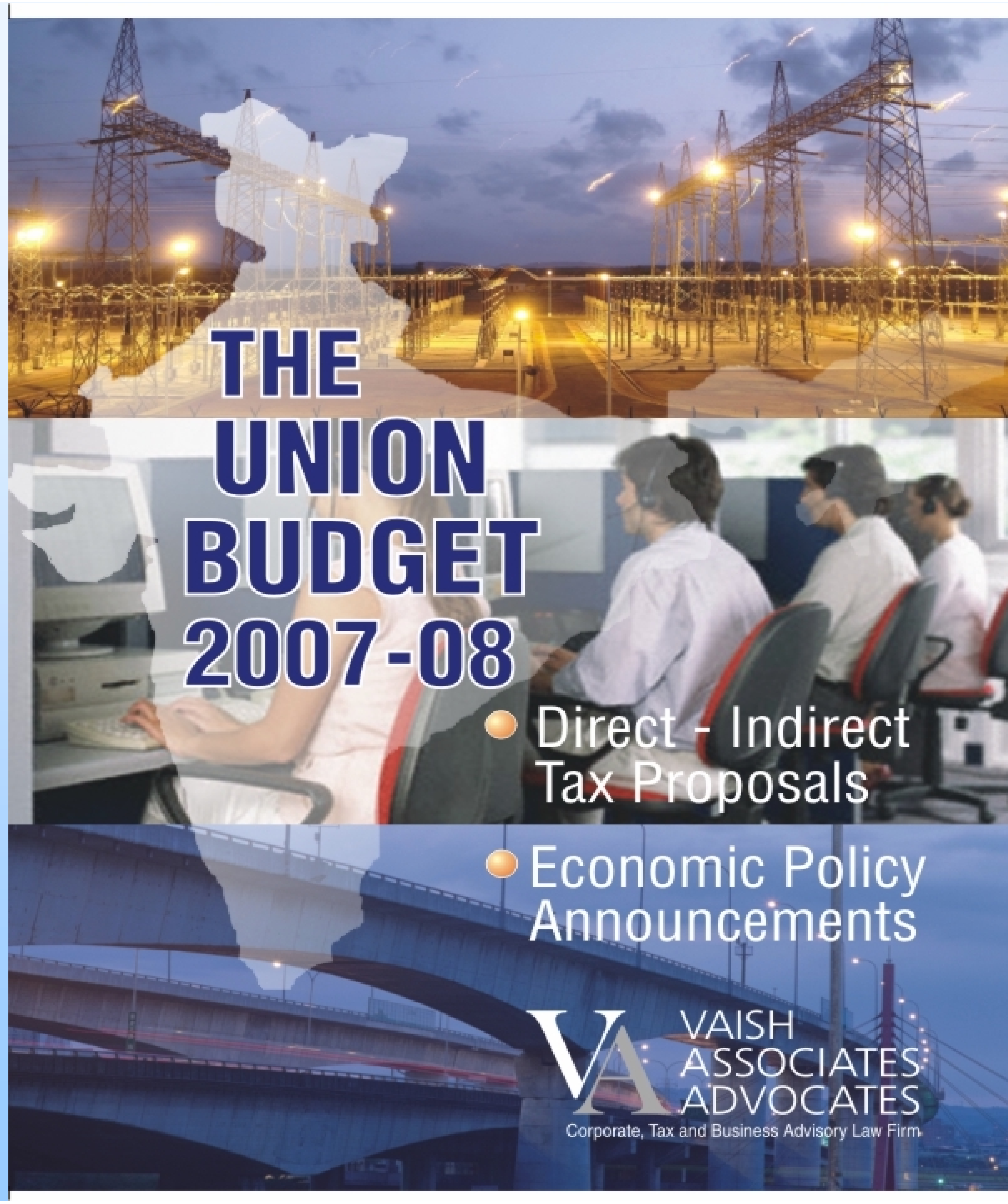
Direct Taxes



2nd March, 2007

New Delhi

DIRECT TAX PROPOSALS
RATES OF TAX

Income	Existing Rates (A.Y.2007-2008)	Proposed Rates (A.Y.2008-2009)
Individuals, HUF, AOP/BOI (Including Education Cess and Secondary & Higher Education Cess)		
(A) Other than Woman and Senior Citizen:		
Upto Rs. 1,00,000	NIL	NIL
Between Rs.1,00,001 to Rs.1,10,000	10.20%	NIL
Between Rs.1,10,001 to Rs.1,50,000	10.20%	10.30%
Between Rs.1,50,001 to Rs.2,50,000	20.40%	20.60%
Between Rs.2,50,001 to Rs.10,00,000	30.60%	30.90%
Above Rs.10,00,001	33.66%	33.99%
B) Woman below 65 years:		
Upto Rs. 1,35,000	NIL	NIL
Between Rs.1,35,001 to Rs.1,45,000	10.20%	NIL
Between Rs.1,45,001 to Rs.1,50,000	10.20%	10.30%
Between Rs.1,50,001 to Rs.2,50,000	20.40%	20.60%
Between Rs.2,50,001 to Rs.10,00,000	30.60%	30.90%
Above Rs.10,00,001	33.66%	33.99%
C) Senior Citizens:		
Upto Rs. 1,85,000	NIL	NIL
Between Rs.1,85,001 to Rs.1,95,000	20.40%	NIL
Between Rs.1,95,001 to Rs.2,50,000	20.40%	20.60%
Between Rs.2,50,001 to Rs.10,00,000	30.60%	30.90%
Above Rs.10,00,001	33.66%	33.99%

DIRECT TAX PROPOSALS
RATES OF TAX

Income	Existing Rates (A.Y.2007-2008)	Proposed Rates (A.Y.2008-2009)
Co-operative Society		
Amendments:		
(a) Surcharge	NIL	NIL
(b) Additional Surcharge		
(i) Education Cess:	2.00%	2.00%
(ii) Secondary & Higher Education Cess:	NIL	1.00%
Effective Rates (including surcharge)	10.20%	10.30%
Upto Rs.10,000	20.40%	20.60%
Between Rs.10,001 to Rs.20,000	30.60%	30.90%
Above Rs.20,001		

DIRECT TAX PROPOSALS
RATES OF TAX

Income	Existing Rates (A.Y.2007-2008)	Proposed Rates (A.Y.2008-2009)
Firms: (Having Income below Rs.One Crore)		
Amendments:		
(a) Surcharge	10.00%	NIL
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	33.66%	30.90%
Firms: (Having Income above Rs One Crore)		
Amendments:		
(a) Surcharge	10.00%	10.00%
(b) Additional Surcharge Education Cess	2.00%	2.00%
(a) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	33.66%	33.99%

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DIRECT TAX PROPOSALS
RATES OF TAX

Income	Existing Rates (A.Y.2007-2008)	Proposed Rates (A.Y.2008-2009)
Domestic Company: (Having Income below Rs.One Crore)		
Amendments:		
(a) Surcharge	10.00%	NIL
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	33.66%	30.90%
Domestic Company: (Having Income above Rs.One Crore)		
Amendments:		
(a) Surcharge	10.00%	10.00%
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	33.66%	33.99%

DIRECT TAX PROPOSALS
RATES OF TAX

Income	Existing Rates (A.Y.2007-2008)	Proposed Rates (A.Y.2008-2009)
Foreign Company: (Having Income below Rs.One Crore)		
Amendments:		
(a) Surcharge	2.50%	NIL
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	41.82%	41.20%
Foreign Company: (Having Income above Rs.One Crore)		
Amendments:		
(a) Surcharge	2.50%	2.50%
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	41.82%	42.23%

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DIRECT TAX PROPOSALS
RATES OF TAX

Income	Existing Rates (A.Y.2007-2008)	Proposed Rates (A.Y.2008-2009
Dividend Distribution Tax (Section 115-O) Amendments: (a) Rate of Tax (a) Surcharge (b) Additional Surcharge Education Cess (c) Additional Surcharge Secondary & Higher Education Cess Effective Rate (including surcharge)	 12.50% 10.00% 2.00% NIL 14.025%	 15.00% 10.00% 2.00% 1.00% 16.995%
Income Distributed by UTI/ Mutual Fund (Section 115-R) 1. Income distribution to a unit holder of open-ended equity oriented funds or from June 1, 2006 any equity oriented funds / Administrator of the specified undertaking:	NIL	NIL

DIRECT TAX PROPOSALS
RATES OF TAX

Income	Existing Rates (A.Y.2007-2008)	Proposed Rates (A.Y.2008-2009)
2. Income distribution to any other unit holder:		
Amendments:		
(i) Income distributed by a money market mutual fund or a liquid fund to any person. (No such distinction for assessment year 2007-08)	12.50%	25.00%
(a) Surcharge	10.00%	10.00%
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	14.025%	28.325%
(i) Income distributed to Individual/ HUF other than by a money market mutual fund or a liquid fund.	12.50%	12.50%
(a) Surcharge	10.00%	10.00%
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	14.025%	14.163%
(i) Income distributed to any other person, other than by a money market mutual fund or a liquid fund.	20.00%	20.00%
(a) Surcharge	10.00%	10.00%
(b) Additional Surcharge Education Cess	2.00%	2.00%
(c) Additional Surcharge Secondary & Higher Education Cess	NIL	1.00%
Effective Rate (including surcharge)	22.44%	22.66%

PERSONAL TAXATION

Valuation of perquisite with respect to concession in the matter of rent

[Clause 10] (w.e.f. 1.4.2002 & w.e.f 1.4.2006)

- "Concession in the matter of rent" arising to an employee in connection with residential accommodation provided by the employer for the purposes of section 17(2)(ii) of the Act has been specified in that section

- The concession is the difference between the specified percentage of salary as per Rule 3(1) and the amount recovered from the employee

PERSONAL TAXATION

- Whether Rule 3(1) of the Income-tax Rules, relating to valuation of perquisite could be applied even if there was no “concession in the matter of rent” has been an issue of dispute and came up for consideration before the Supreme Court in the case of Arun Kumar & Ors. v. UOI: 286 ITR 89.

- The Supreme Court held that it has to be first established that there was concession under the substantive provision, before applying Rule 3(1).

- The aforesaid amendment, it appears, has been brought to get over the ratio of the aforesaid

PERSONAL TAXATION

Deduction of Medical Insurance Premium

[Clause 20] (w.e.f. 01.04.2008)

- Deduction limit under section 80D raised to Rs.15,000 (Rs.20,000 in the case of Senior Citizens) as against the existing limit of Rs.10,000 and Rs.15,000

Deduction in respect of Educational Loan

[Clause 21] (w.e.f. 01.04.2008)

- Deduction under section 80E would now be available to an individual even in respect of loan taken for higher education for his spouse and children

FRINGE BENEFITS TAX

Certain sales promotion expenses excluded from ambit of FBT [Clause 30] (w.e.f. 01.04.2008)

- Section 115 WB (2)(D) amended to exclude the following expenses from the category of ‘sales promotion including publicity’:

  - Expenditure on advertisement by way of display of products; and

  - Expenditure on distribution of samples either free of cost or at concessional rate.

FRINGE BENEFITS TAX

ESOPs liable to FBT
[Clauses 30 & 31] (w.e.f. 01.04.2008)

- Clause (d) inserted in section 115WB(1) to provide for levy of FBT on specified security or sweat equity shares allotted or transferred directly or indirectly to employees (including former employees).

- Clause (ba) inserted in section 115WC(1) providing for the value of specified security or sweat equity shares to be the fair market value of such security or shares on the date of exercise of the option, as determined in accordance with the method as may be prescribed by the CBDT, as reduced by any amount actually paid by or recovered from the employee in respect of such securities or shares

FRINGE BENEFITS TAX

- ESOP shall not be taxable as perquisite in the hands of the employee

- The value considered for computing fringe benefit under section 115WC(1)(ba), would be deemed to be the cost of acquisition of such security or shares in the hands of the employee for the purpose of capital gains

Issue:

- Whether FBT would be leviable on 'phantom shares' where there is no actual allotment or transfer of shares?

FRINGE BENEFITS TAX

Payment of advance tax on fringe benefits [Clause 32] (w.e.f. 01.06.2007)

- The provisions relating to basis and due date of payment of advance fringe benefit tax have been aligned with the provisions relating to advance tax on income under the Act.

BUSINESS INCOME

Weighted deduction on scientific research [Clause 11] (w.e.f. 01.04.2008)

- Time limit for claiming weighted deduction provided under section 35(2AB) for expenditure on in-house scientific research and development facility relating to Pharma, IT Industry extended upto 31st March, 2012.

Disallowance of payment made in cash. [Clause 13] (w.e.f.1.4.2008)

- 100% of the expense to be disallowed if the amount paid in cash exceeds Rs.20,000 as against disallowance of 20% of such payment at present.

BUSINESS INCOME

- Any amount paid in cash would be taxable as deemed income in the hands of the assessee in the year in which the said amount is actually paid, in case deduction of said expenditure has been claimed in earlier year on provision basis.

- No disallowance to be made under this section in such case and under such circumstances as may be prescribed having regard to-

  - the nature and extent of banking facility available;
  - business expediency consideration; and
  - other relevant factors

BUSINESS INCOME

Minimum Alternate Tax (MAT)
[Clause 26] (w.e.f.1.4.2008)

- Units claiming exemption under section 10A or 10B would be liable to pay MAT @ 11.33% of 'book profit'.

- Units set up in SEZs would continue to enjoy immunity from MAT, in terms of sub-section (6) of section 115JB.

BUSINESS INCENTIVES AND DEDUCTIONS

Tax benefit only for new units in SEZ.
[Clause 7] (w.r.e.f.10.2.2006)

- Like other tax holiday provisions, conditions imposed to deny claim of deduction u/s 10AA to units set up in SEZ, which have been
  - formed by splitting up or reconstruction of a business already in existence.
  - formed by the transfer to the new business, of machinery or plant (exceeding 20%) previously used for any purpose.

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BUSINESS INCENTIVES AND DEDUCTIONS

Scope of deduction under section 80-IA expanded [Clause 22] (w.e.f.1.4.2008)

- Benefit under section 80-IA to industrial undertaking or enterprise engaged in business of developing or maintaining infrastructure facility, proposed to be extended to an undertaking which lays and begins to operate a cross country natural gas distribution network, subject to the following conditions:
  - It is owned by a company registered in India or a consortium of such companies or a board or corporation established or constituted under any Central or State Act

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BUSINESS INCENTIVES AND DEDUCTIONS

- Approved by the Petroleum and Natural Gas Regulatory Board
- One third of its total pipe line capacity is available for use on common carrier basis by any person other than the assessee or an associated person
- It has begun operations on or after 1st April, 2007

Withdrawal of deduction under section 80-IA on amalgamation / demerger

[Clause 22] (w.e.f.1.4.2008)

❖ Deduction to be denied if eligible undertaking is transferred under a scheme of amalgamation / demerger on or after 1st April, 2007.

BUSINESS INCENTIVES AND DEDUCTIONS

Tax holiday under section 80-IA not available to Works Contractor

[Clause 22] (w.r.e.f.1.4.2000)

- Deduction under section 80-IA shall not be available to a person who executes a works contract entered into with the undertaking or enterprise engaged in development of infrastructure facility.

- Retrospective amendment w.e.f. 1st April, 2000 is intended to ensure that the tax holiday is availed by a person making investment and executing the development work – whether by himself or by engaging works contractor.

BUSINESS INCENTIVES AND DEDUCTIONS

Tax holiday for setting up hotel, convention centre in NCR [Clause 24] (w.e.f.1.4.2008)

- In order to give fillip to construction of hotel rooms in NCR, deduction of 100% of profit and gains is proposed to be provided to the undertaking engaged in setting up hotels / building, owning and operating convention centre located in NCR of Delhi, Districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad for a period of 5 AYs beginning in the year in which the hotel or convention centre starts operating on commercial basis

- Deduction would be available only if the construction is completed between 1.4.2007 and 31.3.2010

CAPITAL GAINS

Definition of "capital asset" enlarged

[Clause 3] (w.e.f. 01.04.2008)

- Archaeological collection, drawings, paintings, sculptures or any work of art excluded from the meaning of "personal effects". Transfer of such "personal effects" would now attract capital gains tax.

- The decision of Mumbai Bench of the Tribunal in the case of ACIT v. Mrs. Dilnavaz S. Variava: 87 ITD 113, and Calcutta Bench of the Tribunal in Princess Shrikumari of Kishengarh v. ITO: 1 ITD 85, no longer hold good.

CAPITAL GAINS

Section 54EC: Investment in "Long-Term Specified Bonds"

[Clause 15] (w.e.f. 01.04.2008)

- Investment made on or after 1.4.2007, in "long term specified assets" by an assessee in a financial year, for availing deduction under section 54EC restricted to Rs.50 Lakhs.

TAX DEDUCTION/COLLECTION AT SOURCE

Threshold limit increased for deduction of tax under section 194A

[Clauses 44 & 51] (w.e.f. 01.06.2007)

- Threshold limit for deduction of tax at source under section 194A(3)(i) increased from Rs.5,000 to Rs.10,000 in respect of interest paid on:
  - time deposits with a banking company;
  - time deposits with cooperative society engaged in banking business and
  - deposits with post office under notified schemes.

TAX DEDUCTION/COLLECTION AT SOURCE

Scope of section 194C enlarged

[Clause 45] (w.e.f. 01.06.2007)

- Under section 194C(1) an individual or a HUF, whose gross receipts or turnover from business or profession exceeds monetary specified limit under section 44AB would be liable to deduct tax on the sum credited or paid to the account of the contractor.

- The amended provisions shall not apply to payments made by individual or a member of HUF to a contractor exclusively for their personal purposes

TAX DEDUCTION/COLLECTION AT SOURCE

TDS rates increased under section 194H [Clause 46] (w.e.f. 01.06.2007)

- Tax deduction rate on commission payment, increased to 10% as against the existing rate of 5%

TDS rates reduced under section 194-I Clause 47] (w.e.f. 01.06.2007)

- Tax to be deducted at 10% on payment of rent for use of machinery, plant and equipment, instead of 15% where the payee is an individual or HUF and 20% in case of other payees

TAX DEDUCTION/COLLECTION AT SOURCE

TDS rates enhanced under section 194J [Clause 48] (w.e.f. 01.06.2007)

- Rate of tax at source under section 194J on payment of fee for professional or technical services, enhanced from 5% to 10%

Right to appeal under section 206C(6A) [Clause 62] (w.e.f. 01.06.2007)

- New clause (hb) in section 246(1) inserted to provide right of appeal before the Commissioner (Appeals), to a person deemed to be assessee in default under section 206C(6A), on or after 1.4.2007

PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

Assessments:

Additional Commissioner – Assessing Officer [Clause3(b)] (w.r.e.f. 1.06.1994)

- Definition of ‘assessing officer’ widened to include Additional Commissioner / Director of Income-tax

Rationalization of provisions relating to special audit [Clause 37] (w.e.f. 1.06.2007)

- Assessee to be provided with an opportunity of being heard before special audit is directed.
- Expenses of special audit, where directed, to be borne by Central Government

PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

Approval of Joint Commissioner in search cases

[Clause 41] (w.e.f. 1.6.2007)

- It is proposed to insert new section 153D to provide that assessment of search cases under section 153A/153C shall not be made by an assessing officer below the rank of Joint Commissioner without the approval of Joint Commissioner

<u>PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS</u>

Presumption regarding documents found during search [Clause 69] (w.r.e.f. 1.10.1975)

- New section 292C inserted w.r.e.f. 1.10.1975 to provide that the onus to dislodge the rebuttable presumption of ownership of seized documents/valuables found during the course of search <u>in the regular assessment proceedings</u> will be on the person from whose possession such documents, etc., were found.
- The aforesaid amendment seeks to nullify the decision of the Supreme Court in the case of P.R. Metrani vs. CIT: 287 ITR 209.

PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

Appeals:

Appeal by person denying liability to deduct tax at source [Clause 63] (w.e.f. 1.06.2007)

- Presently, a person may file an appeal with the CIT(A) where he denies his liability to withhold tax u/s 195 on payments made to a non resident
- The right of appeal to CIT(A) in the above situation has been restricted to cases where the payer bears the tax liability on payments made by him to a non resident, i.e., net of tax payments

PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

Appeal against order passed under section 80 G
[Clause 65] (w.e.f. 1.06.2007)

- Provision of filing appeal to Tribunal against the order of CIT rejecting an application for approval under section 80 G has been introduced

PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

Time Limit for grant of stay by the Tribunal

[Clause 66] (w.e.f. 1.06.2007)

- Tribunal may grant stay for a period not exceeding 180 days and shall dispose off the appeal within the said period of stay granted.
- Where appeal is not disposed off within the period of stay granted, the stay may be extended on application by the assessee. However, the aggregate period of stay has been restricted to 365 days.
- The stay will stand vacated if the appeal is not disposed off within the extended period.

PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

Penalty In Respect of Search Cases

[Clauses 67 to 68] (w.e.f. 01.06.2007)

- Existing provisions of Explanation 5 to section 271(1) replaced by new Explanation 5A in respect of search conducted on or after 1.06.2007.
- Explanation 5A proposes to impose penalty on undisclosed income/asset and/or any income based on any entry in <u>any books of accounts</u> for any previous year for which the due date for filing the return has expired and return has not been filed.

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PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

Comment:

- New section 271AAA inserted to provide for imposition of penalty at concessional rate of 10% of undisclosed income and/or false expense found during search – Applicable to:
  - Search conducted after 1.6.2007;
  - Previous year for which the due date of filing the return has not expired

PROCEDURAL PROVISIONS RELATING TO ASSESSMENTS & APPEALS

- Immunity from imposition of penalty in case of assessee making full disclosure of undisclosed income/asset in a statement recorded during search proposed in new section 271AAA. [Similar immunity was earlier available under Explanation 5 to section 271(1)(c)]

TRANSFER PRICING

Revised time limit for completing assessments [Clauses 39 & 40] (w.e.f. 01.06.2007)

- The time limits for completion of assessments/reassessments, where reference is made to TPO revised as under:

TRANSFER PRICING

Assessment completed under section	Present time limit (Months)	Proposed time limit (Months)	Applicable to
143/144	21	33	Assessment year 2005-06 onwards.
147	9	21	Where notice under section 148 served on or after 1st April, 2006.
254/263/264	9	21	Order passed under section 254 received by the Chief Commissioner/Commissioner or order under section 263 or section 264 passed by the Commissioner on or after 1st April, 2006.
153A	21	33	The last of the authorization for search under section 132 or requisition under section 132A executed on or after 1st April, 2005.

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TRANSFER PRICING

Time limit for TPO's order

[Clause 25] (w.e.f. 01.06.2007)

- Transfer Pricing assessment to be completed at least 60 days before expiry of limitation for making assessment or reassessment or recomputation or fresh assessment by the assessing officer

TRANSFER PRICING

Assessing officer bound by TPO's order

[Clause 25] (w.e.f. 01.06.2007)

- The assessing officer is presently required to compute the total income of the assessee under sub-section (4) of section 92C <u>having regard to</u> the arm's length price determined by the Transfer Pricing Officer.
- It is proposed that the assessing officer shall compute the total income of the assessee under sub-section (4) of section 92C <u>in conformity with</u> the arm's length price as determined by the Transfer Pricing Officer

TRANSFER PRICING

- Thus, the assessing officer shall be obliged to accept the arm's length price of international transactions as computed by the TPO and would not be required to give formal opportunity to the assessee for final determination of income.
- The amendment seeks to neutralize the effect of–
  - CBDT Instruction No. 3 of 2003, dated 20th May, 2003
  - *Rajesh Kumar vs. DCIT: 287 ITR 91 (SC)*
  - *Sony India (P) Ltd. v. CBDT: 286 ITR 52* (Del.)

TAXATION OF VENTURE CAPITAL COMPNAY/FUND

[Clauses 6(g)] **(w.e.f. 01.04.2008)**

- Tax "Pass through" status restricted to VCCF investing in VCUs operating in the following industries:
  - nanotechnology,
  - information technology relating to hardware and software development,
  - speed research and development,
  - bio-technology,
  - research and development of new chemical entities in the pharmaceutical section,
  - production of bio-fuels,
  - building and operating composite hotel-cum convention centre with seating capacity of more than three thousand,
  - engaged in the dairy industry or poultry industry.

TAXATION OF VENTURE CAPITAL COMPNAY/FUND

- Only 'income from investments' would be exempt from tax in the hands of VCCF.
- Possibility of double taxation of income other than income from investments and from non-eligible VCUs.
- Existing VCCFs having investments in the non-eligible VCUs would also be affected.

SETTLEMENT COMMISSION

[Clauses 53 to 61] (w.e.f. 01.06.2007)

- Provisions amended/ overhauled to provide a speedy and fast track procedure
- Categories eligible for approaching SC restricted to following:

SETTLEMENT COMMISSION

Existing	Proposed
Petition can be filed if: (a) proceedings pending before AO/ CIT/ CIT(A); (b) ROI filed; (c) additional income-tax exceeded Rs.1 lakh.	Petition can be filed if: (a) proceedings pending before AO only; (b)-- (c)additional income-tax exceeds Rs.3 lakhs; (d)additional tax and interest is paid before filing application

SETTLEMENT COMMISSION

- Henceforth application before SC cannot be made in following cases:
  - Where assessment/ reassessment notice under section 148 issued;
  - Where search initiated u/s 132 followed by assessment u/s 153A/ 153C;
  - Set-aside assessment pursuant to order of Tribunal and/ or the CIT u/s 263/ 264.

SETTLEMENT COMMISSION

Comments/ Observations

- Petition filed by Mr. A on 1.10.2007 for A.Y. 2007-08 shall be liable to be rejected if it is subsequently found that a search was conducted in the case of Mr. B on 20.09.07 and Mr. A is covered under section 153C pursuant to the said search
- If year of search is covered u/s 143(3) then assessee shall be eligible for filing application for that year before SC.

SETTLEMENT COMMISSION

❖ Admission/ Final disposal procedure over - hauled for speedy/ fast

Existing	Proposed
Admission of Petition Complexity a pre-condition Admission/ Rejection within 1 year.	Complexity not a pre-condition Applications filed: (a) after 31.05.07 - within 14 days. (b) before 31.05.07 - by 31.05.07
Payment of Additional Tax Payable within 35 days of admission	Payable before filing application
Final Disposal Disposal within advisory limitation of 4 years	Application filed: (a) after 31.05.07 - within 9 months; (b) before 31.05.07 - by 31.03.2008
Powers of SC (a) No procedure for rejecting application once admitted.	(a) Application may be rejected after considering Commissioner's report.
(b) Powers to reopen completed assessments	(b) No such power in respect of new applications.
(c) Exclusive jurisdiction assumed after admission.	(c) Exclusive jurisdiction assumed immediately on filing application.
(d) Power to grant immunity from prosecution for any offence under any Central Act and the Indian Penal Code (45 of 1860).	(d) Power to grant immunity restricted to the IT Act and the Wealth Tax Act.

SETTLEMENT COMMISSION

- If application rejected/ declared as invalid/ not disposed of within prescribed limitation - proceedings before SC abate and reverts to the assessing officer

- AO, in reverted proceedings, entitled to utilize all information/ results of enquiry/ evidence gathered/ produced before SC (new sections 245HA and 245HAA)

- Settlement only once in a lifetime (section 245K)

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SETTLEMENT COMMISSION

Comments/ Observations

- Bar on subsequent application not applicable to:
  - Application filed on or after 1st June, 2007 which is not admitted;
  - Application filed before 1st June, 2007

MISCELLANEOUS PROVISIONS

Definition – "India"
[Clause 3] **(w.r.e.f. 25.08.76)**

Existing definition includes:	**Proposed definition** includes:
Territory of India as per Article 1 of the Constitution Continental shelf and exclusive economic zone for specified activities (vide notification)	Territory of India as per Article 1 of the Constitution Territorial waters, seabed, continental shelf, exclusive economic zone and specified maritime zone Airspace above territory and territorial waters

MISCELLANEOUS PROVISIONS

Income of non-resident from interest, royalty, technical services

[Clause 5] (w.r.e.f. 01.06.76)

- ❖ Territorial nexus of income with India immaterial for levy of tax
- ❖ Retrospective amendment, w.e.f. 1.6.1976, to provide existence of business connection, residence or place of business of non-resident in India, not relevant to tax the above incomes
- ❖ Effect of Supreme Court decision in Ishikawajma case : 288 ITR 408 nullified

MISCELLANEOUS PROVISIONS

Recognised Provident Funds

[Clause 73] (w.e.f. 01.04.08)

- Time for compliance with conditions laid down in Rule 4(ea) of Part A of Schedule IV, relating to obtaining exemption under section 17 of the Employees Provident Fund Act, extended up to 31.3.2008
- Rule 4(ea) now provides for obtaining of exemption under section 17 of the Employees Provident Fund Act, compulsorily by a recognized provident fund

MISCELLANEOUS PROVISIONS

Banking Cash Transaction Tax

[Clause 134] (w.e.f. 01.06.07)

- Exemption limit for cash withdrawals made by an Individual and HUF on a day from a bank account (other than saving bank account) raised to Rs.50,000 from Rs. 25,000

Vaish Associates

WELCOMES

THE PARTICIPANTS

TO

THE INTERACTIVE SESSION

ON

THE TAX PROPOSALS

IN

THE UNION BUDGET, 2007

VAISH ASSOCIATES ADVOCATES
Corporate, Tax and Business Advisory Law Firm