

FINAL COURSE

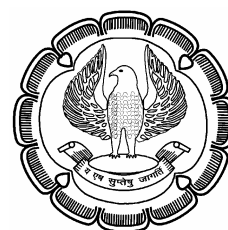
SUPPLEMENTARY STUDY PAPER - 2009

DIRECT TAXES AND INDIRECT TAXES
(Existing Final Course)

DIRECT TAX LAWS AND INDIRECT TAX LAWS
(New Final Course)

[Covers amendments made by the Finance (No.2) Act, 2009 and Important Circulars/Notifications issued between 1st May 2008 and 30th April 2009 and budget notifications]

(Relevant for students appearing for May, 2010 and November, 2010 examinations)



BOARD OF STUDIES
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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Website : www.icaai.org

Department/Committee : Board of Studies

E-mail : bosnoida@icaai.org

Price : Rs.60/-

ISBN No. :

Published by : The Publication Department on behalf of The Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 7100, Indraprastha Marg, New Delhi- 110 002, India

Typeset and designed at Board of Studies.

Printed by :

FOREWORD

Direct Tax Laws and Indirect Tax Laws are among the extremely dynamic subjects of the chartered accountancy course. The level of knowledge prescribed at the final level for the subjects is 'expert knowledge' and 'advanced knowledge' for the existing and new course, respectively. For attaining such a level of knowledge, the students have not only to be thorough with the basic provisions of the relevant laws, but also have to constantly update their knowledge regarding statutory developments.

The Board of Studies brings out the annual Supplementary Study Paper to help the students to update their knowledge relating to recent statutory developments in the field of direct and indirect tax laws made by the Annual Finance Acts, Notifications/Circulars etc.

I compliment the Board of Studies for its good work in bringing out this publication, which would help the students to update their knowledge regarding the latest statutory developments. I am sure that this publication will be of great use to the students in preparing for their examination.



Date: October, 2009
Place: New Delhi.

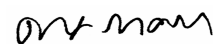
CA. Uttam Prakash Agarwal
President

PREFACE

The Board of Studies is engaged in the task of providing quality study materials and other inputs to enable the students to prepare for their examinations. One of the important inputs of the Board on taxation is the supplementary study paper in direct and indirect tax laws to be used by the final students. The supplementary study papers are annual publications and contain a discussion of the amendments made by the Annual Finance Acts and Notifications/Circulars in income-tax, wealth-tax, excise, customs and service tax. They are very important to the students for updating their knowledge regarding the latest statutory developments in the respective areas mentioned above. A lot of emphasis is being placed on these latest amendments in the final examinations.

The faculty of the Board of Studies have incorporated in this Supplementary Study Paper-2009, the amendments made by the Finance (No.2) Act, 2009 and important Notifications/Circulars issued between 1st May 2008 and 30th April, 2009 and budget notifications. I am happy to note that this Supplementary Study Paper has many student-friendly features like presentation of the amendments point-wise in a simplified and lucid manner, supporting the theory with examples wherever possible, giving 'amendments at a glance' etc. These features will help the students to understand and grasp the essence of the new amendments in an easy and methodical manner.

It may be noted that this supplementary study paper would be relevant for both the existing final course and the new final course. I appreciate the earnest and sincere efforts taken by CA. Priya Subramanian (Direct Taxes) & CA. Shefali Jain (Indirect Taxes), Faculty, Board of Studies in bringing out this valuable publication. I am sure that, as in the past, this Supplementary Study Paper would be highly useful to the students preparing for final examinations.



CA. Jaydeep Narendra Shah
Chairman
Board of Studies

October, 2009.
New Delhi.

DIRECT TAXES / DIRECT TAX LAWS

AMENDMENTS AT A GLANCE – FINANCE (No.2) ACT, 2009

S.No.	Particulars	Section
I	INCOME-TAX ACT, 1961	
1.	A. Rates of tax	
	B. Basic Concepts	
2.	Scope of definition of charitable purpose expanded	2(15)
3.	Definition of the term “manufacture” incorporated in the Act	2(29BA)
4.	Zero Coupon Bonds to include bonds issued by scheduled banks also	2(48), 36(1)(iiiia) & 194A(3)
	C. Incomes which do not form part of total income	
5.	Denial of double benefit in respect of VRS compensation	10(10C) & 89
6.	Extension of time limit for filing application for tax exemption	10(23C)
7.	Exemption under section 10(23D) to be available to mutual funds set up by “other public sector banks” also	10(23D)
8.	Exemption of income received by any person on behalf of NPS Trust	10(44), 115-O & 197A
9.	Sunset clause for deductions under sections 10A and 10B to be deferred by one more year	10A & 10B
10.	Exempted profits in the case of units in Special Economic Zones (SEZs) to be computed as a percentage of total turnover of the business carried on by the undertaking and not the total turnover of the business carried on by the assessee	10AA
11.	Exemption for voluntary contributions received by electoral trusts	13B, 2(22AAA), 2(24), 80GGB & 80GGC
12.	Exemption limit for taxation of anonymous donations	115BBC
	D. Salaries	
13.	Certain fringe benefits to be taxed as perquisites in the hands of employees	17(2), 49(2AA) & 115WM

E. Profits and gains of business or profession

- | | | |
|-----|---|--------------------------------|
| 14. | Definition of “block of assets” as per section 2(11) to apply for all purposes of the Income-tax Act | 32(1) |
| 15. | Scope of benefit of weighted deduction of 150% for in-house research and development expanded | 35(2AB) |
| 16. | Introduction of “investment-linked tax incentives” for specified businesses | 35AD, 28, 43, 50B, 73A & 80-IA |
| 17. | Withdrawal of commodities transaction tax | 36(1)(xvi) |
| 18. | Scope of deduction under section 36(1)(viii) expanded to include business of providing long-term finance for development of housing in India | 36(1)(viii) |
| 19. | Increase in limits for deductibility of remuneration paid to partners by a firm | 40(b)(v) |
| 20. | Increase in limit for attracting disallowance under section 40A(3)/(3A) from Rs.20,000 to Rs.35,000 for payments to transport operators | 40A(3)/(3A) |
| 21. | Increase in presumptive income for transport operators | 44AE |
| 22. | Increase in scope of coverage of presumptive tax provisions | 44AD, 44AA, 44AB |
| 23. | Full depreciation to be deducted to arrive at the written down value under section 43(6) in cases of composite income covered under Rules 7A, 7B & 8 also | 43(6) |
| 24. | Taxation of investment income/loss of non-life insurance business [Rule 5 of the First Schedule to the Income-tax Act] | |

F. Capital Gains

- | | | |
|-----|---|-----|
| 25. | Transfer of land and/or building through “power of attorney” to attract the provisions of section 50C | 50C |
|-----|---|-----|

G. Income from Other Sources

- | | | |
|-----|---|---------------------------|
| 26. | Transfer of movable/immovable property without consideration or for inadequate consideration to be taxed in the hands of the recipient | 56(2)(vii), 2(24) & 49(4) |
| 27. | Interest received on compensation/enhanced compensation deemed to be income in the year of receipt and taxable under the head “Income from Other Sources” | 56(2)(viii), 57 & 145A |

H. Deductions from Gross Total Income

28.	Certain exemptions and profit-linked deductions in Chapter VI-A to be allowed only if claimed in the return and to be restricted to the profits and gains of such undertaking/unit/enterprise or eligible business, as the case may be	80A
29.	Deduction in respect of contribution to NPS extended to self-employed individuals also	80CCD
30.	Increase in deduction for a person with severe disability and for maintenance including medical treatment of a dependent with severe disability	80DD & 80U
31.	Expansion of scope of section 80E to cover all fields of study after Class XII, including vocational study, for the purpose of interest deduction in respect of loan taken for pursuing such courses	80E
32.	One-time approval for institutions and funds for the purpose of recognition under section 80G	80G
33.	Extension of sunset clause for tax holiday under section 80-IA for power-sector undertakings and industrial parks	80-IA
34.	Tax holiday under section 80-IA not available in respect of works contract	80-IA
35.	Extension of time limit for refineries in the private sector to begin refining of mineral oil and expansion of scope of tax holiday under section 80-IB(9)	80-IB(9)
36.	All blocks licensed under a single contract to be treated as a single "undertaking"	80-IB(9)
37.	Further conditions to be satisfied by an undertaking developing and building housing projects for claiming benefit of deduction under section 80-IB(10)	80-IB(10)
38.	Deduction under section 80-IB extended to an undertaking deriving profit from the business of processing, preservation and packaging of meat and meat products or poultry or marine or dairy products	80-IB(11A)

I. Double Taxation Relief and Transfer Pricing

39.	Central Government empowered to enter into agreement with specified non-sovereign territories	90
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40.	No adjustment required if the variation between arm's length price and transfer price is within 5% of transfer price	92C(2)
41.	Safe harbour rules to be introduced for determination of arm's length price in case of international transactions	92CB
J. Assessment of various entities		
42.	Tax treatment for Limited Liability Partnerships (LLPs)	2(23), 140 & 167C
43.	Increase in rate of MAT as well as its scope of coverage	115JB
44.	Provision for diminution in the value of asset to be added back for computation of book profit	115JB
45.	Increase in period for set-off of credit in respect of MAT paid under section 115JB	115JAA
K. Income-tax Authorities		
46.	Power of Joint Director, Joint Commissioner, Additional Director & Additional Commissioner to issue warrant of authorization	132 & 132A
L. Assessment Procedure		
47.	Time limit extended for issue of notification for relaxation, modification or adaptation of any provision of law to facilitate centralized processing of returns	143(1B)
48.	Provision for constitution of alternate dispute resolution mechanism	144C, 131, 246A & 253
49.	Assessing Officer empowered to assess or reassess income which comes to his notice subsequently though he has not recorded reasons for the same	147
M. Collection and recovery of tax		
50.	Change in TDS rates on payments to contractors and sub-contractors and rental payments	194C & 194-I
51.	Definition of "work" under section 194C amended	194C
52.	Periodicity of filing TDS/TCS statements to be prescribed by the Government	200, 206C, 139A, 201, 203A, 206A, 272A
53.	Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements	200A

54.	Time limit for passing of orders under section 201(1) holding a person to be an assessee in default	201(3) & (4)
55.	Mandatory requirement of furnishing PAN in all TDS statements, bills, vouchers and correspondence between deductor and deductee	206AA
56.	Advance tax payable only if advance tax liability is Rs.10,000 or more	208
	N. Penalties	
57.	Scope of levy of penalty under Explanation 5A to section 271(1) expanded	271(1)
	O. Miscellaneous provisions	
58.	Exclusion of period of stay of proceedings of assessment/reassessment while computing the period of validity of the order of provisional attachment	281B
59.	Introduction of Document Identification Number and facility for electronic communication	282B & 282
60.	Authority empowered to grant an approval under the Income-tax Act deemed to have power to withdraw the approval granted	293C
II.	WEALTH-TAX ACT, 1957	
61.	Wealth-tax exemption limit raised	3
62.	Central Government empowered to enter into agreement with specified non-sovereign territories	44A

INDIRECT TAXES / INDIRECT TAX LAWS

AMENDMENTS AT A GLANCE – FINANCE (No.2) ACT, 2009

S.No.	Particulars	Section
I.	EXCISE	
A.	Central Excise Act, 1944	
1.	Certain types of offences and circumstances excluded from the purview of the compounding provisions	9A(2)
2.	Chartered Accountants can also be nominated for conducting the valuation audit	14A
3.	Chartered Accountants can also be nominated for conducting the CENVAT audit	14AA
4.	Definition of “authority” substituted by a new definition	23A(e)
5.	High Court empowered to condone the delay in filing the appeal	35G
6.	High Court empowered to condone the delay in filing the reference application and memorandum of cross objections	35H
7.	Central Government empowered to make rules regarding manner of compounding	37(2)(id)
B.	Central Excise Tariff Act, 1985	
1.	Excise duty rate - Concessional excise duty rate of 4% increased to 8% with certain exceptions	
2.	Process of adding or mixing certain ingredients to betel nut in any form would amount to manufacture	
II.	CUSTOMS	
A.	Customs Act, 1962	
1.	Refund of import duty in certain cases	New section 26A
2.	Authority for Advance Ruling under Income Tax Act, 1962 may also be notified by the Central Government to act as Authority under the customs law	Section 28F(2A) to (2D)
3.	High Court empowered to condone the delay in filing the appeal	130

4.	High Court empowered to condone the delay in filing the reference application and memorandum of cross objections	130A
5.	Certain types of offences and circumstances excluded from the purview of the compounding provisions	137(3)
6.	Central Government empowered to make rules regarding manner of compounding	156(2)(h)
7.	Clause (ai) and (aii) inserted in section 157(2)	157(2)(ai) and (aii)
B.	Customs Tariff Act, 1975	
1.	Additional duty of customs	Second proviso to section 3(2)
2.	Machinery provisions of the Customs Act, 1962 made applicable to following duties imposed under the Customs Tariff Act, 1975:-	
	(a) Safeguard duty	8B(4A)
	(b) Specific Safeguard duty on imports from China	8C(5A)
	(c) Countervailing duty on subsidized articles	9(7A)
	(d) Anti-Dumping duty	9A(8)
3.	Section 9A amended - Anti-Dumping Duty	9A(1) and 9A(6A)
4.	Custom duty rate – No change in overall rate structure	
III.	SERVICE TAX	
	Chapter V and VA of the Finance Act, 1994	
1.	3 new services brought under the service tax net	65
	A. Service provided in relation to transport of coastal goods and goods transported through inland water including National Waterways.	
	B. Service provided in relation to cosmetic surgery or plastic surgery other than the surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma.	

	C. Service provided in relation to advice, consultancy or assistance in any branch of law	
2.	Scope of existing services amended	65
	(i) Business auxiliary services	
	(ii) Stock broker services	
	(iii) Information technology software services	
	(iv) Transport of goods in containers by rail services	
3.	Revision of orders by the Commissioner abolished	84
4.	Appeal to Appellate Tribunal under section 86 cannot be filed against the order passed by Commissioner of Central Excise under section 84	86
5.	Central Government empowered to frame rules in relation to the date for determination of rate of service tax and the place of provision of taxable service	94(2)
6.	Central Government empowered to remove difficulty by making an order	95(1F)
7.	Amendment in the definition of "authority"	96A(d)