# UNION BUDGET HIGHLIGHTS

# 2012-2013

# DIRECT TAX: Compilation of Some of the Major Amendments By Union Budget 2012-13

## DIRECT TAX

- **Income tax exemption limit for individuals and HUF raised from Rs.1,80,000 to Rs.2,00,000; upper limit of 20 per cent tax slab raised from Rs.8 lakh to Rs.10 lakh**
- Corporate Tax Rate remain unchanged
- **Interest from savings bank accounts deductible upto Rs.10,000;**
- **Deduction of upto Rs.5,000 for preventive health check-up**
- Senior citizens not having income from business proposed to be exempted from payment of advance tax.
- Turnover limit for compulsory tax audit of account and presumptive taxation of SMEs to be raised from Rs.60 lakhs to Rs.1 crore (Applicable for 2012-2013)
- 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.

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- Investment link deduction of capital expenditure for certain businesses proposed to be provided at the enhanced rate of 150 per cent.
- 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.

- Sec 40A amended – Rs. 20,000 to a single party in a single day in cash only will be allowed.(with retrospective effect from 1st April 2009).

- **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.**
- Reduction in securities transaction tax by 20% on cash delivery transactions i.e. from 0.125% to 0.10%.
- Proposal to extend the levy of Alternate Minimum Tax to all persons, other than companies, claiming profit linked deductions, if the adjusted total income of such person exceed Rs.20 Lakh.
- Proposal to introduce General Anti Avoidance Rule to counter aggressive tax avoidance scheme.
- Measures proposed to deter the generation and use of unaccounted money.
- **TCS @1% on cash purchase of bullion and jewellery in excess of 2 Lacs**
- **TCS on cash purchase of immovable property above specified limit**
- TCS on sale of certain minerals (Coal , Ignite and Iron Ore)

- TDS proposed to imposed on remuneration paid to directors @10%.

  ***Amendments relating to TDS and TCS will take effect from1st July 2012***.
- Share premium in excess of the fair market value to be treated as income in case of Closely Held Companies.
- Disallowance of business expenditure on account of non-deduction of tax on payment to resident payee.
- Prohibition of cash donations in excess of ten thousand rupees.
- Eligibility condition for deduction in respect of life insurance policies under section 80C.
- Threshold for TDS on payment of interest on debentures.
- Re-opening of tax assessment's upto 16 years in case of overseas assets
- White paper on Black Money to be introduced in the current session of Parliament.
- Taxation of unexplained money, credits, investments, expenditures etc., at the highest rate of 30% irrespective of the slab of income.
- Cascading effect of Dividend Distribution Tax in a multi-layer corporate structure removed.
- 82 Double Taxation Avoidance Agreements and 19 Tax Information Exchange Agreements finalized.
- Deduction up to Rs 50,000 under new scheme called Rajiv Gandhi Equity Savings scheme for new retails investor.

# INDIRECT TAXES

## Service Tax

- Service 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.
- Number of alignment made to harmonize 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.
- New scheme announced for simplification of refunds.
- 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 Rs.18,660 crore.

## Excise and Customs

- 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.
- Ad valorem Excise duty on large cars also proposed to be enhanced from 22% to 27%.
- 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 third party 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-mechanized 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 Rs.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 mini cement 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 Rs.27,280 crore.
- Indirect taxes estimated to result in net revenue gain of Rs.45,940 crore.
- Net gain of Rs. 41,440 crore in the Budget due to various taxation proposals.

# Details of Proposed Amendments relating to some Important Provisions:

## Alternate Minimum Tax (AMT) on all persons other than companies

In order to widen the tax base vis-à-vis profit linked deductions, it is proposed to amend provisions regarding AMT contained in Chapter XII-BA in the Income-tax Act to provide that a person other than a company, who has claimed deduction under any section (other than section 80P) included in Chapter VI-A under the heading "C – Deductions in respect of certain incomes" or under section 10AA, shall be liable to pay AMT.

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 eighteen and one-half per cent.

## Tax Deduction at Source (TDS) on transfer of certain immovable properties (other than agricultural land)

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 provision 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) fifty lakh rupees in case such property is situated in a specified urban agglomeration; or

(b) twenty lakh rupees 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.

## TDS on remuneration to a director

There is no specific provision for deduction of tax on the remuneration paid to a director which is not in the nature of salary. 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.

This amendment will take effect from 1st July, 2012. *[Clause 71]*

## Tax Collection at Source (TCS) on cash sale of bullion and jewellery

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 two lakh rupees 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.

This amendment will take effect from 1st July, 2012. *[Clause 79]*

## TCS on sale of certain minerals

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.

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

### Rajiv Gandhi Equity Savings Scheme Launched

A new scheme called Rajiv Gandhi Equity Savings scheme is proposed in the Union Budget 2012-13.
The scheme allows for income tax deduction of 50 per cent to new retail investors, who invest up to Rs 50,000 directly in equities and whose annual income is below Rs 10 lakhs. The scheme will have lock-in period of three years. The details will be announced in due course.

## Share premium in excess of the fair market value to be treated as income

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.

## Turnover or gross receipts for audit of accounts and presumptive taxation

It is proposed to increase the threshold limit of total sales, turnover or gross receipts, specified under section 44AB for getting accounts audited, from sixty lakh rupees to one crore rupees in the case of persons carrying on business and from fifteen lakh rupees to twenty five lakh rupees 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 sixty lakh rupees to one crore rupees.

These amendments will take effect from 1st April, 2013 and will, accordingly, apply to the assessment year 2013-14 and subsequent assessment years. *[Clauses 13, 14]*

## Exemption for Senior Citizens from payment of advance tax

Under the existing provisions of Income-tax Act, every assessee is required to pay advance tax if the tax liability for the previous year exceeds ten thousand rupees. In case of senior citizens who have passive income of the nature of interest, rent, etc., the requirement of payment of advance tax results in raising compliance burden. 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. This amendment will take effect from the 1st April, 2012. Accordingly, the aforesaid senior citizen would not be required to pay advance tax for the financial year 2012-13 and subsequent financial years. *[Clause 80]*

## Relief from long-term capital gains tax on transfer of residential property if invested in a manufacturing small or medium enterprise

The Government had announced National Manufacturing Policy (NMP) in 2011, one of the goals of which is to incentivise investment in the Small and Medium Enterprises (SME) in the manufacturing sector. It is proposed to insert a new section 546B 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.

## Reduction in the rate of Securities Transaction Tax (STT)

Securities Transaction Tax (STT) on transactions in specified securities was introduced vide Finance (No.2) Act, 2004. 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.

## Reduction of the eligible age for senior citizens for certain tax reliefs

The Finance Act, 2011 amended the effective age of a senior citizen being an Indian resident from sixty-five years of age to sixty years for the purposes of application of various tax slabs and rates of tax under the Income Tax Act, 1961 for income earned during the financial year 2011-12 (assessment year 2012-13).

## Deduction for expenditure on preventive health check-up

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.

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. *[Clause 25]*

## Deduction in respect of interest on deposits in savings accounts

Under the proposed new section 80TTA of the Income-tax Act, a deduction up to an extent of ten thousand rupees 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 (10 of 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 (6 of 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. This amendment will take effect from 1st April, 2013 and will, accordingly, apply in relation to the assessment year 2013-14 and subsequent assessment years.

## RATIONALIZATION OF TAX DEDUCTION AT SOURCE (TDS) AND TAX COLLECTION AT SOURCE (TCS) PROVISIONS

**Deemed date of payment of tax by the resident payee**

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.

These amendments will take effect from 1st July, 2012.

## Disallowance of business expenditure on account of non-deduction of tax on payment to resident payee

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. 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.

## Threshold for TDS on payment of interest on debentures

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

## Prohibition of cash donations in excess of ten thousand rupees

It is proposed to amend sections 80G and 80GGA so as specify therein that any payment exceeding a sum of ten thousand rupees shall only be allowed as a deduction if such sum is paid by any mode other than cash.

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

## Eligibility condition for deduction in respect of life insurance policies

The existing provisions contained in section 80C(3) provide that the deduction for life insurance premium shall be allowed for only so much of any premium or other payment made on an insurance policy as is not in excess of 20% of the actual capital sum assured.

It is proposed to amend the provisions 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.

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.

## Time Limits for Assessments

The existing period and the new extended period for completion of pending proceedings and subsequent proceedings u
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 |