THE ARTICLED

U'r Altitude is determined by Ur Attitude

"This Budget belongs to ***'Aam Aadmi'.*** It belongs to the farmer, the agriculturist, the entrepreneur and the investor. The opportunity is great. The time is right. I have placed my faith in the hands of the people who, I know, can be depended upon to rise to any occasion in national interest. I have placed my faith in the collective conscience of the nation that can be touched to scale undreamt of heights in the coming year "

- Finance Minister

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You Will See . . .

Direct tax collections register 7.5 per cent growth upto February

Net direct tax collections during first eleven months of the present fiscal (up to February 2010) stood at Rs.2,78,373 crore, up from Rs.2,58,902 crore in the same period last fiscal, registering a growth of 7.52 percent. Growth in Corporate Taxes was 10.89 percent (Rs.1,80,318 crore as against Rs.1,62,617 crore), while Personal Income Tax (including STT, and residual FBT and BCTT) grew at 1.84 percent (Rs.97,692 crore as against Rs.95,930 crore).

During the month of February 2010, on a year-to-year basis, growth in direct tax collections was 27.54 percent (Rs.14,675 crore compared to Rs.11,506 crore), whereas during January 2010 there had been negative growth of 19.84 percent . During February, while Corporate Tax recorded a growth of 16.87 percent, PIT growth was 37.58 percent.

The final installment of advance tax for both corporate and non-corporate taxpayers is due by 15th March 2010. The Corporate taxpayers are required to pay 25 percent and non-corporate taxpayers 40 percent of their advance taxes in March.

During April 2009 to February 2010, growth in Securities Transaction Tax (STT) stood at 17.65 percent (Rs.5,975 crore as against Rs.5,079 crore), while wealth tax grew by 31.72 percent (Rs.431 crore as against Rs.327 crore) compared to the corresponding period last fiscal.

Source : www.caclubindia.com

Inspection of Companies

- Arjun Muralidhar

After the Satyam scam, Ministry of Corporate Affairs has asked the Registrar of Companies (ROC) to inspect the financial statements of more than 149 private sector companies and some charitable organizations. To do inspection of companies, the powers are given to Registrar of Companies, officers of the Central Government and the officers of SEBI through Section 209A of the Companies Act 1956 which relates to inspection of the books of accounts and other records of companies. In this Article, the importance in conducting the Inspections, who can conduct the inspections thereby his powers and duties, the documents verified during inspection and penalty for default have been discussed in detail.

The criteria for selecting the companies for inspection

1) If any complaints are received against companies relating to non-refund of deposits/debentures, non-transfer of shares and mis-management.
2) Adverse qualification of Statutory Auditors in the Balance Sheet and Profit and Loss Account.
3) References received from other Government departments namely, Income Tax, RBI, SEBI etc.
4) The companies who have come out with the Public issue of Shares and Debentures.
5) Companies incurring losses continuously for more than three years

Why to conduct the Inspection?

1) The inspections could be conducted in order to detect fabrication of the accounts due to overstatement/ understatement of income.
2) To know about the misconduct or oppression which adversely affect the interest of company creditors and the shareholders.
3) To have a check whether the statutory auditors have discharged their duties as per law.
4) To enable the Government to ascertain the quantum of profits accrued are adequately accounted and thereby implementing remedial steps to protect from liquidation.

Overall the purpose of sec. 209A of companies act is to keep a watch on the performance of the company and to ensure that the books are maintained as required by law.

Who can conduct the Inspection?

The inspection of the books of account, documents and papers of the company can be conducted by the registrar or such officers of Central Government or by the officers of SEBI any time during the business hours of the company, these inspections could be conducted without giving any prior notice to the Company as per the provision to section 209A (1) of the Act but in normal practice about two weeks before the commencement of inspection of books of a company a letter will be written by the Joint Director or Deputy Director for inspections who supervises the inspections to the company requesting to provide the MOA, AOA and the certified copies of last three years annual reports and also for the information relating to the management and shareholding pattern and asks to provide facilities to carry inspection by the Inspecting Officers.

The Directors, Officers and Employees of the Company shall produce books and other papers to the Inspecting Authorities and furnish the required information on time.

The books of accounts and other records, papers of companies are required to be kept either in the registered office of the company or some other place {section 209A (5) (iii)}. The inspecting officer either he can visit the registered office, or can demand inspection of books of accounts at his office.

Powers and duties of the Inspector:

The person making the inspection has some powers and duties which are prescribed under section 209A (4) like the Inspecting Authorities can take copies of the books or place marks of identification thereon.

During the course of an inspection they can exercise the following powers that are vested with the Civil Courts under the code of civil procedures, 1908

1) Discovery and production of books of account and other documents at such place and at such time as may be specified.
2) Summoning and enforcing attendance of persons and examining them on oath.
3) Inspecting any books, registers or other documents of the company at any place.
4) The Inspecting officer shall have all the powers of the ROC under the Act in relation to the making of inquire.

Inspection Report:

After the inspection gets concluded the inspecting officer in accordance with section 209A (6) has to make a report to the Central Government or SEBI as the case may be. There is no time limit prescribed under Companies Act 1956 for submitting the report, however it is the responsibility of the officer to submit the report within the reasonable time.

Penalty for Default:

According to Section 209A(8), if a default is made in complying with the provisions of section, every officer of the company, who is in default, shall be punishable with a fine which shall not be less than fifty thousand rupees and also with imprisonment for a term not exceeding one year.

Conclusion:

There is no remedy to directors except to comply with the provisions of Section 209A as the offense under this section is not compoundable under section 621A as the penalty provision is for compulsory imprisonment in case of conviction.

Straight from ICAI

Announcement For the Attention of the Members - Guidance Note on Audit of Banks

This is to bring to your kind notice that the Auditing and Assurance Standards Board (AASB) of the Institute of Chartered Accountants of India (ICAI) has decided to continue with the 2009 edition of the Guidance Note on Audit of Banks for the financial year ended March 31, 2010. Accordingly, 2009 edition of the Guidance Note on Audit of Banks would be relevant for the banks audits conducted on or after March 31, 2010. Additional implementation Guidance on any relevant aspects of bank audits for the year ended March 31, 2010, if necessary, will be hosted at the website of the Institute. Members are, therefore, requested to keep a watch at the website of the Institute for further necessary guidance.

Write to The Editor

"Continuous learning process" is the vital essence of our Profession. To keep ourselves in pace with the emerging concepts, is what we have endeavored through our E-Newsletter, "The Articled". We also intend to build this into a common knowledge sharing platform for all and welcome any contributions to strengthen this common pool. Your views will help us fortify the forthcoming Issues. You can mail us at newsletter@dnsconsulting.net or write to: The Editor, #10, South Park Road, Nehru Nagar, Seshadripuram, Bangalore – 560020.

RBI Policy on Base Rate Effecting Interest Rates of Banks

More Transparency? Non Discriminatory?

- **Sailaja**

Following the announcement in the Annual Policy Statement for the year 2009-10, Reserve Bank constituted a Working Group on Benchmark Prime Lending Rate under the Chairmanship of Shri Deepak Mohanty, to review the present benchmark prime lending rate (BPLR) system and suggest changes to make credit pricing more transparent.

I) Objective behind the recommendation

Lending operations of a bank needs to aid growth in economy by directing flow towards productive uses at reasonable interest rates.

In this context, interest rates play a very crucial role and are critical to the rise and fall of the economy. There is an ample evidence of this in the US housing boom and crash, which indicates that lack of regulation and transparency in the credit system which created havoc for the economy.

Interest rates:

- To be mutually beneficial and realistic for both the lenders and borrowers.
- Veering too high or dipping too low can spell trouble and can become a cause for concern for credit quality and financial stability.
- Need to conform to changes in the monetary policy, to avert any possibility of such a disaster.

II) Need for the BPLR system to be replaced by a base rate system? The base rate and its backdrop.

The RBI has suggested a move away from the existing BPLR (Benchmark Prime Lending Rate) system to a more transparent Base rate system.

Although it may seem very ironical that the BPLR itself was introduced with the same motive of bringing more transparency to the business of loans, but following are some issues:

- It was twisted and tweaked by big borrowers.
- The small borrowers were being forced to take loans at higher rates above the BPLR whereas big borrowers were getting better and cheap deals.
- The system of BPLR, according to the RBI, has evolved in such a manner that it has lost its relevance as a meaningful reference rate as the bulk of the loans are advanced below BPLR.
- Further, this impedes the smooth transmission of monetary signals and makes the loan pricing system non-transparent.
- The report submitted by the working group indicates that in the current system, the BPLR did not have a bearing with the existing market conditions and was not responsive to changes effected in the monetary policy. Also, the group felt that the larger percentage of loan disbursals were at sub-BPLR rates, which was a bottleneck for establishing transparency.

III) Some of the guidelines of RBI

The Working Group submitted its report on October 20, 2009 and it was placed on the Reserve Bank's website for public comments. After considering the recommendations of the Group and the suggestions received, Reserve Bank has decided as follows:

- The Base Rate system will replace the BPLR system with effect from April 1, 2010. Banks may determine their actual lending rates on loans and advances with reference to the Base Rate. Base

- Base Rate will be the minimum rate for all commercial loans, banks are not permitted to resort to any lending below the Base Rate
- Each bank may decide its own Base Rate. In line with the RBI Guidelines, banks may announce their Base Rates after seeking approval from their respective Boards.
- Some of the criteria for determination of the Base Rate are:
  - ✓ cost of deposits;
  - ✓ adjustment for the negative carry in respect of CRR and SLR;
  - ✓ unallocatable overhead cost for banks such as aggregate employee compensation relating to administrative functions in corporate office, directors' and auditors' fees, legal and premises expenses, depreciation, cost of printing and stationery, expenses incurred on communication and advertising, IT spending, and cost incurred towards deposit insurance; and
  - ✓ Profit margin.
- Thus, All loans given after 01 April 2010 will be calculated as below :

Lending rate = Base rate + X.

The variable X will be based on certain parameters.. The actual lending rates charged to borrowers would be the Base Rate plus borrower-specific charges, which will include product-specific operating costs, credit risk premium and tenor premium.

- All categories of loans henceforth priced only with reference to the Base Rate. The Base Rate could also serve as the reference benchmark rate for floating rate loan products, apart from the other external market benchmark rates. The floating interest rate based on external benchmarks should, however, be equal to or above the Base Rate at the time of sanction or renewal.

IV) Interest rate treatment to certain categories of advances on account of introduction of Base rate:

- The current stipulation of BPLR as the ceiling rate for loans up to Rs. 2 lakhs stands withdrawn. It is expected that deregulation of lending rates will increase the credit flow to small borrowers at reasonable rate. Thus, direct bank finance will provide effective competition to other forms of high cost credit.
- Interest rates on loans under the DRI scheme will continue to be fixed without reference to the Base Rate.
- Stipulation for export credit is expected to be announced by RBI shortly.

V) What is expected to change?

- All external aspects with relevance to the current BPLR system will still prevail in the base rate regime.
- There will still be scope for more trend setting loan schemes like the Teaser home loan rates or the fixed-cum-floating rate. In other words, the interest rate is fixed at a low rate for the first few years after which it becomes the prevailing floating rate.
- Expected to change the level of transparency in the retail and corporate lending market with banks expected to announce the rate changes as and when happen and also display them at their respective bank websites. This would create more awareness for the borrower who will then evaluate his loan cost better based on the base rate his bank adheres to.

VI) How does it bring more transparency?

- The RBI has clearly stated that irrespective of the parameters based on which the bank fixes the base rate, the rate has to be clearly displayed at all branches and the websites of the banks.
- Any changes to the rate have to be promptly conveyed to the common public from time to time through appropriate channels.

The only fool bigger than the person who knows it all is the person who argues with him

- The banks have also been advised to inform the RBI of the minimum and maximum rates charged to their customers on a quarterly basis.
- More importantly the central bank has warned the banks not to lend below the base rate under any circumstances. This is seen as a move that will ensure that large borrowers do not use their purchasing powers to squeeze very low rates of interest.
- Apart from transparency, banks to ensure that interest rates charged to customers in the above arrangement are non-discriminatory in nature.

VII) How will it help the common Indian?

- The earlier rule stating that loans below Rs 2 lakhs have to be charged at above the BPLR rate has been taken off. This in effect means that the small borrowers can now expect a lower rate of interest for their new loans.
- Higher credit flow could ensure that small borrowers can at least afford to ignore other stressful sources of funding like pawn brokers etc.

VIII) What about existing loans?

The new system has been mooted for all loans given after 01 April 2010.

- Existing borrowers and new borrowers may still have a certain degree of difference in their respective lending rates. This concern is being taken up by the RBI in a separate process with the Indian Banks Association (IBA) who are not very inclined to reverse the existing loan rates to the base rate system, which is expected to come into effect this April. 2010. IBA feels that such a move could have a negative impact on banks' earnings.
- The Base Rate system will be applicable for all new loans and for those old loans that come up for renewal. However, if the existing borrowers want to switch to the new system before the expiry of the existing contracts, in such cases the new/revised rate structure should be mutually agreed upon by the bank and the borrower.

IX) Hopes and Apprehensions

- The new system will surely be a good sign for small borrowers but could give a few sleepless nights to big borrowers who could see their rates of borrowing move Northwards.
- The first week of April 2010 could provide a clearer picture of how each bank tackles and implements the new system. Till then here's hoping the credit flow picks up soon to help the Indian economy gain higher momentum towards growth.
- There are some apprehensions, although it must be admitted that it seems very farfetched that banks will really give a very low rate for these small loans as the "customer specific" charges for the low quantum loans are high enough to wipe off the savings generated by moving to the new system.
- After introduction of Base rate, one should wait and watch to see the effectiveness of Base rate to the expectations of all the concerned and RBI measures in the direction to make it a powerful weapon to achieve the objective.

Watch your thoughts; they become words.
Watch your words; they become actions.
Watch your actions; they become habits.
Watch your habits; they become character.
Watch your character; it becomes your destiny.

- Frank Outlaw

All my life I've wanted to be someone; I guess I should have been more specific

Reading a Balance Sheet

- **Abhishek Kothari**

The oldest profession "Accounting" as we believe, known to mankind even today stands tall. One of the Hindu Gods Chitragupta assigned with the task of keeping complete records of actions of human beings *(Kindly don't question why animals are missing!!!)* on earth and upon their death, deciding their destination in heaven or hell, depending on their actions (Karma) on the earth.

Accountants can be best compared to "Chitragupta", who are responsible for maintaining the books of account of an enterprise. Books of account give the basic information that one can rely on and which helps the management to take strategic decisions, of course with the help of statistical analysis.

Collectively, accountants of various Industries put together are responsible for fuelling the growth of a nation. The results that are drawn from the books maintained depict the success, failure or a stage where uncertainty lurches over the future of the organization.

In a nut shell, the books of account form the back bone of the organization which has its importance at the micro level & at the macro level reflecting the economics nationally & globally. Books of account are the basic records that are maintained to prepare further analysis statement that give an insight on the operations of an enterprise.

The purpose of a financial statement is to report a company's financial status on a given date noted on the statement. The statement is a snapshot because it shows company's worth at a set date. The statement shows:

- What the company owns
- What the company owes
- What belongs to the owners

Compositions of Financial statement:

- Balance Sheet
- Profit & Loss Account
- Cash Flow Statements
- Notes to Account

Composition of a Balance Sheet:

Assets

What an enterprise owns is called assets. These could be in physical form such as buildings, Vehicles, inventories of products, equipment, and cash. Or intangible assets such as goodwill, trademarks, and patents.

Assets are either current or noncurrent. Current assets are convertible to cash within one year. Finally, current assets include cash and securities such as treasury bills and certificates of deposit an enterprise expects to convert to cash within the year.

Non-current assets are things an enterprise does not intend to convert to cash in the near future or that would take longer than a year to convert. Non-current assets include fixed assets, often listed as "property, plant, and equipment" because that is what they usually are. Companies use fixed assets to manufacture, display, store, and transport products.

Liabilities

On the statement of financial position, debts are called liabilities. All companies have liabilities. Examples of liabilities include:

Money owed to banks, financial institutions and other lenders
Money owed to suppliers of goods and services (accounts payable)
Taxes owed to government authorities
Rents owed to owners of land and buildings

Liabilities are either current (short term) or long term. Current liabilities are due within one year. Long term liabilities are due after one year.

Although liabilities are a necessary part of doing business, companies must manage their liabilities carefully. If an enterprise cannot make interest payments on time and repay the principal when due, the company can be forced to declare bankruptcy and either reorganize or split.

Stockholders' Equity

Stockholders' equity is the amount, owners invested in stock plus the retained earnings, since its inception (retained earnings is the amount of profit kept after dividends are paid).

On the statement of financial position the amount of stockholders' equity always equals the value of all the assets minus all the liabilities.

Profit & Loss Account

Income: Comprises of sales, professional charges, other income & all other items that are capable of bringing in cash into the enterprises being revenue in nature.

Expenditure: Comprises of amounts expended/provided in the books of account to generate income/revenue for an enterprise, basically it is expended to generate revenues.

Cash Flow Statement:

Statement that that outlines the flow of funds, it highlights the funds generated under the various heads i.e. Operating, Finance & Investments. Cash flow statements describes the cash position of an enterprise, it ideally provides information on the internally generated cash (Operating Cash Profits). As an analytical tool, the statement of cash flows is useful in determining the short-term viability of a company, particularly its ability to pay outstanding. The balance sheet is a snapshot of a firm's financial resources and obligations at a single point in time, and the income statement summarizes a firm's financial transactions over an interval of time.

The cash flow statement includes only inflows and outflows of cash and cash equivalents; it excludes transactions that do not directly affect cash receipts and payments. These noncash transactions include depreciation or write-offs on bad debts or credit losses to name a few.

As stated earlier the Balance sheet & Profit & Loss Account are generally prepared on accrual basis, i.e. even the non cash items are factored in to the statements. The position drawn under the balance sheet is based on certain set of accounting standards. The cash flow statement is intended to provide information on a firm's liquidity and solvency and its ability to change cash flows in future circumstances.

The cash flow statement has been adopted as a standard financial statement because it eliminates allocations, which might be derived from different accounting methods, such as various timeframes for depreciating fixed assets or elements that do not have a current financial implication.

Reading a Balance Sheet:

The financial statement analysis generally involves common size analysis, ratio analysis (liquidity, turnover, profitability, etc.), trend analysis and industry comparative analysis. This allows the valuation analyst to compare the company to other businesses in the same or similar industry and to discover trends affecting the company and/or the industry over time. By comparing a company’s financial statements in different time periods, an expert can view growth or decline in income or expenses, changes in capital structure or other financial trends.

Following are the various factors/indicators that one needs to be aware of, to interpret a Financial Statement:

1. **Ratios:** Ratios are highly important profit tools in financial analysis that help financial analysts implement plans that improve profitability, liquidity, financial structure, reordering, leverage, and interest coverage. Ratios primarily report based on past performances and provide lead indications of potential problem areas.

Ratio analysis is primarily used to compare a company's financial figures over a period of time. Trend analysis assist in identify trends, good and bad, and adjust your business practices accordingly. One can compare the ratios of the enterprise with the industry standards.

There are numerous factors one must be aware of when comparing ratios from one financial period to another or when comparing the financial ratios of two or more companies.

Following are some of the factors that need to be kept in mind while relying on the ratios ascertained:

- ✓ While making a comparative analysis of a company's financial statements over a period of time, make an appropriate provision for any changes in accounting policies that occurred during the same time period.
- ✓ Accounting policies are capable of window dressing the financial statements, if the same are not applied appropriately financial statements can be misleading.
- ✓ Determine whether ratios were calculated before or after adjustments were made to the balance sheet or income statement, these adjustments can significantly affect the ratios.

There can be several ratios that can be computed from the financial statements, however one has to analyze which ratios are the most important for an enterprise and accordingly apply them. The appropriate selection of ratios requires a sharp understanding of the meaning and limitations of various ratios and good judgment of the business of the firm. It's quite interesting to note that most of the ratios are drawn from a common element, for e.g. Sales figure is a common element in various ratios.

Though industry averages & yardsticks are generally used to interpret the financial results, however it is to be noted that it may not be always appropriate to interpret, based on the industry averages. A high current ratio need not always mean great liquidity, as it could be because of high unsold inventory. Therefore it is important that one realizes the short comings of ratios & interpret the ratios in a manner which is not detrimental to the users of financial statement.

However most of the ratios found in traditional literature of financial analysis have been proposed in a somewhat intuitive fashion. The ratios are often not related to logically well define theoretical framework.

2. **Economic Conditions:** Balance Sheet has to be read with the economic conditions in which it exists. The reader may adjust the company's financial statements to facilitate a comparison between the company and other businesses in the same industry or geographic location.

These adjustments are intended to negate differences between the published industry data and the company's data as presented in the financial statements.

3. **Window Dressing:** Window dressing refers to projecting a favorable picture or projecting something which misleads the user of a financial statement. For eg. To declare better profits the closing stock may be valued at market value instead of cost/net realizable value. Also the reporting date of any financial statement may be misleading, for eg. On the given reporting date the stock of an enterprise may be at its lowest level, depicting an excellent liquidity position but in reality the low stock could be attributed on the reporting date alone.

4. **Changes in Price:** Financial accountings, as it is currently practiced in most of the countries, do not take into account price level changes as a result the balance sheet figures are distorted and profits are misreported. Hence the statements can be misread by the users.

5. **Accounting Policies:** Enterprises have latitude in the treatment to be given to the items of income expenditure, like depreciation, stock valuation, R&D costs etc. The liberty that an enterprise has in this respect needs close attention.

Due to the diversity in the accounting policies applied by the enterprise a comparative analysis of the enterprise may not be possible without negating the effects of diversion in accounting policies.

In a nutshell, a balance sheet is prepared based on past events that is read & understood by an individual to establish its current & future position. There is no thumb rule to read or understand a balance sheet, all the above factors are to be read in totality to understand the true position of an enterprise. The reader of a financial statement needs to be well versed with the factors that impact the financial position. Following are a few guidelines that could be handy for analysis of statements

- Ratios provide clues to hit the right area & have the right questions.
- Selection of ratios is very critical; one needs to know which ratio is apt for a particular situation/enterprise.
- Ratios operate best in comparison; therefore selection of bench mark facilitates the right interpretation.
- Accounting treatment plays an important role in the preparation of Balance sheet, therefore one need to know the tricks of the trade & the devices employed by the accountants to window dress a financial statement.
- Notes to account & accounting policies provide valuable information about the enterprise.
- Financial statement analysis is a mixture of art & science, there is no thumb rule that can be applied to interpret a financial statement.

Oxymoron

An oxymoron is usually defined as a phrase in which two words of contradictory meaning are brought together:-

a. **Clearly misunderstood**

b. **Act naturally**

c. **Virtual Reality**

d. **Exact Estimate**

e. **Small Crowd**

f. **Act Naturally**

g. **Found Missing**

h. **Fully Empty**

i. **Pretty ugly**

j. **Seriously funny**

k. **Only choice**

l. **Original copies**

m. **Happily Married**

VAT on Warranty

- CA Sumana Rao

Market penetration is a challenging task if a manufacturer has to set up his own unit throughout the geographical area he desires to capture. This challenge is made simpler by appointing agents, dealers, stockiest who operate business using their own funds but deal with the products of the manufacturer. Motor vehicles, watches, electronic goods are some of the products where majority of the manufacturers will have arrangement with the other concerns to market and sell their product.

These products normally carry a warranty for a period ranging from 1 to 5 years. Apart from selling the product, the manufacturer will also entrust the responsibility of aiding the company to fulfill its warranty obligation to such agent, dealer and stockiest.

The manufacturer will either provide the replacement part/goods to the agent/dealer and the agent/dealer in turn will perform the servicing. On the sales tax/VAT front this arrangement is not risky. However, if the agent/dealer replaces the defective part out of his stock and manufacturer pays the agent/dealer or issues a credit note there is a risk of levy of sales tax/VAT. In this article, an attempt is made to simplify a complicate issue faced by many dealers/agents today.

Let us take an example of a company which manufactures motor cars. An exclusive dealer is appointed by the company for sale of motor cars. The company gives a warranty of 2 years on purchase of vehicle from the date it is sold to the final customer. The company for the purpose of ease authorizes the dealer to perform the obligation under the warranty agreement the company has it with the customer.

Say a customer has a problem with the motor car purchased by him 6 months ago from the dealer and approaches the dealer for servicing. The dealer diagnosis that, the problem lies in a spare part of the motor vehicle. The arrangement between the company and dealer can take shape of the following

Case 1: The Company takes back the defective spare part and supplies a new spare part to the dealer.

Case 2: The dealer purchases a new spare part of the company from the open market and replaces the defective part. The company reimburses cost by means of cash payment or by means of issue of a credit note.

We have to look into whether such an arrangement will attract levy of sales tax/ VAT in the hands of dealer.

What element of a transfer of property in goods viz., sale, exchange, and barter is present in this arrangement?

Elements of Sale	**Elements of Exchange**	**Elements of Barter**
a. Existence of goods. b. Transfer of property in goods. c. Two or more persons. d. Payment in cash, deferred payment or other valuable consideration.	a. Existence of property b. Transfer of property in one thing for another thing. c. It can involve some payment of money consideration to bring equality of valuation. d.Two or more person	a. Existence of moveable property b. Transfer of moveable property in consideration of transfer of another moveable property c. Two or more person

The term exchange includes barter, and the term exchange includes sales to the extent of involvement of goods and money consideration.

In the first case, where the company is taking back the defective spare and replacing a new spare, it shall be more specifically called as an exchange. However, it cannot be said that such in such an exchange the dealer will not feel the tax brunt. This is because, in case the dealer replaces the spare to the customer on which he has already claimed input tax credit and the company replenishes the stock of the dealer, there is a change in use of the spare on which input tax has been availed. As per Section 19 of the KVAT Act, 2003 where there is a change in use, input tax on the same should be reversed.

The second case is to be examined in the light of decisions rendered in the case of **Mohd. EKRAM KHAN AND SONS v COMMISSIONER OF TRADE TAX, UTTAR PRADESH, LUCKNOW, 2004 (57) KLJ 249 (SC), dist.** In this case, Mohd. EKRAM KHAN was an agent of M/s Mahindra and Mahindra (M&M). M&M had warranty agreement with the purchasers of vehicles to replace defective parts during the warranty period.

The appellant purchased these parts for replacing defective parts. Against such replacements, M&M raised credit notes on the appellant towards the cost of replacing the defective parts. The inference from the Supreme Court's decision is that if not for the existence of Mohd. Ekram, Mahindra and Mahindra would have purchased the spare parts from open market to fulfill its warranty obligation and on such purchases it would have paid sales tax. Thus, although Mohd. Ekram has delivered the goods to the customer; it was only done on behalf of Mahindra. Since credit notes were given which is as good as money, it amounted to consideration for Mohd. Ekram for sale of the spare part to Mahindra but delivered to the customer.

There is yet another recent judgment in the case of **COMMERCIAL TAX OFFICER (AE), JODHPUR v. MARUDHARA MOTORS, JODHPUR 2009(67) KLJ 416 (Raj) (HC)** where a distinction has been made from Mohd. Ekram case on basis of the facts of the case.

The facts of the case are that the appellant is under a dealership agreement with Tata Motors. The vehicles sold by Tata Motors are under a warranty period. During the warranty period, if there is need to replace defective parts the appellant sends back the material to Tata Motors. Tata motors can in turn replace the defective part or issue credit notes of the value of new parts replaced by appellant. Since title of property in goods namely spare parts passes from the hands of respondent–assessee to the customer free of costs and such title of property in spare parts does not pass from assessee-dealer to the manufacturer, no taxable sale can be said to have taken place in the hands of respondent-assessee at all.

These two transactions viz, one between customer and dealer and another between dealer and manufacturer are independent and are not linked to each other. First is sans consideration against goods and second one is sans transfer of property in goods. Credit notes given by manufacturer to dealer in discharge of its warranty obligations to customers cannot be taxed under sales tax laws in hands of respondent assessee.

The distinction between Mohd. Ekram case and Marudhara Case has been pointed out in Marudhara Case seen below

SL. No	MOHD. EKRAM KAHN AND SONS	MARUDHARA MOTORS
A	The relationship between assessee Mohd Ekram and the manufacturer was that of agent and principal	The relationship between assessee Marudhara Motors and the manufacturer was that of principal to principal
B	Dealers were purchasing goods (spares) from other dealers.	Dealers purchased goods (vehicle and spares) from principal only and not from other dealers.
C	Assessee had supplied the goods for which it received the consideration by way of credit note or other modes of payments.	Spare Parts or defective parts collected by the Marudhara are sent back physically to the manufacturer who either replenishes those spare parts or gives credit note equal to the value of such replaced parts.

Although Marudhara Case has distinguished Mohd. Ekram' Case and held the appellant is not liable to tax, the following aspects have not been considered in the decision:

1. Who has the title to the defective goods – Customer or Marudhara?
2. Whether the return of goods belonging to customer by Marudhara to Tata Motors amount to purchase return of Marudhara?
3. Whether Tata Motors can issue credit note to Marudhara where customer has returned goods belonging to him?

In fact,

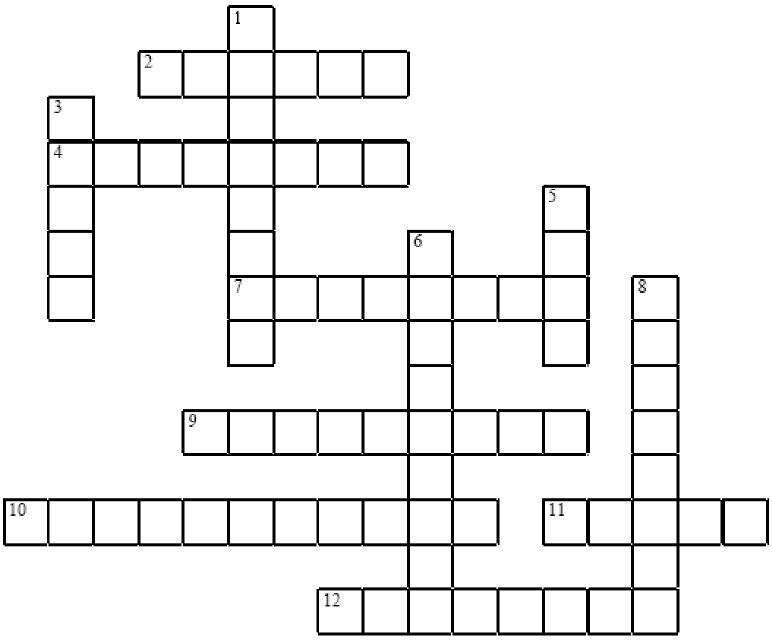
a. The title to defective goods is passing from Customer to Tata Motors and Marudhara is only an intermediary for movement of goods.

b. Where Marudhara does not have the title to defective goods and its stock remain in the same position even after giving the defective goods to customer, the question of purchase return will not arise.

c. A credit note for sales return is to be given, if the property in goods belonging to Marudhara has been returned. But here since customer is returning material, a credit note cannot be raised on Marudhara under Warranty cover.

Based on the above facts and analysis, the conclusion that can be drawn is that there should be an element of output tax payable in case goods are removed from dealers stock to fulfill warranty obligation of the manufacturer. The value received from manufacturer should be considered as consideration for such a sale. In case manufacturer gives the consideration with VAT, the dealer should remit the same as output tax.

Crossword - 33



ACROSS

2 The fixed overhead variance resulting from operating at a level different from budgeted level of activity

4 Changing the number of years in the useful life of an asset is referred to as change in an

7 Person who makes a will

9 Member of legal Profession

10 An alternative name for the time period assumption

11 For this liquidity ratio, Inventory is excluded from current assets

12 Alternative term for book value of an asset

DOWN

1 The Components of financial statements (Assets, Revenues, losses)

3 Persuade or encourage someone not to do something

5 A Civil wrong

6 A member of the legal profession who has been called to the bar

8 Accrual accounting is associated with this principle

Eggplant universally known as Brinjal or BT Brinjal

- **Virali Sanghvi**

Introduction

India is the centre of origin of the most of the vegetables consumed by people. One among the most popular vegetable is Brinjal. There is another tale of most consumed and healthy vegetables being genetically modified. The decision for the above saga is as well of now most controversial issue raised, discussed, criticized about all segment of society including teenagers, senior citizens and also proficient people is about 'BT Brinjal'. What does BT indicate? BT stands for Bacillus Thuringiensis. BT brinjal is genetically modified variety of brinjal which gives more resistant to Brinjal plant against insects.

History & Its Biological Process

The transformation work on BT Brinjal started in Year 2000. Biosafety tests like pollen flow studies, acute oral toxicity etc., were taken up along with back-crossing programme from 2002. After two years of greenhouse evaluation, in 2004, multi-locational field trials were conducted in 11 locations with five hybrids [Mahyco MHB-4 BT Brinjal, MHB-9 BT Brinjal, MHB-10 BT Brinjal, MHB-80 BT Brinjal and MHB-99 BT Brinjal].

This was also the year when ICAR [Indian Council for Agricultural Research] took up trials with the same hybrids under the All India Coordinated Research Project on Vegetable Cultivation in 11 locations. While the ICAR second year trials continued for these five hybrids in 2005, three more new hybrids were assessed by the company [MHB-11 BT Brinjal, MHB-39 BT Brinjal and MHB-112 BT Brinjal] and ICAR in the same year in eleven centres.

BT Brinjal is a genetically modified strain created by India's number one seeds company Mahyco M/s Mahyco [Maharashtra Hybrid Seeds Company]. Now, the company wants to take up large scale field trials with the permission of the GEAC (Genetic Engineering Approval Committee).

The importance of this development can be understood from the fact that no GM Brinjal has been released for an advanced stage of field trials in open conditions anywhere in the world and that this is the first time that GEAC could be giving permission for large scale open trials for a food crop in India. Needless to say, a vegetable, more than other food items, goes through very little processing and is directly consumed through cooking and therefore requires great caution in decision making

BT Brinjal is a transgenic brinjal created out of inserting a gene [Cry 1Ac] from the soil bacterium Bacillus thuringiensis into Brinjal. The insertion of the gene into the Brinjal cell in young cotyledons has been done through an Agrobacterium-mediated vector, along with other genes like promoters, markers etc.

This is said to give the Brinjal plant resistance against lepidopteran insects like the Brinjal Fruit and Shoot Borer (Leucinodes orbonalis) and Fruit Borer (Helicoverpa armigera). It is reported that upon ingestion of the BT toxin by the insect, there would be disruption of digestive processes, ultimately resulting in the death of the insect.

Why BT Brinjal??

BT Brinjal is having an intrusion with other customary vegetables and fruit as this modified variety is able to kill a common pest called the Fruit and Shoot Borer. According to the National Horticulture Board in 2006 Brinjal was grown over 0.55 million hectares, with a total production of 9.13 million tonnes and India is the second largest producer of Brinjal in the world after China.

The pest has caused losses of up to 70 per cent of commercial plantings, according to the International Service for the Acquisition of Agri-biotech Applications in New Delhi, a GM food advocacy organization. The group asserts that farmers must apply pesticides to brinjal up to 40 times during the 120 days from sowing to harvest, which is every third day.

In favor Opinions

The main advantage of this genetically modified variety is stated to be its pest-resistance capability, which will prevent the need for pesticides.

GM crops are not just about science; they are about food safety, consumer choice, health, agro-ecology, farmer livelihoods, seed sovereignty, social justice, bio-diversity, Biosafety and, above all, the threat of permanent contamination of the biosphere. It is well known that the largest pesticide manufacturers in the world are also the largest seed companies (all of who are in the business of producing GM seeds). Once GM food crops are approved, these companies can get rid of both pesticides and GM seeds.

Those in favor of BT Brinjal say:

- The use of Pesticides and costs will go down.
- The yield of Brinjal will increase.
- Farmers will therefore earn more.
- India's food security will benefit.

Against Opinions

Environment activists says the effect of GM (genetically modified) crops on rats have shown to be fatal for lungs and kidneys. It is dangerous to introduce these experimental foods into the market without proper research. A study by experts have also given the view that the tests conducted by Mahyco, the company producing Bt Brinjal, were not valid and potential health hazards in foods bio-engineered in this manner. GM-fed animals in various studies have shown that there are problems with growth, organ development and damage, immune responsiveness and so on. Besides the environment hazards, activists allege that the GEAC has shown a bias towards companies like the Monsanto. This would be a big threat to India's agriculture with MNCs charging Indian farmers for their seeds. The supply of seeds will be regulated and thus costlier. Indian farmers would have to depend on MNCs for seeds. BT cotton has already been declared a farce with crop failures and mass suicides of farmers in India.

Results of this Controversy!!

After studying so many views, the government has not granted the permission of cultivation of genetically modified Brinjal and has decided to put freeze on this development due to lack of consensus on the issue in the scientific community. Hence, a suspension is welcomed until proper studies and survey prove the safety for the cultivation of genetically modified vegetable.

Source: internet

Answers to Crossword - 32

ACROSS:

1. Expunge
4. Delict
5. Warranty
6. Yarrish
8. Champerty
9. Sojourn
10. Prima Facie
11. Escrow

DOWN:

1. Paralegal
2. Jeopardy
7. Feasible
8. Citation

The only fool bigger than the person who knows it all is the person who argues with him

Budget 2010-11

Budget – in general terms can be defined as Financial Planning/Estimation. Mr. R K. Sanmugham Chetty the first finance minister had presented the first Budget of India on November 26, 1947. Early years of independence budget was much focused on Agriculture sector, gradually other sector where included like industry and finance etc.

Last working day of February is called Budget day of India. The Finance minister presents the union financial plans of India before the parliament for discussion. The Parliament has one month to review and modify the budget proposals. In any case if the discussion or review has not been completed by April 1, the proposed budget comes into effect and subject to retroactive modification after parliament review.

State Government, the Indian Railways, the largest Public-Sector Enterprise, and the Posts and Telegraph Departments have their own budgets, funds, and accounts.

KEY FEATURES OF BUDGET 2010-2011

TAX REFORMS

- **DTC (Direct Tax Code) -**

  the process for building a simple tax system with minimum exemptions and low rates designed to promote voluntary compliance

  wide-ranging discussions with stakeholders is concluded

  DTC will be in force from April 1, 2011.

- **GST (Goods and Service Tax)**

  Structure of GST on the verge of finalisation, expected along with DTC i.e., April 1, 2011 financial year.

FOREIGN DIRECT INVESTMENT

- Simple FDI regime to make policy user -friendly
- Technology transfer fee, trademark, brand name and royalty payments through automatic route

BANKING SECTOR

- Additional banking licenses to private sector
- NBFCs are also eligible for license after meeting RBI's eligibility criteria
- Rs. 16500 crore to public sector bank to attain a minimum 8 per cent tier-I capital by end of financial year
- Strengthening the capital base of RRBs (Regional Rural Banks) to support the increase rate of lending

EXPORTS

- Extension of existing interest subvention of 2 per cent for one more year for exports covering handicrafts, carpets, handlooms and small and medium enterprises.

AGRICULTURE GROWTH

Government will follow a *four-pronged strategy*, covering

- ***Agricultural production***

  Rs. 400 crore provided to extend the green revolution to the eastern region

  Rs. 300 crore provided to organise 60,000 "pulses and oil seed villages" in rain-fed areas during 2010-11 and provide an integrated intervention for water harvesting, watershed management and soil health, to enhance the productivity of the dry land farming areas.

  Rs. 200 crore provided for sustaining the gains already made in the green revolution areas through conservation farming

- ***Reduction in wastage of produce***

  Government to address the issue of opening up of retail trade. It will help in bringing down the considerable difference between farm gate, wholesale and retail prices.

  Deficit in the storage capacity met through an ongoing scheme for private sector participation – FCI to hire godowns from private parties for a guaranteed period of 7 years.

- ***Credit support to farmers***

  Banks have been consistently meeting the targets set for agriculture credit flow in the past few years. For the year 2010-11, the target has been set at Rs.3,75,000 crore.

  The period for repayment of the loan amount by farmers extended by six months, Incentive of additional one per cent interest subvention to farmers who repay short-term crop loans as per schedule, increased to 2% for 2010-11.

INFRASTRUCTURE

- Rs 1,73,552 crore provided for infrastructure development which accounts for over 46 per cent of the total plan allocation. Allocation for road transport increased by over 13 per cent from Rs. 17,520 crore to Rs 19,894 crore. Rs 16,752 crore provided for Railways, which is about Rs.950 crore more than last year.

INDIA INFRASTRUCTURE FINANCE COMPANY LIMITED (IIFCL)

- IIFCL's disbursements are expected to touch Rs 9,000 crore by end March 2010 and reach around Rs 20,000 crore by March 2011.

ENERGY

- Plan allocation for power sector excluding RGGVY doubled from Rs.2230 crore in 2009-10 to Rs.5,130 crore in 2010-11.
- Plan outlay for the Ministry of New and Renewable Energy increased by 61 per cent from Rs.620 crore in 2009-10 to Rs.1,000 crore in 2010-11.
- Solar, small hydro and micro power projects at a cost of about Rs.500 crore to be set up in Ladakh region of Jammu and Kashmir.

EDUCATION

- Education Plan allocation for school education increased by 16 per cent from Rs.26,800 crore in 2009-10 to Rs.31,036 crore in 2010-11. In addition, States will have access to Rs.3,675 crore for elementary education

HEALTH

- Plan allocation to Ministry of Health & Family Welfare increased from Rs 19,534 crore in 2009-10 to Rs 22,300 crore for 2010-11.

FINANCIAL INCLUSION

- Augmentation of Rs.100 crore each for the Financial Inclusion Fund (FIF) and the Financial Inclusion Technology Fund, which shall be contributed by Government of India, RBI and NABARD.

RURAL DEVELOPMENT

- Rs. 66,100 crore provided for Rural Development. Allocation for Mahatma Gandhi National Rural Employment Guarantee Scheme stepped up to Rs.40,100 crore in 2010-11.
- An amount of Rs.48,000 crore allocated for rural infrastructure programmes under Bharat Nirman.
- Unit cost under Indira Awas Yojana increased to Rs.45,000 in the plain areas and to Rs.48,500 in the hilly areas. Allocation for this scheme increased to Rs.10,000 crore.

- Allocation to Backward Region Grant Fund enhanced by 26 per cent from Rs.5,800 crore in 2009-10 to Rs 7,300 crore in 2010-11. Additional central assistance of Rs 1,200 crore provided for drought mitigation in the Bundelkhand region.

URBAN DEVELOPMENT AND HOUSING

- Allocation for urban development increased by more than 75 per cent from Rs.3,060 crore to Rs.5,400 crore in 2010-11.
- Allocation for Housing and Urban Poverty Alleviation raised from Rs.850 crore to Rs.1,000 crore in 2010-11.
- Scheme of one per cent interest subvention on housing loan upto Rs.10 lakh, where the cost of the house does not exceed Rs.20 lakh — announced in the last Budget — extended up to March 31, 2011. Rs.700 crore provided for this scheme for the year 2010-11. Rs.1,270 crore allocated for Rajiv Awas Yojana as compared to Rs.150 crore last year.

MICRO, SMALL & MEDIUM ENTERPRISES

- High Level Council on Micro and Small Enterprises to monitor the implementation of the recommendations of High-Level Task Force constituted by Prime Minister. Allocation for this sector to be increased from Rs.1, 794 crore to Rs. 2,400 crore for the year 2010-11. The corpus for Micro-Finance Development and Equity Fund doubled to Rs.400 crore in 2010-11.

UNORGANISED SECTOR

- National Social Security Fund for unorganized sector workers National Social Security Fund for unorganized sector workers to be set up with an initial allocation of Rs.1000 crore. This fund will support schemes for weavers, toddy tappers, rickshaw pullers, beedi workers etc.
- Rashtriya Swasthya Bima Yojana benefits extended to all such Mahatma Gandhi NREGA beneficiaries who have worked for more than 15 days during the preceding financial year.
- A new initiative, "Swavalamban" will be available for persons who join New Pension Scheme (NPS), with a minimum contribution of Rs.1,000 and a maximum contribution of Rs.12,000 per annum during the financial year 2010-11, wherein Government will contribute Rs.1,000 per year to each NPS account opened in the year 2010-11. Allocation of Rs.100 crore made for this initiative.

SOCIAL WELFARE

- "Saakshar Bharat" to further improve female literacy rate launched with a target of 7 crore non-literate adults which includes 6 crore women.
- Mahila Kisan Sashaktikaran Pariyojana to meet the specific needs of women farmers to be launched with a provision of Rs 100 crore as a sub-component of the National Rural Livelihood Mission.
- Plan allocation for the Ministry of Minority Affairs increased by 50 per cent from Rs.1,740 crore to Rs.2,600 crore for the year 2010-11.

STRENGTHENING TRANSPARENCY & PUBLIC ACCOUNTABILTY

- Rs 1,900 crore allocated to the Unique Identification Authority of India (UIDAI) for 2010-11. UIDAI will be able to meet its commitments of issuing the first set of UID numbers in the coming year.

SECURITY AND JUSTICE

- Allocation for Defence increased to Rs. 1,47,344 crore including Rs 60,000 crore for capital expenditure. About 2,000 youth to be recruited as constables in five Central Para Military Forces from Jammu and Kashmir in the year 2010.
- Planning Commission to prepare an integrated action plan for the thirty-three left wing extremism affected districts.
- Government has approved the setting up of National Mission for Delivery of Justice and Legal Reforms to help reduce legal backlog in courts from an average of 15 years at present to 3 years by 2012.

BUDGET ESTIMATES 2010-11

- The Gross Tax Receipts are estimated at Rs. 7,46,651 crore The Non Tax Revenue Receipts are estimated at Rs. 1,48,118 crore.
- The total expenditure proposed in the Budget Estimates is Rs. 11,08,749 crore, which is an increase of 8.6 per cent over last year. The Plan and Non Plan expenditures in BE 2010-11 are estimated at Rs. 3,73,092 crore and Rs. 7,35,657 crore respectively. While there is 15 per cent increase in Plan expenditure, the increase in Non Plan expenditure is only 6 per cent over the BE of previous year. Fiscal deficit for BE 2010-11 at 5.5 per cent of GDP, which works out to Rs.3,81,408 crore.
- Taking into account the various other financing items for fiscal deficit, the actual net market borrowing of the Government in 2010-11 would be of the order of Rs.3,45,010 crore. This would leave enough space to meet the credit needs of the private sector.
- The rolling targets for fiscal deficit are pegged at 4.8 per cent and 4.1 per cent for 2011-12 and 2012-13, respectively. Against a fiscal deficit of 7.8 per cent in 2008-09, inclusive of oil and fertilizer bonds, the comparable fiscal deficit is 6.9 per cent as per the Revised Estimates for 2009-10.

  Conscious effort made to avoid issuing bonds to oil and fertilizer companies. Government would like to continue with this practice of extending Government subsidy in cash, thereby bringing all subsidy related liabilities into Government's fiscal accounting.

SERVICE TAX AMENDMENTS

Service Tax - Proposed Amendments in existing services

SL. No	Service Head	Particulars	Section / Refrence	Existing	Proposed Amendment
1	Port Service	Defintion of Port Service	65(82)	"Port Service" means any service rendered by a port or other port or any person authorised by such port or other port, in any manner, in relation to a vessel or goods	"Port Service" means any service rendered within a port or other port, in any manner.
		Defintion of taxable service	65(105)(zn)	"taxable service" means any service provided or to be provided to any person, by a port or any person authorised by the port, in relation to port services, in any manner	"taxable service" means any service provided or to be provided to any person, by any person, in relation to port services **in a port**, in any manner Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port
2	Other Port Service	Defintion of taxable service	65(105)(zzl)	"taxable service" means any service provided or to be provided to any person, by other port or any person authorised by the port, in relation to port services, in any manner	"taxable service" means any service provided or to be provided to any person, by any person, in relation to port services in **other port**, in any manner Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port
3	Airport Services	Defintion of taxable service	65(105)(zzm)	"taxable service" means any service provided or to be provided to any person, by airport authorty or any person authorised by it, in an airport or a civil enclave	"taxable service" means any service provided or to be provided to any person, by airport authorty or any person, in an airport or a civil enclave Provided that the provisions of section 65A shall not apply to any service when the same is rendered wholly within the port
4	Transport of Passengers embarking in India for (*domestic or) international journey by air service	Defintion of taxable service	65(105)(zzo)	"taxable service" means any service provided or to be provided to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for international journey, in any class other than economy class	"taxable service" means any service provided or to be provided to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for domestic journey or international journey.
Remark: Domestic travel and Economy class travel is liable to Service Tax					

A budget should reflect the values and priorities of our nation and its people.

SL. No	Service Head	Particulars	Section	Existing	Proposed Amendment
5	Commercial Training or Coaching Service	Defintion of taxable service	65(105)(zzc)	"taxable service" means any service provided or to be provided to any person, to any person, by a commercial training or coaching centre in relation to commercial training or coaching	Explanation inserted: For the removal of doubts, it is hereby declared that the expression "Commercial training or coaching centre" occuring in this sub-clause and in clauses (26), (27) and (90a) shall include any centre or institute, by whatever called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and expression "commercial training or coaching" shall be construed accordingly
Remark: Institution be it registered as trust, society or similar organisation is liable to SL. No Service Head Particulars Section / Refrence Existing Proposed Amendment					
6	Sponsorship Services	Defintion of taxable service	65(105)(zzzn)	"taxable service" means any service provided or to be provided to any body corporate or firm, by any person receiving sponsorship, in relation to such sponsorship, in any manner, but does not include services in relation to sponsirship of sport events.	"taxable service" means any service provided or to be provided to any person, by any other person receiving sponsorship, in relation to such sponsorship, in any manner
	Sponsorhip made by individuals, body of association, association of person or any other person is also liable to service tax				
7	Auctioneer's service	Defintion of taxable service	65(105)(zzzr)	"taxable service" means any service provided or to be provided to any person, by any other person, in relation to auction of property, movable or immovable, tangible or intangible, in any manner, but does not include auction of property under the directions or orders of a court of law or auction by the Government	Explanation: For the removal of doubts, it is hereby declared that for the purpose of this sub-clause , "auction by the Government" means the Government property being auctioned by any person acting as auctioneer"
Remark: The explanation clarifies that auction of Government property by any person is not liable to service tax					
8	Renting of immovable property service	Defintion of taxable service	65(105)(zzzz)	"taxable service" means any service provided or to be provided to any person, by any other person, in relation to renting of immovable property for use in the course of furtherance of business or commerce	"taxable service" means any service provided or to be provided to any person, by any other person, by renting of immovable property or any other service in relation to renting of immovable property for use in the course of, or, for furtherance of business or commerce **Explanation 1** to this clause V is insered: vacant land, given on lease or license for construction of building or temporary structure at a later stage to be used for furtherance of business or commerce
Remark: The substituted definition will clearly bring renting of immovable property into service tax net. It is being amended w.e.f 01.06.2007 i.e, from the time the service came into effect. This is brought in to nullify the effect of the decision in the case of Home Solution Retail India vs UOI 2009(237) ELT 209 rendered by Delhi High Court					
				New Insertion	
		Validation		Any action taken or anything done or omitted to be done or purported to have been taken or done or omitted to be done under sub-clause (zzzz) of clause 105 of Sec 65 of the Finance Act, 94, at any time during the period commencing on and from the Ist day of June 2007 and ending with the day, the Finance Bill, 2010 receives the assent the President, shall be deemed to be and deemed always to have been, for all purposes, as validly and effectively taken or done or omitted to be done as if the amendment made in sub-clause (zzzz) of clause 105 of Sec 65, by sub-item (1) of item (h) of sub-clause (5) of clause A of Sec 75 of the Finance Act, 2010 had been in force at all material times and, accordingly notwithstanding anything contained in any judgment, decree, or order of any court, tribunal or other authority	(a) any action taken or anything done or omitted to be taken or done in relation to the levy and collection of service tax during the said period on the taxable service of renting of immovable property, shall be deemed to be and deemed always to have been, as validly taken or done or omitted to be done as if the said amendment had been in force at all material times; (b) no suit or other proceedings shall be maintained or continued in any court, tribunal or other authority for the levy and collection of such service tax and no enforcement shall be made by any court of any decree or order relating to such action taken or anything done or omitted to be done as if the said amendment had been in force at all material times; (c) recovery shall be made of all such amounts of service tax, interest or penalty or fine or other charges which may not have been collected or, as the case may be, which have been refunded but which would have been collected or, as the case may be, would not have been refunded, as if the said amendment had been in force at all material times. Explanation.—For the removal of doubts, it is hereby declared that no act or omission on the part of any person shall be punishable as an offence which would not have been so punishable had this amendment not come into force.
Remark: If a landlord has paid Service tax it will deemed to be valid If a land lord has failed to pay Service tax, then it will be omission on his part and he is liable to pay service tax from 01.06.2007 or such date he discontinued paying service tax. He is also required to pay interest, penalty, fees or other charges It is also proposed that there will be no legal suit maintainable in court, tribunal or other authority and also restricts court to enforce a decision against such an amendment. This provision might be challenged in court as violating the right enshrined by Constitution of India.					

SL. No	Service Head	Particulars	Section	Existing	Proposed Amendment
9	Commercial or industrial construction services	Defintion of taxable service	65(105)(zzq)	"taxable service" means any service provided or to be provided to any person, by any person, in relation to commercial or industrial construction service	Explanation: For the purpose of this sub-clause, the construction of a new building which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or the person authorised by the builder before grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer
10	Construction of Complex Services	Defintion of taxable service	65(105)(zzzh)	"taxable service" means any service provided or to be provided to any person, by any person, in relation to construction of complex	Explanation: For the purpose of this sub-caluse, the construction of a complex which is intended for sale, wholly or partly, by a builder or any person authorised by the builder before, during or after construction (except in cases for which no sum is received from or on behalf of the prospective buyer by the builder or the person authorised by the builder before grant of completion certificate by the authority competent to issue such certificate under any law for the time being in force) shall be deemed to be service provided by the builder to the buyer
Remark: The explanation is inserted to nullify the effect 108/2/2009-ST where it said that if agreement is entered to sell completed flats, till the property is registered in purchasers name the service is in the nature of self service.					
11	Life Insurance Service	Defintion of taxable service	65(105)(zzzzf)	"taxable service" means any service provided or to be provided to any policy holder, by an insurer carrying on life insurance business, in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) Scheme Explanation For the purpose this sub clause.- (i) management of segragated fund of unit linked insurance business by the insurer shall be deemed to be the service provided by the insurer to the policy holder in relation to management of investment under unit linked insurance business (ii) the gross amount charged by the insurer from the policy holder for the said services provided or to be provided shall be equivalent to the difference between.- (a) premium paid by the policy holder for the ULIP: the sum of premium paid for or attributable to risk cover, whether for life, health or other specified purposes, and the amount segregated for actual investment (iii) in addition to the amount referred to in clause (ii), the gross amount charged subsequently, whether or not periodically, by the insurer from the policy holder in relation to management of investment under unit linked insurance business.	Substituted Explanation for ii and iii: the gross amount charged by the insurer from the policy holder for the said service provided or to be provided shall be equal to the maximum amount fixed by the IRDA established under section 3 of the IRDA Act, 1999 as fund management charges for ULIP or actual amount charged for the said purpose by the insurer from the policy holder, whichever is higher

NEW SERVICES INSERTED

SL. No	Section	Insertion
1	65(105)(zzzzn)	"taxable service" means any service provided or to be provided to any person, by any person, for promotion, marketing, organisation or in any other manner assisting in organising games of chance, including lottery, Bingo or Lotto in whatever form or by whatever name called, whether or not conducted through internet or other electronic networks
2	65(105)(zzzzo)	"taxable service" means any service provided or to be provided to any person, by any hospital, nursing home or multi speciality clinic,- (i) to an employee of any business entity, in relation to health check up or preventive care, where the payment for such check up or preventive care is made by such business entity directly to such hospital, nursing home or multi speciality clinic; or (ii) to a person covered by health insurance scheme, for any health check up or treatment, where the payment for such health check up or treatment is made by the insurance company directly to such hospital, nursing home or multi-speciality clinic
3	65(105)(zzzzp)	"taxable service" means any service provided or to be provided to any business entity, by any other person, in relation to storing, keeping or maintaining of medical records of employees of a business entity
		Definition of business entity Section 65(19b) "business entity" includes an association of persons, body of individuals, company or firm but does not include an individual

SL. No	Section	Insertion
4	65(105)(zzzzq)	"taxable service" means any service provided or to be provided to any person, by any other person, through a business entity or otherwise, under a contract of promotion or marketing of a brand of goods, service, event or endorsement of name, including a trade name, logo or house mark of a business entity by appearing in advertisement and promotional event or carrying out any promotional activity for such goods, service or event Explanation,- For the purpose of this sub-clause, "brand" includes symbol, monogram, label, signature or invented words which indicate connection with the said goods, service event or business entity
5	65(105)(zzzzr)	taxable service means any service provided or to be provided to any person, by any other person by granting the right or by permitting commercial use or exploitation of any event including an event relating to art, entertainment, business, sports or marriage organised by such other person
	65(105)(zzzzs)	taxable service means any service provided or to be provided by an electricity exchange, by whatever name called, approved by the Central Electricity Regulatory Commission constituted under section 76 of the Electricity Act, 2003, in relation to trading, processing, clearing or settlement of spot contracts, term ahead contracts, seasonal contracts, derivatives or any other electricity related contract
	65(105)(zzzzt)	taxable service means any service provided or to be provided to any person, by an other person, for- (1) transferring temporarily; or (2) permitting the use or enjoyment of, any copyright defined in the Copyright Act, 1957, except the rights covered under sub-clause (a) of clause (1) of Section 13 of the said Act
	65(105)(zzzzu)	taxable service means any service provided or to be provided to a buyer, by a builder of a residential complex, or a commercial complex, or any other person authorised by such builder, for providing preferential location or development of such complex but doesnot include services covered under sub-caluses (zzg), (zzq), (zzzh), and in relation to parking place. Explanation.- For the purpose of this sub-clause, "preferential location" means any location having extra advantage which attracts extra payment over and above the basis sale price

CENTRAL SALES TAX, 1956 - PROPOSED AMENDMENT

Sl.No	Particulars	Sec/ Ref	Existing	Proposed Amendment
1	Burden of Proof, etc, in case of transfer of goods claimed otherwise than by way of sale	6-A (2)	If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) are true, he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall be deemed for the purposes of this Act to have been occasioned otherwise than as a result of sale.	If the assessing authority is satisfied after making such inquiry as he may deem necessary that the particulars contained in the declaration furnished by a dealer under sub-section (1) are true and that no inter-state sale has been effected he may, at the time of, or at any time before, the assessment of the tax payable by the dealer under this Act, make an order to that effect and thereupon the movement of goods to which the declaration relates shall subject to the provisions of sub-section (3),"
Remark : Under this section the burden of proving that movement of goods was occasioned not as a result of sale was upon the dealer and the Section provided that for the purpose of proving the same that the movement has not occasioned as a result of sale the dealer should file a declaration (Form F). Sub-section 2 of Section 6-A provided that assessing authority should make an order that the goods are moved not as a result of sale on being satisfied that the particulars in the declaration furnished by the dealer are true. The amended Sub section 2 of Section 6-A of the CST Act, 1956 provides that apart from the declaration being true in all aspects, the assessing officer should also ensure that there is no interstate sale effected.				
2		6-A (3)	-	"(3) Nothing contained in sub-section (2) shall preclude reassessment by the assessing authority on the ground of discovery of new facts or revision by a higher authority on the ground that the findings of the assessing authority are contrary to law, and such reassessment or revision may be done in accordance with the provisions of general sales tax law of the State."
Remark: The new subsection provides that if the assessing authority discovers new facts or a higher authority finds that order of assessing authority is contrary to the law, a reassessment or revision can be done in accordance with the provision of General Sales tax Law of that State. (Section 39 of KVAT Act, 2003 deals with re-assessment of tax and Secion 63-A and Section 64 of the KVAT Act, 2003 deals with revisional powers of JC and Adcom/Commissioner respectively).				
3	Appeals to the Highest Appellate Authority of the State	18A(1)	-	18A. (1) Notwithstanding anything contained in a State Act, any person aggrieved by an order made by the assessing authority under sub-section (2) of section 6A, or an order made under the provisions of sub-section (3) of that section, may, notwithstanding anything contained in the general sales tax law of the appropriate State, prefer an appeal to the highest appellate authority of the State against such order: Provided that any incidental issues including the rate of tax, computation of assessable turnover and penalty may be raised in such appeal.
Remark : As per sub-section (1) if an order is passed under sub-section 2 and 3 of section 6-A of the CST Act, 1956, the appeal against such order may be preferred before the highest appellate Authority of the State (Tribunal)If there are any other incidental issues including rate of tax, computation of assessable turnover and penalty may be challenged in the same appeal. If there are any other incidental issues including rate of tax, computation of assessable turnover and penalty may be challenged in the same appeal.				

Sl.No	Particulars	Sec/ Ref	Existing	Proposed Amendment
	Insertion	18A(2)	(*2*) An appeal under sub-section (*1*) shall be filed within sixty days from the date on which the order referred to in that sub-section is communicated to the aggrieved person: **Provided** that any appeal forwarded by the **highest appellate authority of a State** to the first appellate authority under the proviso to sub-section (2) of section 25 and pending before such authority immediately before the appointed day shall be transferred, on such appointed day, to the highest appellate authority of the State and the same shall be treated as an appeal filed under subsection (1) and dealt with accordingly. **Explanation**.—For the purposes of this sub-section, "appointed day" means such date as the Central Government may, by notification in the Official Gazette, appoint.	
Remark : Any appeal highest appellate authority (Tribunal) has transferred the case to the first appellate authority (Joint commissioner) under Section 25(2) of the CST Act and such appeal is pending, then it shall be immediately transferred back to the highest appellate authority (Tribunal) on such appointed day (date as the Central government may notify). The appeal should be heard and disposed within six months from the date of filing the appeal (as far as practicable). According to us the date of filing appeal is the appointed date.				
		18A(3)	-	(*3*) The highest appellate authority of a State may, after giving both the parties an opportunity of being heard, pass appropriate order.
		18A(4)	-	(*4*) The highest appellate authority of the State may, as far as practicable, hear and decide such appeal within a period of six months from the date of filing of the appeal.
		18A(5)	-	(*5*) Notwithstanding anything contained in a State Act, the highest appellate authority of a State may, on the application of the appellant and after considering relevant facts, including the deposit of any amount towards local or central sales tax in other States on the same goods, pass an order of stay subject to such terms and conditions as it thinks fit, and such order may, *inter alia,* indicate the portion of tax as assessed, to be deposited prior to admission of the appeal. **Explanation**.—For the purposes of this section and sections 20, 21, 22 and 25, "highest appellate authority of a State", with its grammatical variations, means any authority or tribunal or court, except the High Court, established or constituted under the general sales tax law of a State, by whatever name called.'.
Remark : In case the appellant has not deposited the full disputed amount, the appellant should apply for a stay for the balance. Such a balance is determined after considering the amount deposited towards local or Central Sales tax in other States the same goods. Eg: If Mr. X, Karnataka has made a stock transfer to his branch in Delhi (value of goods Rs. 10,000) . The Delhi branch sold 25% of the goods for Rs. 2,500/- and paid tax at rate of 4% of Rs.100/-. The assessing authority Karnataka order that the movement is as a result of sale and demanded CST at 12.5% of Rs. 312.5/-. Mr. X disputed the tax of Rs. 312.5/-. Now the deposit to be made is Rs.212.5/ - (i.e, Rs. 312.5 Less Rs.100/- paid in Delhi). The appellant deposited 50% of Rs. 106.25/- and can apply for stay for balance of Rs. 106.25/-. The Tribunal if it thinks fit can grant a stay or indicate the portion of tax as assessed to be deposited and admit the appeal. Thus even if a stay was granted when initially the appeal was admitted, the appellant should apply for the stay again if the appeal filed should be admitted.				
4	Appeals	20(1)	(1) The Provisions of this chapter shall apply to appeals filed by any aggrieved person against any order of the highest Appellate Authority of a state, made under section 6-A read with section 9. Explanation:- For the purpose of this section and section 21,22 and 25"highest Appellate Authority of a state" means any Authority or Tribunal or Court (except the High Court) established or constituted under the general sales tax law of a state , by whatever name called.	"(1) An appeal shall lie to the Authority against any order passed by the highest appellate authority of a State under this Act determining issues relating to stock transfers or consignments of goods, in so far as they involve a dispute of inter-State nature.".
Remark : The appeal can be filed against the order of Tribunal to the Central Sales tax Appellate authority. The appeal again should be pertaining to the issues relating to stock transfers or consignments of goods in so far as they involve a dispute of inter state nature				
5	Powers of the Authority	22(1-A)	The Authority may grant stay of the operation of the order of the highest Appellate Authority against which the appeal is filed before it or order the pre-deposit of tax before entertaining the appeal and while granting such stay or making such order for the pre-deposit of the tax, the Authority shall have regard, if the assessee has made pre-deposit of the tax under the general sales tax law of the state concerned, to such pre-deposit or pass such appropriate order as it may deem fit.	The Authority may grant stay of the operation of the order of the highest Appellate Authority against which the appeal is filed before it or order the deposit of tax before entertaining the appeal and while granting such stay or making such order for the deposit of the tax, the Authority shall have regard, if the assessee has made deposit of the tax under the general sales tax law of the state concerned, to such deposit or pass such appropriate order as it may deem fit.
Remark : The CST Appellate authority or the High Court can grant a stay of the order of the Tribunal or require the appellant to deposit the tax after considering the payments made under the local sales tax law or central sales tax law of the State concerned.				
6	Powers of the Authority	22(1-B)	-	"(1B) The Authority may issue direction for refund of tax collected by a State which has been held by the Authority to be not due to that State, or alternatively, direct that State to transfer the refundable amount to the State to which central sales tax is due on the same transaction: Provided that the amount of tax directed to be refunded by a State shall not exceed the amount of central sales tax payable by the appellant on the same transaction.".
		Insertion of sub-section 1-B of Section 22, In case the authority constituted as Central Sales Tax Appellant Authority decides that the amount which is taxed by the state wrongly has to be transfer the amount, to the state which to which Central Sales tax is due on the same transactions. Eg: If the appellant has paid the tax at 12.5% in Delhi but after the decision of the CST appellate authority, Karnataka is liable to pay tax at the rate of 4% is leviable on that product, the Delhi State should transfer tax equivalent to 4% to the Karnataka State.		
7	Transfer of pending proceedings	Proviso to 25(2)	Such highest Appellate Authority of the State to which such appeal as been transferred under sub-section (1) on receipt of such records shall proceed to deal with such appeal so far as may be in the same manner as in the case of an appeal filed before such highest Appellate Authority of the State according to the general sales tax law of the appropriate State, from the stage which was reached before such transfer or from any earlier stage or de nova as such highest Appellate Authority of the State may deem fit: Provided that where the highest Appellate Authority finds that the appellant has not availed of the opportunity.	Such highest Appellate Authority of the State to which such appeal as been transferred under sub-section (1) on receipt of such records shall proceed to deal with such appeal so far as may be in the same manner as in the case of an appeal filed before such highest Appellate Authority of the State according to the general sales tax law of the appropriate State, from the stage which was reached before such transfer or from any earlier stage or de nova as such highest Appellate Authority of the State may deem fit: ~~Provided that where the highest Appellate Authority finds that the appellant has not availed of the opportunity~~

INCOME TAX

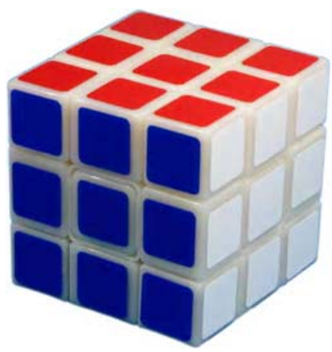
SL.No	Particulars	Section/ Ref	Existing Provisions	Proposed Amendments	Remarks
1	Rates of Income Tax Individual/HUF Assesees ,	1st Schedule Part 1	Upto Rs. 160000 Rs. 160001 to 300000 Rs. 300001 to 500000 Rs. 500001 & above	Upto Rs. 160000 Rs. 160001 to 500000 Rs. 500001 to 800000 Rs. 800001 & above	Nil 10% 20% 30%
	Women Assessee below the age of 65 Years		Upto Rs. 190000 Rs. 190001 to 300000 Rs. 300001 to 500000 Rs. 500001 & above	Upto Rs. 190000 Rs. 190001 to 500000 Rs. 500001 to 800000 Rs. 800001 & above	Nil 10% 20% 30%
	Senior Citizens		Upto Rs. 240000 Rs. 240001 to 300000 Rs. 300001 to 500000 Rs. 500001 & above	Upto Rs. 240000 Rs. 240001 to 500000 Rs. 500001 to 800000 Rs. 800001 & above	Nil 10% 20% 30%
	Surcharge on Income Tax		Rate for Domestice Companies 10%	Rate for Domestice Companies reduced to 7.5%	
2	Surcharge on Income Tax	2(15)	"Charitable purpose" which, among others, 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 the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity.	Proposed to amend section 2(15) to provide that "the advancement of any other object of general public utility" shall continue to be a "charitable purpose" if the total receipts from any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business do not exceed Rs.10 lakhs in the previous year.	The absolute restriction on any receipt of commercial nature may create hardship to the organizations which receive sundry considerations from such activities - Given Retrospective effect from 1st Day of April 2009 applicable for assessment year 2009-10 and onwards
3	Income Deemed to Accrue or Arise in India	9(1)	Vide Finance Act, 1976, a source rule was provided in section 9 through insertion of clauses (v), (vi) and (vii) in sub-section (1) for income by way of interest, royalty or fees for technical services respectively. It was provided, inter alia, that in case of payments as mentioned under these clauses, income would be deemed to accrue or arise in India to the non-resident under the circumstances specified therein Therefore, to remove doubts regarding the source rule, an Explanation was inserted below sub-section (2) of section 9 with retrospective effect from 1st June, 1976 vide Finance Act, 2007. The Explanation sought to clarify that where income is deemed to accrue or arise in India under clauses (v), (vi) and (vii) of sub-section (1) of section 9, such income shall be included in the total income of the non-resident, regardless of whether the non-resident has a residence or place of business or business connection in India.	In order to remove any doubt about the legislative intent of the aforesaid source rule, it is proposed to substitute the existing Explanation with a new Explanation to specifically state that the ***income of a non-resident shall be deemed to accrue or arise in India under clause (v) or clause (vi) or clause (vii) of sub-section (1) of section 9 and shall be included in his total income, whether or not,*** ***(a) the non-resident has a residence or place of business or business connection in India; or*** ***(b) the non-resident has rendered services in India***	The intention of introducing the source rule was to bring to tax interest, royalty and fees for technical services, by creating a legal fiction in section 9, even in cases where services are provided outside India as long as they are utilized in India. ***The source rule, therefore, means that the situs of the rendering of services is not relevant. It is the situs of the payer and the situs of the utilization of services which will determine the taxability of such services in India.*** This amendment is proposed to take effect retrospectively from 1st June, 1976 and will, accordingly, apply in relation to the assessment year 1977-78 and subsequent years. ***This amendment was proposed to do away with the judgements given in the case of Jindal Thermal Power Company Ltd. vs DCIT (TDS) & Ishikawajima-Harima Heavy Industries Ltd.(supra)***
4	Computation of exempted profits in the case of units in Special Economic Zones (SEZs)	10AA(7)	"By the Undertaking" words amended in the Finance Act, 2009	Substituted for "by the assessee" with effect from assessment year 2010-11 and subsequent assessment years	The inserted proviso to sub-section (7), to provide that the provision of sub-section (7), as amended by Finance (No. 2) Act 2009, will apply to the assessment year 2006-07 and subsequent assessment years
5	Cancellation of registration obtained under section 12A	12AA(3)	Commissioner has been given specific power to cancel the registration granted U/s. 12AA, by giving an opportunity of being heard, If the activities of the trust or institution are found to be non-genuine or its activities are not in accordance with the objects for which such trust or institution was established	Proposed to amend section 12AA so as to provide that the Commissioner can also cancel the registration obtained under section 12A as it stood before amendment by Finance (No.2) Act, 1996	These provisions are effective from 1st Day of June 2010
6	Weighted deduction for scientific research and development	35(2AB)	A company is allowed weighted deduction of 150% of the expenditure (not being expenditure in the nature of cost of any land or building) incurred on scientific research on an approved in-house research and development facility.	Proposed to increase the the weighted deduction to 200%	Apply in relation to the assessment year 2011-12 and subsequent years.
		35(1)(ii)	125 per cent of any sum paid to an approved scientific research association that has the object of undertaking scientific research or to an approved university, college or other institution to be used for scientific research	Proposed to increase the the weighted deduction to 175%	
		35(2AA)	125 per cent is also allowed for any sum paid to a National Laboratory or a university or an Indian Institute of Technology (IIT) or a specified person for the purpose of an approved scientific research programme.	Proposed to increase the the weighted deduction to 175%	

SL.No	Particulars	Section / Ref]	Existing Provisions	Proposed Amendments	Remarks
7	Weighted deduction on payments made to associations engaged in research in social science or statistical research and exemption in respect of the income of such associations	35(i)(iii) 10(21)	The university, college or other institutions which are approved either under section 35(1)(ii) or under section 35(1)(iii) also qualify for exemption of their income U/s. 10(23C) of the Act subject to specified conditions	Proposed to include an approved research association which has as its object undertaking research in social science or statistical research Also proposed to amend section 10(21) so as to also provide exemption to such associations in respect of their income.	Apply in relation to the assessment year 2011-12 and subsequent years.
8	Investment linked deduction for specified business	Ch VIA 35AD	"Specified business" means the business of setting up and operating cold chain facilities, warehousing facilities for storage of agricultural produce and laying and operating a cross-country natural gas or crude or petroleum oil pipeline network	Proposed to include the business of building and operating a new hotel of two-star or above category, anywhere in India, which starts functioning after 1.4.2010 within the purview of "specified business"	Apply in relation to the assessment year 2010-11 and subsequent years.
9	Disallowance of expenditure on account of non-compliance with TDS provisions	40(a)(ia)	Allowability of expenditure on the basis of remittance of TDS before the end of the financial year or before the due date of filing of Income Tax return U/s. 139(1)	Proposed to amend, no disallowance will be made if after deduction of tax during the previous year, the same has been paid on or before the due date of filing of return of income specified U/s. 139(1)	Apply in relation to the assessment year 2010-11 and subsequent years.
10	Simple interest for failure to deduct tax or payment of tax after deduction	201(1A)	One Percent for every month or part of the month	One & One-Half Percent for every month or part of the month	This amendment is proposed to take effect from 1st July, 2010.
11	Limit of turnover or gross receipts for the purpose of audit of accounts and for presumptive taxation	44AB 44AD	Ceiling of Turnover or gross receipts in case of Business - Rs. 40 Lakhs Profession - Rs. 10 Lakhs	Proposed to increase the ceiling of Turnover or gross receipts in case of Business - Rs. 60 Lakhs Profession - Rs. 15 Lakhs	Apply in relation to the assessment year 2011-12 and subsequent years.
12	Income of a non-resident providing services or facilities in connection with prospecting for, or extraction or production of, mineral oil	44BB 44DA	Income of a non-resident in the nature of fee for technical services, it shall be taxable under the provisions of either section 44DA or section 115A irrespective of the business to which it relates Section 44BB applies only in a case where consideration is for services and other facilities relating to exploration activity which are not in the nature of technical services.	Proposed to exclude the applicability of Section. 44BB to the income which is covered U/s. 44DA and vice versa to remove doubts and clarify the distinct scheme of taxation of income by way of fee for technical services,	Apply in relation to the assessment year 2011-12 and subsequent years
13	Conversion of Pvt Company or an Unlisted Public Company into a LLP	45 32(2) 72	Transfer of assets on conversion attracts levy of capital gains tax Similarly, carry forward of losses and of unabsorbed depreciation is not available to the successor LLP	Transfer of assets on conversion of a company shall not be regarded as transfer for the purpose of capital gains tax subject to certain conditions as prescribed and allowed to carry forward and set-off of business loss and unabsorbed depreciation to the successor LLP on fulfilling the conditions laid down hereunder *(i) the total sales, turnover or gross receipts in business of the company do not exceed sixty lakh rupees in any of the three preceding previous years;* *(ii) the shareholders of the company become partners of the LLP in the same proportion as their shareholding in the company;* *(iii) no consideration other than share in profit and capital contribution in the LLP arises to partners;* (iv) the erstwhile shareholders of the company continue to be entitled to receive at least 50 per cent of the profits of the LLP for a period of 5 years from the date of conversion; (v) all assets and liabilities of the company become the assets and liabilities of the LLP; and (vi) no amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company for a period of 3 years from the date of conversion.	Apply in relation to the assessment year 2011-12 and subsequent years.
14	Taxation of certain transactions without consideration or for inadequate consideration	56(2)(vii) 142A(1)	Any sum of money or any property in kind which is received without consideration or for inadequate consideration (in excess of the prescribed limit of Rs. 50,000/-) by an ***Individual or an HUF*** is chargeable to income tax in the hands of recipient under the head 'income from other sources'. However, receipts from relatives or on the occasion of marriage or under a will are outside the scope of this provision.	A. Proposed to include firm or a company In order to prevent the practice of transferring unlisted shares at prices much below their fair market value U/s. 56(2). Also proposed to amend Sec. 2(24) & Sec. 49 to include such income under the definition of Income & to provide the cost of acquisition of such shares transferred Definition of Property has been amended to include 1. property which is in the nature of a capital asset of the recipient and therefore would not apply to stock-in-trade, raw material and consumable stores of any business of such recipient 2. Include transactions in respect of 'bullion'. Proposed to allow the Assessing Officer to make a reference to the Valuation Officer for an estimate of the value of property for the purposes of section 56(2).	Apply in relation to the assessment year 2011-12 and subsequent years 1. These amendments are proposed to take effect retrospectively from 1st October, 2009 2. This amendment is proposed to take effect from 1st June, 2010 This amendment is proposed to take effect from 1st July, 2010.
15	Deduction in respect of long-term infrastructure bonds	80CCF	Investment in such Long Term infrastructure bonds were subject to deduction U/s. 80C within the limit of Rs. 1 Lakh	This deduction will be over & above the existing overall limit and shall be allowed to the extent of Rs. 20,000	Insertion of New Section, Apply in relation to the assessment year 2011-12

SL.No	Particulars	Section / Ref	Existing Provisions	Proposed Amendments	Remarks
16	Deduction in respect of contribution to the Central Government Health Scheme	80D		No increase in the limit of deducion allowed The Central Government Health Scheme (CGHS) which provides a medical facility mainly available to retired Government servants, as this facility is similar to the facilities available through health insurance policies, proposed to include contributions made to such CGHS organisations	Apply in relation to the assessment year 2011-12
17	Deduction for developing and building housing projects	80IB	The benefit of 100% deduction in respect of profits derived was made available for 4 years from the end of the financial year in which the housing project is approved by the local authority	The no of years for which such deduction can be claimed has been incresed to 5 Years from such approval	Apply in relation to the assessment year 2011-12
18	Deduction of profits of a hotel or a convention centre in the National Capital Territory	80ID	The time frame was given to start the operation or to complete such project during the period of 1.4.2007 to 31.3.2010	The time limit has been extended to the date by which the hotel has to start functioning or the convention centre has to be constructed, from the present 31st March, 2010 to 31st July, 2010	Apply in relation to the assessment year 2011-12
19	Minimum Alternate Tax under Section 115JB	115JB	At present company is requred to pay MAT on its book profit at 15%	The MAT rate has been increased to 18%	Apply in relation to the assessment year 2011-12
20	Rationalisation of provisions relating to Tax Deduction at Source (TDS)		**Existing threshold limit**	**Proposed threshold limit**	These amendments are proposed to take effect from 1st July, 2010.
	Winnings from lottery or crossword puzzle	194B	Rs. 5000	Rs. 10000	
	Payment to contractors	194C	Rs. 20000 (Single Transaction) Rs. 50000 (Aggregate of	Rs. 30000 (Single Transaction) Rs. 75000 (Aggregate of Transactions)	
	Insurance commission	194D	Rs. 5000	Rs. 20000	
	Commission or Brokerage	194H	Rs. 2500	Rs. 5000	
	Rent	194I	Rs. 120000	Rs. 180000	
	Fees for professional or technical services	194J	Rs. 20000	Rs. 30000	
21	Document Identification Number	282B	Effective date for allotting such computer generated document identification no before issue of every notice, order, letter or any correspondence was 1st Day of October 2010	It is proposed to amend the provisions of section 282B so as to provide that Document Identification Number will be required to be issued on or after 1st July, 2011	This amendment is proposed to take effect from 1st October, 2010

Puzzle

1) How long did the Hundred Years' War last?
2) Which country makes Panama hats?
3) From which animal do we get cat gut?
4) In which month do Russians celebrate the October Revolution?
5) What is a camel's hair brush made of?
6) The Canary Islands in the Pacific are named after what animal?
7) What was King George VI's first name?
8) What color is a purple finch?
9) Where are Chinese gooseberries from?
10) What is the color of the black box in a commercial airplane?



Remember, you need only 3 correct answers to pass.

ANSWERS

1) 116 years
2) Ecuador
3) Sheep and Horses
4) November
5) Squirrel fur
6) Dogs
7) Albert
8) Crimson
9) New Zealand
10) Orange

THE EDITORIAL

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Currency	Rate
Australian Dollar (AUD)	41.87
British Pound (GBP)	68.88
Chinese Yuan (CNY)	6.66
Euro (EUR)	61.72
Hong Kong Dollar (HKD)	5.86
Japanese Yen (JPY)	0.50
Pakistani Rupee (PKR)	0.53
Singapore Dollar (SGD)	32.58
South African Rand (ZAR)	6.22
Swiss Franc (CHF)	43.08
UAE Dirham (AED)	12.38
US Dollar (USD)	45.50

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