

Major Changes / Amendments in Income Tax and Wealth-tax Made in Budget 2009-2010

Direct Taxes

- No changes made in the Corporate Tax rates.
- For the Limited Liability Partnerships, the provisions of Income Tax are the same as applicable in the case of Partnership Firms formed as per the Indian Partnership Act' 1932.
- **Exemption limit in personal income tax raised**

By Rs.15,000 from Rs.2,25,000/- to Rs.2,40,000/- for senior citizens;

By Rs.10,000 from Rs.1,80,000/- to Rs.1,90,000/- for women tax payers;

And by Rs.10,000 from Rs.1,50,000/- to Rs.1,60,000/- for all other categories of individual taxpayers.

- Deduction under **section 80-DD** in respect of maintenance, including medical treatment, of a dependent who is a person with severe disability being raised from the present limit of Rs.75,000 to Rs.1,00,000/-.
- Surcharge on various direct taxes to be phased out; in the first instance, by eliminating the surcharge of 10% on personal income-tax.
- **Benefits of the Exemption u/s.10A & 10B have been extended upto A.Y. 2011-2012:** Sun-set clauses for deduction in respect of export profits under sections 10A and 10B of the Income-tax Act being extended by one more year i.e. for the financial year 2010-11.
- **FBT has been abolished w.e.f. A.Y. 2010-2011:- Fringe Benefit Tax on the value of certain fringe benefits provided by employers to their employees to be abolished.**

Section 115WM. Nothing contained in this Chapter shall apply, in respect of any assessment for the assessment year commencing on the 1st day of April, 2010 or any subsequent assessment year.”.

- Scope of provisions relating to weighted deduction of 150% on expenditure incurred on in-house R&D to all manufacturing businesses being extended except for a small negative list.

- Businesses to be incentivised by providing investment linked tax exemptions rather than profit linked exemptions. Investment linked tax incentives to be provided, to begin with, to the businesses of setting up and operating 'cold chain', warehousing facilities for storing agricultural produce and the business of laying and operating cross country natural gas or crude or petroleum oil pipeline network for distribution on common carrier principle. Under this method, all capital expenditure, other than expenditure on land, goodwill and financial instruments to be fully allowable as deduction.
- **Minimum Alternate Tax (MAT) to be increased to 15% of book profits from 10%.** The period allowed to carry forward the tax credit under MAT to be extended from 7 years to 10 years.
- New Pension System (NPS) to continue to be subjected to the Exempt-Exempt-Taxed (EET) method of tax treatment of savings. Income of the NPS Trust to be exempted from income tax and any dividend paid to this Trust from Dividend Distribution Tax. All purchase and sale of equity shares and derivatives by the NPS Trust also to be exempt from the Securities Transaction Tax. Self employed persons to be enabled to participate in the NPS and to avail of the tax benefits available thereto.
- Alternative dispute resolution mechanism to be created within the Income Tax Department for the resolution of transfer pricing disputes. Central Board of Direct Taxes (CBDT) to be empowered to formulate 'safe harbour' rules to reduce the impact of judgmental errors in determining transfer price in international transactions.
- Commodity Transaction Tax (CTT) to be abolished.
- Donations to electoral trusts to be allowed as a 100% deduction in the computation of the income of the donor.
- Deduction under **section 80E** of the Income-tax Act allowed in respect of interest on loans taken for pursuing higher education in specified fields of study to be extended to cover all fields of study, including vocational studies, pursued after completion of schooling.
- To mitigate the practical difficulties faced by charitable organisations, anonymous donations received by charitable organisations to the extent of 5% of their total income or a sum of Rs.1,00,000/-, whichever is higher, not to be taxed.
- Scope of presumptive taxation to be extended to all small businesses with a turnover upto Rs. 40,00,000/-. All such taxpayers to have option to declare their income from business at the rate of 8% of their turnover and simultaneously enjoy exemption from the compliance burden of maintaining books of accounts. As a procedural simplification, they are also to be exempted from advance tax and

allowed to pay their entire tax liability from business at the time of filing their return. This new scheme to come into effect from the financial year 2010-11.

Section 44AD – New Section Introduced Instead of Old One:

‘44AD. (1) Notwithstanding anything to the contrary contained in sections 28 to 43C, in the case of an eligible assessee engaged in an eligible business, a sum equal to eight per cent. of the total turnover or gross receipts of the assessee in the previous year on account of such business or, as the case may be, a sum higher than the aforesaid sum claimed to have been earned by the eligible assessee, shall be deemed to be the profits and gains of such business chargeable to tax under the head “Profits and gains of business or profession”.

Explanation.— For the purposes of this section,—

(a) “eligible assessee” means,—

(i) an individual, Hindu undivided family or a partnership firm, who is a resident, but not a limited liability partnership firm as defined under clause (n) of sub-section (1) of section 2 of the Limited Liability Partnership Act, 2008; and

(ii) who has not claimed deduction under any of the sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading “C.—Deductions in respect of certain incomes” in the relevant assessment year;

- Tax holiday under section 80-IB(9) of the Income Tax Act, which was hitherto available in respect of profits arising from the commercial production or refining of mineral oil, to be extended to natural gas. This tax benefit to be available to undertakings in respect of profits derived from the commercial production of mineral oil and natural gas from oil and gas blocks which are awarded under the NELP-VIII round of bidding. The section to be retrospectively amended to provide that “undertaking” for the purposes of section 80-IB(9) will mean all blocks awarded in any single contract.
- **Section 2(15):** after ‘medical relief’, the following words have been added: “preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historical interest.”
- **Section 40(b):** Slabs for the provisions of Remuneration to Partners as follows:

Common for both Professional & Non Professional Firms

ON the First Rs.3,00,000/- of Book Profit or in Case of Loss: **Rs.1,50,000/- or @ 90% of the Book Profit whichever is More.**

On the balance Book Profit: **@ 60%**

- **Section 40A(3)** has been amended so as to raise the limit for cash payment to Rs.35,000/- instead of Rs.20,000/- in cases of payments made for plying, hiring or leasing goods carriages.
- **Section 80IB(10)** amended:

(c) in sub-section (10),—

(i) after clause (d), the following clauses shall be inserted with effect from the 1st day of April, 2010, namely:—

“(e) not more than one residential unit in the housing project is allotted to any person not being an individual; and

(f) in a case where a residential unit in the housing project is allotted to a person being an individual, no other residential unit in such housing project is allotted to any of the following persons, namely:—

(i) the spouse or the minor children of such individual,

(ii) the Hindu undivided family in which such individual is the *karta*,

(iii) any person representing such individual, the spouse or the minor children of such individual or the Hindu undivided family in which such individual is the *karta*;”;

(ii) the following *Explanation* shall be inserted and shall be deemed to have been inserted with effect from the 1st day of April, 2001, namely:—

“*Explanation.*—For the removal of doubts, it is hereby declared that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including the Central or State Government).”.

- **Section 194C has been amended (revamped fully):**

‘194C. (1) Any person responsible for paying any sum to any resident (hereafter in this section referred to as the contractor) for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract between the contractor and a specified person shall, at the time of credit of such sum to the account of the contractor or at the time of payment thereof in cash or by issue of a cheque or draft or by any other mode, whichever is earlier, deduct an amount equal to—

(i) one per cent. where the payment is being made or credit is being given to an individual or a Hindu undivided family;

(ii) two per cent. where the payment is being made or credit is being given to a person other than an individual or a Hindu undivided family, of such sum as income-tax on income comprised therein.

(2) Where any sum referred to in sub-section (1) is credited to any account, whether called "Suspense account" or by any other name, in the books of account of the person liable to pay such income, such crediting shall be deemed to be credit of such income to the account of the payee and the provisions of this section shall apply accordingly.

(3) Where any sum is paid or credited for carrying out any work mentioned in sub-clause (e) of clause (iv) of the *Explanation*, tax shall be deducted at source—

(i) on the invoice value excluding the value of material, if such value is mentioned separately in the invoice; or

(ii) on the whole of the invoice value, if the value of material is not mentioned separately in the invoice.

(4) No individual or Hindu undivided family shall be liable to deduct income-tax on the sum credited or paid to the account of the contractor where such sum is credited or paid exclusively for personal purposes of such individual or any member of Hindu undivided family.

(5) No deduction shall be made from the amount of any sum credited or paid or likely to be credited or paid to the account of, or to, the contractor, if such sum does not exceed twenty thousand rupees:

Provided that where the aggregate of the amounts of such sums credited or paid or likely to be credited or paid during the financial year exceeds fifty thousand rupees, the person responsible for paying such sums referred to in sub-section (1) shall be liable to deduct income-tax under this section.

(6) No deduction shall be made from any sum credited or paid or likely to be credited or paid during the previous year to the account of a contractor during the course of business of plying, hiring or leasing goods carriages, on furnishing of his Permanent Account Number, to the person paying or crediting such sum.

(7) The person responsible for paying or crediting any sum to the person referred to in subsection (6) shall furnish, to the prescribed income-tax authority or the person authorised by it, such particulars, in such form and within such time as may be prescribed.

Explanation.—For the purposes of this section,—

(i) "specified person" shall mean,—

(a) the Central Government or any State Government; or

(b) any local authority; or

(c) any corporation established by or under a Central, State or Provincial Act; or

(d) any company; or

(e) any co-operative society; or

(f) any authority, constituted in India by or under any law, engaged either for the purpose of dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or for both; or

(g) any society registered under the Societies Registration Act, 1860 or under any law

corresponding to that Act in force in any part of India; or

(h) any trust; or

(i) any university established or incorporated by or under a Central, State or Provincial Act and an institution declared to be a university under section 3 of the University Grants Commission Act, 1956; or

(j) any Government of a foreign State or a foreign enterprise or any association or body established outside India; or

(k) any firm; or

(l) any person, being an individual or a Hindu undivided family or an association of persons or a body of individuals, if such person,—

(A) does not fall under any of the preceding sub-clauses; and

(B) is liable to audit of accounts under clause (a) or clause (b) of section 44AB during

the financial year immediately preceding the financial year in which such sum is credited or paid to the account of the contractor;

(ii) “goods carriage” shall have the meaning assigned to it in the *Explanation* to sub-section (7) of section 44AE;

(iii) “contract” shall include sub-contract;

(iv) “work” shall include—

(a) advertising;

(b) broadcasting and telecasting including production of programmes for such broadcasting or telecasting;

(c) carriage of goods or passengers by any mode of transport other than by railways;

(d) catering;

(e) manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, but does not include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer.’.

- **Amendment in section 194I (For TDS on Rentals)**

In section 194-I of the Income-tax Act, for clauses (a), (b) and (c), the following clauses shall be substituted with effect from the 1st day of October, 2009, namely:—

“(a) two per cent. for the use of any machinery or plant or equipment; and

(b) ten per cent. for the use of any land or building (including factory building) or land appurtenant to a building (including factory building) or furniture or fittings:”.

- **TDS to be deducted even in cases where party (deductee) not having a PAN:**

“**206AA.** (1) Notwithstanding anything contained in any other provisions of this Act, any person entitled to receive any sum or income or amount, on which tax is deductible under Chapter XVIIIB (hereafter referred to as deductee) shall furnish his Permanent Account Number to the person responsible for deducting such tax (hereafter referred to as deductor), failing which tax shall be deducted at the higher of the following rates, namely:—

(i) at the rate specified in the relevant provision of this Act; or

(ii) at the rate or rates in force; or

(iii) at the rate of twenty per cent.

(2) No declaration under sub-section (1) or sub-section (1A) or sub-section (1C) of section 197A shall be valid unless the person furnishes his Permanent Account Number in such declaration.

(3) In case any declaration becomes invalid under sub-section (2), the deductor shall deduct the tax at source in accordance with the provisions of sub-section (1).

(4) No certificate under section 197 shall be granted unless the application made under that section contains the Permanent Account Number of the applicant.

(5) The deductee shall furnish his Permanent Account Number to the deductor and both shall indicate the same in all the correspondence, bills, vouchers and other documents which are sent to each other.

(6) Where the Permanent Account Number provided to the deductor is invalid or does not belong to the deductee, it shall be deemed that the deductee has not furnished his Permanent Account Number to the deductor and the provisions of sub-section (1) shall apply accordingly.”.

- **Limit for payment of the Advance Taxes raised:**

In **section 208** of the Income-tax Act, for the words “five thousand rupees”, the words “ten thousand rupees” shall be substituted.

- **Notices may be sent by e-mail as well: Empowering the Income Tax Officer.**

For section 282 of the Income-tax Act, the following section shall be substituted **with effect from the 1st day of October, 2009**, namely:—

‘282. (1) The service of a notice or summon or requisition or order or any other communication under this Act (hereafter in this section referred to as “communication”) may be made by delivering or transmitting a copy thereof, to the person therein named,—

(a) by post or by such courier services as may be approved by the Board; or

(b) in such manner as provided under the Code of Civil Procedure, 1908 for the purposes of service of summons; or

(c) in the form of any electronic record as provided in Chapter IV of the Information Technology Act, 2000;

(d) by any other means of transmission of documents as provided by rules made by the Board in this behalf.

(2) The Board may make rules providing for the addresses (including the address for electronic mail or electronic mail message) to which the communication referred to in sub-section (1) may be delivered or transmitted to the person therein named.

Explanation.—For the purposes of this section, the expressions “electronic mail” and “electronic mail message” shall have the meanings as assigned to them in *Explanation* to section 66A of the Information Technology Act, 2000.”.

- **All correspondence by the Income Tax Department to have a Computer Generated Identification Number:**

After section 282A of Income-tax Act, the following section shall be **inserted with effect from the 1st day of October, 2010**, namely:—

“282B. (1) Every income-tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

(2) Where the notice, order, letter or any correspondence, issued by any income-tax authority, does not bear a Document Identification Number referred to in sub-section (1), such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued.

(3) Every document, letter or any correspondence, received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number.

(4) Where the document, letter or any correspondence received by any income-tax authority or on behalf of such authority does not bear the Document Identification Number referred to in subsection (3), such document, letter or any correspondence shall be treated as invalid and shall be deemed never to have been received.”.

Wealth-tax

- ***Basic exemption limit for charging of Wealth Tax has been raised from Rs.15,00,000/- to Rs.30,00,000/-. (w.e.f. A.Y. 2010-2011)***

Taxation Proposals for Future Effect:

- SARAL – II forms to be introduced early.
- Recent initiative, on direct taxes side, of the setting up of a Centralized Processing Centre (CPC) at Bengaluru where all electronically filed returns, and paper returns filed in entire Karnataka, will be processed.
- Structural changes in direct taxes to be pursued by releasing the new Direct Taxes Code within the next 45 days and in indirect taxes by accelerating the process for the smooth introduction of the Goods and Services Tax (GST) with effect from 1st April, 2010.
- The Direct Taxes Code, along with a Discussion Paper, to be released to the public for debate. The Direct Taxes Code Bill will be finalised for introduction in Lok Sabha sometime during the Winter Session based on the inputs received.
- The Authorities for Advance Rulings on Direct and Indirect Taxes to be merged by amending the relevant Acts.

