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a look at UNION BUDGET 2012

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TAX LAW EDUCARE SOCIETY
...spearheading information dissemination

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QUOTES FROM THE BUDGET SPEECH

The life of a Finance Minister is not easy. Various players, including policy makers, politicians, agriculturists and business houses, participate in the making of the economy. When everything goes well with the economy, we all share in the joy. However, when things go wrong, it is the Finance Minister who is called upon to administer the medicine. Economic policy, as in medical treatment, often requires us to do something, which, in the short run, may be painful, but is good for us in the long run. As Hamlet, the Prince of Denmark, had said in Shakespeare's immortal words, "I must be cruel only to be kind."

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Whether or not today's announcements make tomorrow morning's headlines matters little, as long as they help in shaping the headlines that describe India a decade from now.

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Disclaimer

Budget 2012 proposals presented by the Finance Minister before the parliament are analysed in this document. It should not be relied upon as a substitute for detailed advice or a basis for formulating business decisions.

The proposals are subject to amendment as the Finance Bill is yet to be passed by the Parliament.

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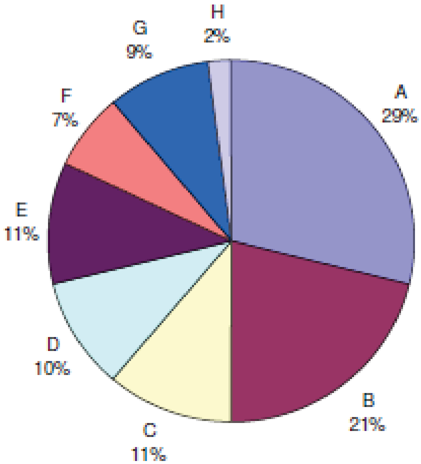
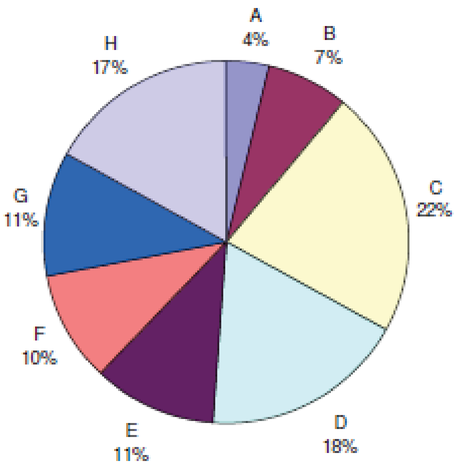
(Budget: 2012-13)

Rupee Comes From



A.	Borrowings and other liabilities	29 p
B	Corporation tax	21 p
C.	Income tax	11 p
D.	Customs	10 p
E.	Union Excise Duties	11 p
F.	Service tax & other taxes	7 p
G.	Non-tax revenue	9 p
H.	Non-debt capital receipts	2 p
	Total	100 p

Rupee Goes To



A.	Non-plan assistance to State & UT Govts.	4 p
B.	Plan Assistance to State & UT	7 p
C.	Central Plan	22 p
D.	Interest Payment	18 p
E.	Defence	11 p
F.	Subsidies	10 p
G.	Other Non-Plan Expenditure	11 p
H.	States' share of taxes & duties	17 p
	Total	100 p

HIGHLIGHTS OF BUDGET 2011-2012

THE ECONOMY: AN OVERVIEW

- GDP growth estimated at 6.9% in real terms in 2011-12. Slowdown in comparison to preceding two years is primarily due to deceleration in industrial growth.
- Headline inflation expected to moderate further in next few months and remain stable thereafter.
- Steps taken to bridge gaps in distribution, storage and marketing systems have helped in more effective management of inflation.
- Developments in India's external trade in the first half of current year have been encouraging. Diversification in export and import market achieved.
- Current account deficit at 3.6% of GDP for 2011-12 and reduced net capital inflow in the 2nd and 3rd quarters put pressure on exchange rate.
- India's GDP growth in 2012-13 expected to be 7.6% +/- 0.25%.
- Deterioration in fiscal balance in 2011-12 due to slippages in direct tax revenue and increased subsidies.

FRBM ACT

- Introduction of amendments to the FRBM Act as part of Finance Bill, 2012.
- Concept of "Effective Revenue Deficit" and "Medium Term Expenditure Framework" statement are two important features of amendment to FRBM Act in the direction of expenditure reforms.
- Effective Revenue Deficit is the difference between revenue deficit and grants for creation of capital assets. This will help in reducing consumptive component of revenue deficit and create space for increased capital spending.
- "Medium-term Expenditure Framework" statement will set forth a three-year rolling target for expenditure indicators.
- Recommendations of the Expert Committees to streamline and reduce the number of centrally sponsored schemes and to address plan and non-plan classification to be kept in view while implementing Twelfth Plan.
- Central Plan Scheme Monitoring System to be expanded for better tracking and utilisation of funds.

SUBSIDIES

- Some subsidies, while being inevitable, may become undesirable if they compromise the macroeconomic fundamentals of economy.
- Subsidies related to administering the Food Security Act will be fully provided for.
- Endeavour to keep central subsidies under 2% of GDP in 2012-13. Over next 3 year, to be further brought down to 1.75% of GDP.
- Based on recommendation of task force headed by Shri Nandan Nilekani, a mobile-based Fertilizer Management System has been designed to provide end to end information on movement of fertilisers and subsidies. Nation-wide roll out during 2012.
- All three public sector Oil Marketing Companies have launched LPG transparency portals to improve customer service and reduce leakage.
- Endeavour to scale up and roll out Aadhaar enabled payments for various government schemes in atleast 50 districts within next 6 months.

TAX REFORMS

- DTC Bill to be enacted at the earliest after expeditious examination of the report of the Parliamentary Standing Committee.
- Drafting of model legislation for the Centre and State GST in concert with States is under progress.
- GST network to be set up as a National Information Utility and to become operational by August 2012.

DISINVESTMENT POLICY

- Government has further evolved its approach to divestment of Central Public Sector Enterprises by allowing them a level playing field vis-à-vis the private sector in respect of practices like buy backs and listing at stock exchanges.
- For 2012-13, ₹30,000 crore to be raised through disinvestment. At least 51% ownership and management control to remain with Government.

STRENGTHENING INVESTMENT ENVIRONMENT

Foreign Direct Investment

- Efforts to arrive at a broadbased consensus in consultation with the State Governments in respect of decision to allow FDI in multi-brand retail upto 51%.

Advance Pricing Agreement

- Provision regarding implementation of Advance Pricing Agreement to be introduced in Finance Bill, 2012.

Financial Sector

- Rajiv Gandhi Equity Saving Scheme to allow for income tax deduction of 50% to new retail investors, who invest upto ₹50,000 directly in equities and whose annual income is below ₹10 lakh to be introduced. The scheme will have a lock-in period of 3 years.

Capital Market

- Various steps proposed to be taken for deepening the reforms in the Capital markets, including simplifying process of IPOs, allowing QFIs to access Indian Bond Market etc.

Legislative Reforms

- Official amendment to “The Pension Fund Regulatory and Development Authority Bill, 2011”, “The Banking Laws (Amendment) Bill, 2011” and “The Insurance Law (Amendment) Bill, 2008” to be moved in this session.
- Various Bills proposed to be moved in the Budget session of the Parliament to take forward the process of financial sector legislative reforms.

Capitalisation of Banks and Financial Holding Company

- To protect the financial health of Public Sector Banks and Financial Institutions, ₹15,888 crore proposed to be provided for capitalisation. Possibility of creating a financial holding company to raise resources to meet the capital requirments of PSU Banks under examination.
- A central “Know Your Customer” depository to be developed in 2012-13 to avoid multiplicity of registration and data upkeep.

Priority Sector Lending

- Revised guidelines on priority sector lending to be issued after stakeholder consultation.

Financial Inclusion

- Out of 73,000 identified habitations that were to be covered under “Swabhimaan” campaign by March, 2012, about 70,000 habitations have been covered. Rest likely to be covered by March 31, 2012.
- As a next step, Ultra Small Branches are being set up at these habitations.
- In 2012-13, “Swabhimaan” campaign to be extended to more habitations.

Regional Rural Banks

- Out of 82 RRBs in India, 81 have successfully migrated to Core Banking Solutions and have also joined the National Electronic Fund Transfer system.

- Proposal to extend the scheme of capitalisation of weak RRBs by another 2 years to enable States to contribute their share.

INFRASTRUCTURE AND INDUSTRIAL DEVELOPMENT

- During Twelfth Plan period, investment in infrastructure to go up to ₹50 lakh crore with half of this, expected from private sector.
- More sectors added as eligible sectors for Viability Gap Funding under the scheme “Support to PPP in infrastructure”.
- Government has approved guidelines for establishing joint venture companies by defence PSUs in PPP mode.
- First Infrastructure Debt Fund with an initial size of ₹8,000 crore launched earlier this month.
- Tax free bonds of ₹60,000 crore to be allowed for financing infrastructure projects in 2012-13.
- A harmonised master list of infrastructure sector approved by the Government.
- IIFCL has put in place a structure for credit enhancement and take-out finance for easing access of credit to infrastructure projects.

National Manufacturing Policy

- National Manufacturing Policy announced with the objective of raising, within a decade, the share of manufacturing in GDP to 25% and creating of 10 crore jobs.

Power and Coal

- Coal India Limited advised to sign fuel supply agreements with power plants, having long-term PPAs with DISCOMs and getting commissioned on or before March 31, 2015.
- External Commercial Borrowings (ECB) to be allowed to part finance Rupee debt of existing power projects.

Transport: Roads and Civil Aviation

- Target of covering a length of 8,800 kilometre under NHDP next year.
- Allocation of the Road Transport and Highways Ministry enhanced by 14% to ₹25,360 crore.
- ECB proposed to be allowed for capital expenditure on the maintenance and operations of toll systems for roads and highways, if they are part of original project.
- Direct import of Aviation Turbine Fuel permitted for Indian Carriers as actual users.

- ECB to be permitted for working capital requirement of airline industry for a period of one year, subject to a total ceiling of US $ 1 billion.
- Proposal to allow foreign airlines to participate upto 49% in the equity of an air transport undertaking under active consideration of the government.

Delhi Mumbai Industrial Corridor

- In September 2011 central assistance of ₹18,500 crore spread over 5 years approved. US $ 4.5 billion as Japanese participation in the project.

Housing Sector

- Various proposals to address the shortage of housing for low income groups in major cities and towns including allowing ECB for low cost housing projects and setting up of a credit guarantee trust fund etc.

Fertilisers

- Government has taken steps to finalise pricing and investment policies for urea to reduce India's import dependence in urea.

Textiles

- Government has announced a financial package of ₹3,884 crore for waiver of loans of handloom weavers and their cooperative societies.
- Two more mega handloom clusters, one to cover Prakasam and Guntur districts in Andhra Pradesh and another for Godda and neighbouring districts in Jharkhand to be set up.
- Three Weaver's Service Centres one each in Mizoram, Nagaland and Jharkhand to be set up for providing technical support to poor handloom weavers.
- ₹500 crore pilot scheme announced for promotion and application of Geo-textiles in the North Eastern Region.
- A powerloom mega cluster to be set up in Ichalkaranji in Maharashtra with a budget allocation of ₹70 crore.

Micro, Small and Medium Enterprises

- ₹5,000 crore India Opportunities Venture Fund to be set up with SIDBI.
- To enable greater access to finance by Small and Medium Enterprises (SME), two SME exchanges launched in Mumbai recently.
- Policy requiring Ministries and CPSEs to make a minimum of 20% of their annual purchases from MSEs approved. Of this, 4% earmarked for procurement from MSEs owned by SC/ST entrepreneurs.

AGRICULTURE

- Plan Outlay for Department of Agriculture and Co-operation increased by 18%.
- Outlay for Rashtriya Krishi Vikas Yojana (RKVY) increased to ₹9,217 crore in 2012-13.
- Initiative of Bringing Green Revolution to Eastern India (BGREI) has resulted in increased production and productivity of paddy. Allocation for the scheme increased to ₹1,000 crore in 2012-13 from ₹400 crore in 2011-12.
- ₹300 crore to Vidarbha Intensified Irrigation Development Programme under RKVY.
- Remaining activities to be merged into following missions in Twelfth Plan:
  - — *National Food Security Mission*
  - — *National Mission on Sustainable Agriculture including Micro Irrigation*
  - — *National Mission on Oilseeds and Oil Palm*
  - — *National Mission on Agricultural Extension and Technology*
  - — *National Horticultural Mission*

National Mission for Protein Supplement

- ₹2,242 crore project launched with World Bank assistance to improve productivity in the dairy sector. ₹500 crore provided to broaden scope of production of fish to coastal aquaculture.

Agriculture Credit

- Target for agricultural credit raised by ₹1,00,000 crore to ₹5,75,000 crore in 2012-13.
- Interest subvention scheme for providing short term crop loans to farmers at 7% interest per annum to be continued in 2012-13. Additional subvention of 3% available for prompt paying farmers.
- Short term RRB credit refinance fund being set up to enhance the capacity of RRBs to disburse short term crop loans to small and marginal farmers.
- Kisan Credit Card (KCC) Scheme to be modified to make KCC a smart card which could be used at ATMs.

Agricultural Research

- A sum of ₹200 crore set aside for incentivising research with rewards.

Irrigation

- Structural changes in Accelerated Irrigation Benefit Programme (AIBP) being made to maximise flow of benefit from investments in irrigation projects.

- Allocation for AIBP in 2012-13 stepped up by 13% to ₹14,242 crore.
- Irrigation and Water Resource Finance Company being operationalised to mobilize large resources to fund irrigation projects.
- A flood management project approved by Ganga Flood Control Commission at a cost of ₹439 crore for Kandi sub-division of Murshidabad District.

National Mission on Food Processing

- A new centrally sponsored scheme titled "National Mission on Food Processing" to be started in 2012-13 in co-operation with State Governments.
- Steps taken to create additional food grain storage capacity in the country.

INCLUSION

Scheduled Castes and Tribal Sub Plans

- Allocation for Scheduled Castes Sub Plan at ₹37,113 crore in BE 2012-13 represents an increase of 18% over BE 2011-12.
- Allocation for Tribal Sub Plan at ₹21,710 crore in BE 2012-13 represents an increase of 17.6%.

Food Security

- National Food Security Bill, 2011 is before Parliamentary Standing Committee.
- A national information utility for computerisation of PDS is being created. To become operational by December, 2012.

Multi-sectoral Nutrition Augmentation Programme

- A multi-sectoral programme to address maternal and child malnutrition in selected 200 high burden districts is being rolled out during 2012-13.
- Allocation of ₹15,850 crore made for Integrated Child Development Service (ICDS) scheme, representing an increase of 58% over BE 2011-12.
- ₹11,937 crore allocated for National Programme of Mid Day Meals in schools.
- An allocation of ₹750 crore proposed for Rajiv Gandhi Scheme for Empowerment of Adolescent Girls, SABLA.

Rural Development and Panchayati Raj

- Budgetary allocation for rural drinking water and sanitation increased from ₹11,000 crore to ₹14,000 crore representing an increase of over 27%.
- Allocation for PMGSY increased by 20% to Rs.24,000 crore to improve connectivity.

- Major initiative proposed to strengthen Panchayats through Rajiv Gandhi Panchayat Sashaktikaran Abhiyan.
- Backward Regions Grant Fund scheme to continue in twelfth plan with enhanced allocation of ₹12,040 crore in 2012-13, representing an increase of 22% over the BE 2011-12.

Rural Infrastructure Development Fund (RIDF)

- Allocation under RIDF enhanced to ₹20,000 crore. ₹5,000 crore earmarked exclusively for creating warehousing facilities.

EDUCATION

- For 2012-13, ₹25,555 crore provided for RTE-SSA representing an increase of 21.7% over 2011-12.
- 6,000 schools proposed to be set up at block level as model schools in Twelfth Plan.
- ₹3,124 crore provided for Rashtriya Madhyamik Shiksha Abhiyan (RMSA) representing an increase of 29% over BE 2011-12.
- To ensure better flow of credit to students, a Credit Guarantee Fund proposed to be set up.

HEALTH

- No new case of polio reported in last one year.
- Existing vaccine units to be modernised and new integrated vaccine unit to be set up in Chennai.
- Scope of 'Accredited Social Health Activist' – 'ASHA' is being enlarged. This will also enhance their remuneration.
- Allocation for NRHM proposed to be increased from ₹18,115 crore in 2011-12 to ₹20,822 crore in 2012-13.
- National Urban Health Mission is being launched.
- Pradhan Mantri Swasthya Suraksha Yojana being expanded to cover upgradation of 7 more Government medical colleges.

EMPLOYMENT AND SKILL DEVELOPMENT

- MGNREGS has had a positive impact on livelihood security.
- Need to bring about greater synergy between MGNREGA and agriculture and allied rural livelihoods.
- Allocation of ₹3915 crore made for National Rural Livelihood Mission representing an increase of 34%.

- To ease access to bank credit, corpus for 'Women's SHG's Development Fund' enlarged.
- Proposal to establish Bharat Livelihoods Foundation of India through Aajeevika scheme.
- Allocation for Prime Minister's Employment Generation Programme increased by 23% to ₹1,276 crore in 2012-13.

Skill Development

- Projects approved by National Skill Development Corporation expected to train 6.2 crore persons at the end of 10 years.
- ₹1,000 crore allocated for National Skill Development Fund in 2012-13.
- To improve the flow of institutional credit for skill development, a separate Credit Guarantee Fund to be set up.
- "Himayat" scheme introduced in J&K to provide skill training to 1 lakh youth in next 5 years. Entire cost to be borne by Centre.

SOCIAL SECURITY AND THE NEEDS OF WEAKER SECTIONS

- Allocation under NSAP raised by 37% to ₹8,447 crore in 2012-13.
- In the ongoing Indira Gandhi National Widow Pension Scheme and Indira Gandhi National Disability Pension Scheme for BPL beneficiaries, pension amount to be raised from ₹200 to ₹300 per month.
- Lump sum grant on the death of primary breadwinner of a BPL family, in the age group 18-64 years, doubled to ₹20,000.
- To enhance access under SWAVALAMBAN scheme, LIC appointed as an Aggregator and all Public Sector Banks appointed as Points of Presence (PoP) and Aggregators.
- Special grant provided to various universities and academic instiutions.

Security

- A provision of ₹1,93,407 crore made for Defence services including ₹79,579 crore for capital expenditure. Any further requirement to be met.
- ₹1,185 crore proposed to be allocated for construction of nearly 4,000 residential quarters for Central Armed Police Forces.
- ₹3,280 crore proposed to be allocated for construction of office building of Central Armed Police Forces.
- Scheme to create National Population Register likely to be completed within next 2 years.

GOVERNANCE

UID-Aadhaar

- Enrolment of 20 crore persons completed under UID mission. Adequate funds to be allocated to complete enrolment of another 40 crore persons.

Black Money

- Proposal to lay a White Paper on Black Money in current session of Parliament.

Public Procurement Legislation

- Bill regarding Public Procurement Legislation to be introduced in the Budget Session of the Parliament.
- Legislative measures for strengthening anti-corruption framework are at various stages of enactment.

BUDGET ESTIMATES 2012-13

- Gross Tax Receipts estimated at ₹10,77,612 crore.
- Net Tax to Centre estimated at ₹7,71,071 crore.
- Non-tax Revenue Receipts estimated at ₹1,64,614 crore.
- Non-debt Capital Receipts estimated at ₹41,650 crore.
- Temporary arrangement to use disinvestment proceeds for capital expenditure in social sector schemes extended for one more year.
- Total expenditure for 2012-13 budgeted at ₹14,90,925 crore.
- Plan expenditure for 2012-13 at ₹5,21,025 crore is 18% higher than BE 2011-12. This is higher than 15% projected in Approach to the Twelfth Plan.
- 99% of the total plan outlay met in the Eleventh Plan.
- Non-plan expenditure estimated at ₹9,69,900 crore.
- ₹3,65,216 crore estimated to be transferred to States including direct transfers to States and district level implementing agencies.
- Entire amount of subsidy is given in cash and not as bonds in lieu of subsidies.
- Fiscal deficit at 5.9% of GDP in RE 2011-12.
- Fiscal deficit at 5.1% of GDP in BE 2012-13.
- Net market borrowing required to finance the deficit to be ₹4.79 lakh crore in 2012-13.
- Central Government debt at 45.5% of GDP in 2012-13 as compared to Thirteenth Finance Commission target of 50.5%.
- Effective Revenue Deficit to be 1.8% of GDP in 2012-13.

PART B — TAX PROPOSALS

DIRECT TAXES

- Tax proposals for 2012-13 mark progress in the direction of movement towards DTC and GST.
- DTC rates proposed to be introduced for personal income tax.
- Exemption limit for the general category of individual taxpayers proposed to be enhanced from ₹1,80,000 to ₹2,00,000 giving tax relief of ₹2,000.
- Upper limit of 20% tax slab proposed to be raised from ₹8 lakh to ₹10 lakh.
- Proposal to allow individual tax payers, a deduction of upto ₹10,000 for interest from savings bank accounts.
- Proposal to allow deduction of upto ₹5,000 for preventive health check up.
- Senior citizens not having income from business proposed to be exempted from payment of advance tax.
- To provide low cost funds to stressed infrastructure sectors, rate of withholding tax on interest payment on ECBs proposed to be reduced from 20% to 5% for 3 years for certain sectors.
- Restriction on Venture Capital Funds to invest only in 9 specified sectors proposed to be removed.
- Proposal to continue to allow repatriation of dividends from foreign subsidiaries of Indian companies at a lower tax rate of 15% upto 31.3.2013.
- Investment link deduction of capital expenditure for certain businesses proposed to be provided at the enhanced rate of 150%.
- New sectors to be added for the purposes of investment linked deduction.
- Proposal to extend weighted deduction of 200% for R&D expenditure in an inhouse facility for a further period of 5 years beyond March 31, 2012.
- Proposal to provide weighted deduction of 150% on expenditure incurred for agri-extension services.
- Proposal to extend the sunset date for setting up power sector undertakings by one year for claiming 100% deduction of profits for 10 years.
- Turnover limit for compulsory tax audit of account and presumptive taxation of SMEs to be raised from ₹60 lakhs to ₹1 crore.
- Exemption from Capital Gains tax on sale of residential property, if sale consideration is used for subscription in equity of a manufacturing SME for purchase of new plant and machinery.

- Proposal to provide weighted deduction at 150% of expenditure incurred on skill development in manufacturing sector.
- Reduction in securities transaction tax by 20% on cash delivery transactions.
- Proposal to extend the levy of Alternate Minimum Tax to all persons, other than companies, claiming profit linked deductions.
- Proposal to introduce General Anti Avoidance Rule to counter aggressive tax avoidance scheme.
- Measures proposed to deter the generation and use of unaccounted money.
- A net revenue loss of ₹4,500 crore estimated as a result of Direct Tax proposals.

INDIRECT TAXES

Service Tax

- Sevice tax confronts challenges of its share being below its potential, complexity in tax law, and need to bring it closer to Central Excise Law for eventual transition to GST.
- Overwhelming response to the new concept of taxing services based on negative list.
- Proposal to tax all services except those in the negative list comprising of 17 heads.
- Exemption from service tax is proposed for some sectors.
- Service tax law to be shorter by nearly 40%.
- Number of alignment made to harmonise Central Excise and Service Tax. A common simplified registration form and a common return comprising of one page are steps in this direction.
- Revision Application Authority and Settlement Commission being introduced in Service Tax for dispute resolution.
- Utilization of input tax credit permitted in number of services to reduce cascading of taxes.
- Place of Supply Rules for determining the location of service to be put in public domain for stakeholders' comments.
- Study team to examine the possibility of common tax code for Central Excise and Service Tax.
- New scheme announced for simplification of refunds.
- Rules pertaining to point of taxation are being rationalised.

- To maintain a healthy fiscal situation proposal to raise service tax rate from 10% to 12%, with corresponding changes in rates for individual services.
- Proposals from service tax expected to yield additional revenue of ₹18,660 crore.

Other proposals for Indirect Taxes

- Given the imperative for fiscal correction, standard rate of excise duty to be raised from 10% to 12%, merit rate from 5% to 6% and the lower merit rate from 1% to 2% with few exemptions.
- Excise duty on large cars also proposed to be enhanced.
- No change proposed in the peak rate of customs duty of 10% on nonagricultural goods.
- To stimulate investment relief proposals for specific sectors - especially those under stress.

Agriculture and Related Sectors

- Basic customs duty reduced for certain agricultural equipment and their parts;
- Full exemption from basic customs duty for import of equipment for expansion or setting up of fertiliser projects upto March 31, 2015.

Infrastructure

- Proposal for full exemption from basic customs duty and a concessional CVD of 1% to steam coal till 31st March, 2014.
- Full exemption from basic duty provided to certain fuels for power generation.

Mining

- Full exemption from basic customs duty to coal mining project imports.
- Basic custom duty proposed to be reduced for machinery and instruments needed for surveying and prospecting for minerals.

Railways

- Basic custom duty proposed to be reduced for equipments required for installation of train protection and warning system and upgradation of track structure for high speed trains.

Roads

- Full exemption from import duty on certain categories of specified equipment needed for road construction, tunnel boring machines and parts of their assembly.

Civil Aviation

- Tax concessions proposed for parts of aircraft and testing equipment for thirdparty maintenance, repair and overhaul of civilian aircraft.

Manufacturing

- Relief proposed to be extended to sectors such as steel, textiles, branded readymade garments, low-cost medical devices, labour-intensive sectors producing items of mass consumption and matches produced by semi-mechanised units.

Health and Nutrition

- Proposal to extend concessional basic customs duty of 5% with full exemption from excise duty/CVD to 6 specified life saving drugs/vaccines.
- Basic customs duty and excise duty reduced on Soya products to address protein deficiency among women and children.
- Basic customs duty and excise duty reduced on Iodine.
- Basic customs duty reduced on Probiotics.

Environment

- Concessions and exemptions proposed for encouraging the consumption of energy-saving devices, plant and equipment needed for solar thermal projects.
- Concession from basic customs duty and special CVD being extended to certain items imported for manufacture for hybrid or electric vehicle and battery packs for such vehicles.
- Proposal to increase basic customs duty on imports of gold and other precious metals.

Additional resource mobilisation

- Proposals to increase excise duty on ‘demerit’ goods such as certain cigarettes, hand-rolled bidis, pan masala, gutkha, chewing tobacco, unmanufactured tobacco and zarda scented tobacco.
- Cess on crude petroleum oil produced in India revised to ₹4,500 per metric tonne.
- Basic customs duty proposed to be enhanced for certain categories of completely built units of large cars/MUVs/SUVs.

Rationalization measures

- Excise duty rationalised for packaged cement, whether manufactured by minicement plants or others.

- Levy of excise duty of 1% on branded precious metal jewellery to be extended to include unbranded jewellery. Operations simplified and measures taken to minimise impact on small artisans and goldsmiths.
- Branded Silver jewellery exempted from excise duty.
- Chassis for building of commercial vehicle bodies to be charged excise duty at an *ad valorem* rate instead of mixed rate.
- Import of foreign-going vessels to be exempted from CVD of 5% retrospectively.
- Duty-free allowances increased for eligible passengers and for children of upto 10 years.
- Proposals relating to Customs and Central excise to result in net revenue gain of ₹27,280 crore.
- Indirect taxes estimated to result in net revenue gain of ₹45,940 crore.
- Net gain of ₹41,440 crore in the Budget due to various taxation proposals.

DIRECT TAX PROPOSALS

DIRECT TAXES

Rates of income-tax for assessment year 2013-14

1. Rates of Income Tax

(*A*) *I. In the case of every Individual or Hindu undivided family or AOP/BOI* (*other than a co-operative society*) *whether incorporated or not, or every artificial judicial person*

Upto Rs. 2,00,000	Nil
Rs. 2,00,010 to Rs. 5,00,000	10%
Rs. 5,00,010 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

II. In the case of every **individual,** being a **resident in India,** who is of the **age of 60 years or more but less than 80 years** at any time during the previous year.

Upto Rs. 2,50,000	Nil
Rs. 2,50,010 to Rs. 5,00,000	10%
Rs. 5,00,010 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

III. In the case of every **individual,** being a **resident in India,** who is of the **age of 80 years or more** at any time during the previous year.

Upto Rs. 5,00,000	Nil
Rs. 5,00,010 to Rs. 10,00,000	20%
Above Rs. 10,00,000	30%

Note.—No surcharge is payable.

'Education Cess' @ 2%, and 'Secondary and Higher Education Cess (SHEC)' @ 1% on income tax shall be chargeable.

(B) In the case of every co-operative society

(1) where the total income does not exceed Rs. 10,000	10% of the total income;
(2) where the total income exceeds Rs.10,000 but does not exceed Rs. 20,000	Rs. 1,000 *plus* 20% of the amount by which the total income exceeds Rs.10,000;
(3) where the total income exceeds Rs. 20,000	Rs. 3,000 *plus* 30% of the amount by which the total income exceeds Rs. 20,000.

No surcharge shall be levied in the case of a co-operative society.

'Education Cess' @ 2% and SHEC @ 1% on income tax shall be chargeable.

(C) In case of any firm (including limited liability partnership) — 30%.

No surcharge shall be levied in the case of a firm.

'Education Cess' @ 2% and SHEC @ 1% on income tax shall be chargeable.

(D) In the case of a company

(i) For domestic companies: 30%, surcharge @ **5%** on tax payable shall be levied where total income of the company exceeds Rs. 1 crore.

(ii) For foreign company: 40%, surcharge @ **2%** on tax payable shall be levied where total income of the foreign company exceeds Rs. 1 crore.

'Education Cess' @ 2%, and 'Secondary and Higher Education Cess' @ 1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

Marginal relief only in case of a company assessee

Marginal relief: Marginal relief shall be available and the total amount payable as income-tax and surcharge on total income exceeding Rs. 1 crore shall not exceed the total amount payable as income-tax on a total income of Rs. 1 crore by more than the amount of income that exceeds Rs. 1 crore.

Amendments relating to Income Exempt from Tax

Eligibility conditions for exempt life insurance policies [Section 10(10D)] [W.e.f. A.Y. 2013-14]

It is proposed to amend section 10(10D) so as to provide that the exemption for insurance policies issued on or after 1st April, 2012 would only be available for policies where the premium payable for any of the years during the term of the policy does not exceed 10% of the actual capital sum assured (as against existing 20%).

Further, in order to ensure that the life insurance products are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year, it is also proposed to provide that the capital sum assured would be the minimum of the sum assured in any of the years of the policy. Insertion of a new Explanation 2 has been proposed towards this effect by referring to the new definition of "actual capital sum assured" under Explanation of section 80C(3A). This Explanation will apply to insurance policies issued on or after the 1st April, 2012.

Exemption in respect of income received by certain foreign companies [Section 10(48)] [W.r.e.f. 2012-13]

It is proposed to insert a new clause (48) in section 10 of the Income-tax Act to provide for exemption in respect of any income of a foreign company received in India in Indian currency on account of sale of crude oil to any person in India subject to the following conditions:

(i) The receipt of money is under an agreement or an arrangement which is either entered into by the Central Government or approved by it.

(ii) The foreign company, and the arrangement or agreement has been notified by the Central Government having regard to the national interest in this behalf.

(iii) The receipt of the money is the only activity carried out by the foreign company in India.

Amendments relating to Charitable Trust

Assessment of charitable organization in case commercial receipts exceed the specified threshold [Section 10(23C) & Section 13] [W.r.e.f. 2009-10]

The 2nd proviso to section 2(15) provides that in case where the activity of any trust or institution is of the nature of advancement of any other object of general public utility, and it involves carrying on of any activity in the nature of trade, commerce or business; but the aggregate value of receipts from the commercial activities does not exceed Rs. 25,00,000 in the previous year, then the purpose of such institution shall be considered as charitable, and accordingly, the benefits of exemption shall be available to it.

There is need to ensure that if the purpose of a trust or institution does not remain charitable due to application of first proviso on account of commercial receipt threshold provided in second proviso in a previous year, then, such trust or institution would not be entitled to get benefit of exemption in respect of its income for that previous year for which such proviso is applicable. Such denial of exemption shall be mandatory by operation of law and would not be dependent on any withdrawal of approval or cancellation of registration or a notification being rescinded.

It is, therefore, proposed to amend section 10(23C), section 13 and section 143 of the Act to ensure that such organization does not get benefit of tax exemption in the year in which it's receipts from commercial activities exceed the threshold whether or not the registration or approval granted or notification issued is cancelled, withdrawn or rescinded.

Amendments relating to Income from Business and Profession

Extending benefit of initial depreciation to the power sector [Section 32(1)(iia)] [W.e.f. 2013-14]

In order to encourage new investment by the assessees engaged in the business of generation or generation and distribution of power, it is proposed to amend section 32(1)(iia) to provide that an assessee engaged in the business of generation or generation and distribution of power shall also be allowed initial depreciation at the rate of 20% of actual cost of new machinery or plant (other than ships and aircraft) acquired and installed in a previous year.

Weighted deduction for scientific research and development [Section 35(2AB)] [W.e.f. 2013-14]

In order to incentivise the corporate sector to continue to spend on in-house research, it is proposed to amend section 35(2AB) to extend the benefit of the weighted deduction for a further period of five years i.e. up to 31st March, 2017.

Deduction in respect of capital expenditure on specified business [Section 35AD] [W.e.f. A.Y. 2013-14]

It is proposed to include three new businesses as "specified business" for the purposes of the investment-linked deduction under section 35AD, namely:—

(a) setting up and operating an inland container depot or a container freight station notified or approved under the Customs Act, 1962 (52 of 1962);

(b) bee-keeping and production of honey and beeswax; and

(c) setting up and operating a warehousing facility for storage of sugar.

It is proposed that the date of commencement of operations for availing investment linked deduction in respect of the three new specified businesses shall be on or after 1st April, 2012.

It is also proposed that the following specified businesses commencing operations on or after the 1st of April, 2012 shall be allowed a deduction of 150% of the capital expenditure under section 35AD of the Income-tax Act, namely:—

(i) setting up and operating a cold chain facility;

(ii) setting up and operating a warehousing facility for storage of agricultural produce;

(iii) building and operating, anywhere in India, a hospital with at least one hundred beds for patients;

(iv) developing and building a housing project under a scheme for affordable housing framed by the Central Government or a State Government, as the case may be, and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; and

(v) production of fertilizer in India.

A new sub-section (1A) is proposed to be inserted in section 35AD, w.r.e.f. A.Y. 2011-12 to provide that where the assessee builds a hotel of two-star or above category as classified by the Central Government and subsequently, while continuing to own the hotel, transfers the operation thereof to another person, the assessee shall be deemed to be carrying on the specified business of building and operating hotel.

Weighted deduction for expenditure incurred on agricultural extension project and for skill development [Section 35CCC & 35CCD] [W.e.f. 2013-14]

Agricultural extension services play a critical role in enhancing the productivity in the agricultural sector. In order to incentivise the business entities to provide better and effective agriculture extensive services, it is proposed to insert a new section 35CCC in the Income-tax Act to allow weighted deduction of 150% of the expenditure incurred on agricultural extension project. The agricultural extension project eligible for this weighted deduction shall be notified by the Board in accordance with the prescribed guidelines.

In order to incentivise companies to invest on skill development projects in the manufacturing sector, it is proposed to insert a new section 35CCD in the Income-tax Act to provide weighted deduction of 150% of expenses (not being expenditure in the nature of cost of any land or building) incurred on skill development project. The skill development project eligible for this weighted deduction shall be notified by the Board in accordance with the prescribed guidelines.

Disallowance of business expenditure on account of non-deduction of tax on payment to resident payee [Section 40(a)(ia)] [W.e.f. 2013-14]

In order to rationalise the provisions of disallowance on account of non-deduction of tax from the payments made to a resident payee, it is proposed to amend section 40(a)(ia) to provide that where an assessee makes payment of the nature specified in the said section to a resident payee without deduction of tax and is not deemed to be an assessee in default under section 201(1) on account of payment of taxes by the payee, then, for the purpose of allowing deduction of such sum, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee. These beneficial provisions are proposed to be applicable only in the case of resident payee.

Turnover or gross receipts for audit of accounts and presumptive taxation [Section 44AB & 44AD] [W.e.f. A.Y. 2013-14]

In order to reduce the compliance burden on small businesses and on professionals, it is proposed to increase the threshold limit of total sales, turnover or gross receipts, specified under section 44AB for getting accounts audited, from ₹60,00,000 to ₹1 crore in the case of persons carrying on business and from ₹15,00,000 to ₹25,00,000 in the case of persons carrying on profession.

It is also proposed that for the purposes of presumptive taxation under section 44AD, the threshold limit of total turnover or gross receipts would be increased from ₹60,00,000 to ₹1 crore.

Presumptive taxation not to apply to professions etc. [Section 44AD] [W.r.e.f. A.Y. 2011-12]

It is proposed to amend section 44AD to clarify that presumptive scheme is not applicable to:

(i) a person carrying on profession as referred to in sub-section (1) of section 44AA;

(ii) persons earning income in the nature of commission or brokerage income; or

(iii) a or a person carrying on any agency business.

Amendments relating to Capital Gains

Capital gains in cases of amalgamation and demerger [Section 47] [W.e.f. A.Y. 2013-14]

(i) Under the provisions of section 47(vii) any transfer by a shareholder, in a scheme of amalgamation of a capital asset being a share or shares held by him in the amalgamating company is not regarded as a transfer if,—

(a) any transfer is made in consideration of the allotment to him of any share or shares in the amalgamated company, and

(b) the amalgamated company is an Indian company.

In a case where a subsidiary company amalgamates into the holding company, it is not possible to satisfy one of the conditions at (a) above, i.e. that the amalgamated company (the holding company) issues shares to the shareholders of the amalgamating company (subsidiary company), since the holding company is itself the shareholder of the subsidiary company and cannot issue shares to itself. Therefore, it is proposed to amend the provisions of section 47(vii) so as to exclude the requirement of issue of shares to the shareholder where such shareholder itself is the amalgamated company. However, the amalgamated company will continue to be required to issue shares to the other shareholders of the amalgamating company.

(ii) Similarly, in the case of a demerger, there is a requirement under section 2(19AA)(iv) that the resulting company has to issue its shares to the shareholders of the demerged company on a proportionate basis. However, it is not possible to satisfy this condition where the demerged company is a subsidiary company and the resulting company is the holding company.

Therefore, it is proposed to amend the provisions of section 2(19AA) so as to exclude the requirement of issue of shares where resulting company itself is a shareholder of the demerged company. The requirement of issuing shares would still have to be met by the resulting company in case of other shareholders of the demerged company.

Cost of acquisition in case of certain transfers [Section 49] [W.r.e.f. A.Y. 1999-2000]

It is proposed to amend the provisions of section 49 of the Income-tax Act to provide that in case of conversion of sole proprietorship or firm into a company which is not regarded as a transfer, the cost of acquisition of asset in the hands of the company would be the same as that in the hand of the sole proprietary concern or the firm, as the case may be.

Fair Market Value to be full value of consideration in certain cases [Section 50D] [W.e.f. A.Y. 2013-14]

Capital gains are calculated on transfer of a capital asset, as sale consideration minus cost of acquisition. In some recent rulings, it has been held that where the consideration in respect of transfer of an asset is not determinable under the existing provisions of the Income-tax Act, then, as the machinery provision fails, the gains arising from the transfer of such assets is not taxable.

It is, therefore, proposed that where in the case of a transfer, consideration for the transfer of a capital asset(s) is not attributable or determinable then for purpose of computing income chargeable to tax as gains, the fair market value of the asset shall be taken to be the full market value of consideration.

Accordingly, it is proposed to insert a new provision (section 50D) in the Income-tax Act to provide that fair market value of the asset shall be deemed to be the full value of consideration if actual consideration is not attributable or determinable.

Capital gains tax from sale of agricultural land by a Hindu undivided family (HUF) [Section 54B] [W.e.f. A.Y. 2013-14]

Capital gains on transfer of land which, in the two years preceding the year in which it has been sold, has been used for agricultural purposes by assessee or his parent, is exempt if the whole of capital gains has been reinvested in the purchase of agricultural land in the next two years. It is now proposed that this benefit be also granted to a HUF.

Accordingly, it is proposed to amend the provisions of section 54B of the IT Act to provide that the rollover relief is available if the land is used for agricultural purposes by an individual or his parent, or by a HUF.

Relief from long-term capital gains tax on transfer of residential property if invested in a manufacturing small or medium enterprise [Section 54GB] [W.e.f. 2013-14]

It is proposed to insert a new section 54GB so as to provide rollover relief from long term capital gains tax to an individual or an HUF on sale of a residential property (house or plot of land) in case of re-investment of sale consideration in the equity of a new start-up SME company in the manufacturing sector which is utilized by the company for the purchase of new plant and machinery.

This relief would be subject to the conditions that—

(i) the amount of net consideration is used by the individual or HUF before the due date of furnishing of return of income under sub-section (1) of section 139, for subscription in equity shares in the SME company in which he holds more than 50% share capital or more than 50% voting rights.

(ii) The amount of subscription as share capital is to be utilized by the SME company for the purchase of new plant and machinery within a period of one year from the date of subscription in the equity shares.

(iii) If the amount of net consideration subscribed as equity shares in the SME company is not utilized by the SME company for the purchase of plant and machinery before the due date of filing of return by the individual or HUF, the unutilised amount shall be deposited under a deposit scheme to be prescribed in this behalf.

(iv) Suitable safeguards so as to restrict the transfer of the shares of the company, and of the plant and machinery for a period of 5 years are proposed to be provided to prevent diversion of these funds. Further, capital gains would be subject to taxation in case any of the conditions are violated.

(v) The relief would be available in case of any transfer of residential property made on or before 31st March, 2017.

Reference to a Valuation Officer [Section 55A] [W.e.f. 1.7.2012]

It is proposed to amend the provisions of section 55A of the Income-tax Act to enable the Assessing Officer to make a reference to the Valuation Officer where in his opinion the value declared by the assessee is at variance from the fair market value. Therefore, in case where the Assessing Officer is of the opinion that the value taken by the assessee as on 1.4.1981 is higher than the fair market value of the asset as on that date, the Assessing Officer would be enabled to make a reference to the Valuation Officer for determining the fair market value of the property.

Rate of tax for short term capital gain under section 111A [Section 111A] [W.r.e.f. A.Y. 2009-10]

Under the provisions of section 111A tax on short-term capital gains, in the case of equity shares in a company or units of an equity oriented fund on which Securities Transaction Tax (STT) has been paid, is levied at the rate of 15%. This rate was increased from 10% to 15% vide Finance Act, 2008 with effect from 1.4.2009. However, in the proviso to this section while providing relief, the rate of short-term capital gains tax is still referred to as 10% which needs to be corrected to 15%. It is accordingly proposed to amend the provisions of proviso to section 111A of the Income-tax Act.

Amendments relating to Income from Other Sources

Share premium in excess of the fair market value to be treated as income [Section 56(2)] [W.e.f. A.Y. 2013-14]

Section 56(2) provides for the specific category of incomes that shall be chargeable to income-tax under the head "Income from other sources".

It is proposed to insert a new clause in section 56(2). The new clause will apply where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares. In such a case if the consideration received for issue of shares exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be chargeable to income-tax under the head "Income from other sources. However, this provision shall not apply where the consideration for issue of shares is received by a venture capital undertaking from a venture capital company or a venture capital fund.

Further, it is also proposed to provide the company an opportunity to substantiate its claim regarding the fair market value. Accordingly, it is proposed that the fair market value of the shares shall be the higher of the value—

(i) as may be determined in accordance with the method as may be prescribed; or

(ii) as may be substantiated by the company to the satisfaction of the Assessing Officer, based on the value of its assets, including intangible assets, being goodwill, know-how, patents, copyrights, trademarks, licences, franchises or any other business or commercial rights of similar nature.

Exemption of any sum or property received by an HUF from its members [Section 56(2)(vii)] [W.r.e.f. 1.10.2009]

The definition of relative as given in section 56(2)(vii) is only in relation to an individual and not in relation to a HUF.

It is therefore proposed to amend the provisions of section 56 so as to provide that any sum or property received without consideration or inadequate consideration by an HUF from its members would also be excluded from taxation.

Amendments relating to Deductions from Gross Total Income

Eligibility condition for deduction in respect of life insurance policies [Section 80C] [W.e.f. A.Y. 2013-14]

It is proposed to amend section 80C to provide that the deduction for life insurance premium as regards insurance policies issued on or after 1st April, 2012 shall be allowed for only so much of the premium payable as does not exceed 10% of the actual capital sum assured.

It is further proposed to insert the definition of "actual capital sum assured" so as to provide that the actual capital sum assured in relation to a life insurance policy shall be the minimum amount assured under the policy on happening of the insured event at any time during the term of the policy, not taking into account— (i) the value of any premiums agreed to be returned, or (ii) any benefit by way of bonus or otherwise over and above the sum actually assured, which is to be or may be received under the policy by any person. This amendment has been proposed to ensure that the life insurance products are not designed to circumvent the prescribed limits by varying the capital sum assured from year to year. This definition is also referred to in the proposed Explanation 2 in section 10(10D).

Deduction for expenditure on preventive health check-up [Section 80D] [W.e.f. A.Y. 2013-14]

It is proposed to amend section 80D to also include any payment made by an assessee on account of preventive health check-up of self, spouse, dependant children or parents(s) during the previous year as eligible for deduction within the overall limits prescribed in the section. However, the proposed deduction on account of expenditure on preventive health check-up (for self, spouse, dependant children and parents) shall not exceed in the aggregate Rs.5,000.

It is further proposed to provide that for the purpose of the deduction under section 80D, payment can be made - (i) by any mode, including cash, in respect of any sum paid on account of preventive health check-up and (ii) by any mode other than cash, in all other cases.

Reduction of the eligible age for senior citizens for certain tax reliefs [Section 80D, 80DDB & Section 197A(1C)] [W.e.f. A.Y. 2013-14]

In all of the above-mentioned provisions, i.e., under sections 80D, 80DDB and 197A the effective age for a "senior citizen" who can avail of the benefit is mentioned as sixty-five years or more at any time during the relevant previous year.

In order to make the effective age of senior citizens uniform across all the provisions of the Income Tax Act, it is proposed to reduce the age for availing of the benefits by a senior citizen under the aforesaid sections (sections 80D, 80DDB and 197A) from sixty-five years to sixty years.

The amendment to section 197A will take effect from 1st July, 2012.

Prohibition of cash donations in excess of ₹10,000 [Section 80G & 80GGA] [W.e.f. A.Y. 2013-14]

Currently, there is no provision in either of the aforesaid sections specifying the mode of payment of money. Therefore, it is proposed to amend sections 80G and 80GGA so as specify therein that any payment exceeding a sum of ₹10,000 shall only be allowed as a deduction if such sum is paid by any mode other than cash.

Extension of sunset date for tax holiday for power sector [Section 80-IA(4)(iv)] [W.e.f. A.Y. 2013-14]

It is proposed to amend section 80-IA(4)(iv) to extend the terminal date for a further period of one year, i.e., up to 31st March, 2013.

Deduction in respect of interest on deposits in savings accounts [Section 80TTA] [W.e.f. A.Y. 2013-14]

Under the proposed new section 80TTA of the Income-tax Act, a deduction up to an extent of ₹10,000 in aggregate shall be allowed to an assessee, being an individual or a Hindu undivided family, in respect of any income by way of interest on deposits (not being time deposits) in a savings account with—

(i) a banking company to which the Banking Regulation Act, 1949, applies (including any bank or banking institution referred to in section 51 of that Act);

(ii) a co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank); or

(iii) a post office, as defined in clause (k) of section 2 of the Indian Post Office Act, 1898.

However, where the aforesaid income is derived from any deposit in a savings account held by, or on behalf of, a firm, an association of persons or a body of individuals, no deduction shall be allowed in respect of such income in computing the total income of any partner of the firm or any member of the association or body.

Amendments relating to Assessment and Reassessment including Assessment in Search Cases

Authorisation or requisition and subsequent assessment in search cases [Section 132 & 132A] [W.r.e.f. 1976-77]

Where a search is initiated under section 132 or requisition is made under section 132A, assessment is to be completed under the provisions of section 153A or section 153C (and if search was prior to 31st May, 2003 under Chapter XIV-B of the Act) or section 143(3), etc.

In a recent Court decision, it has been held that in search cases arising on the basis of warrant of authorisation under section 132 of the Act, warrant of authorisation must be issued individually and if it is not issued individually, assessment cannot be made in an individual capacity. It was also held that if the authorization was issued jointly, the assessment will have to be made collectively in the name of all the persons in the status of association of persons/body of individuals.

This decision is not in accordance with the legislative intent.

It is accordingly proposed to insert a new section 292CC in the Income-tax Act to provide that—

(i) it shall not be necessary to issue an authorisation under section 132 or make a requisition under section 132A separately in the name of each person;

(ii) where an authorisation under section 132 has been issued or a requisition under section 132A has been made mentioning therein the name of more than one person, the mention of such names of more than one person on such authorisation or requisition shall not be deemed to construe that it was issued in the name of an association of persons or body of individuals consisting of such persons;

(iii) notwithstanding that an authorisation under section 132 has been issued or requisition under section 132A has been made mentioning therein the name of more than one person, the assessment or reassessment shall be made separately in the name of each of the persons mentioned in such authorisation or requisition.

Due date of furnishing audit report in case of international transactions [Section 139] [W.r.e.f. A.Y. 2012-13]

As per the existing provisions of the Income-tax Act, the report of audit under section 44AB is required to be furnished by 30th September of the assessment year. Section 139 was amended vide Finance Act 2011 to extend the due date of furnishing of return by the corporate assessees, who have undertaken international transactions, from 30th September to 30th November of the assessment year.

In order to align the due date for furnishing tax audit report under section 44AB of the Act and due date specified for furnishing of return under section 139 of the Act, it is proposed to provide that the due date for furnishing tax audit report under section 44AB would be the same as due date specified for furnishing of return under section 139.

Processing of return of income where scrutiny notice issued [Section 143(1)] [W.e.f. 1.7.2012]

It is proposed to amend section 143(1) to provide that processing of return will not be necessary in a case where notice under sub-section (2) of section 143 has already been issued for scrutiny of the return.

Extension of time for completion of assessments and reassessments [Section 153 and 153B] [W.e.f. 1.7.2012]

It is proposed to amend the aforesaid sections, i.e., 153 and 153B so as to provide that the time limits for completion of assessments and reassessments shall respectively be increased by three months.

The existing period and the new extended period for completion of pending proceedings and subsequent proceedings under these provisions is given below:

Limitation of time

Proceedings under section	Current time allowed	Proposed Period
143	21 months from the end of the A.Y.	24 months
143 and 92CA	33 months from the end of the A.Y.	36 months
148	9 months from the end of the F.Y. in which notice issued	12 months
148 and 92CA	21 months from the end of the F.Y. in which notice issued	24 months
250 or 254 or 263	9 months from the end of the F.Y. in which order received	12 months
250 or 254 or 263, and 92CA	21 months from the end of the F.Y. in which order received	24 months

Consequential amendments have been made in the provisions of section 17A of the Wealth-tax Act for increasing the time limit by three months for completion of assessment/reassessment proceedings.

Notification of a class of search cases where compulsory reopening of past six years not required [Section 153A & 153C] [W.e.f. 1.7.2012]

Under the existing provisions of section 153A of the Income-tax Act, it is mandatory to issue a notice for filing of tax returns for 6 assessment years immediately proceeding the assessment year relevant to the previous year in which search is conducted under section 132 or requisition is made under section 132A.

It is proposed that the provisions of section 153A and 153C may be amended so as to empower the Central Government to notify cases or class of cases in which the Assessing Officer shall not issue notice for initiation of proceedings for preceding 6 assessment years. However, action for completion of assessment proceedings for the assessment year relevant to the previous year in such class of cases in which search or requisition has been made would be taken. This would result in initiating assessment proceedings only for the assessment year relevant to the previous year in which search or requisition has been made.

Consequential amendments are also proposed to be made to the provisions of section 296 of the Act.

Amendments relating to TDS/TCS

Threshold for TDS on payment of interest on debentures [Section 193] [W.e.f. 1.7.2012]

In order to reduce the compliance burden on small assessees and companies, it is proposed that no deduction of tax should be made from payment of interest on any debenture, (whether listed or not) issued by a company, in which the public are substantially interested, to a resident individual or Hindu undivided family, if the aggregate amount of interest on such debenture paid during the financial year does not exceed Rs.5,000 and the payment is made by account payee cheque.

Threshold for TDS on compensation or consideration for compulsory acquisition [Section 194LA] [W.e.f. 1.7.2012]

In order to reduce the compliance burden of small assessees, it is proposed to increase the aforesaid threshold limit from ₹1,00,000 to ₹2,00,000.

Tax Deduction at Source (TDS) on transfer of certain immovable properties (other than agricultural land) [Section 194LAA] [W.e.f. 1.10.2012]

In order to collect tax at the earliest point of time and also to have a reporting mechanism of transactions in the real estate sector, it is proposed to insert a new section 194LAA to provide that every transferee, at the time of making payment or crediting any sum by way of consideration for transfer of immovable property (other than agricultural land), shall deduct tax, at the rate of 1% of such sum, if the consideration paid or payable for the transfer of such property exceeds—

(a) ₹50,00,000 in case such property is situated in a specified urban agglomeration; or

(b) ₹20,00,000 in case such property is situated in any other area.

It is further proposed to provide that where the consideration paid or payable for the transfer of such property is less than the value adopted or assessed or assessable by any authority of a State Government for the purposes of payment of stamp duty, the value so adopted or assessed or assessable shall be deemed as consideration paid or payable for the transfer of such immovable property.

For better compliance, it is also proposed to provide that a registering officer appointed under the Indian Registration Act, 1908 (Registrar) shall not register the transfer of any immovable property where taxes are required to be deducted under this provision unless the transferee furnishes proof of deduction and payment of TDS.

For reducing the compliance burden on the transferee, it is also proposed that a simple one page challan for payment of TDS would be prescribed containing details (including PAN) of transferor and transferee and also certain details of the property. The transferee would not be required to obtain any Tax Deduction and Collection Account Number (TAN) or to furnish any TDS statement as this would be mostly a one time transaction. The transferor would get credit of TDS like any other pre-paid taxes on the basis of information furnished by the transferee in the challan of payment of TDS.

TDS on remuneration to a director [Section 194J] [W.e.f. 1.7.2012]

It is proposed to amend section 194J to provide that tax is required to be deducted on the remuneration paid to a director, which is not in the nature of salary, at the rate of 10% of such remuneration.

Intimation after processing of TDS statement [Section 200A] [W.e.f. 1.7.2012]

In order to reduce the compliance burden of the deductor and also to rationalise the provisions of processing of TDS statement, it is proposed to provide that the intimation generated after processing of TDS statement shall be—

(i) subject to rectification under section 154;

(ii) appealable under section 246A; and

(iii) deemed as notice of demand under section 156.

Deemed date of payment of tax by the resident payee [Section 201] [W.e.f. 1.7.2012]

In order to provide clarity regarding discharge of tax liability by the resident payee on payment of any sum received by him without deduction of tax, it proposed to amend section 201 to provide that the payer who fails to deduct the whole or any part of the tax on the payment made to a resident payee shall not be deemed to be an assessee in default in respect of such tax if such resident payee—

(i) has furnished his return of income under section 139;

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income,

and the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

The date of payment of taxes by the resident payee shall be deemed to be the date on which return has been furnished by the payer.

It is also proposed to provide that where the payer fails to deduct the whole or any part of the tax on the payment made to a resident and is not deemed to be an assessee in default under section 201(1) on account of payment of taxes by the such resident, the interest under section 201(1A)(i) shall be payable from the date on which such tax was deductible to the date of furnishing of return of income by such resident payee.

Amendments on similar lines are also proposed to be made in the provisions of section 206C relating to TCS for clarifying the deemed date of discharge of tax liability by the buyer or licensee or lessee.

Extension of time for passing an order under section 201 in certain cases [Section 201] [W.r.e.f. 1.4.2010]

Under the existing provisions section 201 of the Income-tax Act, a person can be deemed to be an assessee in default, by an order, in respect of non-deduction/short deduction of tax. Such order can be passed within a period of four years from end of financial year in a case where no statement as referred to in section 200 has been filed.

It is proposed to amend provision of section 201, so as to extend the time limit from four years to six years.

"Person responsible for paying" in case of payment by Central Government or Government of a State [Section 204] [W.e.f. 1.7.2012]

In order to provide clarity to the meaning of "person responsible for paying" in case of payment by Central Government or a State Government, it is proposed to provide that in the case of payment by Central Government or a State Government, the Drawing and Disbursing Officer or any other person (by whatever name called) responsible for making payment shall be the "person responsible for paying" within the meaning of section 204.

Tax Collection at Source (TCS) on cash sale of bullion and jewellery [Section 206C] [W.e.f. 1.7.2012]

In order to reduce the quantum of cash transaction in bullion and jewellery sector and for curbing the flow of unaccounted money in the trading system of bullion and jewellery, it is proposed to provide that the seller of bullion and jewellery shall collect tax at the rate of 1% of sale consideration from every buyer of bullion and jewellery if sale consideration exceeds ₹2,00,000 and the sale is in cash. This would be irrespective of the fact whether buyer is a manufacturer, trader or purchase is for personal use.

TCS on sale of certain minerals [Section 206C] [W.e.f. 1.7.2012]

In order to collect tax at the earliest point of time and also to improve reporting mechanism of transactions in mining sector, it is proposed that tax at the rate of 1% shall be collected by the seller from the buyer of the following minerals:

(a) Coal;

(b) Lignite; and

(c) Iron ore.

However, the seller shall also not collect tax on sale of the said minerals if the same are purchased by the buyer for personal consumption. Further, the seller of these minerals shall not collect tax if the buyer declares that these minerals are to be utilized for the purposes of manufacturing, processing or producing articles or things.

Fee and penalty for delay in furnishing of TDS/TCS Statement and penalty for incorrect information in TDS/TCS Statement [Section 272A] [W.e.f. 1.7.2012]

In order to provide effective deterrence against delay in furnishing of TDS statement, it is proposed—

(i) to provide for levy of fee of Rs.200 per day for late furnishing of TDS statement from the due date of furnishing of TDS statement to the date of furnishing of TDS statement. However, the total amount of fee shall not exceed the total amount of tax deductible during the period for which the TDS statement is delayed, and

(ii) to provide that in addition to said fee, a penalty ranging from Rs.10,000 to Rs.1,00,000 shall also be levied for not furnishing TDS statement within the prescribed time.

In view of the levy of fee for late furnishing of TDS statement, it is also proposed to provide that no penalty shall be levied for delay in furnishing of TDS statement if the TDS statement is furnished within one year of the prescribed due date after payment of tax deducted along with applicable interest and fee.

In order to discourage the deductors to furnish incorrect information in TDS statement, it is proposed to provide that a penalty ranging from Rs.10,000 to Rs.1,00,000 shall be levied for furnishing incorrect information in the TDS statement.

Consequential amendment is proposed in section 273B so that no penalty shall be levied if the deductor proves that there was a reasonable cause for the failure.

Consequential amendment is also proposed in section 272A to provide that no penalty under this section shall be levied for late filing of TDS statement in respect of tax deducted on or after 1st July, 2012.

Amendments on the similar lines for levy of fee and penalty for delay in furnishing of TCS statement and furnishing of incorrect information in the TCS statement are also proposed to be made.

Amendments relating to Payment of Advance Tax

Exemption for Senior Citizens from payment of advance tax [Section 207] [W.e.f. F.Y. 2012-13]

In order to reduce the compliance burden of such senior citizens, it is proposed that a resident senior citizen, not having any income chargeable under the head "Profits and gains of business or profession", shall not be liable to pay advance tax and such senior citizen shall be allowed to discharge his tax liability (other than TDS) by payment of self assessment tax.

Liability to pay advance tax in case of non-deduction of tax [Section 209] [W.e.f. F.Y. 2012-13]

In order to make an assessee liable for payment of advance tax in respect of income which has been received or paid without deduction or collection of tax, it is proposed to amend the aforesaid section to provide that where a person has received any income without deduction or collection of tax, he shall be liable to pay advance tax in respect of such income.

Amendments relating to Interest Payable

Charging of interest on recovery of refund granted earlier [Section 234D] [W.r.e.f. 1.6.2003]

It is proposed to clarify that the provisions of section 234D would be applicable to any proceeding which is completed on or after 1st June, 2003, irrespective of the assessment year to which it pertains.

Amendments relating to MAT/Alternative Minimum Tax (AMT)

Alternate Minimum Tax (AMT) on all persons other than companies [Chapter XII-BA] [W.e.f. A.Y. 2013-14]

Under the proposed amendments, where the regular income-tax payable for a previous year by a person (other than a company) is less than the alternate minimum tax payable for such previous year, the adjusted total income shall be deemed to be the total income of such person and he shall be liable to pay income-tax on such total income at the rate of 18.5%.

(i) "adjusted total income" shall be the total income before giving effect to provisions of Chapter XII-BA as increased by the deductions claimed under any section (other than section 80P) included in Chapter VI-A under the heading "C - Deductions in respect of certain incomes" and deduction claimed under section 10AA;

(ii) "alternate minimum tax:" shall be the amount of tax computed on adjusted total income at a rate of eighteen and one-half per cent; and

(iii) "regular income-tax" shall be the income-tax payable for a previous year by a person other than a company on his total income in accordance with the provisions of the Act other than the provisions of Chapter XII-BA.

It is further provided that the provisions of AMT under Chapter XII-BA shall not apply to an individual or a Hindu undivided family or an association of persons or a body of individuals (whether incorporated or not) or an artificial juridical person referred to in section 2(31)(vii) if the adjusted total income of such person does not exceed ₹20,00,000.

It is also provided that the credit for tax (tax credit) paid by a person on account of AMT under Chapter XII-BA shall be allowed to the extent of the excess of the AMT paid over the regular income-tax. This tax credit shall be allowed to be carried forward up to the tenth assessment year immediately succeeding the assessment year for which such credit becomes allowable. It shall be allowed to be set off for an assessment year in which the regular income-tax exceeds the AMT to the extent of the excess of the regular income-tax over the AMT.

Consequential amendments are also proposed to the provisions of section 140A relating to self-assessment, section 234A relating to interest for defaults in furnishing return of income, section 234B relating to interest for defaults in payment of advance tax and section 234C relating to interest for deferment of advance tax.

Minimum Alternate Tax (MAT) [Section 115JB] [W.e.f. A.Y. 2013-14]

I. In order to align the provisions of Income-tax Act with the Companies Act, 1956, it is proposed to amend section 115JB to provide that the companies which are not required under section 211 of the Companies Act to prepare their profit and loss account in accordance with the Schedule VI of the Companies Act, 1956, profit and loss account prepared in accordance with the provisions of their regulatory Acts shall be taken as a basis for computing the book profit under section 115JB.

II. It is noted that in certain cases, the amount standing in the revaluation reserve is taken directly to general reserve on disposal of a revalued asset. Thus, the gains attributable to revaluation of the asset is not subject to MAT liability.

It is, therefore, proposed to amend section 115JB to provide that the book profit for the purpose of section 115JB shall be increased by the amount standing in the revaluation reserve relating to the revalued asset which has been retired or disposed, if the same is not credited to the profit and loss account.

III. It is also proposed to omit the reference of Part III of the Schedule VI of the Companies Act, 1956 from section 115JB in view of omission of Part III in the revised Schedule VI under the Companies Act, 1956.

Measures to Prevent Generation and Circulation of Unaccounted Money

Cash credits under section 68 of the Act [Section 68] [W.e.f. A.Y. 2013-14]

It is proposed to amend section 68 of the Act to provide that the nature and source of any sum credited, as share capital, share premium etc., in the books of a closely held company shall be treated as explained only if the source of funds is also explained by the assessee company in the hands of the resident shareholder. However, even in the case of closely held companies, it is proposed that this additional onus of satisfactorily explaining the source in the hands of the shareholder, would not apply if the shareholder is a well regulated entity, i.e. a Venture Capital Fund, Venture Capital Company registered with the Securities Exchange Board of India (SEBI).

Taxation of cash credits, unexplained money, investments etc. [Section 68, 69, 69A, 69B, 69C, & 69D] [W.e.f. A.Y. 2013-14]

In order to curb the practice of laundering of unaccounted money by taking advantage of basic exemption limit, it is proposed to tax the unexplained credits, money, investment, expenditure, etc., which has been deemed as income under section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of 30% (plus surcharge and cess as applicable). It is also proposed to provide that no deduction in respect of any expenditure or allowance shall be allowed to the assessee under any provision of the Act in computing deemed income under the said sections.

Compulsory filing of income tax return in relation to assets located outside India [Section 139] [W.r.e.f. A.Y. 2012-13]

It is proposed to amend the provisions of section 139 so that furnishing of return of income under section 139 may be made mandatory for every resident having any asset (including financial interest in any entity) located outside India or signing authority in any account located outside India. Furnishing of return by such a resident would be mandatory irrespective of the fact whether the resident taxpayer has taxable income or not.

Reassessment of income in relation to any asset located outside India [Section 149] [W.e.f. 1.7.2012]

Under the provisions of section 149 of the Income-tax Act, the time limit for issue of notice for reopening an assessment on account of income escaping assessment is 6 years. The time limit of 6 years is not sufficient in cases where assets are located outside India because gathering information regarding such assets takes much more time on account of additional procedures and laws of foreign jurisdictions.

It is proposed to amend the provisions of section 149 so as to increase the time limit for issue of notice for reopening an assessment to 16 years, where the income in relation to any asset (including financial interest in any entity) located outside India, chargeable to tax, has escaped assessment.

Amendments are also proposed to be made in section 147 of the Income-tax Act to provide that income shall be deemed to have escaped assessment where a person is found to have any asset (including financial interest in any entity) located outside India.

The provisions of sections 147 and 149 are procedural in nature and will take effect from 1st July, 2012 for enabling reopening of proceedings for any assessment year commencing prior to this date. This is proposed to be clarified through an Explanation stating that the provisions of these sections, as amended, by the Finance Act, 2012, shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

Corresponding amendments are also proposed to be made to the provisions of section 17 of the Wealth-tax Act.

Penalty on undisclosed income found during the course of search [Section 271AAA & 271AAB] [W.e.f. 1.7.2012]

In order to strengthen the penal provisions, it is proposed to provide that the provisions of section 271AAA will not be applicable for searches conducted on or after 1st July, 2012. It is also proposed to insert a new provision in the Act (section 271AAB) for levy of penalty in a case where search has been initiated on or after 1st July, 2012. The new section provides that,—

(i) If undisclosed income is admitted during the course of search, the taxpayer will be liable for penalty at the rate of 10% of undisclosed income subject to the fulfillment of certain conditions.

(ii) If undisclosed income is not admitted during the course of search but disclosed in the return of income filed after the search, the taxpayer will be liable for penalty at the rate of 20% of undisclosed income subject to the fulfillment of certain conditions.

(iii) In a case not covered under (i) and (ii) above, the taxpayer will be liable for penalty at the rate ranging from 30% to 90% of undisclosed income.

Expediting prosecution proceedings under the Act [Section 280A to 280D] [W.e.f. 1.7.2012]

It is proposed to strengthen the prosecution mechanism (through new sections 280A, 280B, 280C and 280D) under the Income-tax Act by—

(i) Providing for constitution of Special Courts for trial of offences.

(ii) Application of summons trial for offences under the Act to expedite prosecution proceedings as the procedures in a summons trial are simpler and less time consuming.

(iii) Providing for appointment of public prosecutors.

The existing provisions of section 276C, 276CC, 277, 277A and section 278 of the Income-tax Act provide that in a case where the amount of tax, penalty or interest which would have been evaded by a person exceeds ₹1,00,000, he shall be punishable with rigorous imprisonment for a term which shall not be less than six months but which may extend to seven years and with fine.

In case the amount which would have been evaded by a person does not exceed ₹1,00,000, he shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to three years and with fine.

The threshold of ₹1,00,000 was introduced in 1976. It is proposed to be amended so that the revised threshold will be ₹25,00,000.

Summons trials apply to offences where the maximum term of imprisonment does not exceed two years. It is, therefore, proposed that where the amount which would have been evaded does not exceed ₹25,00,000, the person shall be punishable with rigorous imprisonment for a term which shall not be less than three months but which may extend to two years and with fine.

Amendments relating to Taxation of Non-Residents

Taxation of a non-resident entertainer, sports person etc. [Section 115BBA] [W.e.f. A.Y. 2013-14]

It is proposed to amend section 115BBA to provide that income arising to a non-citizen, non-resident entertainer (such as theatre, radio or television artists and musicians) from performance in India shall be taxable at the rate of 20% of gross receipts. It is also proposed to increase the taxation rate, in case of non-citizen, non-resident sportsmen and non-resident sports association, from 10% to 20% of the gross receipts.

Consequential amendment is proposed in section 194E to provide for withholding of tax at the rate of 20% from income payable to non-resident, non-citizen, entertainer, or sportsmen or sports association or institution. This amendment will take effect from 1st July, 2012.

Tax incentive for funding of certain Infrastructure Sectors [Section 115A] [W.e.f. A.Y. 2013-14]

It is proposed to amend Section 115A of the Income Tax Act to provide that any interest paid by a specified company to a non-resident in respect of borrowing made in foreign currency from sources outside India between 1st July, 2012 and 1st July, 2015, under an agreement, including rate of the interest payable, approved by the Central Government, shall be taxable at the rate of 5% (plus applicable surcharge and cess).

The specified company shall be an Indian company engaged in the business of—

(i) construction of dam,

(ii) operation of Aircraft,

(iii) manufacture or production of fertilizers,

(iv) construction of port including inland port,

(v) construction of road, toll road or bridge;

(vi) generation, distribution of transmission of power

(vii) construction of ships in a shipyard; or

(viii) developing and building an affordable housing project as is presently referred to in section 35AD(8)(c)(vii).

It is further proposed to insert a new section 194LC to provide that interest income paid by such specified company to a nonresident shall be subjected to tax deduction at source at the rate of 5% (plus applicable surcharge and cess). This amendment will take effect from 1st July, 2012.

Lower rate of tax on dividends received from foreign companies [Section 115BBD] [W.e.f. A.Y. 2013-14]

In order to continue these provisions for one more year, it is proposed to amend section 115BBD to extend the applicability of this section in respect of income by way of certain foreign dividends received in Financial Year 2012-13 also, subject to the same conditions.

Rationalization of International Taxation Provisions

Income deemed to accrue or arise in India [Section 9 and 195] [W.r.e.f. A.Y. 1962-63]

Certain judicial pronouncements have created doubts about the scope and purpose of sections 9 and 195. Further, there are certain issues in respect of income deemed to accrue or arise where there are conflicting decisions of various judicial authorities.

Therefore, there is a need to provide clarificatory retrospective amendment to restate the legislative intent in respect of scope and applicability of section 9 and 195 and also to make other clarificatory amendments for providing certainty in law.

I. It is, therefore, proposed to amend the Income Tax Act in the following manner:—

(i) Amend section 9(1)(i) to clarify that the expression 'through' shall mean and include and shall be deemed to have always meant and included "by means of", "in consequence of" or "by reason of".

(ii) Amend section 9(1)(i) to clarify that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

(iii) Amend section 2(14) to clarify that 'property' includes and shall be deemed to have always included any rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever.

(iv) Amend section 2(47) to clarify that 'transfer' includes and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner whatsoever, directly or indirectly, absolutely or conditionally, voluntarily or involuntarily by way of an agreement (whether entered into in India or outside India) or otherwise, notwithstanding that such transfer of rights has been characterized as being effected or dependent upon or flowing from the transfer of a share or shares of a company registered or incorporated outside India.

(v) Amend section 195(1) to clarify that obligation to comply with sub-section (1) and to make deduction thereunder applies and shall be deemed to have always applied and extends and shall be deemed to have always extended to all persons, resident or non-resident, whether or not the non-resident has:—

(a) a residence or place of business or business connection in India; or

(b) any other presence in any manner whatsoever in India.

These amendments will take effect retrospectively from 1st April, 1962 and will accordingly apply in relation to the assessment year 1962-63 and subsequent assessment years.

II. Clarification regarding royalty [Section 9(1)(vi) [W.r.e.f. A.Y. 1997-98]

Considering the conflicting decisions of various courts in respect of income in nature of royalty and to restate the legislative intent, it is further proposed to amend the Income Tax Act in following manner:

(i) To amend section 9(1)(vi) to clarify that the consideration for use or right to use of computer software is royalty by clarifying that transfer of all or any rights in respect of any right, property or information as mentioned in Explanation 2, includes and has always included transfer of all or any right for use or right to use a computer software (including granting of a licence) irrespective of the medium through which such right is transferred.

(ii) To amend section 9(1)(vi) to clarify that royalty includes and has always included consideration in respect of any right, property or information, whether or not:

(a) the possession or control of such right, property or information is with the payer;

(b) such right, property or information is used directly by the payer;

(c) the location of such right, property or information is in India.

(iii) To amend section 9(1)(vi) to clarify that the term "process" includes and shall be deemed to have always included transmission by satellite (including up-linking, amplification, conversion for down-linking of any signal), cable, optic fibre or by any other similar technology, whether or not such process is secret.

These amendments will take effect retrospectively from 1st June, 1976 and will accordingly apply in relation to the assessment year 1977-78 and subsequent assessment years.

III. Agent of non-resident [Section 149] [W.e.f. 1.7.2012]

Consequential amendments are proposed in section 149, to extend time limit for issue of notice in case of a person who is treated as agent of a non-resident, the time limit presently prescribed of two years be extended to six years. It is also clarified that these provisions being of procedural nature shall also be applicable for any assessment year beginning on or before the 1st day of April, 2012.

IV. It is also proposed to amend section 195 to provide that the Board may, by notification in the Official Gazette, specify a class of persons or cases, where the person responsible for paying to a non-resident, not being a company, or to a foreign company, any sum, whether or not chargeable under the provisions of this Act, shall make an application to the Assessing Officer to determine, by general or special order, the appropriate proportion of sum chargeable, and upon such determination, tax shall be deducted under sub-section (1) on that proportion of the sum which is so chargeable.

This amendment shall take effect from 1st July, 2012.

V. **Validation clause**: It is proposed to provide for validation of demands raised under the Income-tax Act in certain cases in respect of income accruing or arising, through or from transfer of a capital asset situate in India, in consequence of the transfer of a share or shares of a company registered or incorporated outside India or in consequence of agreement or otherwise outside India. It is proposed to provide through this validation clause that any notice sent or purporting to have been sent, taxes levied, demanded, assessed, imposed or collected or recovered during any period prior to coming into force of the validating clause shall be deemed to have been validly made and such notice or levy of tax shall not be called in question on the ground that the tax was not chargeable or any ground including that it is a tax on capital gains arising out of transactions which have taken place outside India. The validating clause shall operate notwithstanding anything contained in any judgment, decree or order of any Court or Tribunal or any Authority.

This validation shall take effect from coming into force of the Finance Act, 2012.

Meaning assigned to a term used in Double Taxation Avoidance Agreement (DTAA) [Section 90] [W.r.e.f. 1.6.2006]

It is proposed to amend Section 90 of the Act to provide that any meaning assigned through notification to a term used in an agreement but not defined in the Act or agreement, shall be effective from the date of coming into force of the agreement. It is also proposed to make similar amendment in Section 90A of the Act.

Tax Residence Certificate (TRC) for claiming relief under DTAA [Section 90] [W.e.f. A.Y. 2013-14]

It is noticed that in many instances the taxpayers who are not tax resident of a contracting country do claim benefit under the DTAA entered into by the Government with that country. Thereby, even third party residents claim unintended treaty benefits.

Therefore, it is proposed to amend Section 90 and Section 90A of the Act to make submission of Tax Residency Certificate containing prescribed particulars, as a necessary but not sufficient condition for availing benefits of the agreements referred to in these Sections.

Extension of time limit for completion of assessment or reassessment where information is sought under a DTAA [Section 153 & 153B] [W.e.f. 1.7.2012]

The time limit for completion of an assessment or reassessment has been provided in the provisions of section 153 and 153B of the Income-tax Act. These provisions were amended vide Finance Act, 2011 to exclude the time taken in obtaining information (form foreign tax authorities) from the time prescribed for completion of assessment or reassessment in the case of an assessee. This time period to be excluded would start from the date on which the process of getting information is initiated by making a reference by the competent authority in India to the foreign tax authorities and end with the date on which information is received by the Commissioner. Currently, this period of exclusion is limited to six months.

Foreign inquiries generally by nature take longer time for obtaining information. It is, therefore, proposed that this time limit of six months be extended to one year.

Rationalization of Transfer Pricing Provisions

Advance Pricing Agreement (APA) [Section 92CC & 92CD] [W.e.f. 1.7.2012]

Advance Pricing Agreement is an agreement between a taxpayer and a taxing authority on an appropriate transfer pricing methodology for a set of transactions over a fixed period of time in future. The APAs offer better assurance on transfer pricing methods and are conducive in providing certainty and unanimity of approach.

It is proposed to insert new sections 92CC and 92CD in the Act to provide a framework for advance pricing agreement under the Act. The proposed sections provide the following.—

1. It empowers Board, to enter into an advance pricing agreement with any person undertaking an international transaction.
2. Such APAs shall include determination of the arm's length price or specify the manner in which arm's length price shall be determined, in relation to an international transaction which the person undertake.
3. The manner of determination of arm's length price in such cases shall be any method including those provided in subsection (1) of section 92C, with necessary adjustments or variations.
4. The arm's length price of any international transaction, which is covered under such APA, shall be determined in accordance with the APA so entered and the provisions of section 92C or section 92CA which normally apply for determination of arm's length price would be modified to this extent and arm's length price shall be determined in accordance with APA.
5. The APA shall be valid for such previous years as specified in the agreement which in no case shall exceed five consecutive previous years.
6. The APA shall be binding only on the person and the Commissioner (including income-tax authorities subordinate to him) in respect of the transaction in relation to which the agreement has been entered into. The APA shall not be binding if there is any change in law or facts having bearing on such APA.
7. The Board is empowered to declare, with the approval of Central Government, any such agreement to be void ab initio, if it finds that the agreement has been obtained by the person by fraud or misrepresentation of facts. Once an agreement is declared void ab-initio, all the provisions of the Act shall apply to the person as if such APA had never been entered into.
8. For the purpose of computing any period of limitation under the Act, the period beginning with the date of such APA and ending on the date of order declaring the agreement void ab-initio shall be excluded. However if after the exclusion of the aforesaid period, the period of limitation referred to in any provision of the Act is less than sixty days, such remaining period shall be extended to sixty days.

9. The Board is empowered to prescribe a Scheme providing for the manner, form, procedure and any other matter generally in respect of the advance pricing agreement.
10. Where an application is made by a person for entering into such an APA, proceedings shall be deemed to be pending in the case of the person for the purposes of the Act like for making enquiries under section 133(6) of the Act.
11. The person entering in to such APA shall necessarily have to furnish a modified return within a period of three months from the end of the month in which the said APA was entered in respect of the return of income already filed for a previous year to which the APA applies. The modified return has to reflect modification to the income only in respect of the issues arising from the APA and in accordance with it.
12. Where the assessment or reassessment proceedings for an assessment year relevant to the previous year to which the agreement applies are pending on the date of filing of modified return, the Assessing Officer shall proceed to complete the assessment or reassessment proceedings in accordance with the agreement taking into consideration the modified return so filed and normal period of limitation of completion of proceedings shall be extended by one year.
13. If the assessment or reassessment proceedings for an assessment year relevant to a previous year to which the agreement applies has been completed before the expiry of period allowed for furnishing of modified return ,the Assessing Officer shall, in a case where modified return is filed, proceed to assess or reassess or recompute the total income of the relevant assessment year having regard to and in accordance with the APA and to such assessment, all the provisions relating to assessment shall apply as if the modified return is a return furnished under section 139 of the Act. The period of limitation for completion of such assessment or reassessment is one year from the end of the financial year in which the modified return is furnished.
14. All the other provisions of this Act shall apply accordingly as if the modified return is a return furnished under section 139.

Examination by the Transfer Pricing Officer of international transactions not reported by the Assessee [Section 92CA] [W.r.e.f. 1.6.2002]

It is proposed to amend the section 92CA of the Act retrospectively to empower Transfer Pricing Officer (TPO) to determine Arm's Length Price of an international transaction noticed by him in the course of proceedings before him, even if the said transaction was not referred to him by the Assessing Officer, provided that such international transaction was not reported by the taxpayer as per the requirement cast upon him under section 92E of the Act.

It is also proposed to provide an explanation to effect that due to retrospectivity of the amendment no reopening of any proceeding would be undertaken only on account of such an amendment. This amendment will take effect from 1st July, 2012.

Transfer Pricing Regulations to apply to certain domestic transactions [Section 40A, 10AA & Chapter VI-A] [W.e.f. A.Y. 2013-14]

It is proposed to amend the Act to provide applicability of transfer pricing regulations (including procedural and penalty provisions) to transactions between related resident parties for the purposes of computation of income, disallowance of expenses etc. as required under provisions of sections 40A, 80-IA, 10AA, 80A, sections where reference is made to section 80-IA, or to transactions as may be prescribed by the Board, if aggregate amount of all such domestic transactions exceeds ₹5 crore in a year. It is further proposed to amend the meaning of related persons as provided in section 40A to include companies having the same holding company.

Determination of Arm's Length Price (ALP) [Section 92C] [W.r.e.f. A.Y. 2002-03]

It is proposed to amend the Income Tax Act to provide clarity with retrospective effect in respect of first proviso to section 92C(2) as it stood before its substitution by Finance Act (No.2), 2009 so that the tolerance band of 5% is not taken to be a standard deduction while computing Arm's Length Price and to ensure that due to such retrospective amendment already completed assessments or proceedings are not reopened only on this ground.

It is also proposed to amend the Income Tax Act w.r.e.f. 1.10.2009 to provide clarity that second proviso to section 92C shall also be applicable to all proceedings which were pending as on 01.10.2009. [The date of coming in force of second proviso inserted by Finance (No.2) Act, 2009].

Filing of return of income, definition of international transaction, tolerance band for ALP, penalties and reassessment in transfer pricing cases [Section 139] [W.r.e.f. A.Y. 2012-13]

It is proposed to amend Section 139 of the Act, to provide that in case of all assesses who are required to obtain and file Transfer Pricing report as per Section 92E of the Act, the due date would be 30th November of the assessment year.

It is further proposed to amend section 92B of the Act, w.r.e.f. A.Y. 2002-03 to provide for the explanation to clarify meaning of international transaction and to clarify the term intangible property used in the definition of international transaction and to clarify that the 'international transaction' shall include a transaction of business restructuring or reorganisation, entered into by an enterprise with an associated enterprise, irrespective of the fact that it has bearing on the profit, income, losses or assets or such enterprises at the time of the transaction or at any future date.

It is also proposed to amend Section 92C (2) of the Act, w. e.f. A.Y. 2013-14 so as to provide an upper ceiling of 3% in respect of power of Central Government to notify the tolerance range for determination of arms length price.

It is proposed to amend Section 271AA w.e.f. 1.7.2012 to provide levy of a penalty at the rate of 2% of the value of the international transaction, if the taxpayer.—

(i) fails to maintain prescribed documents or information or;

(ii) fails to report any international transaction which is required to be reported, or;

(iii) maintains or furnishes any incorrect information or documents.

This penalty would be in addition to penalties in section 271BA and 271G.

It is proposed to amend Section 147 of the Act, w.e.f. 1.7.2012 to provide that in all cases where it is found that an international transaction has not been reported either by non-filing of report or otherwise by not including such transaction in the report mentioned in section 92E then such non-reporting would be considered as a case of deemed escapement of income and such a case can be reopened under section 147 of the Act.

Appeal against the directions of the Dispute Resolution Panel (DRP) [Section 253 & 254] [W.e.f. 1.7.2012]

As the directions given by the DRP are binding on the Assessing Officer, it is accordingly proposed to provide that the Assessing Officer may also file an appeal before the ITAT against an order passed in pursuance of directions of the DRP.

It is therefore proposed to amend the provisions of section 253 and section 254 of the Income-tax Act to provide for filing of appeal by the Assessing Officer against an order passed in pursuance of directions of the DRP in respect of an objection filed on or after 1st July, 2012.

Power of the DRP to enhance variations [Section 144C] [W.r.e.f. A.Y. 2009-10]

It is proposed to insert an Explanation in the provisions of section 144C to clarify that the power of the DRP to enhance the variation shall include and shall always be deemed to have included the power to consider any matter arising out of the assessment proceedings relating to the draft assessment order. This power to consider any issue would be irrespective of the fact whether such matter was raised by the eligible assessee or not.

Completion of assessment in search cases referred to DRP [Section 144C & 153B] [W.r.e.f. 1.10.2009]

Under the provisions of section 144C of the Income-tax Act where an eligible assessee files an objection against the draft assessment order before the Dispute Resolution Panel (DRP), then, the time limit for completion of assessments are as provided in section 144C notwithstanding anything in section 153. A similar provision is proposed to be made where assessments are framed as a result of search and seizure to provide that for such assessments, time limit specified in section 144C will apply, notwithstanding anything in section 153B.

It is also proposed to provide for exclusion of such orders passed by the Assessing Officer in pursuance of the directions of the DRP, from the appellate jurisdiction of the Commissioner (Appeals) and to provide for filing of appeals directly to ITAT against such orders. Accordingly, consequential amendments are proposed to be made in the provisions of section 246A and 253 of the Income-tax Act.

General Anti-Avoidance Rule (GAAR)

It is proposed to provide General Anti Avoidance Rule in the Income Tax Act to deal with aggressive tax planning. A   The main feature of such a regime are—

(i) An arrangement whose main purpose or one of the main purposes is to obtain a tax benefit and which also satisfies at least one of the four tests, can be declared as an "impermissible avoidance arrangements".

(ii) The four tests referred to in (i) are—

(a) The arrangement creates rights and obligations, which are not normally created between parties dealing at arm's length.

(b) It results in misuse or abuse of provisions of tax laws.

(c) It lacks commercial substance or is deemed to lack commercial substance.

(d) Is carried out in a manner, which is normally not employed for bona fide purpose.

(iii) It shall be presumed that obtaining of tax benefit is the main purpose of an arrangement unless otherwise proved by the taxpayer.

(iv) An arrangement will be deemed to lack commercial substance if—

(a) the substance or effect of the arrangement as a whole, is inconsistent with, or differs significantly from, the form of its individual steps or a part; or

(b) it involves or includes—

(i) round trip financing;

(ii) an accommodating party ;

(iii) elements that have effect of offsetting or cancelling each other; or

(iv) a transaction which is conducted through one or more persons and disguises the value, location, source, ownership or control of fund which is subject matter of such transaction; or

(c) it involves the location of an asset or of a transaction or of the place of residence of any party which would not have been so located for any substantial commercial purpose other than obtaining tax benefit for a party.

(v) It is also provided that certain circumstances like period of existence of arrangement, taxes arising from arrangement, exit route, shall not be taken into account while determining 'lack of commercial substance' test for an arrangement.

(vi) Once the arrangement is held to be an impermissible avoidance arrangement then the consequences of the arrangement in relation to tax or benefit under a tax treaty can be determined by keeping in view the circumstances of the case, however, some of the illustrative steps are:-

(a) disregarding or combining any step of the arrangement.

(b) ignoring the arrangement for the purpose of taxation law.

(c) disregarding or combining any party to the arrangement.

(d) reallocating expenses and income between the parties to the arrangement.

(e) relocating place of residence of a party, or location of a transaction or situs of an asset to a place other than provided in the arrangement.

(f) considering or looking through the arrangement by disregarding any corporate structure.

(g) re-characterizing equity into debt, capital into revenue etc.

(vii) These provisions can be used in addition to or in conjunction with other anti avoidance provisions or provisions for determination of tax liability, which are provided in the taxation law.

(viii) For effective application in cross border transaction and to prevent treaty abuse a limited treaty override is also provided. B. The procedure for invoking GAAR is proposed as under:—

(i) It is proposed that the Assessing Officer shall make a reference to the Commissioner for invoking GAAR and on receipt of reference the Commissioner shall hear the taxpayer and if he is not satisfied by the reply of taxpayer and is of the opinion that GAAR provisions are to be invoked, he shall refer the matter to an Approving Panel. In case the assessee does not object or reply, the Commissioner shall make determination as to whether the arrangement is an impermissible avoidance arrangement or not.

(ii) The Approving Panel has to dispose of the reference within a period of six months from the end of the month in which the reference was received from the Commissioner

(iii) The Approving Panel shall either declare an arrangement to be impermissible or declare it not to be so after examining material and getting further inquiry to be made.

(iv) The Assessing Officer (AO) will determine consequences of such a positive declaration of arrangement as impermissible avoidance arrangement.

(v) The final order in case any consequence of GAAR is determined shall be passed by AO only after approval by Commissioner and, thereafter, first appeal against such order shall lie to the Appellate Tribunal.

(vi) The period taken by the proceedings before Commissioner and Approving Panel shall be excluded from time limitation for completion of assessment.

(vii) The Approving Panel shall be set up by the Board and would comprise of officers of rank of Commissioner and above. The panel will have a minimum of three members. The procedure and working of Panel shall be administered through subordinate legislation.

In addition to the above, it is provided that the Board shall prescribe a scheme for regulating the condition and manner of application of these provisions.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

Other Amendments

Related person for the purpose of making an application before Settlement Commission [Section 245C] [W.e.f. 1.7.2012]

It is proposed to amend the provisions of section 245C of the Income-tax Act so as to provide that a person shall be deemed to have a substantial interest in a business or profession if such person is a beneficial owner of not less than 20% of shares or of 20% share in profits on the date of search.

Fee for filing of applications before Authority for Advance Rulings (AAR) [Section 245Q] [W.e.f. 1.7.2012]

It is proposed to amend the provisions of section 245Q so as to provide for increase in the fee for filing an application for advance ruling from Rs.2500 to Rs.10,000 or such fee as may be prescribed, whichever is higher.

Definition of Commissioner to include Director [Section 2] [W.r.e.f. A.Y. 1988-89]

It is proposed to amend the provisions of section 2 to include a Director of Income-tax appointed under sub-section (1) of section 117 within the definition of a Commissioner.

Reduction in the rate of Securities Transaction Tax (STT)

It is proposed to reduce STT in Cash Delivery segment from the existing 0.125% to 0.1%. The proposed new rates along with details of old rates are given in the following table.

TABLE

Sl. No.	Nature of taxable securities transaction	Payable by	Existing Rates %	Proposed rates%
(1)	(2)	(3)	(4)	(5)
1.	Delivery based purchase of equity shares in a company/ units of an equity oriented fund entered into through a recognised stock exchange in India.	Purchaser	0.125	0.1
2.	Delivery based sale of equity shares in a company / units of an equity oriented fund entered into through a recognised stock exchange in India.	Seller	0.125	0.1

The proposed amendments in the rates of Securities Transaction Tax (STT) will be effective from the 1st day of July, 2012 and will accordingly apply to any transaction made on or after that date.

Provisions relating to Venture Capital Fund (VCF) or Venture Capital Company (VCC) [Section 10(23FB) & Section 115U] [W.e.f. A.Y. 2013-14]

The provisions of section 115U currently allow an opportunity of indefinite deferral of taxation in the hands of investor. With a view to rationalize the above position and to align it with the true intent of a pass-through status, it is proposed to amend section 10(23FB) and section 115U to provide that—

(i) The venture Capital undertaking shall have same meaning as provided in relevant SEBI regulations and there would be no sectoral restriction.

(ii) Income accruing to VCF/ VCC shall be taxable in the hands of investor on accrual basis with no deferral.

(iii) The exemption from applicability of TDS provisions on income credited or paid by VCF/ VCC to investors shall be withdrawn.

Removal of the cascading effect of Dividend Distribution Tax (DDT) [Section 115-O] [W.e.f. 1.7.2012]

With a view to remove the cascading effect of DDT in multi-tier corporate structure, it is proposed to amend Section 115-O of the Act to provide that in case any company receives, during the year, any dividend from any subsidiary and such subsidiary has paid DDT as payable on such dividend, then, dividend distributed by the holding company in the same year, to that extent, shall not be subject to Dividend Distribution Tax under section 115-O of the Act.

Daily tonnage income of shipping company [Section 115VG] [W.e.f. 2013-14]

It is proposed to amend section 115VG to revise the rate of daily tonnage income under this scheme as under:

Qualifying ship having net tonnage	Existing amount of daily tonnage income	Proposed amount of daily tonnage income
(1)	**(2)**	**(3)**
Up to 1,000	Rs.46 for each 100 tons	Rs.70 for each 100 tons
exceeding 1,000 but not more than 10,000	Rs.460 plus Rs.35 for each 100 tons exceeding 1,000 tons	Rs.700 plus Rs.53 for each 100 tons exceeding 1,000 tons
exceeding 10,000 but not more than 25,000	Rs.3,610 plus Rs.28 for each 100 tons exceeding 10,000 tons	Rs.5,470 plus Rs.42 for each 100 tons exceeding 10,000 tons
exceeding 25,000	Rs.7,810 plus Rs.19 for each 100 tons exceeding 25,000 tons	Rs.11,770 plus Rs.29 for each 100 tons exceeding 25,000 tons

Amendments relating to Wealth Tax

Wealth Tax - Exemption of residential house allotted to employee etc. of a company [Section 2] [W.e.f. A.Y. 2013-14]

Under the existing provisions of section 2 of the Wealth-tax Act, the specified assets for the purpose of levy of wealth tax do not include a residential house allotted by a company to an employee or an officer or a whole time director if the gross annual salary of such employee or officer, etc. is less than ₹5,00,000.

Considering general increase in salary and inflation since revision of this limit, it is proposed to increase the existing threshold of gross salary from ₹5,00,000 to ₹10,00,000 for the purpose of levying wealth-tax on residential house allotted by a company to an employee or an officer or a whole time director.

Exemption from Wealth Tax - Reserve Bank of India [Section 45] [W.r.e.f. 1957-58]

In order to provide that the RBI is not liable to pay wealth-tax, it is proposed to amend section 45 of the Act to provide that wealth-tax shall not be levied on the net wealth of RBI.

CUSTOMS

CUSTOMS

Major amendments in the Customs Act, 1962:

(1) Clause (1) of section 2 is being amended to include air freight stations in the definition of “customs airport”., Clause (aa) of Section 7 is being amended to include “air-freight stations”.

(2) The provisions of the Customs Act enable recovery of duty not-levied, or short-levied by reason of collusion, or willful misstatementor suppression of facts by the importer or the exporter or the agent or employee of the importer or exporter.

(3) A new section 28AAA is being inserted to provide for recovery of duties, from the person to whom the instrument was issued without prejudice to any action that maybe taken against the importer.

(4) Section 28BA is being amended to make the provisions relating to provisional attachment of property applicable to the proposed Section 28AAA.

(5) Section 47 is being amended to insert a new proviso therein to provide that the Central Government may, by notification in the official gazette, specify the class or classes of importers who shall pay customs duty electronically.

(6) Sections 28AA and 28AB of the Customs Act were merged through the provisions of the Finance Act, 2011. Section 75A is being amended to substitute the reference to section 28AB with section 28AA. The amendment is also being given retrospective effect from 08.04.2011.

(7) Section 104 is being amended to provide that notwithstanding anything contained in the Code of Criminal Procedure,1973, all offences under the Act (except an offence punishable with term of imprisonment of three years or more under section 135) shall be non-cognizable and bailable. It also provides that all offences punishable with a term of imprisonment of three years or more under section 135 shall be cognizable.

(8) Section 153 is being amended to bring ‘courier services’ within its ambit for the purpose of serving any order/decision/summons/notice by the Commissioner.

(9) Exemption from additional duty is being provided retrospectively to "foreign going vessels" for the period from 1st March,2011 to 16th March, 2012.

Amendments In Customs Tariff Act, 1975:

(1) Section 8C empowers the Central Government to levy safeguard duty on imports from Peoples' Republic of China. It isbeing amended to provide that such duty may continue if the Central Government is of the opinion that such articles orgoods continue to be imported into India so as to cause or threaten to cause market disruption to domestic industry even though the latter has taken measures to adjust to such disruption. The amendment would align the provisions of the section with the Transitional Product Specific Safeguard Mechanism under Chinese Accession Protocol signed with WTOin 2001.

(2) The First schedule to the Customs Tariff Act is being amended to,—

(i) revise the length of the lowest slab of both filter and non-filter cigarettes of length not exceeding 60 millimetres or exceeding 60 millimetres to length exceeding 65 millimetres or not exceeding 65 millimetres respectively.

(ii) revise the description of tariff items 2601 11 10 to 2601 11 90 dealing with iron ore and concentrates based on Fecontent.

(iii) insert Note 13 in Chapter 48 to provide that notwithstanding anything contained in Note 12, if the paper and paperproducts of heading 4811, 4816 or 4820 are printed with any character, name, logo, motif or format they shall remain classified under Chapter 48 as long as such products are intended to be used for further printing. This would prevent classification disputes.

(iv) align the entries relating to copper scrap, brass scrap, nickel scrap, aluminium scrap, lead scrap and zinc scrap with the revised ISRI classification.

(v) enhance the rate of basic customs duty on bicycles from 10% to 30% and on parts of bicycles from 10% to 20%.

(3) The Second Schedule to the Customs Tariff Act is being amended to enhance the rate of export duty on chromium ore from Rs. 3000 per tonne to 30% ad valorem.

The changes at para 2)(v) and 3) will come into effect immediately owing to a declaration under the Provisional Collectionof Taxes Act, 1931.

Other Changes

1. The duty-free allowance under the Baggage Rules is being increased from Rs.25000 to Rs.35000 for adult passengers of Indian origin and from Rs.10,000 to Rs. 15,000 for children upto 10 years of age.

2. Basic customs duty on sugarcane planter, root or tuber crop harvesting machine and rotary tiller &weeder, parts & components for their manufacture is being reduced from 7.5% to 2.5%.

3. Basic customs duty is being reduced on specified soluble fertilizers and liquid fertilizers, other than urea, from 7.5% to 5% and from 5% to 2.5% respectively.

4. Basic customs duty on Completely Built Units (CBUs) of large cars/ MUVs/ SUVs permitted for import without type approval (value exceeding US$40,000 and engine capacity exceeding 3000cc for petrol and 2500cc for diesel) is being increased from 60% to 75%.

5. Basic customs duty on coating material for manufacture of electrical steel is being reduced from 10% to 5% subject to actual user condition.

6. Basic customs duty on flat rolled products (HR and CR) of non-alloy steel is being increased from 5% to 7.5%.

7. Basic customs duty on standard gold bars and platinum bars is being increased from 2% to 4%.Basic customs duty on non-standard gold is being increased from 5% to 10%.Basic customs duty on gold ore/concentrate and dore bars for refining is being increased from 1% to 2%.

8. Basic customs duty on capital goods, plant and equipment imported for setting up or substantial expansion of iron ore pellet plants or iron ore beneficiation plants is being reduced from 7.5% to 2.5%.

9. Full exemption from basic customs duty is being provided to initial setting up and substantial expansion of fertilizer projects. The exemption would be valid till 31.03.2015.

10. Natural gas/Liquified Natural Gas imported for power generation by a power generation company is being fully exempted from basic customs duty.

11. Full exemption from basic customs duty, CVD and SAD is being extended to equipment imported for road construction projects awarded by Metropolitan Development Authorities.

12. Full exemption from basic customs duty and CVD is being provided to new and retreaded aircraft tyres.

13. Equipments for setting up of solar thermal projects are being fully exempted from SAD.

14. Basic customs duty is being reduced from 5% to 2.5% on iodine.

15. Customs duty on six specified life saving drugs/vaccines and their bulk drugs is being reduced from 10% to 5% with Nil CVD (by way of excise duty exemption).

16. A concessional import duty regime of 2.5% basic customs duty with 6% CVD and Nil SAD is being prescribed for specifiedraw materials for the manufacture of syringes, needles, catheters, cannulae subject to actual user condition.

17. A concessional import duty regime of 2.5% basic customs duty with 6% CVD and Nil SAD is also being extended to parts and components for the manufacture of blood pressure monitors and blood glucose monitoring systems (Gluco-meters).

18. Basic customs duty on shuttleless looms, alongwith parts and components for their manufacture, is being reduced from 5% to Nil. The exemption would apply only to new machinery.

19. Full exemption from basic customs duty is being provided to LCD and LED TV panels of 20 inches and above.

20. LEDs required for the manufacture of LED lamps are also being exempted from SAD
21. Basic customs duty is being reduced from 10% to 5% on Marine seawater pumps with fibre impellers and Automatic fish/ prawn feeders for aquaculture.
22. Waste paper is being fully exempted from basic customs duty.
23. A basic customs duty of 10% is being imposed on Digital Still Cameras of certain specifications.

CENTRAL EXCISE

CENTRAL EXCISE

Amendments In Central Excise Act, 1944:

(1) Section 4 deals with the determination of value of excisable goods chargeable to duty on ad valorem basis. It is being amended to incorporate the definition of “inter-connected undertakings” contained in Monopolies and Restrictive Trade Practices Act, 1969 as the latter has been repealed.

(2) Section 9 provides that cases of evasion in which the duty leviable exceeds ₹1,00,000 shall be punishable with a term of imprisonment extending to seven years and with fine. The section is being amended to substitute this amount with ₹30,00,000.

(3) Section 9A is being amended to provide that all offences under the Act, except an offence punishable with imprisonment of three years or more under section 9, shall be non-cognizable.

(4) Section 11A is being amended to exclude the period of stay in computing the period of one year or five years, as the case may be, for issuance of show cause notice where service of notice is stayed by an order of a court or tribunal.

(5) Section 11AC provides for reduced penalty if the duty along with interest is paid within a 30 days of the communication of the order. It is being amended to make available the benefit of reduced penalty only if the reduced penalty is also paid within the specified period of thirty days.

(6) Section 12F relating to search and seizure is being amended to align the provisions with Customs Act.

(7) Section 13 dealing with the power to arrest is being substituted to align the provisions with Customs Act and also to provide that offences punishable with imprisonment of three years or more under section 9 shall be cognizable.

(8) Section 13A is being inserted to provide that bail in the case of offences punishable with a term of imprisonment of three years or more under section 9 shall not be granted by a Court or Magistrate without an opportunity being given to the Public Prosecutor to present his case. It also provides that in the case of minors, infirm and women the Magistrate may grant bail.

It also excludes the jurisdiction of police officers to initiate investigation of offences under the Central Excise Act, unless authorized in this behalf by the Central Government by a special or general order.

(9) Section 18 is being substituted to provide that save as provided under the Central Excise Act, searches shall be carried out as per the procedure laid down in the Code of Criminal Procedure.

(10) Section 19 dealing with disposal of persons arrested is being omitted as a consequential change.

(11) Section 20 is being amended to carry out consequential changes in view of omission of section 19.

(12) Notification No.1/2010-CE dated 6th February, 2010 provides exemption from Central Excise duty to goods cleared from new units or units that have undertaken substantial expansion in the State of Jammu and Kashmir. It is being amended retrospectively from the date of issue of the said notification to provide that for units undertaking substantial expansion in terms of the notification, the exemption period of ten years would be computed from the date of commercial production from the expanded capacity. This would clarify the policy intent.

(13) The Third Schedule of the Central Excise Act relating to the deeming of certain processes as amounting to "manufacture" is being amended to include cigarettes. Accordingly, the packing, or repacking in a unit container, labeling or relabeling of containers including the declaration or alteration of Retail Sale Price on it or adoption of any treatment to render cigarettes marketable shall be processes amounting to manufacture.

Changes at para 13) above would come into force immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

Amendments In Central Excise Tariff Act, 1985:

(1) The First Schedule to the Central Excise Tariff is being amended so as to,—

A. revise the statutory/tariff rates applicable to all excisable goods, that is, 12% for all non-petroleum goods other than exempted goods, goods attracting merit rate or higher duty rates. For petroleum goods, the ad valorem rate or ad valorem component (where the rates are mixed) is being revised to 14%

B. enhance the rate of excise duty from 5% to 6% on certain goods and from 22% to 24% and from "22%+ Rs.15000 per vehicle" to 27% on certain categories of automobiles. The composite rate applicable to automobile chassis is being converted into an ad valorem rate and is being fixed at 15% or 25%.

C. enhance the rate of excise duty on cigarettes (both filter and non-filter) of length exceeding 65 milimetres by adding an ad valorem rate of 10% to the existing specific rates of duty.

D. enhance the excise duty on cigars, cheroots and cigarillos to "12% or Rs.1370 per thousand, whichever is higher".

E. carry out the following changes:

 (i) omit the words "or polishing" in Note 6 of Chapter 25 so as to remove doubts about the correct classification of polished marble;

 (ii) revise the description of tariff items 2611 10 to 2611 90 covering iron ore and concentrates based on Fe content;

 (iii) insert a note in chapter 48 to provide that notwithstanding anything contained in Note 12, if the paper and paper products of heading 4811, 4816 or 4820 are printed with any character, name, logo, motif or format they shall remain classified under Chapter 48 as long as such products are intended to be used for further printing, to avoid classification disputes;

 (iv) insert a note in Chapter 71 to provide that for the purposes of headings 7113 and 7114, the process of affixing or embossing trade name or brand name on articles of jewellery or on articles of goldsmiths' or silversmiths' wares of precious metal or of metal clad with precious metal, shall amount to "manufacture";

 (v) insert a note in Chapter 72 to provide that the process of oiling and pickling in respect of goods of heading 7208shall amount to "manufacture";

 (vi) insert a note in Chapter 76 to provide that the process of cutting, slitting and printing of aluminium foils shall amount to "manufacture";

 (vii) insert a note in Chapter 85 to provide that the processes of matching, batching and charging of Lithium ion batteries or the making of battery packs shall amount to "manufacture";

 (viii) align the entries relating to copper scrap, brass scrap, nickel scrap, aluminium scrap, lead scrap and zinc scrap with the revised ISRI classification.

F. insert a note in chapter 54 to provide that notwithstanding anything contained in Note 1, man-made fibre such as polyester staple fibre and polyester filament yarn manufactured from plastic and plastic waste including waste polyethylene terephthalate bottles shall be classified as textile material under Chapter 54 or Chapter 55, as the case may be. This amendment is being carried out with retrospective effect from 29.06.2010. Duty in respect of clearances already made is to be recovered from the manufacturers of these goods within one month of the date of enactment of the Finance Bill, 2012 failing which interest at the rate of 24% is payable. Simultaneously, the manufacturers are being permitted to take into account credit of duty paid on inputs, input services and capital goods.

Changes involving increase in rates of duty would come into force immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

Miscellaneous

(1) The rate of cessleviable on indigenous petroleum crude oil under the Oil Industry (Development) Act, 1974 is being increased from Rs.2500 per metric tonne to Rs.4500 per metric tonne.

(2) The Seventh Schedule to the Finance Act, 2001 dealing with National Calamity Contingent Duty is being amended to incorporate the revision in length in certain duty slabs of cigarettes as a consequential change to amendments in the First Schedule to the Central Excise Tariff Act.

(3) The Seventh Schedule to the Finance Act, 2005 dealing with Additional Excise Duty (commonly known as the Health Cess)is being amended to incorporate the revision in length in certain duty slabs of cigarettes as a consequential change to amendments in the First Schedule to the Central Excise Tariff Act.

(4) Section 73 of the Finance Act, 2010 carried out retrospective amendments to certain provisions of the CENVAT Credit Rules so as to allow apportionment of credit on proportionate basis where common inputs or input services were used for the manufacture of exempted and dutiable goods. This section is being amended with retrospective effect to substitute the words “inputs” with “ inputs or input service” so that the benefit of proportional credit reversal also applies to common input services.

(5) Section 73 of the Finance Act, 2011 is being amended to replace the reference to “Central Excise Tariff Act, 1985” with “Central Excise Act,

1944". The amendment is also being given retrospective effect from 08.04.2011.

The changes at 1) above will come into effect immediately owing to a declaration under the Provisional Collection of Taxes Act, 1931.

Excise: Proposals Involving Changes In Rates of Duty

(1) The effective rate of excise duty of 10% on non-petroleum products is being increased to 12% with a few exceptions where exemptions/ concessions have been given.

(2) Concessional rate of excise duty of 5% on non-petroleum products is being increased to 6%.

(3) The lower rate of 1% on non-petroleum products is being increased to 2%. However, precious metal jewellery, coal and fertilizers would remain at 1%.

Sector Specific Proposals

Cement:

The excise duty structure on cement manufactured and cleared in packaged form is being rationalized. The graded RSP slabs for the purpose of charging of duty on cement manufactured and cleared in packaged form are being done away with. The rates on cement and cement clinkers are also being revised as under:

Description Revised rate of duty

1. cement manufactured and cleared in packaged form:—

   (a) from mini cement plants 6% ad valorem + Rs.120 per tonne

   (b) from other than mini cement plants 12% ad valorem + Rs.120 per tonne

2. Cement cleared other than in packaged form. 12% ad valorem

3. Cement Clinker 12% ad valorem Cement is also being notified under section 4A, that is, retail sale price (RSP) based assessment with an abatement of 30%from RSP.

II. Precious Metals:

At present, branded jewellery of precious metals attracts excise duty of 1%. The scope of the levy is extended to include unbranded jewellery within its ambit. However, the duty on such unbranded jewellery would be charged on 30% of transaction value declared in the invoice. Unbranded silver jewellery is already exempt. Branded silver jewellery is being exempted from excise duty. Excise duty on gold jewellery sold from EOUs into domestic tariff area (DTA) is being increased from 5% to 10%.Excise duty on refined gold is being increased from 1.5% to 3%.Excise duty on gold produced from copper smelting is being increased from 2% to 3%.Excise duty on silver produced from copper smelting is being reduced from 6% to 4%.Gold coins of purity 99.5% and above and silver coins of purity 99.9% and above are being fully exempted from excise duty.

III. Tobacco Products:

Cigarettes are being notified under section 4A for RSP based assessment with abatement of 50% from RSP. The basic excise duty on hand-rolled bidis is being increased from Rs.8 to Rs.10 per thousand and on machine-rolled bidis from Rs.19 to Rs.21 per thousand. The rates of duty per machine applicable to pan masala, guthka, chewing tobacco, zarda scented tobacco and unmanufacture tobacco under the compounded levy scheme are being increased.

IV. Mass Consumption Items:

(1) Refills and inks used for the manufacture of writing instruments of value not exceeding Rs.200 per piece are being fully exempted from excise duty subject to actual user condition.

(2) Exemption limit on footwear is being enhanced from Rs.250 per pair to Rs.500 per pair. Footwear above Rs.500 per pair would attract excise duty of 12%.

(3) Excise duty on iodine is being reduced from 10% to 6%.

V. Environment Friendly Goods:

Excise duty is being reduced from 10% to 6% on battery packs supplied to manufacturers of electric vehicles for use as spares and OEMs subject to end-use condition. Excise duty is being reduced from 10% to 6% on specific parts of Hybrid vehicles supplied to manufacturers of hybrid vehicles subject to end-use condition. Excise duty on LED lamps is being reduced to 6%.

VI. Textiles:

For the purpose of charging excise duty on ready-made garments bearing a brand name or sold under a brand name, the level of abatement from the retail sale price (RSP) is being increased from 55% to 70%.

VII. Miscellaneous:

(1) Full exemption from excise duty is being provided to food preparations containing fruits and vegetables falling under Chapter 20, which are prepared in a hotel, restaurant or a retail outlet, whether or not such food is consumed in such hotels/restaurants/retail outlets.

(2) Excise duty on parts of mobile phones, other than those cleared to a manufacturer of mobile phones, is being reduced from 10% to 2%, provided no Cenvat credit is taken.

(3) Excise duty is being reduced from 10% to 6% on:

   (a) Matches manufactured by semi-mechanized units

   (b) Processed food products of soya

(4) Exemption from excise duty is being restored on intra ocular lens.

SERVICE TAX

SERVICE TAX

I. Rate of Service Tax:

(1) The rate of service tax is being increased from 10% to 12%.

(2) Consequent to change in the rate of service tax, changes are also being made in specific and compounding rates of tax for the following:

(a) Service in relation to purchase and sale of foreign currency including money changing;

(b) Service of promotion, marketing, organizing or in any manner assisting in organizing lottery;

(c) Works contract service;

(d) Reversal of cenvat credit under rule 6(3)(i).

(3) Life insurance service: Where the entire premium is not towards risk cover, the first year's premium shall be taxed at therate of 3%. While subsequent premia shall attract tax at the rate of 1.5% Availment of full cenvat credit isbeing allowed.

(4) Transport of passengers embarking in India for domestic and international journey by air : The dual rate structure of maximum service tax of ₹150 and ₹750 in case of economy class travel is being replaced by an advalorem rate of 12% with abatement of 60% subject to the condition that no credit on inputs and capital goods is taken;

[The above changes will be applicable from 01.04.2012]

II. Introduction of Negative List Approach:

A Negative List approach to taxation of services is being introduced vide new sections, namely, 65B, 66B, 66C, 66D, 66E and66F proposed in Chapter V of the Finance Act, 1994 (please refer clause 143 of the Finance Bill, 2012). The services specified in the 'Negative List' (section 66D) shall remain outside the tax net. All other services, except those specifically exempted by the exercise of powers under section 93(1) of the Finance Act, 1994, would thus be chargeable to service tax.

Negative list approach to taxation of services shall come into effect from a date to be notified, after the Finance Bill, 2012 receives the assent of the President. For operationalizing the Negative List approach, a number of changes have been proposed in Chapter V of the Finance Act, 1994.

Detailed information regarding these changes is being made available as a Guidance Paper, which will be placed in the public domain. The consequential changes in Service Tax Rules, 1994, Service Tax (Determination of Value) Rules, 2006 and Cenvat Credit Rules, 2004 also form part of this Guidance Paper.

Provisions relating to positive list approach, namely, sections 65, 65A, 66, and 66A currently appearing in Chapter V of the Finance Act, 1994, will cease to operate from a date to be notified later, as and when the negative list approach begins to operate.

To support the negative list approach to taxation of services, draft Place of Provision of Services Rules, 2012 is being proposed.

The draft Place of Provision of Services Rules contains principles on the basis of which taxing jurisdiction of a service can be determined. The Place of Provision of Services Rules, 2012 will be notified after (section 66C) the Finance Bill, 2012 receives the assent of the President. When the Place of Provision of Services Rules comes into effect, existing 'Export of Services Rules,2005' and 'Taxation of Services (Provided from outside India and received in India) Rules, 2006' will be rescinded.

Notification No.12/2012-Service Tax dated 17th March 2012

Following taxable services from the whole of the service tax leviable thereon under section 66 B of the said Finance Act, namely:

1. Services provided to the United Nations or a specified international organization;
2. Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
3. Services by a veterinary clinic in relation to health care of animals or birds;
4. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;

5. Services by a person by way of-
   (a) renting of precincts of a religious place meant for general public; or
   (b) conduct of any religious ceremony;
6. Services provided to any person other than a business entity by -
   (a) an individual as an advocate; or
   (b) a person represented on and as arbitral tribunals;
7. Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organisation approved to conduct clinical trials by the Drug Controller General of India;
8. Services by way of training or coaching in recreational activities relating to arts, culture or sports;
9. Services provided-
   (a) to an educational institution by way of catering under any centrally assisted mid – day meals scheme sponsored by Government;
   (b) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of transportation of students or staff;
   (c) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of services in relation to admission to such education;
10. Services provided to a recognised sports body by-
    (a) an individual as a player, referee, umpire, coach or manager for participation in a tournament or championship organized by a recognized sports body;
    (b) another recognised sports body;
11. Services by way of sponsorship of tournaments or championships organised,-
    (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;

(b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India, Special Olympics Bharat;

(c) by Central Civil Services Cultural and Sports Board;

(d) as part of national games, by Indian Olympic Association; or

(e) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme;

12. Services provided to the Government or local authority by way of erection, construction, maintenance, repair, alteration, renovation or restoration of -

(a) a civil structure or any other original works meant predominantly for a non- industrial or non-commercial use;

(b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);

(c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment;

(d) canal, dam or other irrigation works;

(e) pipeline, conduit or plant for (i) drinking water supply (ii) water treatment (iii)sewerage treatment or disposal; or

(f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the Explanation 1 to clause 44 of section 65 B of the said Finance Act;

13. Services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of,-

(a) road, bridge, tunnel, or terminal for road transportation for use by general public; (b) building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public; (c) pollution control or effluent treatment plant, except located as a part of a factory; or (d) electric crematorium;

14. Services by way of erection or construction of original works pertaining to,-
    (a) airport, port or railways;
    (b) single residential unit otherwise as a part of a residential complex;
    (c) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;
    (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or
    (e) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages;
15. Temporary transfer or permitting the use or enjoyment of a copyright covered under clause (a) or (b) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;
16. Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;
17. Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
18. Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a room below ₹1,000 per day or equivalent;
19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air- heating in any part of the establishment, at any time during the year, and which has a licence to serve alcoholic beverages;
20. Services by way of transportation by rail or a vessel from one port in India to another of the following goods - (a) petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); (b) relief

materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (c) defence or military equipments; (d) postal mail, mail bags or household effects; (e) newspaper or magazines registered with Registrar of Newspapers; (f) railway equipments or materials; (g) agricultural produce; (h) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or (i) chemical fertilizer and oilcakes;

21. Services provided by a goods transport agency by way of transportation of -
    (a) fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;
    (b) goods where gross amount charged on a consignment transported in a single goods carriage does not exceed ₹1,500; or
    (c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed ₹750;

22. Services by way of giving on hire -
    (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or
    (b) to a goods transport agency, a means of transportation of goods;

23. Transport of passengers, with or without accompanied belongings, by -
    (a) air, embarking or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Baghdogra located in West Bengal; or
    (b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire;
    (c) fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;

24. Services by way of motor vehicle parking to general public excluding leasing of space to an entity for providing such parking facility;

25. Services provided to the Government or a local authority by way of -

    (a) repair of a ship, boat or vessel; (b) effluents and sewerage treatment; (c) waste collection or disposal; (d) storage, treatment or testing of water for drinking purposes; or (e) transport of water by pipeline or conduit for drinking purposes;

26. Services of general insurance business provided under following schemes -

    (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) Weather Based Crop Insurance Scheme or the Modified National Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture; (i) Jan Arogya Bima Policy; (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; or (o) Coconut Palm Insurance Scheme;

27. Services provided by an incubatee up to a total business turnover of ₹50,00,000 in a financial year subject to the following conditions, namely:- (a) the total business turnover had not exceeded ₹50,00,000 during the preceding financial year; and (b) a period of three years has not lapsed from the date of entering into an agreement as an incubatee;

28. Service by an unincorporated body or an entity registered as a society to own members by way of reimbursement of charges or share of contribution -

    (a) as a trade union; (b) for the provision of exempt services by the entity to third persons; or (c) up to an amount of ₹5,000 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;

29. Services by the following persons in respective capacities -

(a) a sub-broker or an authorised person to a stock broker; (b) an authorised person to a member of a commodity exchange; (c) a mutual fund agent or distributor to mutual fund or asset management company for distribution or marketing of mutual fund; (d) a selling or marketing agent of lottery tickets to a distributer or a selling agent; (e) a selling agent or a distributer of SIM cards or recharge coupon vouchers; or (f) a business facilitator or a business correspondent to a banking company or an insurance company in a rural area;

30. Carrying out an intermediate production process as job work in relation to -

(a) agriculture, printing or textile processing; (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act ,1985 (5 of 1986); (c) any goods on which appropriate duty is payable by the principal manufacturer; or

(d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of ₹1,50,00,000 in a financial year subject to the condition that such aggregate value had not exceeded ₹1,50,00,000 during the preceding financial year;

31. Services by an organiser to any person in respect of a business exhibition held outside India;

32. Services by way of making telephone calls from -

(a) departmentally run public telephones; (b) guaranteed public telephones operating only for local calls; or (c) free telephone at airport and hospitals where no bills are being issued;

33. Services by way of slaughtering of bovine animals;

34. Services received from a service provider located in a non- taxable territory by - (a) the Government, a local authority or an individual in relation to any purpose other than industry, business or commerce; or (b) an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities.

III. Amendments In The Finance Act, 1994:

Chapter V of the Finance Act, 1994 is being amended:

(1) A new section 67A is being inserted to prescribe that the value of taxable service (particularly in the case of import and export of taxable services) and the rate of tax shall be determined in terms of Point of Taxation Rules, 2011.

(2) A new section 72A is being inserted to introduce provisions relating to special audit in the service tax law on the lines of section 14A and section 14AA of the Central Excise Act, 1944. Under this newly introduced section, special audit can be ordered under specified circumstances. Consequently, section 14AA is being omitted from section 83.

(3) The one-year time limit for issuance of notice for specified category of offences prescribed under section 73(1) of the Finance Act, 1994, is being increased to eighteen months. A new sub-section (1A) is being inserted in section 73 of the Finance Act, 1994 to prescribe that follow-on notices issued on the same grounds need not repeat the grounds but only state the amount of service tax chargeable for the subsequent period. Statement of tax due for the subsequent period, served on the assessee with reference to the earlier demand notice, will be deemed as a notice under section 73(1) of the Finance Act, 1994.

(4) Section 83 is being amended to make Settlement Commission provisions applicable to service tax in line with the similar provisions contained in sections 31, 32, 32A to 32P of the Central Excise Act, 1944.

(5) Section 83 is being amended to make the revision mechanism prescribed in section 35EE of the Central Excise Act, 1944,applicable to service tax, to the extent possible.

(6) Section 85 and section 86 are being amended on the lines of section 35 and 35E of the Central Excise Act so as to harmonize the limitation for filing assessee appeal before Commissioner (Appeals) and revenue appeal before the Tribunal.

(7) Section 94(2) is being amended to obtain powers (a) to provide for the manner of compounding and to specify the amount of compounding of offences along the lines of Central Excise (Compounding of Offences) Rules, 2005; (b) to provide for rules for settlement of cases, along the lines of central excise.

[The above changes will come into effect from the date of enactment of the Finance Bill, 2012]

IV. New Reverse Charge Mechanism:

(1) Section 68(2) of the Finance Act, 1994 is being amended to put the onus of payment of service tax on reverse charge basis partly on service provider and partly on service receiver. The scheme is proposed to be made applicable on three specific services i.e. hiring of means of transport; construction and man power supply. A notification will be issued after the Finance Bill, 2012 receives the assent of the President, in which the manner and extent of service tax payable by service provider and service receiver in the case of the three services will be specified.

(2) Consequent to the above change, suitable amendment is also being made in the concept of 'person liable to pay 'provided in Rule 2(1)(d) of Service Tax Rules, 1994.

V. Renting of Immovable Property Service:

Constitutional validity of the levy of service tax on renting of immovable property has been the subject matter of litigation leading to pronouncement of court judgments favorable to revenue, including those of Honourable Delhi High Court and Honourable Supreme Court. Taking an overall view, the Government has decided to waive the penalty for those taxpayers who pay the service tax due on the renting of immovable property service (as on 06.03.2012), in full along with interest. For this purpose, anew section 80A is being inserted in the Finance Act, 1994. This scheme of penalty waiver will be open only for a period of six months from the date of enactment of the Finance Bill, 2012.

VI. Retrospective Exemptions:

(1) Vide Notification No.24/2009-ST dated 27.07.2009 service tax on repair of roads is already exempted. Vide section 97 of the Finance Act, 1994, the exemption granted to repair of roads is being extended for the earlier period from 16.06.2005 to26.07.2009.

(2) Management, maintenance or repair service undertaken in relation to non-commercial Government buildings is being exempted from service tax vide section 98, with effect from 16.06.2005 till the new charging section, namely section 66B,comes into force.

(3) In the last budget, sub-rule 6A was inserted under rule 6 of the Cenvat Credit Rules, 2004 to protect the service providers located in the Domestic Tariff Area from the reversal of Cenvat credit, when they supply taxable services under exemption, to the authorized operations of SEZ. The application of sub-rule 6A is being given retrospective effect from 10.02.2006.

(4) Service provided by an association of dyeing units in relation to common effluent treatment plants was exempted from service tax vide Notification No.42/2011-ST dated 25.07.2011. The scope of the exemption is being expanded and the amended notification is being given retrospective effect from 16.06.2005.

[The above retrospective exemptions will come into effect on the date of enactment of the Finance Bill, 2012]

VII. Amendments In Rules:

(1) Cenvat Credit Rules, 2004 is being amended:

(a) Existing rule 5 to be replaced with a new rule to simplify the procedure for refund of unutilized credit on the account of exports;

(b) Credit is being allowed on motor vehicles (except those of heading nos. 8702, 8703, 8704, 8711 and their chassis).

The credit of tax paid on the supply of such vehicles on rent, insurance and repair shall also be allowed;

(c) Credit of insurance and service station service is being allowed to—

(i) insurance companies in respect of motor vehicles insured and re-insured by them; and

(ii) manufacturers in respect of motor vehicles manufactured by them.

(d) At present, credit on goods can be taken only after they are brought to the premises of the service provider. Rule 4(1)and 4(2) are being amended to allow a service provider to take credit of inputs or capital goods whenever the goods are delivered to him, subject to specified conditions.

(e) Rule 7 for input service distributors is being amended to provide that credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit and that the credit of service tax attributable to service used in more than one unit shall be distributed pro rata on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.

(f) Rule 9(1)(e) is being amended to allow availment of credit on the tax payment challan in case of payment of service tax by the service receiver on reverse charge basis.

(2) Service Tax Rules, 1994 is being amended as follows:

(a) The time period provided in rule 4A for issuance of invoice is being increased to thirty days. For banks and financial institutions providing banking and other financial services, the period shall be forty five days;

(b) Rule 6(4A) is being amended to allow unlimited amount of permissible adjustments.

(c) At present, in the case of export and, individuals and firms rendering eight specified services, the point of taxation is the date of payment subject to certain conditions. This special dispensation is being shifted from the Point of Taxation Rules to the Service Tax Rules.

(d) In case of exporters, the period extended by the Reserve Bank of India on specific requests is also being included in the period for which the tax liability is allowed to be deferred.

(e) The option of deferred payment is being allowed for all service providers rather than for specific services. The facility will be available only to individuals and partnership firms (including limited liability partnership) upto a turnover of taxable services of ₹50,00,000 subject to the condition that their turnover of taxable services in previous year was below ₹50,00,000. For computing the above limits, the turnover of the whole entity is required to be summed up and not any single registration.

(3) Point of Taxation Rules, 2011 is being amended to—

(a) Change the definition of continuous supply of service to capture the entire dimension of the concept, namely, the recurrent nature of services and the obligation for payment periodically or from time-to-time;

(b) Omit rule 6 in respect of continuous supply of service and merge it with rule 3. Rules 4 and 5, which deal with situations covering change in effective rate of tax and taxation of new services, shall now be applicable to continuous supply of services also;

(c) Define the date of payment;

(d) To give an option to determine the point of taxation in respect of advances upto ₹1,000 received in excess of the amount indicated in the invoice, on the basis of invoice or completion of service rather than payment; and

(e) Incorporate a new residual rule to ascertain point of taxation in cases where the same cannot be ascertained by the rules prescribed.

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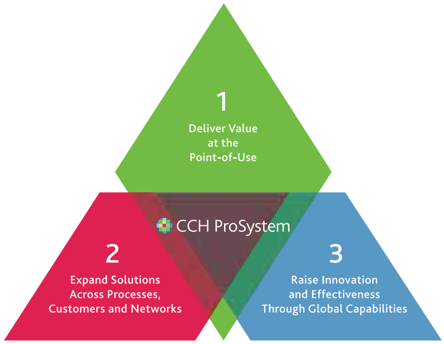

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TAX LAW EDUCARE SOCIETY (TALES) is established as a non-profit making voluntary organization. The Society caters to the needs of its members in particular and tax paying public in general and ensures that its members keep pace with the changing times. It also provides courses for self-development for its members and professional course students.

TALES also publishes its monthly journal, which is subscribed not only by its members but by corporate bodies. The Society has one web portal in the name of www.indiataxlaw.com.

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