India Budget 2010 - In A Nutshell

1.0 DIRECT TAXES

1.1 Effective Tax Rates

1.1.1 Personal taxation

The Finance Bill, 2010 ('the Bill') proposes certain modifications to the tax structure for individuals, Hindu Undivided Families ('HUFs'), Association Of Persons ('AOPs') and Body Of Individuals ('BOIs'). Consequently, the effective present and proposed tax rates for the financial years 2009-10 and 2010-11 in case of individuals / HUFs / AOPs / BOIs are as follows:

For FY 2009-10		For FY 2010-11	
Income Slabs (Rs.)	Tax Rates*	Income Slabs (Rs.)	Proposed Tax Rates*
0 - 1,60,000 #	Nil	0 - 1,60,000 #	Nil
1,60,001 # - 3,00,000	10.30% of income exceeding Rs. 1,60,000	1,60,001 # - 5,00,000	10.30% of income exceeding Rs. 1,60,000
3,00,001 - 5,00,000	Rs. 14,420 plus 20.60% of income exceeding Rs. 3,00,000	5,00,001 - 8,00,000	Rs. 35,020 plus 20.60% of income exceeding Rs. 5,00,000
5,00,001 and above	Rs. 55,620 plus 30.90% of income exceeding Rs. 5,00,000	8,00,001 and above	Rs. 96,820 plus 30.90% of income exceeding Rs. 8,00,000

* The tax rates are inclusive of education cess of 3%.

\# In case of a resident woman below 65 years of age at any time during the previous year, the basic exemption income slab is Rs. 1,90,000 and in case of a resident individual of the age of 65 years or more (senior citizen) at any time during the previous year, the basic exemption income slab is Rs. 2,40,000. The tax for other slabs will change accordingly.

1.1.2 Corporate and other taxation

- Surcharge has been reduced from 10% to 7.5% for domestic companies. However, surcharge rate for foreign companies continues to be 2.5%.
- Effective corporate tax rate for domestic companies having income exceeding Rs.1,00,00,000 has been reduced from 33.99% to 33.2175%.
- There is no change in the effective corporate tax rate of 30.90% for domestic companies whose income does not exceed Rs.1,00,00,000.
- Effective Minimum Alternate Tax ('MAT') rate has been increased from 16.995% to 19.9305% for domestic companies having income exceeding Rs.1,00,00,000.
- Effective MAT rate has been increased from 15.45% to 18.54% for domestic companies whose income does not exceed Rs.1,00,00,000.
- Effective Dividend Distribution Tax ('DDT') rate has been reduced from 16.995% to 16.60875%.
- There is no change in the corporate tax rate of 41.20% for foreign companies (42.23% for companies having income exceeding Rs.1,00,00,000).

1.2 Proposals For Personal Taxation

- Deduction of an additional amount of Rs. 20,000 allowed, over and above the existing limit of Rs.1,00,000 on tax savings under section 80C of the Income-tax Act, 1961 ('IT Act'), for investment in long-term infrastructure bonds notified by the Central Government.
- Besides contribution to health insurance schemes, which is currently allowed as deduction under section 80D of the IT Act, contributions to the 'Central Government Health Scheme' is proposed to be allowed as deduction under the same provision.
- The income tax department to notify SARAL-II form for individual salaried taxpayers for the coming assessment year.

1.3 Tax Incentive and Proposal for Businesses

- To further encourage R&D across all sectors of the economy, weighted deduction on expenditure (not being expenditure in the nature of cost of any land or building) incurred on in-house R&D, has been enhanced from 150% to 200%. Weighted deduction on payments made to national laboratories or universities or research associations or approved colleges, universities and other institutions or an Indian Institute of Technology for scientific research has been enhanced from 125% to 175%.
- Benefit of investment linked deduction has been extended to new hotels of two-star category and above anywhere in India, to boost investment in the tourism sector.
- Pending projects allowed to be completed within a period of 5 years instead of 4 years for claiming a deduction of their profits, as a one time interim relief to the housing and real estate sector. Norms for built-up area of shops and other commercial establishments in housing projects to be relaxed to enable basic facilities for their residents.

- Limits for turnover above which accounts need to be audited, enhanced from Rs. 40,00,000 to Rs. 60,00,000 for businesses and from Rs. 10,00,000 to Rs. 15,00,000 for professions also. Simultaneously, limit of turnover for the purpose of presumptive taxation of small businesses has also been enhanced from Rs. 40,00,000 to Rs. 60,00,000.
- If tax has been deducted on payment during the financial year by way of any expense and is paid before the due date of filing the return of income, such expenditure shall be treated as an allowable expenditure. However, interest on delayed payment of tax after deduction, has been increased from 12% to 18% per annum.
- To facilitate the conversion of small companies into Limited Liability Partnerships, transfer of assets as a result of such conversion, not to be subject to capital gains tax, subject to prescribed conditions.
- The advancement of any other object of general public utility to be considered as 'charitable purpose' even if it involves carrying on of any activity in the nature of trade, commerce or business provided that the receipts from such activities do not exceed Rs.10,00,000 in the year.

1.4 Proposal for non-residents

- In respect of income earned by non-residents in the form of interest, royalty and fees for technical services, it has been clarified that such income shall be deemed to accrue or arise in India whether or not, the non-resident has a residence or place of business or business connection in India or whether the services are rendered in India or not.
- It has been clarified that Royalty and Fees for technical services earned by a non-resident, who is engaged in the business of providing services or facilities in connection with or supplying plant and machinery on hire, used or to be used, in the prospecting for, or extraction or production of, mineral oil, will not be entitled to be taxed under presumptive tax @ 10% of gross fees under section 44BB. Instead, such income will be liable to tax under section 44DA, computed as per the books of account maintained by the Permanent Establishment of the assessee.

1.5 General proposals

- The anti-abuse provision of taxation of certain transactions without consideration or for inadequate consideration are currently applicable only to individuals and HUFs. It is proposed to extend this provision to transfer of shares of an unlisted company to a firm or an unlisted company.
- The threshold limit up to which TDS is not required has been increased for payments to Contractors, payments in the nature of Commission and Brokerage, Rent, Fees for professional and technical services etc.
- It is expected that the Direct Tax Code ('DTC') and Goods and Services Tax ('GST') will be implemented from 1 April 2011.
- Scope of cases which may be admitted by the Settlement Commission, expanded to include proceedings related to search and seizure cases pending for assessment. Scope of Settlement Commission also expanded in respect of Central Excise and Customs to include certain categories of cases that hitherto fell outside its jurisdiction.

2.0 INDIRECT TAXES

The changes effected in Service Tax regulations shall be effective from a date to be notified after enactment of the Bill, unless otherwise specified. In respect of Customs and Central Excise regulations, the changes have been given effect to from 27 February 2010 or such date as is specified.

2.1 Service Tax

- There is no change in the rate of Service tax. Thus, tax shall continue to be levied @ 10.30% [Effective Tax @ 10% (after exemption), Education Cess @ 2% and Secondary and Higher Education Cess @ 1%].
- The ambit of Service Tax has been widened to cover the services of permitting commercial use or exploitation of any event organized by a person or organization, copyrights on cinematographic films and sound recording, maintenance of medical records of employees of a business entity, promotion of a 'brand' of goods, services, events, business entity etc certain health services, services provided by electricity exchanges, additional services provided by a builder to prospective buyers (such as providing preferential location or external or internal development of complexes on extra charges) excluding service of providing vehicle-parking space.
- The scope of 'air passenger transport service' has been expanded to include domestic journeys and international journeys in any class.
- The scope of 'information technology software service' which was hitherto limited only to cases where IT software was used for furtherance of business or commerce, is being expanded to cover all cases irrespective of its use.
- In the case of 'commercial training or coaching service', an explanation is being added to clarify that the term 'commercial' in the context of this service would mean any training or coaching, which is provided for a consideration, whether or not for profit. This change is being given retrospective effect from 1 July 2003.
- In the definition of 'sponsorship service', the exclusion relating to sponsorship pertaining to sports is being removed.
- In 'construction of complex / commercial or industrial construction service', it is being provided that unless the entire consideration for the property is paid after the completion of construction (i.e. after receipt of completion certificate from the competent authority), the activity of construction would be deemed to be a taxable service provided by the builder/promoter/developer to the prospective buyer and service tax would be charged accordingly.
- Amendments are being made in the definition of 'renting of immovable property service' to explicitly provide that the activity of 'renting' itself is a taxable service. The change has been given retrospective effect from 1 June 2007. It is further proposed to levy tax on rent of vacant land where there is an agreement or contract between the lessor and lessee for undertaking construction of buildings or structures on such land for furtherance of business or commerce during the tenure of the lease.
- Definitions of 'airport services', 'port services' and 'other port services' are being amended to provide that all services provided entirely within the airport/port premises would be classified under these services; and an authorization from the airport/port authority would not be a pre-condition for taxing these services.
- The term 'business entity' is proposed to be defined to include an association of persons, body of individuals, company or firm but not an individual.
- The following amendments are being provided with effect from 27 February 2010:
  - Pre-packaged information technology software, with the license for right to its use, is being exempted, subject to specified conditions.
  - Exemption being provided to Indian news agencies under 'online information and database retrieval service' and 'business auxiliary service', subject to specified conditions.
  - Exemption is being provided to the service of transmission of electricity.
  - Exemption on 'commercial training or coaching service' is being restricted to industrial training institutes / centres affiliated to National Council of vocational training, offering courses in designated trades notified under the Apprentices Act, 1961.
  - One of the conditions prescribed in the Export of Services Rules, 2005 i.e. 'such service is provided from India and used outside India' is being deleted.
  - The Export of Services Rules, 2005 are being amended so as to move some of the specified taxable services from one category to another. Similar changes have been made in the Taxation of Services (Provided from Outside India and Received in India) Rules i.e. Import of Services Rules.
  - Notification No. 5/2006-CE (NT) which provides for refund to exporters is being amended and given partial retrospective effect to remove the bottlenecks in refund of accumulated credit.
- Exemption on 'service provided in relation to transport of goods by rail' is being withdrawn with effect from 1 April 2010.

2.2 Excise Duty

- The standard rate of excise duty of 8% on non-petroleum products has been increased to 10% with certain exceptions.
- Duty on Domestic Tariff Area clearances of jewellery manufactured by 100% EOU has been increased for gold jewellery from Rs.500 per 10 gm to Rs.750 per 10 gm and for silver jewellery from Rs.1,000 per kg to Rs.1,500 per kg.
- Refined serially numbered gold bars made from the ore/concentrate stage would attract duty of Rs.280 per 10 gm (instead of 8% ad valorem) with Cenvat credit facility on inputs and capital goods.
- Ad-valorem component of duty on large cars, multi-utility vehicles and sports utility vehicles etc. and chassis thereof has been increased from 20% to 22%.
- The rates of duty on Motor Spirit (petrol) and HSD (diesel) has been increased by Re.1 per litre.
- Consequent to the enhancement of the standard rate of duty from 8% to 10%, the specific rates of duty on cement and cement clinker has been revised upwards.
- Duty has been reduced from 8% to 4% on replaceable kits for all household type water filters (except those operating on RO technology), corrugated boxes/cartons manufactured by stand- alone manufacturers and latex rubber thread.
- Exemption from duty has been withdrawn on mosquito nets impregnated with insecticides, Av gas, microprocessors for computers (other than motherboard), floppy disk drives, hard disk drives, flash drives, CD/DVDs and combo drives meant for external use and will now attract duty of 4%.
- Concessional rate of duty on Open Tin Sanitary ('OTS') cans and goggles except those used for correcting vision, has been withdrawn and will now attract duty at 10%.
- Changes are being made to provide certain facilities to Small Scale Industrial ('SSI') units eligible for availing benefit under Notification No. 8/2003-CE. These changes include full Cenvat credit on capital goods in one installment in the year of receipt of such goods and facility for payment of excise duty on quarterly basis. The above changes come into effect from 1 April 2010 and will be applicable even if an eligible unit opts not to avail of the SSI exemption.
- Clean Energy Cess @ Rs.50 per ton is proposed to be imposed on coal, lignite and peat produced in India. This cess would be levied and collected as a duty of excise with effect from a date to be notified after the enactment of the Bill.
- Exemption from duty is being extended to goods supplied to mega power projects from which power supply has been tied up through tariff-based competitive bidding, including where the mega power project has been awarded through tariff-based competitive bidding.
- The Central Excise Rules 1944, the Cenvat Credit Rules 2000, the Cenvat Credit Rules 2001, the Cenvat Credit Rules 2002 and the Cenvat Credit Rules 2004 are being amended retrospectively (with effect from 1 September 1996 to 31 March 2008) for periods as applicable to respective rules to provide that where a manufacturer avails Modvat/ Cenvat credit in respect of any inputs, other than fuel, to manufacture both dutiable and exempted goods, he can opt to reverse credit or pay an amount equivalent to credit attributable to inputs used for manufacture of exempted goods. It is being further provided that such manufacturer shall pay interest @ 24% p.a. from the date of clearance till date of reversal of the said credit or payment of equivalent amount. Such option will, however, be available only in such cases where disputes in this regard are pending on the date of enactment. This change will come into effect on the enactment of the Bill.
- Rule 3(5) of the Cenvat Credit Rules, 2004 is being amended to provide accelerated depreciation in the case of computers and computer peripherals cleared after use, at the same rates as applicable for similar capital goods of EOU/ EHTP/STP units under Notification No. 52/2003-Customs.
- Rule 4(5)(b) of the Cenvat Credit Rules, 2004 is being amended to permit sending of jigs, fixtures, moulds and dies to a vendor for production of goods according to the specifications of the principal manufacturer without reversal of credit.
- Rule 15 of the Cenvat Credit Rules, 2004 is being amended to harmonize the penal provisions for incorrect availment of Cenvat credit of duty paid on inputs or capital goods or input services.
- Rule 11(5) of the Central Excise Rules, 2002 is being deleted so as to dispense with the requirement of pre-authentication of invoices.
- Section 3 of the Medicinal and Toilet Preparations (Excise Duties) Act, 1955 is being amended to exclude goods manufactured or produced by units in SEZ from excise duty leviable under the Act. The change shall come into effect on enactment of the Bill.

2.3 Customs Duty

- There is no change in the overall peak rate of duty, which is presently at 10% and the major ad- valorem rates of 5% and 7.5% have also been retained.
- Duty on gold and silver has been increased as under:
  - Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units and gold coins; From Rs.200 per 10 gms to Rs.300 per 10 gms.
  - Gold in any form (other than those specified above); From Rs.500 per 10 gms to Rs.750 per 10 gms.
  - Silver in any form; From Rs.1,000 per kg to Rs.1,500 per kg.
  - Platinum; From Rs.200 per 10 gms to Rs. 300 per 10 gms.
- The above revised duties shall also apply to gold and silver including gold / silver ornaments (excluding ornaments studded with stones and pearls) imported as personal baggage.
- Gold ore and concentrate are being fully exempted from basic customs duty and special additional duty of customs. They will, however, be chargeable to CVD @ Rs.140 per 10 gm of gold content.
- Goods imported in pre-packaged form and intended for retail sale and certain specified goods namely, ready-made garments, mobile phones and watches are being provided an outright exemption from additional duty of customs of 4%. The existing exemption by way of refund would continue on other items.
- Monorail projects for urban transport are being granted project imports status under Chapter Heading No. 98 01 and would accordingly attract concessional basic customs duty of 5%.
- Tunnel boring machines for hydro-electric power projects are being fully exempted from basic customs duty with Nil CVD.
- Exemption from basic customs duty and special additional duty of customs is being extended to specified parts viz. batteries including battery chargers, electric motors and AC or DC motor controllers imported for manufacturing all categories of electrical vehicles including cars, 2 wheelers and 3 wheelers (like Soleckshaw). These parts will attract CVD of 4%. The concession is subject to actual user condition. This concession will be available till 31 March 2013.
- Exemption from basic customs duty and CVD is being extended to parts used in manufacture of battery chargers and hands-free headphones also.
- Exemption from customs duty is being extended to additional specified capital goods and raw materials for manufacture of electronic hardware.
- Electrical energy supplied from a Special Economic Zone ('SEZ') to the Domestic Tariff Area and non-processing areas of SEZ would now attract duty of 16% ad valorem plus Nil Special CVD. This change is being made retrospectively with effect from 26 June 2009.
- The current limit of Rs.1,00,000 p.a. for duty free import of samples is being enhanced to Rs.3,00,000 p.a.

2.4 Goods and Services Tax ('GST')

- The Government aims to roll-out GST by 1 April 2011.

2.5 Central Sales Tax Act ('CST')

- In respect of stock transfers, it is being proposed to amend section 6A(2), to cast further responsibility on assessing authority to satisfy himself that no inter-State sales have been effected. Further, it is being proposed to provide for reassessment on the basis of new facts discovered or revision by a higher authority on the ground that the findings of the Assessing Officer are contrary to law.
- The Authority shall have power to issue direction for refund of tax collected by the State which according to the Authority is not due to that State.

The above changes shall come into effect from the enactment of the Bill.

RSM Astute Consulting Group

Mumbai
13th Floor, Bakhtawar,
229, Nariman Point,
Mumbai - 400 021.

3rd Floor, Ahura Centre,
82, Mahakali Caves Road,
Andheri (E), Mumbai - 400 093.

608, Sagar Tech Plaza B,
Sakinaka, Andheri (E),
Mumbai - 400 072.

Bengaluru (Bangalore)
“Sujaya”, No.1007, 2nd Cross,
13th Main, HAL II Stage,
Indira Nagar, Bangalore 560 038.

Chennai
1A, Chamiers Apartments,
62/121, Chamiers Road,
R.A. Puram, Chennai - 600 028.

Kolkata
2058/A,Mercantile Buildings,
Block"A", 9 Lalbazar Street,
Kolkata - 700 001.

New Delhi - NCR
3rd Floor, Tower-B,
B-37, Sector-1,
Noida - 201 301.

Gandhidham
182B, Ward No. 6B,
Hemu Kalani Nagar, Adipur PO,
Gandhidham - 370 205.

Surat
604-605, Tirupati Plaza,
Athwa Gate, Nanpura,
Surat - 395 001.

T-720, Belgium Tower,
Opp. Linear Bus Stop,
Ring Road, Surat—395 002.

Hyderabad
5, 3rd floor, Farhat Afza Building,
Road No.10, Banjara Hills,
Hyderabad - 500 034.

Ahmedabad
504, Narnarayan Complex,
Navrangpura,
Ahmedabad - 380 009.

Tel : (91-22) 6696 0644 / 2287 5770

Fax : (91-22) 2287 5771 / 2820 5685

Email : emails@astuteconsulting.com

Website : www.astuteconsulting.com

Partnering
For Your Success…
Always.