UNION BUDGET CRITICAL ANALYSIS 2013-2014

CHARTERED ACCOUNTANTS

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About Us

Introduction

S B Gabhawalla & Co. is a professional services firm practicing in the entire field of taxation with a specialization in Indirect Taxes. The firm has a distinct research orientation towards Service Tax & VAT related matters.

Values & Clientele

The basic philosophy of the firm revolves around the principles of integrity, knowledge & speed. Ever since its' incorporation in 1997, the firm has created a niche for itself in the field of consultancy and evolved new paradigms in quality service to clients. Indeed, the firm serves a wide arena of clientele ranging across the spectrum of various industries.

Management & Ownership

The firm is headed by Sunil Gabhawalla who is a chartered accountant in practice with 3rd rank at the All-India Level. He is also a cost accountant. He also obtained the 9th position at All India Level in CA Intermediate and the 7th position at All India Level at ICWA Intermediate Examinations.

Sunil is a visiting faculty at various forums and regularly trains industry, Department Officers, student and fellow professionals. He has authored books on topics relating to service tax, NRI Taxation & computers. His treatise on service tax is a popular book containing detailed commentary on the provisions of service tax law and runs in its' sixteenth edition.

Sunil is currently a member of the Managing Committee and the Convenor of the Indirect Taxation Committee of the Bombay Chartered Accountants Society. He is also a member of the Regional Advisory Committee of the Mumbai Commissionerate for Central Excise and Service Tax. He has been nominated by the Maharashtra State Government on the advisory panel for implementation of GST.

Team & Resources

The firm is assisted by a team of 18 young and energetic human resources. Prakash, being the senior-most in the team, brings to the organization more than 30 years of experience in sales tax at the field level. He ably guides the entire organization towards increasing service levels. CA Ketan, a visiting faculty at the Narsee Monjee Institute of Management Studies, provides his academic expertise in direct taxes and handles the direct tax domain of the organization. CA Keval, a guest lecturer at the Indo German Chamber of Commerce, leaves no stone unturned to provide quality experiences for all client interactions. Being professionally qualified chartered accountants, Bijal, Kevin, Rinku and Kewal are all equipped with appropriate knowledge to handle client queries and assist them on a day to day basis. Other resources assist these managers in administrative and procedural compliance.

The firm is headquartered at a prime business area in Andheri, Mumbai and has adequate infrastructure in terms of library resources, office ambience, research software, internet connectivity, web and e-mail support, etc. The office is less than 10 minutes drive from the domestic/international airports.

Services Rendered

The firm is geared to render diverse nature of services which include consultancy, retainership, compliance, litigation, training, audit, etc. It also undertakes detailed audit/investigation services to identify transaction inefficiencies and suggest due diligence.

Case Studies

The firm believes in an optimum mix of theory and practice and finds both of them complimentary to each other. Indeed, each practical advise further strengthens the theory related thereto. The firm encapsulates these practical advises into case studies and builds up a progressive knowledge base which helps in providing speedy solutions to future clients.

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1. Service Tax

1.1. Changes in Taxability / Exemptions

1.1.1. Vocational Education

1.1.1.1. Currently, the negative list provides for exclusion for services by way of education as part of an approved vocational education course. The definition of 'approved vocational education course' provided in section 65B (11) is being amended to include courses approved by a State Council of Vocational Training' (SCVT) and to omit National Skill Development Corporation (NSDC) since it is not an affiliating body. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.1.1.2. After the proposed amendment takes effect, courses in 'designated trades' offered by Industrial Training Institute or Industrial Training Center affiliated to State Council of Vocational Training will also be covered by the negative list and hence not liable for payment of service tax

1.1.2. Job Work

1.1.2.1. Currently, service tax is applicable on services provided by job workers. However, the negative list provides for an exclusion for any process amounting to manufacture or production of goods. The definition of "process amounting to manufacture or production of goods"in section 65B(40) is being amended to include processes on which duties of excise are leviable under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955, thereby providing relief from double taxation both under excise as well as service tax laws. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.1.2.2. The negative list regime was introduced through a different charging section i.e. Section 66B instead of Section 66. This resulted in various difficulties which were sought to be addressed through an interim insertion of an Explanation through the Removal of Difficulty Order 2/2012. This Explanation is now being introduced as a separate section, namely 66BA. By the authority of this section, references to section 66 (charging section under the positive list approach) in Chapter V of the Finance Act, 1994 or any other act, will be construed as reference to section 66B (charging section under the negative list approach), with effect from the 1st day of July, 2012. Reference to section 66 appearing in the Finance (No.2) Act, 2004 and the Finance Act, 2007, in the context of education cesses will be read as 66B, in accordance with this new section

1.1.3. Agriculture

1.1.3.1. Services related to agricultural operations are specified in the negative list. Currently, the exclusion is available inter alia, for seed testing. The word, 'seed' is being omitted from the expression 'seed testing' found in section 66D (d)(i). As a result, testing activities directly related to production of any agricultural produce like soil testing, animal feed testing, testing of samples from plants or animals, for pests and disease causing microbes will be covered by the negative list. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.1.4. Indian Railways

1.1.4.1. Retrospective exemption is being extended to the Indian Railways on the service tax leviable on various taxable services provided by them during the period prior to 01.07.2012 to the extent show cause notices have been issued upto 28.02.2013. Section 99 is being added for this purpose, in Chapter V of the Finance Act, 1994. Interestingly, no exemption is provided in cases where tax is not levied and show cause notice is not issued, thereby empowering the Department to issue such notice after 28.02.2013

1.1.5. Charitable Trusts

1.1.5.1. Currently, charitable trusts registered under Section 12AA of the Income Tax Act, 1961 are eligible for an additional basic exemption of Rs. 25 lakhs per annum. The said additional basic exemption has been deleted with effect from 01.04.2013

1.1.6. Restaurants

1.1.6.1. Currently, restaurants are liable to pay service tax only if they have both a liquor license as well air-conditioning/central heating facilities. Effective from 01.04.2013, all restaurants with air-conditioning/central heating facilities will be liable for payment of service tax.

1.1.7. Transportation of Goods

1.1.7.1. Currently, the provisions for exemptions for transportation of specific commodities differ based on the mode of transportation. Effective from 01.04.2013, commodity specific exemption for transportation are synchronized for each mode of transportation. The following table illustrates the exemptions available under the new regime:

Nature of the Commodity	Road	Rail	Vessel
Agricultural produce	Exempt	Exempt	Exempt
Foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages	Exempt	Exempt	Exempt
Chemical fertilizer and oilcakes	Exempt	Exempt	Exempt
Newspaper or magazines registered with the Registrar of Newspapers	Exempt	Exempt	Exempt
Relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap	Exempt	Exempt	Exempt
Defence or military equipments	Exempt	Exempt	Exempt

1.1.7.2. Consequently, the following exemptions earlier available for transportation by vessel or rail are withdrawn with effect from 01.04.2013

- 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);
- postal mail or mail bags;
- household effects;

1.1.8. Educational Institution

1.1.8.1. Services provided by an educational institution by way of renting of immovable property or auxiliary educational services will be taxable with effect from 01.04.2013

1.1.9. Copyrights

1.1.9.1. Currently, temporary transfer or permitting the use or enjoyment of a copyright relating to cinematographic films is fully exempt. However, effective from 01.04.2013, this exemption will be restricted to exhibition of cinematograph films in a cinema hall or a cinema theatre and temporary transfer of copyrights through any other mode will become taxable (for example, satellite distribution, audio rights, etc.)

1.1.10. Parking

1.1.10.1. The exemption available to services by way of vehicle parking to general public is being withdrawn with effect from 01.04.2013

1.1.11. Repairs of Aircrafts

1.1.11.1. The exemption available for services provided to Government, a local authority or a governmental authority, by way of repair or maintenance of aircraft is being withdrawn with effect from 01.04.2013

1.2. Abatements

1.2.1.1. In case of sale of under construction units, presently, the taxable portion for service tax purpose is prescribed as 25% uniformly The said taxable portion is increased to 30%. However, where the carpet area of residential unit is upto 2000 square feet. or the amount charged is less than One Crore Rupees, the taxable portion for service tax purpose will remain as 25%. This change is effective from 01.03.2013.

1.2.1.2. The revised provisions for builders and developers are tabulated below for ready reference:

Nature of Construction	Carpet Area	Gross Amount Charged	Taxable Service Portion
Residential	< 2000 sq. ft.	< 1 crore	25%
Residential	< 2000 sq. ft.	> 1 crore	25%
Residential	> 2000 sq. ft.	< 1 crore	25%
Residential	> 2000 sq. ft.	> 1 crore	30%
Non Residential	Irrelevant	< 1 crore	25%
Non Residential	Irrelevant	> 1 crore	30%

1.3. Procedural Amendments

1.3.1.1. The Supreme Court in the case of CCE vs. Alcobex Metals 20013 (153) ELT 241 (SC), had held that once the show cause notice is issued by the Deputy Collector of Central Excise under the proviso for extended period of limitation, it cannot be treated as notice under main Section 11A for shorter period if the ingredients for invocation of extended period are not established. To overcome the impact of the said decision, Section 73(2A) is being inserted. As a result, if a show cause notice issued under proviso to sub-section (1) of section 73, is not found sustainable by an appellate authority or tribunal or court, the same will be deemed to be a notice issued for the normal period of eighteen months. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.3.1.2. Section 86 is being suitably amended to permit the Appellate Tribunal to admit an appeal or permit the filing of memorandum of cross objections after the expiry of the relevant period in the case of an assessee's appeal also. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.3.1.3. The scope of advance ruling is being extended to cover resident public limited companies with effect from 01.03.2013

1.4. Penalties

1.4.1.1. Currently, there is no upper limit on the amount of penalty which can be imposed for delayed registration. This can result in unjust consequences. Therefore, section 77(1)(a) is being amended to provide for a maximum penalty of Rs. 10,000/-. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.4.1.2. Section 78A is being introduced, to provide for imposition of personal penalty on director, manager, secretary or other officer of the company, who is in any manner knowingly concerned with specified contraventions. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.5. Offences and Prosecution

1.5.1.1. Section 89 is being amended to increase the term of imprisonment upto seven years in the case any person collects an amount exceeding Rs. 50 lakhs as service tax and fails to pay the same to the Central Government within a period of six months from the respective due date. Other provisions for offences continue to remain the same. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.5.1.2. Section 90 is being introduced to specify and differentiate cognizable offences from non-cognizable and bailable offences.

1.5.1.3. The difference between a cognizable and a non-cognizable offence is that in a non-cognizable offence the Police cannot arrest a person without orders of the court, i.e. without a Court warrant and can investigate into the case only on the express directions of the court to that effect. Therefore, the experience is that in a non-cognizable offence the Police Station officer records the complaint as a non-cognizable offense, commonly referred as a N.C., and advises the complaint or victim to apporach the court for further directions.

1.5.1.4. In a cognizable offense the police can take cognizance of the offense on its own i.e. it need not wait for the court orders as the law envisages that in such offences permission of the court to the police to investigate the crime is implicit. The amendment will be effective from the date of enactment of the Finance Bill, 2013. The same is explained in the table below:

Description of Offence	**Punishment**	**Nature of Offence**
Clauses (a) to (c) of Section 89(1) having tax impact of more than Rs. 50 lakhs	Under sub clause (i), imprisonment upto 3 years	Non-cognizable and bailable offence
Clause (d) of Section 89(1) having tax impact of more than Rs. 50 lakhs	Under sub clause (ii), imprisonment upto 7 years	Cognizable Offence
Other Cases (where tax impact is less than 50 lakhs)	Under sub clause (iii), imprisonment upto one year	Non-cognizable and bailable offence

1.5.1.5. Section 91 is being introduced to provide for power to arrest. Accordingly, Commissioner of Central Excise is empowered to authorize any officer of Central Excise not below the rank of Superintendent of Central Excise, to arrest a person for specified offences particularly nonpayment of collected service tax. The amendment will be effective from the date of enactment of the Finance Bill, 2013.

1.6. Voluntary Compliance Encouragement Scheme

1.6.1. Introduction

1.6.1.1. The Finance Minister has announced the Service Tax Voluntary Compliance Encouragement Scheme, 2013. As per the said Scheme, an amnesty is being provided for assesses who have not paid taxes or filed returns.

1.6.1.2. To encourage voluntary compliance and broaden the tax base, it is proposed to provide one time amnesty by way of (i) waiver of interest and penalty; and (ii) immunity from prosecution, to the stop filers, non-filers or non-registrants or service providers (who have not disclosed true liability in the returns filed by them during the period from October 2007 to December 2012) who pay the "tax dues". Details of the scheme are available in Chapter VI of the Finance Bill, 2013. The scheme will be operational from the date on which the Finance Bill, 2013 receives the assent of the President.

1.6.2. What is the Scheme?

1.6.2.1. As per the said Scheme, any person may declare his dues before 31st December, 2013. At the time of declaration, he is required to pay 50% of the tax dues declared by him. The balance 50% has to be paid by June 2014 without interest or could be paid before 31 December 2014 with interest.

1.6.2.1.1. Section 98 provides that the declarant shall get immunity from penalty, interest or any other proceedings under the Chapter.

1.6.3. Cases not eligible for the Scheme

1.6.3.1. The following cases are not eligible for the Scheme:

Situation	**Why not eligible**
Tax Paid before 01.03.2013 (interest or penalties unpaid)	Section 95(e)
Tax pertaining to period after 31.12.2012	Section 95(e)
Cases where SCN has been issued, but pending adjudication	Section 96(1)
Cases where Order is passed but pending in Appeals	Section 96(1)
Cases where tax is unpaid but is disclosed in returns	Proviso to Section 96(1)
Tax unpaid for an issue on which SCN is issued for some other period	Second Proviso to Section 96(1)
Search Conducted before 01.03.2013 and inquiry is pending	Section 96(2)
Summons issued under section 14 and inquiry is pending	Section 96(2)
Letter requiring production of accounts, documents or evidence and inquiry is pending	Section 96(2)
Audit has been initiated and pending	Section 96(2)

1.6.4. Procedure

1.6.4.1. The person eligible for the Scheme shall make an application before the designated authority in the prescribed form before 31.12.2013, which shall be acknowledged

1.6.4.2. The person shall pay the service tax as per the following table:

Due Date	**Amount to be paid**
31.12.2013	50% of the tax dues
30.06.2014	Balance 50% of the tax dues without interest
31.12.2014	Balance 50% of the tax dues with interest for the period from 01.07.2014

1.6.4.3. On furnishing the information of full payment of the taxes, the designated authority shall issue a discharged acknowledgement which will be the final conclusion of the proceedings

1.6.4.4. No refund of the amount paid would be granted under any circumstances.

2. Income Tax

2.1. Rates of Personal / Corporate Tax

2.1.1. In Case of Individual, Hindu undivided family, association of persons, body of individuals, artificial judicial person

Income Levels (Rs.)	Individual /HUF/AOP /BOI/AJP		Senior Citizen (Age 60 years but below 80 years)		Very Senior Citizen (Age 80 years & above)	
	A.Y.14-15	A.Y.13-14	A.Y.14-15	A.Y.13-14	A.Y.14-15	A.Y.13-14
0-200000	0	0	0	0	0	0
200001-250000	10.30	10.30	10.30	0	10.30	0
250001-500000	10.30	10.30	10.30	10.30	10.30	0
500001-1000000	20.60	20.60	20.60	20.60	20.60	20.60
Above 1000000	30.90	30.90	30.90	30.90	30.90	30.90
Above 10000000[1]	33.99	30.90	33.99	30.90	33.99	30.90

2.1.2. In the case of Companies and Firms

Income Levels (Rs.)	Domestic Company		Foreign Company		Firms	
	A.Y.14-15	A.Y.13-14	A.Y.14-15	A.Y.13-14	A.Y.14-15	A.Y.13-14
0-1,00,00,000	30.900	30.900	41.200	41.200	30.900	30.900
1,00,00,001-10,00,00,000[2]	32.445	32.445	42.024	42.024	32.445	30.900
Above 10,00,00,000[3]	33.990	32.445	43.260	42.024	33.990	30.900

[1] Inclusive of surcharge of 10% in case the total income exceeds one crore rupees.
[2] Inclusive of surcharge of 5% for Domestic and Firm and 2% for Foreign Company

2.2. Other Taxes

2.2.1. Commodities Transaction Tax

2.2.1.1. A new tax called Commodities Transaction Tax (CTT) is proposed to be levied on taxable commodities transactions entered in a recognized association. 'Taxable commodities transaction' means a transaction of sale of commodity derivatives in respect of commodities, other than agricultural commodities, traded in recognized associations.

2.2.1.2. The tax is proposed to be levied at the rate of 0.01% to be paid by the seller

2.2.1.2.1. Section 36 of the Income Tax Act is proposed to be amended to allow CTT paid as a deduction, provided that the income derived from such commodities transaction is included in the head "Profits and gains of business or profession"

2.2.1.3. This amendment will take effect from the assessment year 2014-15 and subsequent assessment years.

2.2.2. Securities Transaction Tax (STT):

2.2.2.1. The rates of STT are changed with effect from 1st June, 2013 as under

Sr. No.	Nature of Transaction	Payable by	Existing Rates	Proposed Rates
1.	Delivery based purchase of units of an equity oriented fund entered into in a recognized stock exchange	Purchaser	0.1%	Nil
2.	Delivery based sale of units of an equity oriented fund entered into in a recognized stock exchange	Seller	0.1%	0.001%
3.	Sale of futures in securities	Seller	0.017%	0.01%
4.	Sale of unit of an equity oriented fund to the mutual fund	Seller	0.25%	0.001%

2.2.3. Dividend Distribution Tax by the Mutual Funds u/s 115R

Distribution of Income by a fund other than equity	Type of Fund	Upto 31.05.2013	01.06.2013 onwards

[3] Inclusive of surcharge of 10% for Domestic and Firm and 5% for Foreign Company

oriented fund to			
Individual or HUF	Money market Mutual fund or Liquid Fund	25%	25%
Individual or HUF	Others	**12.5%**	**25%**
Others	Any type	30%	30%
Non resident	Infrastructure Debt Fund set up as NBFC	5%	5%
Non resident	Infrastructure Debt Fund set up as MF	**30% or 12.5%**	**5%**

2.3. Personal Taxation

2.3.1. Rebate of Rs 2000 for individuals having total income up to Rs 5 lakh

2.3.1.1. With a view to provide tax relief to the **resident individual** tax payers who are in lower income bracket, a rebate is provided from the tax payable by an assessee, whose total income does not exceed five lakh rupees.

2.3.1.2. The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of two thousand rupees, whichever is less.

2.3.2. Deduction in respect of interest on loan sanctioned during financial year 2013-14 for acquiring residential house property

2.3.2.1. Newly inserted section 80EE proposes to provide a deduction from total income of an individual assessee, for interest payable on loan taken by him from **any financial institution** for the purpose of acquisition of a residential house property.

2.3.2.2. The deduction shall not exceed one lakh rupees. The amendment will take effect from A.Y. 2014-15. The balance amount of deduction will be available for A.Y. 2015-16 as well if the interest amount is less than Rs 1,00,000 in A.Y. 2014-15.

2.3.2.3. It is also provided that the deduction shall be subject to the following conditions: -

(i) the loan is sanctioned by the financial institution during the period beginning on 1st April, 2013 and ending on 31st March, 2014;

(ii) the amount of loan sanctioned for acquisition of the residential house property does not exceed twenty-five lakh rupees;
(iii) the value of the residential house property does not exceed forty lakh rupees;
(iv) the assessee does not own any residential house property on the date of sanction of the loan.

2.3.2.4. The deduction claimed under section 80EE cannot be claimed once again under any other provisions of the Act.

2.3.3. Increase in the limit of percentage of eligible premium for life insurance policies of persons with disability or disease.

2.3.3.1. In case of exemption u/s 10 (10D) the earlier limit of 10% of the 'actual capital sum assured' for premium paid for such policy has been increased to 15% in case of following specified persons:

- Person is person with disability or a person with severe disability as referred to in section 80U
- suffering from disease or ailment specified in rules under Sec.80DDB

2.3.3.2. Similar amendments are made u/s 80C for allowability of deductions to above mentioned specified persons

2.3.4. Expanding the scope of deduction and its eligibility under section 80CCG

2.3.4.1. It is proposed to amend the provisions of section 80CCG so as to provide deduction for listed units of any equity oriented fund which was earlier restricted to Rajiv Gandhi Equity.

2.3.4.2. The deduction shall be allowed for three consecutive assessment years, beginning with the assessment year relevant to the previous year in which the listed equity shares or listed units were first acquired by the new retail investor whose gross total income for the relevant assessment year does not exceed 12 lakh rupees.

2.3.5. 100% deduction for donation to National Children's Fund

2.3.5.1. The government seeks to amend provisions of Section 80G to include donations made to National Children's Funds under deduction rate of 100% which was previously allowed at the rate of 50%.

2.3.6. Taxability of immovable property received for inadequate consideration

2.3.6.1. Section 56(2)(vii) is proposed to be amended so as to include transaction where an individual or HUF receives an immovable property for inadequate consideration. If the stamp duty value of such property exceeds the value of consideration by Rs. 50000, then such difference shall be taxable under this section under the head "income from other sources".

2.3.6.2. Where the amount of consideration or any part of it is received by any mode other than cash on or before the date of agreement, and if the date of agreement and the date of registration are not the same, then the stamp duty value may be taken as on the date of the agreement of transfer. It will be effective from previous year 2013-14 relevant to assessment year 2014-15 and subsequent years.

2.3.7. Amendment in the definition of capital asset (agricultural land)

2.3.7.1. Sec 2(14)(iii)(b) related to agriculture land is proposed to be amended so as to provide that the land situated in any area within the distance, measured aerially (shortest aerial distance),

(I) Upto two kilometers, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population ranging between 10,001-1,00,000;

(II) Upto six kilometers, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population ranging between 1,00,001-10,00,000.; or

(III) Upto eight kilometers, from the local limits of any municipality or cantonment board referred to in item (a) and which has a population of more than 10,00,000 shall form part of capital asset.

2.3.7.2. "Population" shall mean population according to the last preceding census of which the relevant figures have been published before the first day of the previous year.

2.3.7.3. Similar amendments are also proposed in clause (1A) of section 2 of the Income-tax Act, 1961 relating to the definition of "agricultural income" and in respect of the definition of "urban land" in the Wealth-tax Act, 1957. It will be effective from previous year 2013-14 relevant to assessment year 2014-15 and subsequent years.

2.3.8. Scope under Keyman insurance policy

2.3.8.1. Sec 10(10D) exempts any sum received under a life insurance policy other than a keyman insurance policy. it is proposed to amend the provisions of section 10(10D) to provide that a keyman insurance policy which has been assigned to any person during its term, with or without consideration, shall continue to be treated as a keyman insurance policy and thus, exemption shall not be available in such case. It will be effective from previous year 2013-14 relevant to assessment year 2014-15 and subsequent years.

2.3.9. Contribution not to be in cash for deduction u/s 80GGB & 80GGC

2.3.9.1. With a view to discourage cash payments by the contributors to any political party or an electoral trust, it is proposed to amend the provisions of aforesaid sections, so as to provide that no deduction shall be allowed under section 80GGB and 80GGC in respect of any sum contributed by way of cash.

2.4. Corporate Taxation

2.4.1. Tax on Royalties and Fees for Technical Services

2.4.1.1. Section 115A of the Income Tax Act, 1961 provides for taxability of income of non-resident by way of royalty and fees for technical services (FTS) received under an agreement entered after 31.03.1976 and which are not effectively connected with permanent establishment of the non-resident in India. Tax is payable on the gross amount of income at the rate of:

(i) 30% for agreement entered on or before 31.05.1997

(ii) 20% for agreement entered after 31.05.1997 but before 01.06.2005 and

(iii) 10% for agreement entered on or after 01.06.2005.

2.4.1.2. The rate on such income is proposed to be increased to 25% for all agreements entered after 31.03.1976 w.e.f. 01.04.2013 (i.e. Previous year 2013-14 relevant to Assessment year 2014-15)

2.4.2. Deduction for acquisition and installation of new plant or machinery by manufacturing company

2.4.2.1. This deduction shall be available to companies engaged in the business of manufacture of an article or thing. The investment for acquisition and installation of plant and machinery should be made during the period 01.04.2013 to 31.03.2015 for at least Rs. 100 crore.

2.4.2.2. Deduction of 15% of the actual cost of new asset acquired and installed being plant or machinery for assessment year 2014-15 is eligible if the cost of such assets exceeds Rs. 100 crores.

2.4.2.3. For A.Y. 2015-2016, a deduction of 15% of aggregate amount of actual cost of new asset acquired and installed during the period 01.04.2013 to 31.03.2015 as reduced by the deduction allowed, if any for A.Y. 2014-2015.

2.4.2.4. Further, such an asset must not be transferred within the period of 5 years (except in case of amalgamation & demerger where such period shall continue even after arrangement). Further, some exclusions have been made from the phrase 'new asset'.

2.4.2.5. This deduction is over and above the deduction of depreciation under Sec 32 of the Act.

2.4.3. Extension of Sunset Date for Power Sector unit to claim Deduction u/s 80IA

2.4.3.1. With a view to provide further time to the Power sector undertakings as specified under clause (iv) of subsection (4) of section 80IA to commence the eligible activity to avail the tax incentive, it is proposed to amend provisions so as to extend the terminal date by a further period of one year from 31st March 2013 to 31st March, 2014.

2.4.4. Exemption to income of Investor Protection Fund of depositories

2.4.4.1. Under the provisions of SEBI (Depositories and Participants) Regulations, 1996, as amended in 2012, the depositories are mandatorily required to set up an Investor Protection Fund.

2.4.4.2. Now it is proposed to amend section 10(23EA) so as to extend exemption to the income, by way of contribution from a depository, of the Investor Protection Fund set up by the depository in accordance with the regulations prescribed by SEBI.

2.4.4.3. It is also provided that where any amount standing to the credit of the fund and not charged to income-tax during any previous year is shared wholly or partly with a depository, the amount so shared shall be deemed to be the income of the previous year of the depository in which such amount is shared.

2.4.4.4. This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to assessment year 2014-15 and subsequent assessment years.

2.4.5. Lower rate of tax on dividends received from foreign companies

2.4.5.1. In order to continue the tax incentive 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 dividends received by an Indian company from a specified foreign company (in which it has shareholding of 26% or more) at the rate of 15% if such dividend is included in the total income for the Financial Year 2013-14 i.e. Assessment Year 2014-15

2.4.5.2. This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to the assessment year 2014-15.

2.4.6. Removal of the cascading effect of Dividend Distribution Tax (DDT)

2.4.6.1. It is proposed to amend section 115-O in order to remove the cascading effect in respect of dividends received by a domestic company from a similarly placed foreign subsidiary (ie the foreign company in which domestic company holds more than fifty percent of equity share capital). It is proposed that where the tax on dividends received from the foreign subsidiary is payable under section 115BBD by the holding domestic company then, any dividend distributed by the holding company in the same year, to the extent of such dividends, shall not be subject to Dividend Distribution Tax under section 115-O of the Income-tax Act. This amendment will take effect from 1st June, 2013.

2.4.7. Extension of scope of Sec 194LC- TDS on interest paid to Non-resident on foreign currency borrowings

2.4.7.1. Where a non-resident deposits foreign currency in a designated bank account and such money as converted in rupees is utilised for subscription to a long-term infrastructure bond issue of an Indian company, then, for the purpose of sec 194LC, the borrowing by the company shall be deemed to be in foreign currency. Therefore, the benefit of reduced rate of tax @ 5% would be available to such non-resident in respect of interest income arising thereon. It shall take effect from 01.06.2013.

2.4.8. Taxation of Securitization Trusts

2.4.8.1. In order to facilitate the securitisation process, it is proposed to provide a special taxation regime in respect of taxation of income of securitisation entities, set up as a trust, from the activity of securitisation. It is proposed to amend section 10 and also insert a new Chapter XII-EA for providing a special tax regime. The salient features of the special regime are :-

i. The income from the activity of securitisation will be exempt from taxation. (such entity should be regulated by SEBI or RBI)
ii. The securitisation trust will be liable to pay distribution tax on income distributed to its investors as follows:

Individual and HUF- @ 25%

Other cases- @ 30%

If received by a person who is exempt from tax under the Act- Nil

iii. The distributed income received by the investor will be exempt from tax.
iv. Interest @ 1% for every month or part of the month on the amount of additional income-tax not paid within the specified time.
v. The person responsible for payment of income or the securitisation trust will be deemed to be an assessee in default in case of non-compliance.

2.4.8.2. This amendment will take effect from 01.06.2013.

2.4.9. Pass through status to alternative investment funds in case of venture capital company or funds

2.4.9.1. The SEBI (Alternative Investment Funds) Regulations, 2012 (AIF regulations) have replaced the SEBI (Venture Capital Fund) Regulations, 1996 (VCF regulations) from 21st May, 2012. In order to provide benefit of pass through to similar venture capital funds as are registered under new regulations and subject to same conditions of investment restrictions in the context of investment in a venture capital undertaking, it is proposed to amend section 10(23FB) to provide as under

2.4.9.2. The existing VCFs and VCCs (i.e. which have been registered before 21/05/2012) and are regulated by the VCF regulations, as they stood before repeal by AIF regulations, would continue to avail pass through status as currently available.

2.4.9.3. In the context of AIF regulations, the Venture Capital Company shall be defined as a company and Venture capital fund shall be defined as a fund set up as a trust, which has been granted a certificate of registration as Venture Capital Fund being a sub-category of Category I Alternative Investment Fund and satisfies the following conditions:-

a) That at least two-thirds of its investible funds are invested in unlisted equity shares or equity linked instruments of venture capital undertaking.
b) No investment has been made by such AIFs in a VCU which is an associate company.
c) Units of a trust set up as AIF or shares of a company set up as AIF, are not listed on a recognised stock exchange.

2.4.9.4. In the context of AIF regulations, the Venture Capital Undertaking shall be defined as it is defined in the Alternative Investment Funds Regulations.

2.4.9.5. This amendment will take effect retrospectively from previous year 2012-2013 relevant to assessment year 2013-14 and subsequent years.

2.4.10. Tax on distributed income by company on buy-back of unlisted shares

2.4.10.1. Unlisted Companies, so as to distribute income, are resorting to buy back of shares instead of payment of dividends in order to avoid payment of tax by way of DDT particularly where the capital gains arising to the shareholders are either not chargeable to tax or are taxable at a lower rate.

2.4.10.2. In order to curb such practice it is proposed to charge additional income tax @ 20% to be paid by the company for purchase of its own unlisted shares which is in excess of the sum received by the company at the time of issue of such shares. In other words, it is a kind of dividend distribution tax. The income arising to the shareholders in respect of such buy back by the company would be exempt. It will be effective from 01.06.2013.

2.4.11. Transfer of immovable property held as stock in trade

2.4.11.1. Section 43CA is proposed to tax the deemed income arising by way of transfer of immovable property held as stock in trade. Such deemed income shall arise if the consideration received for transfer is less than the stamp duty value as assessed by the state authority and it shall be taxable under the head "Profits and gains of business of profession".

2.4.11.2. Where the amount of consideration or any part of it is received by any mode other than cash on or before the date of agreement, and if the date of agreement and the date of registration are not the same, then the stamp duty value may be taken as on the date of the agreement of transfer. It will be effective from previous year 2013-14 relevant to assessment year 2014-15 and subsequent years.

2.4.12. Disallowance of certain fee, charge, etc. in the case of State Government Undertakings u/s 40

2.4.12.1. It is proposed to amend section 40 of the Income-tax Act to provide that any amount paid by way of fee, charge, etc., which is levied exclusively on, or any amount appropriated, directly or indirectly, from a State Government undertaking, by the State Government, shall not be allowed as deduction for the purposes of computation of income of such undertakings under the head "Profits and gains of business or profession".

2.4.12.2. This amendment will take effect from 1st April, 2014 and will, accordingly, apply in relation to the assessment year 2014-15 and subsequent assessment years.

2.4.13. Deduction for additional wages u/s 80JJAA

2.4.13.1. The tax incentive under section 80JJAA was intended for employment of blue collared employees in the manufacturing sector whereas in practice, it is being claimed for other employees in other sectors also. It is therefore being amended so as to provide that the deduction shall be available to an Indian Company deriving profits from manufacture of goods in its factory. The deduction shall be of an amount equal to 30% of additional wages paid to the new regular workmen employed by the assessee in such factory, in the previous year, for three assessment years including the assessment year relevant to the previous year in which such employment is provided.

2.4.13.2. It is also proposed to provide that the deduction under this section shall not be available if the factory is hived off or transferred from another existing entity or acquired by the assessee company as a result of amalgamation with another company. It will be effective from previous year 2013-14 relevant to assessment year 2014-15 and subsequent years.

2.4.14. Tax Residency Certificate

2.4.14.1. It is proposed to amend section 90 & 90A in order to provide that submission of a tax residency certificate is a necessary but not a sufficient condition for availing the benefits under the double taxation avoidance agreements

2.5. Procedural Amendments

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

2.5.1.1. It is proposed to insert a new section 194-IA to provide that every transferee, at the time of making payment or crediting of any sum as consideration for transfer of immovable property (other than agricultural land) to a resident transferor shall deduct tax @ 1% of such sum.

2.5.1.2. In order to reduce the compliance burden on the small taxpayers, it is further proposed that no deduction of tax under this provision shall be made where the total amount of consideration for the transfer of an immovable property is less than fifty lakh rupees. It will be effective from 01.06.2013

2.5.2. Enabling provisions for facilitating electronic filing of annexure-less return of net wealth

2.5.2.1. In order to facilitate electronic filing of annexure-less return of net wealth, it is proposed to insert new sections 14A and 14B in the Wealth-tax Act. These amendments will take effect from 1st June, 2013.

2.5.3. Clarification of the phrase "tax due" for the purpose of recovery

2.5.3.1. Section 179 of the Income-tax Act provides that where the tax due from a private company cannot be recovered from such company, then the director (who was the director of such company during the previous year to which non-recovery relates) shall be jointly and severally liable for payment of such tax unless he proves that the non-recovery of tax cannot be attributed to any gross neglect, misfeasance or breach of duty on his part. it is proposed to clarify that for the purposes of this section, the expression "tax due" includes penalty, interest or any other sum payable under the Act. Amendments on the similar lines for clarifying the expression 'tax due' is proposed to be made to the provisions of section 167C (liability of partners of limited liability partnership in liquidation). It will be effective from 01.06.2013.

2.5.4. Application of seized assets under section 132B

2.5.4.1. Various courts have taken a view that the term "existing liability" includes advance tax liability of the assessee and accordingly seized assets may be adjusted against any existing liability including Advance Tax liability of the assessee. The legislative intent behind this provision is to ensure the recovery of outstanding tax/interest/penalty and also to provide for recovery of taxes/interest/penalty, which may arise subsequent to the assessment pursuant to search.

2.5.4.2. Accordingly it is proposed to amend the aforesaid section so as to clarify that the existing liability does not include advance tax payable by the assessee. This amendment will take effect from 1st June, 2013.

2.5.5. Return filed without payment of self- assessment tax to be treated as defective return

2.5.5.1. It is proposed to amend the Explanation to section 139(9) so as to provide that the return of income shall be regarded as defective unless the tax together with interest, if any, payable in accordance with the provisions of section 140A has been paid on or before the date of furnishing of the return. This amendment will take effect from 1st June, 2013.

2.5.6. Direction for special audit under sub-section (2A) of section 142

2.5.6.1. It is, therefore, proposed to amend section 142(2A) so as to provide that if at any stage of the proceedings before him, the Assessing Officer, having regard to the nature and complexity of the accounts, volume of the accounts, doubts about the correctness of the accounts, multiplicity of transactions in the accounts or specialized nature of business activity of the assessee, and the interests of the revenue, is of the opinion that it is necessary so to do, he may, with the previous approval of the Chief Commissioner or the Commissioner, direct the assessee to get his accounts audited by an accountant and to furnish a report of such audit. This amendment will take effect from 1st June, 2013.

2.5.7. Exclusion of time in computing the period of limitation for completion of assessments and reassessments

2.5.7.1. It is proposed to amend clause (iii) of Explanation 1 to section 153 so as to provide that the period commencing from the date on which the Assessing Officer directs the assessee to get his accounts audited under sub-section (2A) of section 142 and ending with the last date on which the assessee is required to furnish a report of such audit under that sub-section; or where such direction is challenged before a court, ending with the date on which the order setting aside such direction is received by the Commissioner, shall be excluded in computing the period of limitation for the purposes of section 153.

2.5.7.2. With a view to clarify, it is proposed to amend clause (viii) of Explanation 1 to section 153 so as to provide that the period commencing from the date on which a reference or first of the references for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information requested is last received by the Commissioner or a period of one year, whichever is less, shall be excluded in computing the period of limitation for the purposes of section 153. These amendments will take effect from 1st June, 2013.

2.5.8. Penalty u/s 271FA for non-filing of Annual Information Return

Annual Information Return	Penalty	Period
not filed by Due Date	100 per day	For the period of Defaults
not filed as required under notice u/s 285BA(5)	500 per day	from the day immediately following the day on which the time specified in such notice for furnishing the return expires till filing of Return

2.5.8.1. This amendment will take effect from 1st April, 2014.

2.5.9. Extension of time for approval in Part A of the Fourth Schedule to the Income-tax Act, 1961

2.5.9.1. It has been noticed that a number of applications for are yet to be processed by the Employees' Provident Fund Organization (EPFO) for recognizing the provident funds as eligible for exemption. Hence the time limit has been extended from 31st March, 2013 to 31st March, 2014.

2.6. General Anti-Avoidance Rule (GAAR)

2.6.1.1. In order to give effect to the recommendations the following amendments have been made in GAAR provisions currently provided in the Act:-

Content	**Current Provision**	**Proposed Provision**
Effective Date	01.04.2014	01.04.2016
Impermissible Avoidance Agreement (IAV)	An arrangement, ***the main purpose or one of the main purposes*** of which is to obtain tax benefit	An arrangement, ***<u>the main purpose</u>*** of which is to obtain tax benefit
Factor to considered IAV	Following factors **<u>are not</u>** relevant - period or time of arrangement - payment of taxes - exit route was provided by the arrangement,	The said factors are relevant though not sufficient
Arrangement lack commercial substance		Covers an arrangement that does not have: a significant effect upon the business risks and net cash flows of any party to the arrangement
Approving Panel	Atleast three members being income-tax authorities and an officer of the Indian Legal Service	A Chairperson who is or has been a Judge of a High Court; one Member of the Indian Revenue Service not below the rank of

		Chief Commissioner of Income-tax; and one Member with appropriate knowledge
Direction of Approving panel binding on	Assessing Officer	Assessee as well as Income Tax Authorities
Defn u/s 102	Current Provision of section 102 defines "associated person" and "connected person"	It is proposed to combine the definition so as to one inclusive provisions defining a "connected person"

3. Excise Duty

3.1. Offences and Prosecution

3.1.1.1. Section 9 deals with offences under the Excise Act. If any assessee commits the said offences involving evasion in which the duty leviable exceeds thirty lakhs rupees shall be punishable with a term of imprisonment extending to seven years with fine. This section is being amended to substitute the amount of Rs. Thirty lakhs for Rs. Fifty lakhs.

3.1.1.2. Section 9A deals with non cognizable offences. A new sub-section has been introduced which deals with offenses relating to evasion of payment of duty and contravention of the provisions of the act or rules made there under in relation to credit of any duty allowed to be utilized towards payment of excise duty on the final products. As per the new sub-section in case of the above offenses the duty leviable exceeds rupees fifty lakhs then the offence becomes cognizable and non-bailable.

3.1.1.3. Section 20 is amended so that the officer-in-charge of the police station can admit a person on bail or appear before the magistrate only in cases of offences which are non-cognizable.

3.1.1.4. Section 21 is being amended so as to make the provisions regarding release of arrested person on bail or personal bond applicable only to offence which is non-cognizable.

3.2. Recovery

3.2.1.1. Section 11 deals with recovery of sums due to Government from any person other than from whom money is due. Now a new subsection is inserted whereby as per clause (i) the Central Excise Officer or the proper officer would be required to issue a notice in writing to recover money from such other person. Further as per clause (ii) the person on whom the notice is issued would be bound to comply with the notice. Further as per clause (iii) it is stated that where the person on whom the notice is issued fails to comply with the terms of the said notice then the said person shall be deemed to be the person from whom the duty is recoverable and would have to face the consequences of provisions of the Act.

3.2.1.2. Section 11A deals with recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded. A new sub-section is being added by the Finance Bill, 2013 whereby the service of statement containing the details of duty not paid, or short-levied or short-paid or erroneously refunded shall be deemed to be the service of a notice under sub-section (1) or (3) or (4) or (5) of the said section.

3.2.1.3. Section 11DDA deals with the provisional attachment to protect the revenue in certain cases. Earlier provisional attachment could be carried out only when recovery of duties not levied or not paid or short-levied or short-paid or erroneously refunded was carried out for reasons other than fraud or collusion or willful misstatement. Now the section has been amended so that provisional attachment can be made in all cases listed under section 11A.

3.3. **Procedural Aspects**

3.3.1.1. The advance ruling provisions under section 23A have been expanded to also include production or manufacture of goods and any new business of production or manufacture proposed to be undertaken by the existing producer or manufacturer as the case may be.

3.3.1.2. Section 23C deals with the provisions relating to Advance Ruling. Earlier advance ruling could be sought for in relation to the admissibility of credit of excise duty paid or deemed to have been paid on goods used in relation to manufacture. Now advance ruling can also be sought for issues related to credit availed of service tax paid or deemed to be paid on input service used in relation to manufacture.

3.3.1.3. The facility of advance ruling is now extended to resident public limited companies also.

3.3.1.4. Section 37C is amended to include additional modes of delivery of any decision or order passed or any summons or notices issued under the Central Excise Act can now also be delivered through speed post with proof of delivery or through courier approved by the CBEC.

3.3.1.5. The amount of interest on refund due on finalization of the provisional assessment shall be paid as per the provisions of section 11BB.

3.4. **Appeals**

3.4.1.1. Section 35C provides for the orders passed by the Appellant Tribunal. Sub-Section (2A) deals with the time period within which the appeal needs to be disposed off by the Tribunal. In case the Tribunal fails to dispose the appeal within the said time limit the stay granted stands vacated. A new proviso is inserted under section 35C(2A) so that the Tribunal may extend the period of stay, when the delay in disposing off the appeal is not attributable to the appellant, by a period of 185 days subject to the condition that if the appeal is not disposed of within the total period of 365 days from the date of the order then the stay shall stand vacated.

3.4.1.2. Section 35D is being amended to enhance the monetary limit of the Single Bench of the Tribunal to hear and dispose of the appeals from "ten lakh rupees" to "fifty lakh rupees".

3.5. MRP Based Assessment

3.5.1.1. In the Third Schedule a new entry is inserted i.e. S.No 31A to include branded and generic ayurvedic, unani, siddha, homeopathic or bio-chemic medicaments. The new entry has been inserted in the Third Schedule wherein medicaments exclusively used in Ayurvedic, Unani, Siddha, Homeopathic or Bio-chemic systems are included with an abatement of 35%.

3.6. CENVAT Credit Rules

3.6.1.1. An explanation is inserted below the proviso to Rule 3(5B) of the Cenvat Credit Rules, 2004 which states that where a manufacture or provider of service fails to pay the amount payable under sub-rules (5), (5A) and (5B) then the same shall be recovered in the manner as provided under Rule 14 of the Cenvat Credit Rules, 2004.

3.7. Changes in Duty Rates

Item	Current Duty	Proposed Duty
Branded Ayurvedic medicaments and medicaments of Unani Siddha, Homeopathy or Bio-chemie system	**6%**	MRP based assessment with an abatement of 35% from MRP
Mobile Handsets having RSP > Rs.2000 RSP < Rs.2000	1% 1%	5% 1%
Chassis of diesel motor vehicles	14%	13%
Marble tiles and slabs	Rs.30 per sq.mtr	Rs.60 per sq. mtr
Sport Utility Vehicle	27%	30%
Stainless steel "Patta Patti"	Rs.30000 per machine	Rs.40000 per machine
Ships and Other Vessels	6%	NIL
Silver produced or manufactured during the process of Zinc or Lead Smelting	12%	4%
All Handmade carpets and carpets & other textile floor coverings of coir and jute , whether or not handmade	12%	NIL

Readymade garments and made ups	6%	NIL [4]

[4] (The zero excise duty route will now be available in addition to the CENVAT route under which manufacturers can pay excise duty on the final product and avail of cenvat paid on inputs)

4. Customs Duty

4.1. Import & Export Procedures

4.1.1.1. Section 11 provides powers to the Central Govt. to prohibit the import or export of certain goods for the purposes mentioned in sub-section (2) of the section 11. Clause (n) of section 11(2) provided for the protection of patents, trade marks and copyrights. This clause has been amended to include "designs and geographical indications". "Designs and geographical indications" have been included along with patents, trade mark and copy rights to enable the Central Government to prohibit either absolutely or conditionally the import or export of goods to protect these legal rights.

4.1.1.2. Section 30 provides for delivery (by the person-in-charge) of import manifest prior to the arrival of the vessel or an aircraft and an import report within twelve hours after the arrival of the vehicle. The said section 30 has been amended to provide for e-filing of import manifest and also to provide that the Commissioner of Customs may, in cases where it is not feasible to deliver the import manifest by presenting electronically, allow the same to be delivered in any other manner.

4.1.1.3. Similarly, Section 41 provides for delivery (by the person-in-charge) of export manifest prior to the departure of the vessel or an aircraft and an export report before the departure of the vehicle. The said section 41 has been amended to provide for e-filing of export manifest and also to provide that the Commissioner of Customs may, in cases where it is not feasible to deliver the export manifest by presenting electronically, allow the same to be delivered in any other manner.

4.2. Warehousing

4.2.1.1. Section 47(2) provided for interest-free period of 5 days [(excluding holidays), from the date on which the bill of entry is returned to him for payment of duty] for payment of customs duty on clearance of goods for home consumption. The said section 47(2) is being amended to reduce the interest free period for payment of import duty from 5 days to 2 days.

4.2.1.2. Section 49 provided for the storage of imported goods, whether dutiable or not, entered for home consumption in a public / private warehouse. However, no restriction was provided in the said section for the purpose of storage of such goods. The said section 49 is being amended to restrict the period of storage of imported goods, pending clearance, in a public warehouse to 30 days and to provide that the

Commissioner of Customs may extend the period of storage for further period not exceeding 30 days at a time. The said section is amended in the interest of accountability and early finalization of assessments.

4.2.1.3. Section 69 provided for the export of warehoused goods without payment of import duty if the three conditions mentioned therein were satisfied. It also provided that if the Central Government was of the opinion that the warehoused goods are likely to be smuggled back into India, then it may not be allowed to be exported or it may be exported with restrictions and conditions as may be imposed upon it.

4.2.1.4. The said section 69 is bring substituted to provide that any warehoused goods may be exported to a place outside India without payment of import duty if a shipping bill or a bill of export, in prescribed form or label or declaration accompanying the goods as referred to in section 82, has been presented in respect of such goods.

4.2.1.5. Section 143A provided for duty deferment incase of material imported under an import license belonging to the category of Advance License granted under the Imports and Exports (Control) Act, 1947, subject to an obligation to export the goods and subject to certain conditions mentioned therein. The said section 143A has been omitted.

4.2.1.6. Time limit for consumption/installation of parts and testing equipment imported for MRO of aircraft/ships is increased from three months to one year

4.3. Exemptions

4.3.1.1. Sub-section (3) of section 144 is being amended to remove the duty liability on any sample of goods which is consumed or destroyed during the course of testing or examination.

4.3.1.2. Full exemption from export duty is being given retrospectively in flat rolled products of iron or non-alloy steel, plated or coated with zinc falling under headings 7210 and 7212 vide Notification No. 27/2011-Customs, dated 01.03.2011 from 01.03.2011. Consequently, it is also provided that an application for the claim of refund of duty of customs shall be made within six months from the date on which the Finance Bill, 2013 receives the assent of the President.

4.4. Baggage Rules

4.4.1.1. The duty free allowance for crew member of vessel / aircraft is raised from Rs. 600 to Rs. 1500.

4.4.1.2. The duty free allowance in respect of jewellery for an Indian passenger who has been residing abroad for over one year or a person who is transferring his residence to India has been raised from Rs. 10,000 to Rs. 50,000 in case of a gentlemen passenger and from Rs. 20,000 to Rs. 1,00,000 in case of a lady passenger.

4.5. Adjudication Procedures

4.5.1.1. Section 27 provides for the mechanism for claim of refund of customs duty and the time limit within which the refund claim needs to be filed. The said section is being amended to provide that if the amount of refund claimed is less than Rs. 100/-, the same shall not be refunded.

4.5.1.2. Section 28 provides for issuance of Show Cause Notice for recovery of duties not levied or short-levied or erroneously refunded. The said section is being amended to provide that show cause notice will not be served where the amount demanded is less than Rs. 100/-.

4.5.1.3. Section 146 is being substituted to change the nomenclature of "customs house agents" to "customs brokers" considering the global practice and internationally accepted nomenclature.

4.5.1.4. Section 146A is being amended so as to:

(a) substitute the phrase "customs house agents" with the phrase "customs brokers"
(b) include any offence committed under the Finance Act, 1994 as a disqualification for person to act as an authorized representative in customs matters.

4.5.1.5. Section 147 provides for the liability of the principal and his agent. Sub-section (3) of section 147 is being amended to expand the scope of the liability of agents of the owner, importer or exporter of any goods casting equal responsibility on agents for making correct self-assessement.

4.6. Advance Rulings

4.6.1.1. Section 28E clause (a) provides the meaning of "activity" which means import or export. The said clause (a) is being substituted so as to include any new business of import or export proposed to be undertaken by the existing importer or exporter within the meaning of "activity". The said amendment has been made so as to enable such importer or exporter to seek advance ruling when he starts a new line of business.

4.6.1.2. Section 29 provided for the arrival of the vessels and aircrafts in India wherein the person-in-charge of the vessel was not permitted to land the vessel at any place other than a customs port or a customs airport. The said section 29 is being amended to empower the Board to permit landing of vessels and aircrafts at any place other than customs port or customs airport.

Note: The provisions of the Customs Act which are similar with the provisions of the Central Excise Act are not reiterated in this part of the book as the same are already covered under the amendments in the Excise Act

4.7. Changes in Duty Rates

4.7.1. Import Duty Rates

Item	Current Rate	Proposed
Hazel Nuts	30%	10%
De-hulled oat grain	30%	15%
Peanut Butter	7.5%	7.5%
Bituminous Coal – BCD CVD	5% 6%	2% 2%
Steam Coal BCD CVD	NIL 1%	2% 2%
Pre-forms of precious and semi-precious stones	10%	2%
Stainless Steel Wire Cloth	10%	5%
Wash Coat	7.5%	5%
Raw Silk	5%	15%
20 Specified Machinery for use in leather/footwear industry	7.5%	5%
Textile Machinery	7.5%	5%
Set Top Box	5%	10%
Cars/ motor vehicles (New/Others) FOB value >US $ 40000 (For New) Engine capacity > 3000 cc (Petrol) Engine capacity > 2500 cc (Diesel)	75%	100%
New motorcycles Engine capacity 800 cc or more	60%	75%
Yachts and other vessels	10%	25%
Chocolates/cheese/cosmetics for personal/family use	600	1500

4.7.2. Export Duty Rates

Item	Current Rate	Proposed
De-oiled rice bran oil cake	10%	NIL
Bauxite/ilmenite unprocessed	30%	10%
Ilmenite , upgraded	30%	5%

5. Reference Charts

5.1. Reverse Charge Mechanism (RCM) under Service Tax

S. No.	Description of a service	When RCM applies		Effective Date	Service Provider		Service Recipient	
		Service Provider	*Service Recipient*		*Component*	*Effective Tax Rate*	*Component*	*Effective Tax Rate*
1	Insurance Agency Services	an insurance agent	any person carrying on insurance business	01.07.2012	Nil	Nil	100%	12.36%
2	transportation of goods by road	a goods transport agency	specified persons	01.07.2012	Nil	Nil	100%	3.09%
3	Sponsorship	Any person	Body corporate or partnership firm	01.07.2012	Nil	Nil	100%	12.36%
4	Import of Services as per PPSR	any person located in a non-taxable territory	any person located in the taxable territory	01.07.2012	Nil	Nil	100%	12.36%
5	Services by Arbitral Tribunal	Arbitral tribunal	Any Business Entity	01.07.2012	Nil	Nil	100%	12.36%
6	Legal Services	Individual Advocate or Firm of Advocates	Any Business Entity	01.07.2012	Nil	Nil	100%	12.36%
7	support service (excluding renting of immovable property)	Government or local authority	Any Business Entity	01.07.2012	Nil	Nil	100%	12.36%
8	renting or hiring any motor vehicle designed to carry passenger on abated value.	Individual/ Firm or LLP	company (Ltd/Pvt Ltd) or a body corporate	01.07.2012	Nil	Nil	100%	4.944%
9	renting or hiring any motor vehicle designed to carry passenger on non abated value.	Individual/ Firm or LLP	-do-	01.07.2012	60%	7.416 %	40%	4.944%
10	supply of manpower for any purpose	Individual/ Firm or LLP	-do-	01.07.2012	25%	3.09%	75%	9.27%
11	works contract	Individual/ Firm or LLP	-do-	01.07.2012	50%	Various	50%	Various
12	Security Services	Individual/ Firm or LLP	-do-	07.08.2012	25%	3.09%	75%	9.27%
13	Sitting fees to directors	Individual	Company	07.08.2012	Nil	Nil	100%	12.36%

5.2. **Abatements under Service Tax**

Sl. No.	Description of taxable service	Taxable Portion	Eligibility of CENVAT Credit		
			Input Service	Capital Goods	Inputs
1	Financial leasing services including equipment leasing and hire purchase	10	Yes	Yes	Yes
2	Transport of goods by rail	30	Yes	Yes	Yes
3	Transport of passengers, with or without accompanied belongings by rail	30	Yes	Yes	Yes
4	Pandal & Shamiana Services with food	70	Yes	Yes	**
5	Transport of passengers by air, with or without accompanied belongings	40	Yes	No	No
6	Renting of accomodation	60	Yes	No	No
7	Transport of goods by road by Goods Transport Agency	25	No	No	No
8	Services provided in relation to chit	70	No	No	No
9	Renting of any motor vehicle designed to carry passengers	40	No	No	No
10	Transport of goods in a vessel from one port in India to another	50	No	No	No
11	(i) Services provided or to be provided to any person, by a tour operator in relation to a package tour	25	No	No	No
	(ii)Services provided or to be provided to any person, by a tour operator in relation to a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	10	No	No	No
	(iii) Services, other than above	40	No	No	No
12	Sale of Under Construction Flats/Units (1) For Residential Unit having carpet area upto 2000 square feet. (2) The amount charged is < Rs. 1crore (both for residential + commercial premises) (3) For Commercial Unit having a carpet area upto 2000 square feet and amount charged > Rs. 1 crore. (4) All other Cases	25 25 30 30	Yes	Yes	No

** No for Chapters 1 to 22, Yes for others

5.3. TDS Obligations under Income Tax Act

Sl. No.	Section	Nature of Payment in brief	Cut Off Limit	Rate %	
				HUF/IND	Others
1	192	Salaries	Taxable Income	Average Rate	NA
2	193	Interest on debentures	5,000	10	10
3	194	Deemed dividend	-	10	10
4	194A	Interest other than Int. on securities (by Bank)	10,000	10	10
4A	194A	Interest other than Int. on securities (By others)	5,000	10	10
5	194B	Lottery / Cross Word Puzzle	10,000	30	30
6	194BB	Winnings from Horse Race	5,000	30	30
7	194C(1)	Contracts	30,000	1	2
8	194C(2)	Sub-contracts/ Advertisements	30,000	1	2
9	194D	Insurance Commission	20,000	10	10
10	194EE	Payments out of deposits under NSS	2,500	20	-
11	194F	Repurchase of units by MF/UTI	1,000	20	20
12	194G	Commission on sale of lottery tickets	1,000	10	10
13	194H	Commission or Brokerage	5,000	10	10
14	194I	Rent (Land & building)	1,80,000	10	10
		Rent (P & M , Equipment, furniture & fittings)	1,80,000	2	2
15	194IA	Purchase of Immoveable Property	50,00,000	1	1
16	194J	Professional/Technical charges/Royalty & Non-compete fees	30,000	10	10
17	194J(1)(ba)	Any remuneration or commission paid to director of the company(Effective from 1 July 2012)	NIL	10	10
18	194LA	Compensation on acquisition of immovable property	2,00,000	10	10

5.4 Consolidated Due Date Chart

	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar
Obligations under Central Excise Act												
Manual Payments	05/05	05/06	05/07	05/08	05/09	05/10	05/11	05/12	05/01	05/02	05/03	31/03
Electronic Payments	06/05	06/06	06/07	06/08	06/09	06/10	06/11	06/12	06/01	06/02	06/03	31/03
Filing of ER-1, ER-2 and ER-6	10/05	10/06	10/07	10/08	10/09	10/10	10/11	10/12	10/01	10/02	10/03	10/04
Filing of ER-3, ER-8	20/07			20/10			20/01			20/04		
Filing of ER-4	30/11 (for preceding F.Y.)											
Filing of ER-5, ER-7(yearly)	30/04 (for preceding F.Y.)											
Obligations under Service Tax Law												
Manual Payments (Companies)	05/05	05/06	05/07	05/08	05/09	05/10	05/11	05/12	05/01	05/02	05/03	31/03
Electronic Payments (Companies)	06/05	06/06	06/07	06/08	06/09	06/10	06/11	06/12	06/01	06/02	06/03	31/03
payment for 'other than companies' (Manual)	05/07			05/10			05/01			05/01		
payment for 'other than companies' (Electronic)	06/07			06/10			06/01			31/03		
Returns (ST-3)	25/10 (For Jul to Sep 12, DD is 25.03.13)						25/04					
Obligations under MVAT Law												
Tax liability between 0-100000 *	30/10						30/04					
Tax Liability between 100001-10 Lakhs*	21/07			21/10			21/01			21/04		
Tax liability above10 Lakhs*	21/05	21/06	21/07	21/08	21/09	21/10	21/11	21/12	21/01	21/02	21/03	21/04
Works Contract TDS Payment **	21/05	21/06	21/07	21/08	21/09	21/10	21/11	21/12	21/01	21/02	21/03	21/04
Filing of Annexures in Non Audit Cases	30/06											
MVAT Audit	15/01											
Obligations under Labour Laws												
Profession Tax Payment	31/05	30/06	31/07	31/08	31/09	31/10	30/11	31/12	31/01	28/02	31/03	30/04
ESIC Payment	21/05	21/06	21/07	21/08	21/09	21/10	21/11	21/12	21/01	21/02	21/03	21/04
Provident Fund Payment	15/05	15/06	15/07	15/08	15/09	15/10	15/11	15/12	15/01	15/02	15/03	15/04
Obligations under Income Tax Laws												
TDS Payment	07/05	07/06	07/07	07/08	07/09	07/10	07/11	07/12	07/01	07/02	07/03	30/04
TDS Returns	15/07			15/10			15/01			15/05		
Advance tax payment (Companies)			15/06			15/09			15/12			15/03
Advance tax payment (Other than Companies)						15/09			15/12			15/03
Income Tax Returns	Non Audit 31/07, Audit 30/09, Transfer Pricing 30/11											

* If Payment of MVAT made as per time prescribed, additional 10 days are given for uploading return

** The Due Date for Works Contract TDS Return is 30th June