm’s length price shall be taken to be the arithmetical mean of such price. However, if the arithmetical mean, so determined, is within five per cent of the transfer price, then the transfer price shall be treated as the arm's length price and no adjustment is required to be made.

2. **Service Tax:**

A) Following services have been brought under Service Tax ambit:

(Applicable date to be notified after enactment of Finance Bill and suitable abatements in relation to following first two services to be notified later on)

1. Service provided in relation to transport of goods by rail including Govt. Railways.
2. Service provided in relation to transport of coastal cargo and goods through inland water including National Waterways.
3. Advice, consultancy or technical assistance provided in the field of law (this tax would not be applicable in case the service provider or service receiver is an individual). Further, any service of appearance before any court of law or any statutory authority would also be kept outside this levy.
4. Cosmetic and plastic surgery service.

B) Exemptions: (Applicable w.e.f. 07.07.2009)

1. Exemptions from service tax on services being provided to inter-State or intra –State transportation of passengers by tour operators in a vehicle bearing ‘Contract Carriage Permit’ with specified conditions.
2. Exemption from service tax (leviable under Banking and other financial services or under Foreign exchange broking service) on services being provided to inter-bank purchase and sale of foreign currency between scheduled banks.
3. Export Promotion Council and the Federation of Indian Export Organizations (FIEO) to be exempt from service tax on the membership and other fees collected by them till 31st March 2010.
4. Services provided to GTA such as C&F agent, cargo handling service, storage & warehousing, etc. for providing goods transport by road service is proposed to be exempted from service tax with retrospective effect 01.01.2005

C) New Refund Scheme to Exporters:

1. In order to ensure fast refund to exporters, the entire scheme of refund to exporters has been revamped. Now refund to exporters to be granted on self certification/ certification by a chartered accountant. Refund shall be granted within one month of receipt of claim if found in order.

2. Two taxable services, namely, Transport of goods through road’ (from place to removal to ICD, CFS, Port/ Airport) and ‘Commission paid to foreign agents’ to be exempted from the levy of service tax, if the exporter is liable to pay service tax on reverse charge basis. However, present cap of 10% on commission agency charges is retained. Thus there would be no need for the exporter to first pay the tax and later claim refund in respect of these services. (Notification No. 18/2009 dated 07.07.09)

3. For other services by exporters, services tax exemption to be operated through the existing refund mechanism based on self-certification of the documents where such refund is below 0.25 per cent of FOB value, and certification of the documents by Chartered Accountants for value of refund exceeding the above limit. (Notification No. 17/2009 dated 07.07.2009)

4. One new service namely 'Terminal Handling Charges' has been added in the list of eligible services for refund of service tax, now the total no. of eligible services is 16.

D) <u>Modification in Scope of Services:</u>

1. Business Auxiliary Service: If any activity amounts to manufacture within the meaning of section 2(f) of the Central Excise Act, the same is excluded from its purview of this service. This exclusion has been modified to state that it would apply only if the activity results in manufacture of 'excisable goods'. (Date to be notified)

2. Stock Brokers: Definition of stock brokers amended to exclude sub-brokers and hence services provided by sub- brokers are no more liable to tax. (Date to be notified)

3. A correction has been carried out in the definition of the taxable service by replacing the word 'acquiring' by the word 'providing', considering the fact that it is the providing of 'right to use' and not the acquiring of 'right to use' is a taxable service. This amendment would have retrospective effect from 16-5-2008, when the service came into effect.

E) <u>Cenvat Credit Rules:</u>

Rule 3(5B) of the CENVAT Credit Rules provide that, if value of any input or capital goods on which CENVAT credit has been taken, is written off fully or where provision to write off has been made in the books of account before being put to use, the 'manufacturer' shall pay an amount equivalent to the CENVAT credit taken on such item. Similar provision is presently not prescribed in case of taxable service provider. Now the said sub-rule is being amended to bring taxable service provider within the ambit of the said restriction.

Rule 6(3) amended that a provider of taxable as well as exempt services, using common inputs or input services (who does not maintain separate accounts) to pay an amount of 6% of the value of exempted services instead of earlier 8% (w.e.f. 7-7-2009)

"Cement, angles, channels, Centrally Twisted Deform bar(CTD) or Thermo Mechanically Treated bar(TMT) and other items used for construction of factory shed, building or laying of foundation or making of structures for support of capital goods"

<u>shall not be eligible to take credit</u> as capital goods- (Notification No. 16/ 07-7-2009)

F) <u>Work Contract Service:</u>

Explanation appearing in sub-rule (3) is being amended to provide that the composition scheme would be available only to such works contracts where the gross value of works contract includes the value of all goods used in or in relation to the execution of works contract whether received free of cost or for consideration under any other contract. However this condition would not apply to those works contracts, where either the execution of works contract has already started or any payment (whether in part or in full) has been made on or before the date of the amendment, i.e. 7-7-2009, (Notification No. 23/2009-ST, dated 7-7-2009).

3. Excise Duty:

A) Increase in Rates:

Excise duty rate on items currently attracting 4% to be raised to 8% except the following items: (w.e.f. 07.07.2009)

a) Food items such as sugar confectionary, biscuits with retail price exceeding Rs.100/kg, cakes and pastries, sherbets, scented supari etc.
b) Paraxylene
c) Drugs and pharmaceutical products of chapter 30
d) Paper, paperboard and articles made there from
e) Footwear of retail price above Rs.250 per pair but not exceeding Rs.750 per pair
f) Pressure cookers
g) Power –driven pumps designed for handling water
h) Water filtration/ purification equipment
i) Specified textile machinery
j) Compact fluorescent lamps (CFL) and vacuum and gas filled bulbs of retail price not exceeding Rs.20 per bulb
k) Medical equipment
l) Man made fibre & yarn
m) Polyester chips

These lists are not exhaustive. Consequent upon increase in excise duty rate from 4% to 8%, abatement rates have been revised suitably on items covered under RSP (Retail Sale price) based assessment.

B) Exemptions:

The following concessions/ changes have also been made: (w.e.f. 07.07.2009)

1. Full exemption from excise duty has been provided to goods falling under Chapter 68 manufactured at the site of construction for use in construction work at such site.

2. Excise duty exemption on ‘recorded smart cards’ and ‘recorded proximity cards and tags’ to be made optional. Manufacturers have the option to pay the applicable excise duty and avail the credit of duty paid on inputs.

3. Articles of jewellery on which brand name or trade name is indelibly affixed or embossed (branded jewellery), have been fully exempted from excise duty.

4. Full exemption has also been provided to EVA compound manufactured on job-work basis for further manufacture of footwear.

5. Excise duty applicable to large cars/ utility vehicles of engine capacity 2000 cc and above to be reduced from ‘20%+Rs. 20,000’ per vehicle to ‘20%+Rs.15,000’ per vehicle

6. Excise duty on petrol driven trucks/lorries to be reduced from 20% to 8%. And on chassis of such trucks/lorries to be reduced from ‘20% + Rs.10000’ to ‘8% + Rs.10000’.

7. Excise duty on Special Boiling Point spirits to be reduced to 14%.

8. Excise duty on naphtha to be reduced to 14%.

9. Duty paid High Speed Diesel blended with upto 20% bio-diesel to be fully exempted from excise duties.

10. The ad valorem component of excise duty on petrol and diesel intended for sale to be converted into specific rate:
    a) On petrol: Rs. 14.50 per litre instead of '6% + Rs.13 per litre'.
    b) On diesel: Rs. 04.75 per litre instead of '6% + Rs.3.25 per litre'.

C) <u>Others:</u>

1. Sections 14A and 14AA have been amended to provide that the Chief Commissioner may also nominate Chartered Accountants for conducting special audits under these provisions.

2. Rule 6(3) Cenvat Credit Rules, 2004 has been amended to prescribe that a manufacturer of both dutiable and exempted goods, who does not maintain separate accounts of inputs, shall now pay an amount equal to 5% of the total price of exempted goods.

3. Rule (2) of Cenvat Credit Rules, 2004 has been amended to clarify that 'input' should not include cement, angles, channels, CTD/TMT bars etc. used for construction of shed, building or structure for support of capital goods.

4. The Central Excise Rules, 2002 have been amended to provide that seized records that have not been relied upon should be returned to the party within 30 days of issue of a show cause notice.

5. Benefit of SSI exemption scheme to be extended to printed laminated rolls bearing the brand name of others by excluding this item from the purview of the brand name restriction.

4. <u>CST and GST:</u>

1. Rate of Central Sales Tax will remain same @ 2%

2. The Finance Minister has reaffirmed the Central Government's commitment to introduction of the Goods and Service Tax (GST) from April 1, 2010 and has commended the work done by the Empowered Committee of State Finance Ministers in preparing the design of the dual GST. The dual GST will comprise the Central GST and the State GST and the Centre and State will each legislate, levy and administer the Central GST and the State GST respectively.

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