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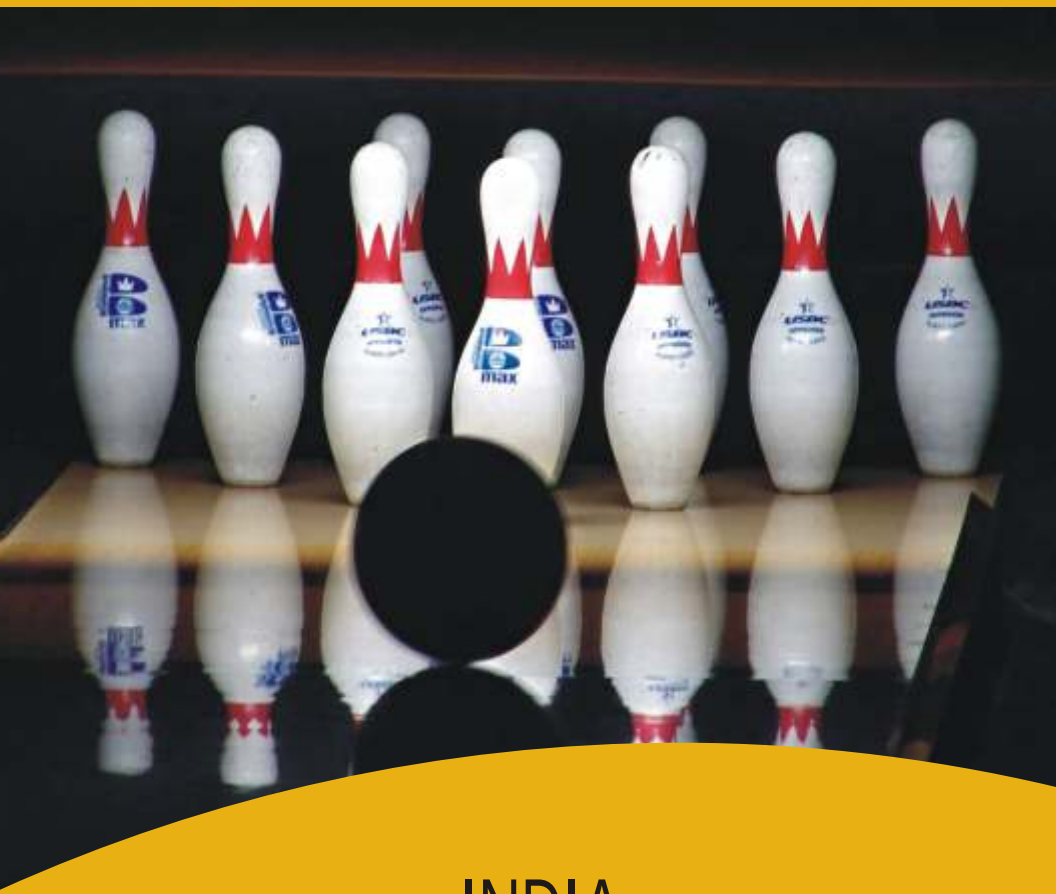

INDIA
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INDIA BUDGET 2010 - HIGHLIGHTS

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EXECUTIVE SUMMARY

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, HUFs, AOPs and 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 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 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 under section 80CCF, over and above the existing limit of Rs. 1,00,000 on tax savings under section 80C of the 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 DTC and GST will be implemented from 1 April 2011.
- Scope of cases which may be admitted by the Settlement Commission has been expanded to include proceedings related to search and seizure cases pending for assessment. Scope of Settlement Commission has also been 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 organised by a person or organisation, 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.
- 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 authorisation 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 is 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 plain gold jewellery from Rs.500 per 10 gms. to Rs.750 per 10 gms. and for plain 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 gms. (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 rate structure of basic custom duty. The peak rate of 10% and the lower rate slabs are being maintained.
- 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 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 viz., 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 SEZ to the DTA 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.

CHAPTER 1 : INTRODUCTION

1.1 Background

The fiscal year 2009-10 was a challenging year for the Indian economy as it began on a discouraging note due to the significant slowdown in the global economy in the later part of 2008-09. The significant deceleration in the second half of 2008-09, had brought the real GDP growth down to 6.7%, from an average of over 9% in the preceding 3 years. However, the Indian economy has posted a remarkable recovery not only in terms of overall growth figures but more importantly, in terms of certain fundamentals.

This recovery is very encouraging as it has come about despite a negative growth in the agricultural sector. More importantly, it is the result of a renewed momentum in the manufacturing sector and marks the rise of this sector as the growth driver of the economy. As per advance estimates of GDP for 2009-10, the economy is expected to grow at 7.2% in 2009-10, with the industrial and services sector growing at 8.2% and 8.7% respectively.

As expected, the Budget has pushed the date for implementation of the Goods and Services Tax ('GST') (which is expected to change the landscape of Indirect Tax regime in India) to 1 April 2011. On the Direct Tax Code ('DTC'), the wide-ranging discussions with stakeholders have been concluded and the Government will be in a position to implement the DTC from 1 April 2011.

The Bill provides for certain key direct tax related proposals, which include:

- provision for lower tax burden on individual tax payers by widening the tax slabs,
- allowing small companies to convert into LLP without attracting capital gains tax liability subject to fulfillment of prescribed conditions,
- simplification and rationalisation of provisions relating to TDS,
- encouragement to savings for funding infrastructure by providing a tax deduction on investment in long-term infrastructure bonds,

- reduction of the compliance burden on small business enterprises by raising the turnover limits beyond which audit is compulsory and
- promotion of investment in Research and Development (R&D) to enhance the competitive ability of the economy.

Individuals have been provided a substantial tax relief by enlarging the tax slabs. This relief has resulted in a tax payer with a taxable income of Rs.5-8 lakhs saving as much as 35-37% on his / her previous tax burden. This, coupled with the additional investment opportunity (eligible for tax deduction) of Rs.20,000, in infrastructure bonds will provide further savings to the tax payer.

For corporates, while the reduction in surcharge from 10% to 7.5% is a welcome measure, the increase in Minimum Alternate Tax (MAT) from 15% to 18% (effective MAT outgo with surcharge and cess will increase by 2.94%) is a dampener, more so for corporates which are based in the Software Technology Parks, Free Trade Zone, EOUs etc. This will have negative impact for the IT/ITES sectors and the Gems and Jewellery sectors. Increased deduction provided for R&D expenditures are positive for pharma and other research based industries.

On the indirect tax front, the increase in general rate of central excise duty from 8% to 10% would result in higher costs. The explanation inserted to levy service tax on construction services unless the entire payment for property is paid by the prospective buyer or on his behalf after completion of the construction (including its certification by the local authorities), is a highly retrograde one, which will have significant impact on property buyers and the real estate industry.

While maintaining the service tax rate at 10% was a positive move, the provision clarifying (that too with retrospective effect from 1 June 2007) that the activity of renting of immovable property per se would also constitute a taxable service would be a dampener for businesses having substantial real estate exposure (viz. retail industry etc.) and who are not able to claim CENVAT credit. Such businesses were fairly relieved with the recent Delhi High Court verdict proclaiming that renting of immovable property for use in the course of furtherance of business or commerce does not involve any value addition and hence cannot be regarded as service.

It is proposed that the transfer of assets on conversion of a company into an LLP in accordance with the LLP Act shall not be regarded as a transfer for the purposes of capital gains tax subject to certain conditions.

The Government has commenced bilateral discussions for exchange of bank related and other information to effectively track tax evasion and identify resident Indians' undisclosed assets lying abroad.

1.2 Scope And Limitations

In this booklet compiled by us, we intend to offer a broad outline of the highlights of the Union Budget 2010. We have discussed the significant proposals for general interest in respect of direct taxes. In respect of indirect taxes and other policy initiatives, only the highlights have been briefly enumerated. Preceding the budget proposals are the macro indicators of Indian economy which provide a backdrop to the legal and financial proposals.

This booklet is not an offer, invitation or solicitation of any kind and it does not purport to be comprehensive, or to render legal, economic or financial advice. This booklet should not be relied upon for taking actions or decisions without appropriate professional advice as the facts of each case have to be studied and the legal position analysed properly before taking any action or decision in the matter. Further, this booklet contains only the proposals and amendments as given in the Finance Bill, 2010, which may be modified before it receives the approval and assent of the Parliament and the President. The proposals regarding direct taxes would become effective from Assessment Year 2011-12 (FY 1 April 2010 to 31 March 2011), unless otherwise specified. In this booklet, the terms 'IT Act', 'the Rules' and 'the Bill' are used for the 'Income-tax Act, 1961', 'Income-tax Rules, 1962' and 'Finance Bill, 2010' respectively.

While all reasonable care has been taken in preparation of this booklet, we accept no responsibility for any errors it may contain or for any omissions or otherwise or for any loss, howsoever caused or sustained, by the person who relies on it.

CHAPTER 2 : INDIAN ECONOMY - AN OVERVIEW

2.1 General Review

The year 2009-10 began on a very pessimistic note. There was a significant slowdown in the later part of the year 2008-09 due to the financial crisis that began in the industrialised nations in 2007 and went on to spread to other parts of the world. There was apprehension that this trend would persist for some time. A delayed and severely subnormal monsoon added to the overall uncertainty. However, over the span of the year, the economy posted a remarkable recovery, not only in terms of overall growth figures but, more importantly, in terms of certain fundamentals, which justify optimism for the Indian economy in the medium to long term.

As per the advance estimates of GDP for 2009-10, the economy is expected to grow at 7.2% in 2009-10, with the industrial and the service sectors growing at 8.2% and 8.7% respectively. The Economic Survey 2009-10 forecasts the GDP growth of 8.5% in the year 2010-11 and 9% for 2011-12.

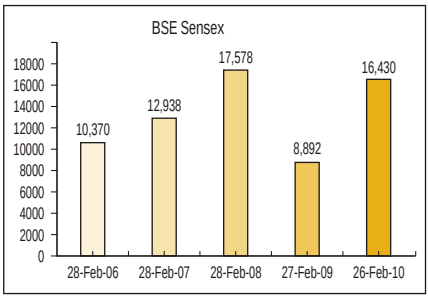
The recovery in GDP growth for 2009-10, as indicated in the advance estimates, is broad based. In terms of sectoral shares, the share of agriculture and allied sectors in GDP at factor cost has declined gradually from 18.9% in 2004-05 to 14.6% in 2009-10, while the share of industry has remained the same at about 28% and services has gone up from 53.2% to 57.2%.

The year-on-year WPI inflation rate has been fairly volatile in 2009-10. For the fiscal year so far (March over December 2009), WPI inflation is estimated at 8%. A major concern during the year 2009-10, especially in the second half, was the emergence of high food inflation.

During fiscal 2009-10, foreign exchange reserves increased by US$ 31.5 billion from US$ 252.0 billion in end March 2009 to US$ 283.5 billion in end December 2009.

In 2009-10, with the signs of recovery and return of FII flows after March 2009, the Indian Rupee has been strengthening against the US$. The average monthly exchange rate of the Indian Rupee against the US$ in the year 2009-10 appreciated by 9.9% from Rs. 51.23 per US$ in March 2009 to Rs. 46.63 per US$ in December 2009, mainly on account of weakening of the US$ in the international market.

Indian equity markets witnessed a revival in the secondary market segment, which had recorded a sharp decline in the wake of the global financial crisis during the later half of 2008. The Sensex recovered from its 2009 low of 8,160 as on 9 March 2009 to reach a level of 16,430 as on 26 February 2010.



In the medium term it is reasonable to expect that the economy will go back to the robust growth path of around 8-9% that it was on before the global crisis slowed it down in 2008. The favourable capital market conditions with improvement in capital flows and business sentiments, as per the RBI's business expectations survey, are also encouraging. Finally, and even though it is too early to tell if this is a trend, the manufacturing sector has been showing a buoyancy in recent months rarely seen before.

2.2 India - Key Economic Indicators

Items	2006-07	2007-08	2008-09	2009-10	2006-07	2007-08	2008-09	2009-10
	Absolute values				% change over previous period			
Gross Domestic Product (at factor cost) (Rs. thousand crore)								
At current market prices	4,284	4,948	5,574[QE]	6,164[AE]	15.60	15.50	12.65	10.58
At factor cost (2004-05 prices)	3,564	3,893	4,155[QE]	4,453[AE]	9.70	9.23	6.73	7.17
(US $ billion - Annual Average exchange rate)[g] At current market prices	947	1229	1212	1286	13.14	29.78	(1.38)	6.11
Foodgrains production (million tonnes)	217.3	230.8	233.9[a]	na	4.17	6.21	1.34	na
Index of industrial production[k]	247.1	268.0	275.4	na	11.56	8.46	2.76	na
Electricity generated (Utilities only) (billion kwh)	662	704	724	na	7.29	6.34	2.84	na
Wholesale Price Index (Average) (Base 1993-94=100)	206.2	215.8	233.9	na	5.42	4.66	8.39	1.6[b]
Imports (US $ million)	185,735	251,654	303,696	na	24.5	35.5	20.7	(23.6)[c]
Exports (US $ million)	126,414	163,132	185,295	na	22.6	29.0	13.6	(20.3)[c]
Foreign exchange reserves (in US $ billion)	199.2	309.7	252.0	283.5[e]	31.40	55.47	(18.63)	12.50[g]
Average exchange rate (Re./US$)	45.25	40.26	45.99	47.94[f]	2.21	(11.03)	14.23	4.24
Gross fiscal deficit (% of GDP)	3.3	2.6	5.9[h]	6.5[j]				
Population (MIllion)	1122	1138	1154	1170	1.45	1.43	1.41	1.39

[AE] Advance Estimates

[QE] Quick Estimates

[a] For 2008-09 the figures are the 4th advance estimates as on 21 July 2009

[b] Average Apr-Dec-2009.

[c] April-December 2009

[e] As on 31 December 2009

[f] Average exchange are for 2009-10 (Apr.-Dec. 2009)

[g] Calculated based on available figures.

[h] Fiscal indicators for 2008-09 are based on the provisional actuals for 2008-09.

[j] Fiscal deficit, revenue deficit and primary deficit were envisaged at 6.8%, 4.8% and 3.0% of GDP respectively at the time of presentation of the 2009-10 Budget.

[k] The Index of Industrial production has been revised since 1993-94.

CHAPTER 3 : TAX RATES

3.1 Individuals, Hindu Undivided Families, Association Of Persons And Body Of Individuals

3.1.1 Tax rates

The Bill proposes certain modifications to the tax structure for individuals, HUFs, AOPs and 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.

3.1.2 Proposed tax incidence

The incidence of income tax for individuals, women and senior citizens, for FY 2010-11, having different income levels can be exemplified as follows:

Annual Income (Rs.)	Tax Liability (Rs.)		
	Individuals*	Women	Senior Citizens
1,60,000	-	-	-
1,90,000	3,090	-	-
2,40,000	8,240	5,150	-
3,00,000	14,420	11,330	6,180
4,00,000	24,720	21,630	16,480
5,00,000	35,020	31,930	26,780
8,00,000	96,820	93,730	88,580
10,00,000	1,58,620	1,55,530	1,50,380
15,00,000	3,13,120	3,10,030	3,04,880
20,00,000	4,67,620	4,64,530	4,59,380
25,00,000	6,22,120	6,19,030	6,13,880

* The tax incidence for HUFs, AOPs and BOIs will be same as that of individuals.

3.2 Companies

3.2.1 Domestic companies

The effective tax rates and MAT rates for domestic companies for FY 2009-10 and FY 2010-11 are as follows:

Domestic Company	Effective Tax Rates		Effective MAT Rates	
	FY 2009-10	FY 2010-11	FY 2009-10	FY 2010-11
Having total income exceeding Rs.1,00,00,000	33.99% [(tax rate 30% plus surcharge 10% thereon) plus education cess 3% thereon]	33.22% [(tax rate 30% plus surcharge 7.5% thereon) plus education cess 3% thereon]	16.995% [(tax rate 15% plus surcharge 10% thereon) plus education cess 3% thereon]	19.93% [(tax rate 18% plus surcharge 7.5% thereon) plus education cess 3% thereon]
Having total income up to Rs.1,00,00,000	30.90% (tax rate 30% plus education cess 3% thereon)	30.90% (tax rate 30% plus education cess 3% thereon)	15.45% (tax rate 15% plus education cess 3% thereon)	18.54% (tax rate 18% plus education cess 3% thereon)

Marginal relief is available to ensure that the additional income tax payable,

including surcharge of 7.5% for FY 2010-11 (10% for FY 2009-10) on the excess of income over Rs. 1,00,00,000 is limited to the amount by which the income is more than Rs. 1,00,00,000. However, no marginal relief shall be available in respect of the education cess.

3.2.2 Foreign companies

The Bill proposes no change in the existing tax rate of 42.23% [(tax rate 40% plus surcharge 2.5% thereon) plus education cess 3% thereon] for foreign companies. The effective tax rate for foreign companies having total income upto Rs. 1,00,00,000 also remains unchanged at 41.20%.

3.2.3 Additional tax on dividends distributed by domestic companies

Due to proposed reduction in the rate of surcharge from 10% to 7.5%, the effective rate of 16.995% [(tax rate 15% plus surcharge 10% thereon) plus education cess 3% thereon] for additional tax on the dividend distributed by the domestic companies for FY 2009-10 would be reduced to 16.60875% [(tax rate 15% plus surcharge 7.5% thereon) plus education cess 3% thereon] for FY 2010-11.

3.3 Partnership Firms

The Bill proposes no change in the existing tax rate of 30.90% (tax rate 30% plus education cess 3% thereon) for partnership firms.

3.4 Additional Tax On Dividends Distributed By Mutual Funds

The effective rate of tax on dividends distributed by mutual funds for FY 2009-10 and FY 2010-11 are as follows:

Type of Income	Effective Tax Rate	
	FY 2009-10	FY 2010-11
Income distributed by a money market mutual fund or a liquid mutual fund to		
- an Individual or a HUF	28.325%*	27.681%*
- Others	28.325%*	27.681%*
Income distributed by a mutual fund other than a money market mutual fund or a liquid mutual fund to		
- an Individual or a HUF	14.163%*	13.841%*
- Others	22.660%*	22.145%*

* The tax rates are inclusive of surcharge of 7.5% for FY 2010-11 (10% for FY 2009-10) and education cess of 3% thereon.

3.5 Other Entities

3.5.1 Co-operative societies

The Bill proposes no change in the tax rates for co-operative societies. As such, the effective tax rates for FY 2009-10 as well as FY 2010-11 are as follows:

Income Slabs (Rs.)			Tax Rates
0	-	10,000	10.30%
10,001	-	20,000	Rs. 1,030 plus 20.60% of income exceeding Rs. 10,000.
20,001	-	and above	Rs. 3,090 plus 30.90% of income exceeding Rs. 20,000.

3.5.2 Local authorities

The Bill proposes no change in the effective tax rates of 30.90% (tax rate 30% plus 3% education cess thereon) for local authorities.

CHAPTER 4 : TAX INCENTIVES FOR BUSINESSES
(As Updated By Amendments In The Union Budget 2010)

The Income tax Act, 1961 provides for far reaching tax holidays and other tax incentives for businesses. We have enumerated, in brief, the significant tax holidays and incentives available to businesses along with the nature of deductions, eligibility criteria, quantum of deduction and period for which the deductions are available. The tax holidays and incentives are subject to fulfillment of specified conditions. The changes proposed by the Finance Bill, 2010 are highlighted in **bold** font.

Section	Details of Exemption / Deduction	Period	Quantum of Deduction
10A / 10B	➢ For newly established undertakings in Free Trade Zones or 100% Export Oriented Undertakings.	First 10 years upto financial year 2010-11.	100%
	➢ For any eligible undertaking set up in a Special Economic Zone ('SEZ') after 1 April 2002 but before 31 March 2005. ➢ Exemption is available for profits from export of certain articles or things or computer software, manufactured or produced by an eligible undertaking. ➢ The term 'computer software' includes notified 'information technology enabled services'. ➢ The benefit is available to units engaged in cutting and polishing of precious and semi-precious stones. ➢ The export proceeds must be realised within specified time. ➢ No deduction under these sections will be allowed unless the assessee files the return of income within prescribed time limit. ➢ The unit availing these deductions will be subject to MAT @19.93% [(tax rate 18% plus surcharge 7.5%) plus education cess 3% thereon] (having book profit exceeding Rs. 1,00,00,000) or 18.54% (in other cases). ➢ The tax holiday available under sections 10A/10B to units in STPI, EHTP, FTZ and EOU will be available upto 31 March 2011. The Bill has not proposed extension of such tax holidays beyond 31 March 2011.	First 5 years Next 2 years Next 3 years*	100% 50% 50%

Section	Details of Exemption / Deduction	Period	Quantum of Deduction
	* The deduction is allowed only on creation of a specified reserve, which is utilized for specified purposes.		
10AA	➢ For any new eligible unit set up in a Special Economic Zone ('SEZ') on or after 1 April 2005. ➢ Exemption is available to the entrepreneur as referred to in Section (2j) of SEZ Act, 2005 for profits derived from export of articles or things or services, manufactured, or produced or provided any services by an eligible unit. ➢ There is no restriction on realisation of the export proceeds within a particular time frame for the purpose of claiming the deduction. ➢ The profits and gains derived from on-site development of computer software (including services for development of software) outside India shall be deemed to be the profits and gains derived from the export of computer software outside India. ➢ The term manufacturing includes processing such as cutting, polishing and as such cutting, polishing of precious and semi-precious stones can be entitled to this exemption. ➢ As per amendment made by Finance (No.2) Act, 2009, the deduction under this section is to be computed in the same proportion, which the export turnover of the eligible unit bears with the total turnover of the said unit with effect from FY 2009-10. Now it is proposed, that the benefit will be available to the assessee in the said proportion, with retrospective effect from FY 2005-06. ➢ The benefit under this section will be available if : • the unit is not formed by splitting up or reconstruction of a business already in existence subject to certain exceptions. • the unit is not formed by transfer of machinery and plant previously used for any purpose to the new business subject to certain exceptions. + The deduction is allowed only on creation of a specified reserve, which is required to be utilized for specified purposes.	First 5 years Next 5 years Next 5 years+	100% 50% 50%

Section	Details of Exemption / Deduction	Period	Quantum of Deduction
33AB	Tea / Rubber/ Coffee development allowance ➢ Deduction is available to assessee engaged in the business of growing and manufacturing tea, coffee or rubber in India. ➢ Deduction equal to an amount deposited in a special account with the National Bank for Agriculture and Rural Development ('NABARD') or any Deposit Account opened by the assessee and approved by the Tea Board or Coffee Board or Rubber Board from the profits is allowed. ➢ The amount has to be deposited within specified period from the end of the financial year or before furnishing the return of income, whichever is earlier. ➢ The amount has to be utilised by the assessee for specified purposes.	NA	Upto 40% of profits or amount deposited in special account, whichever is less

Section	Eligibility Criteria, Quantum and Period of Deduction
32	Additional Depreciation ➢ General rate of depreciation for plant and machinery is 15% from FY 2005-2006. ➢ Additional depreciation of 20% is allowed for new plant and machinery acquired and installed after 31 March 2005. Additional Depreciation is available only in the year in which such machinery is first put to use. ➢ Commercial vehicles acquired on or after 1 January 2009 but before 1 October 2009 and put to use before 1 October 2009 will be eligible for depreciation @ 50%.
35/35 (2AB)	Expenditure on Scientific Research ➢ Where any capital expenditure (other than expenditure on land and building) is incurred on scientific research related to the business carried on by the assessee, 100% of such expenditure can be claimed as deduction. ➢ Where any expenditure (other than expenditure on cost of land and building), on in-house research and development facility, as approved by the prescribed authority, incurred by the assessee, engaged in the business of manufacture or production of article or thing except those specified in the Eleventh Schedule the deduction shall be one and one-half times (150%) of the expenditure incurred up to 31 March 2012. The Bill proposes to increase the deduction from 150% to 200%. ➢ Where amount is paid to a scientific research association, which has its object of undertaking scientific research or to a university, college or other institution to be used for scientific research, the deduction shall be one and one-fourth times (125%) of the amount paid provided that such association, university, college or institution is approved by the Central Government. Similar deduction is available for amount paid to approved university, college or other institution to be used for research in social

Section	Eligibility Criteria, Quantum and Period of Deduction
	science or statistical research. Vide Notifications, certain institutions have been approved in the category of 'other institution' subject to fulfillment of certain conditions. It is now proposed to amend section 35(1)(iii) so as to include an approved research association which has as its object of undertaking research in social science or statistical research. ➢ Where the amount paid by a person to a company to be used for scientific research, provided that the company complies with the specified conditions, the weighted deduction shall be one and one-forth times (125%). The Bill proposes to increase the deduction from 125% to 175%. A company approved under the provisions of the said section will not be entitled to claim weighted deduction of 125% under section 35(2AB). However, deduction to the extent of 100% of the sum spent as revenue expenditure on scientific research, which is available under section 35(1)(ii) will continue to be allowed. ➢ It is proposed to replace the word 'research association' for the word ' scientific research association' in section 35(1).
35AD	<u>Expenditure on specified businesses</u> ➢ Any expenditure of capital nature incurred, wholly and exclusively, during the year for specified business. ➢ Specified business has been defined to mean the business of setting up and operating of cold chain facilities for storage or transportation of agricultural produce, dairy products and other related items. It would also include the business of warehousing for storing agricultural produce and the business of laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network subject to fulfillment of specified conditions. ➢ It is proposed to include the business of building and operating a new hotel of two star or above category anywhere in India, within the purview of 'specified business',. which starts functioning after 1 April 2010. ➢ 100% deduction is allowed in respect of any capital expenditure incurred (other than expenditure incurred on the acquisition of any land or goodwill or financial instrument), during the year by the specified business subject to the specified provisions contained in this section. ➢ The assessee shall not be allowed any deduction in respect of the specified business under the provisions of chapter VI A for the same or any other assessment year. No deduction in respect of the expenditure in respect of which deduction has been claimed shall be allowed to the assesee under any other provisions of the IT Act; ➢ The benefits shall be available: • In a case where the business relates to laying and operating a cross country natural gas pipeline network for distribution, if such business commences its operations on or after 1 April 2007 and • In any other case, if such business commences its operation on or after 1 April 2009.

Section	Eligibility Criteria, Quantum and Period of Deduction
35DDA	Any expenditure incurred by way of payment of any sum to employee in connection with his voluntary retirement is eligible for amortisation over 5 years, subject to specified conditions. It is proposed that in case of conversion of private company or unlisted public company to a LLP, unabsorbed expenditure incurred under voluntary retirement scheme by the private company or unlisted public company will be amortised for the remaining period.
54G	Capital gains arising on transfer of plant, machinery, land, building or any rights in land / building effected in course of or in consequence of the shifting of an industrial undertaking situated in an urban area to any area (other than an urban area), shall be exempt to the extent of the amount of capital gains utilised within a period of 1 year before or 3 years after the date of transfer of the above assets, for purchase of new plant and machinery, land and building and for shifting expenses, subject to specified conditions.
54GA	Capital gains arising on transfer of plant, machinery, land, building or any rights in land / building effected in course of or in consequence of the shifting of an industrial undertaking situated in an urban area to any Special Economic Zone, shall be exempt to the extent of the amount of capital gains utilised within a period of 1 year before or 3 years after the date of transfer of the above assets, for purchase of new plant and machinery, land and building and for shifting expenses, subject to specified conditions.
54EC	Long-term capital gains shall be exempt from tax, if an assessee invests, within a period of 6 months from the date of transfer of a long-term capital asset, the capital gains in the specified assets. The specified asset must be held for a period of 3 years from the date of its acquisition. This exemption is restricted to investment in specified assets viz. bonds issued by National Highway Authority of India and the Rural Electrification Corporation Ltd. The investment is restricted upto Rs. 50,00,000 per assessee per financial year for investment made on or after 1 April 2007.
10(34)	Dividend referred to in section 115-O shall not be included in the total income of assessee.
10(38)	Capital gain arising from transfer of long term capital asset being an equity share in a company or a unit of an equity oriented fund, on which securities transaction tax is charged, is exempt from tax. However, this exemption is not available for computation of MAT.
115JB (6)	The provisions of the section 115 JB will not apply to income accruing or arising on or after 1 April 2005 from a business carried on, or services rendered, by an entrepreneur or a Developer, in a unit or SEZ.
115O (6)	The undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining a SEZ will not be liable to pay DDT on dividend declared, distributed and paid, out of current income, on or after 1 April 2005.

80 IA / 80 IB / 80 IC / 80 IAB / 80 ID/ 80 IE / 80 LA	Deductions of Profits derived by Newly Established Industrial Undertakings / Infrastructure Projects / Facilities / Developers of SEZs / Banking units, etc.

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
i.(a)	➢ Industrial undertaking located in notified industrially backward states. ➢ Manufacturing or producing any articles or things or operating cold storage plant which has commenced operations during 1 April 1993 to 31 March 2004 (31 March 2012 for state of Jammu and Kashmir). ➢ Industrial undertaking deriving profit from the business of setting up and operating cold chain facility for agricultural produce which has begun to operate such facility on or after 1 April 1999 but before 31 March 2004. ➢ A negative list is provided to specify the commodities, which should not be manufactured or produced by such undertakings. ➢ The deduction of 100% of the profits hitherto available under Section 80IB for a period of ten assessment years to notified industries set up in North-Eastern Region, will be available under Section 80IC only, from FY 2003-04.	Company Co-operative Society Others Indian Company	100% 30% 100% 25% 100% 25% 100%	First 5 years Next 5 years First 5 years Next 7 years First 5 years Next 5 years Any 10 consecutive years out of first 15 years
i.(b)	➢ Undertaking set up in any part of India for the generation or generation and distribution, of power, which has commenced operations during 1 April 1993 to 31 March 2011. ➢ Undertaking which starts transmission or distribution by laying a network of new transmission or distribution lines between 1 April 1999 and 31 March 2011. ➢ Undertaking which undertakes substantial renovation and modernisation of the existing network of transmission or distribution lines between 1 April 2004 and 31 March 2011.	All	100%	Any 10 consecutive years out of first 15 years

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
	The renovation / modernisation should result into increase in plant and machinery by at least 50% of the book value of such plant and machinery as on 1 April 2004.			
i.(c)	Undertaking owned by Indian Company (formed before 30 November 2005) set up for reconstruction or revival of a power generating unit, which has commenced operations in power before 31 March 2011.	Indian Company	100%	Any 10 consecutive years out of first 15 years
i.(d)	Industrial undertaking located in industrially backward districts of categories A and B notified by Central Government, manufacturing or producing articles or things (except specified low priority items) or to operate its cold storage plant or plants which has commenced operations during 1 October 1994 to 31 March 2004.	A. Set up in category 'A' districts for all the assesses:		
		Company	100% 30%	First 5 years Next 5 years
		Co-operative Society	100% 25%	First 5 years Next 7 years
		Others	100% 25%	First 5 years Next 5 years
		B. Set up in category 'B' districts for all the assesses:		
		Company	100% 30%	First 3 years Next 5 years
		Co-operative Society	100% 25%	First 3 years Next 9 years
		Others	100% 25%	First 3 years Next 5 years
ii.	Industrial undertaking other than (i) above, manufacturing or producing articles or things (except specified low priority items) or operating cold storage plant which has commenced its operations during 1 April 1991 to 31 March 1995. However, a small scale industrial undertaking manufacturing and producing any article or thing and commencing manufacturing operations or operating cold storage plant from 1 April 1995 to 31 March 2002 is eligible.	Company	30%	First 10 years
		Co-operative Society	25%	First 12 years
		Others	25%	First 10 years

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
iii.	Enterprise being company or consortium of companies registered in India or any authority or board or a corporation or any other body established or constituted under any Central or state Act, for carrying on business of (i) developing or (ii) operating and maintaining or (iii) developing, operating and maintaining of a new infrastructure facility like road including toll road, bridge, rail system, highway project, water supply project, water treatment system, irrigation project, sanitation and sewage system or solid waste management system, airport, port, inland waterways and inland ports, commencing its operations on or after 1 April 1995. For navigational channel in the sea, the benefit will be available from 1 April 2007.	Company / any other body established or constituted under any Central or State Act	100%	For 10 consecutive years out of first 15 years (20 for road, bridge, rail system, highway project, water supply project, water treatment system, irrigation project, sanitation and sewerage system or solid waste management system)
iv.	Approved Hotel located in hilly or rural area or place of pilgrimage, which has started functioning during 1 April 1990 to 31 March 1994 or during 1 April 1997 to 31 March 2001.	Indian company with a minimum paid up capital of Rs. 5,00,000	50%	First 10 years
v.	Hotel located in any place other than a hilly or rural area or place of pilgrimage which has started functioning during 1 April 1991 to 31 March 1995 or during 1 April 1997 to 31 March 2001. Section 80 IB(7)(b) (However, for both (iv) & (v), hotel located at a place within the municipal jurisdiction of four metro cities of Kolkata, Chennai, Delhi and Mumbai are not eligible if they start functioning during 1 April 1997 to 31 March 2001)	Indian company with a minimum paid up capital of Rs. 5,00,000	30%	First 10 years
vi.	Any company registered in India with its main object being scientific and industrial research and development which is for the time being approved by the Department of Scientific and Industrial Research at any time after 31 March 2000 but before 1 April 2007.	Company	100%	For first 10 years (5 years if approved before 1 April 1999).

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
vii.	➢ Any undertaking which starts providing tele-communication services, whether basic or cellular, including radio paging, domestic satellite service or network of trunking, broadband network and internet services on or after 1 April 1995 but before 31 March 2005. ➢ The restrictions on transfer of old plant and machinery and reconstruction of business are made applicable to the telecom sector with effect from 1 April 2004.	All	100% 30%	First 5 years Next 5 years The above 10 years shall be consecutive assessment years out of first 15 years.
viii.	Any undertaking which begins to develop or develops and operates or maintains and operates an industrial park or SEZ notified by the Central Government which has commenced operations during 1 April 1997 to 31 March 2009#. # - As per amendments by The Special Economic Zones Act 2005, the exemption will not be available for SEZs notified after 1 April 2005. Exemption will now be available under a new section 80 IAB.	All	100%	10 years out of first 15 assessment years
ix.	Any assessee being developer of a SEZ notified by the Central Government after 1 April 2005.	All	100%	10 years out of first 15 years
x.	Any undertaking, which begins commercial production of mineral oil in any part of India on or after 1 April 1997 and for refining of mineral oil on or after 1 October 1998 but not later than 31 March 2012 subject to certain conditions. The tax holiday is also available in respect of profits arising from the commercial production of natural gas from blocks which are licensed under the VIII Round of bidding for award of exploration contracts under the New Exploration Licencing Policy announced by the Government of India and IV Round for the Coal Bed Methane and begins commercial production of natural gas on or after 1 April 2009.	All	100%	First 7 years
xi.	➢ Any undertaking engaged in developing and building housing projects approved by a local authority before 31 March 2008	All	100%	Not applicable

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
	➢ In case of projects approved on or after 1 April 2004, it should be completed within 4 years from the end of the financial year in which it is approved. ➢ It is proposed that in case of projects approved on or after 1 April 2005, it should be completed within 5 years from the end of the financial year in which it is approved. This amendment is proposed to take effect from AY 2010-11. ➢ In other cases it should be completed before 31 March 2008. ➢ The deduction is allowed subject to fulfillment of various other conditions like minimum area of the land, maximum built-up area of residential and commercial units etc. ➢ In case of multiple approvals from the local authority, the date of first approval will be considered for the calculation of time limit of completion. ➢ With retrospective effect from financial year 2000-01, nothing contained in the said sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any person (including Central or State Government). ➢ The above deduction is subject to condition that not more than one residential unit is allotted to any person not being an individual and 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:- (i) the spouse or minor children of such individual, (ii) the HUF in which such individual is the karta, (iii) any person representing such individual, the spouse or the minor children of such individual or the HUF in which such individual is the karta.			

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
xii	➢ An undertaking deriving profit from the integrated business of handling, storage and transportation of food grains subject to such business beginning its operations on or after 1 April 2001. ➢ The benefit is extended to undertakings engaged in the business of processing, preservation and packaging of fruits and vegetables with effect from 1 April 2004. ➢ Further, the benefit is extended to the undertakings engaged in the business of meat and meat products or poultry or marine or dairy products which begin to operate such business after 1 April 2009.	Company Others	100% 30% 100% 25%	First 5 years Next 5 years First 5 years Next 5 years
xiii.	Any undertaking engaged in the business of building, owning and operating a multiplex theater located at any place other than a place within the municipal jurisdiction of four metro cities i.e., Kolkatta, Chennai, Delhi and Mumbai and constructed at any time during the period of 1 April 2002 to 31 March 2005.	All	50%	First 5 years
xiv	Any undertaking engaged in the business of building, owning and operating a convention center constructed at any time during the period of 1 April 2002 to 31 March 2005.	All	50%	First 5 years
xv.	➢ Any undertaking engaged in the business of operating and maintaining a hospital in a rural area. ➢ The undertaking shall be eligible for the deduction if such hospital is constructed in accordance with the local regulations in force, and has at least 100 beds for patients. ➢ The hospital should be constructed during the period beginning on 1 October 2004 and ending on 31 March 2008. ➢ The deduction is also available to hospitals located anywhere in India other than excluded areas viz. areas comprising the urban agglomerations	All	100%	First 5 years

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
	of Greater Mumbai, Delhi, Kolkatta, Chennai, Hyderabad, Bangalore and Ahmedabad, the districts of Faridabad, Gurgaon, Ghaziabad, Gautam Budh Nagar, Gandhinagar and the city of Secunderabad. ➢ The said tax benefit is available to a hospital, which is constructed and has started or starts functioning at any time during the period beginning 1 April 2008 and ending on 31 March 2013.			
xvi	New undertakings and enterprises, which begins to manufacture or produce any article or commences any operation specified or undertakes substantial expansion of existing undertakings and enterprises located in the states of			
	➢ If located in Sikkim, the undertaking, which begins to manufacture or produce any article or commences any operation or undertakes substantial expansion during the period beginning from 23 December 2002 to 31 March 2007.	All	100%	First 10 years
	➢ If located in Himachal Pradesh and Uttaranchal, the undertaking, which begins to manufacture or produce or undertakes substantial expansion during the period beginning from 7 January 2003 to 31 March 2012.	Company Others	100% 30% 100% 25%	First 5 years Next 5 years First 5 years Next 5 years
	➢ If located in North Eastern States*, the undertaking, which begins to manufacture or produce or undertakes substantial expansion during the period beginning from 24 December 1997 to 31 March 2007	All	100%	First 10 years
	➢ List of articles and products entitled / not entitled for such deduction have been prescribed * - States of Assam, Tripura, Meghalaya, Mizoram, Nagaland, Manipur and Arunachal Pradesh			

Sr. No.	Nature of activity and location	Type of organisation	Quantum of exemption	Number of years
xvii.	New undertakings and enterprises, which begins to manufacture or produce any eligible article or thing or provide any services or undertakes substantial expansion or carry on any eligible business in any of the Northern Eastern states beginning from 1 April 2007 to 31 March 2017 The eligible business for this purpose are hotel (not below 2 star category),adventure and leisure sports including ropeways, providing medical and health services in the nature of nursing home with a minimum capacity of 25 beds; running an old-age home; operating vocational training institute for hotel management, catering and food craft, entrepreneurship development, nursing and para-medical, civil aviation related training, fashion designing and industrial training; running information technology related training centre; manufacturing of information technology hardware; and bio-technology.	All	100%	First 10 years
xviii.	➢ Offshore banking unit in SEZ. ➢ From the business referred to in section 6(1) of the Banking Regulation Act, 1949. ➢ From any unit of the International Financial Services Center from approved business.	Scheduled Bank or any bank incorporated by or under the law of a country outside India. Or a unit of an International Financial Services Center.	100% 50%	First 5 years (beginning with the year in which prescribed permissions are obtained) Next 5 years
xix.	Any undertaking engaged in business of convention centers or hotels in specified area of the National Capital Territory subject to fulfillment of certain conditions. The said deduction has been extended to new two star, three star or four star hotels located in specified districts having UNESCO-declared 'World Heritage Sites'. Such hotels are required to be constructed and start functioning at any time during the period beginning 1 April 2008 and ending on 31 March 2013.	All	100%	First 5 years

Significant Conditions for Eligibility for Deduction under section 80IA / 80IB / 80IAB / 80IC / 80ID / 80IE / 80LA

- An eligible industrial undertaking is one, which fulfils all of the following conditions:

  i. It manufactures or produces any article or thing other than any non-priority article or thing (as specified in the Eleventh Schedule) or operates one or more cold storage plant or plants in any part of India. However, restriction regarding manufacture of non-priority article specified in eleventh schedule is not applicable to small-scale industrial undertakings and industrial undertakings located in backward states.

  ii. It employs (a) ten or more workers in a manufacturing process carried on with the aid of power or (b) twenty or more workers in a manufacturing process carried on without the aid of power.

  iii. It is not formed by splitting up, or reconstruction, of a business already in existence or by transfer to a new business of machinery previously used for any purpose (except under certain circumstances).

- The profits and gains of an eligible business for the purpose of determining the quantum of deduction under this section for the assessment year is to be computed as if such eligible business were the only source of income of the assessee during the previous year relevant to the assessment year for which the deduction is to be made.

- An eligible enterprise engaged in development, operation and maintenance of any infrastructure facility should have entered into an agreement with the Central Government / State Government / local authority / other statutory body for developing or operating and maintaining or developing, operating and maintaining a new infrastructure facility.

- The exemption is also available to profits and gains derived from ships and approved hotels subject to fulfillment of certain conditions. In the case of a hotel, a significant condition is that the business of the hotel should be owned and carried on by a company registered in India with a paid up capital of Rs. 5,00,000 or more.

- For the enterprise, where housing or other activities are an integral part of the highway project, then the exemption is available to profits and gains derived from such project subject to condition that the profit has been transferred to a special reserve account and the same is actually utilised for the highway project excluding housing and other activities before the expiry of three years following the year in which such amount was transferred to the reserve account and the amount remaining unutilised shall be chargeable to tax as income of the year in which transfer to reserve account took place.

- Where any amount of profits and gains of an industrial undertaking or of a hotel in the case of an assessee is claimed and allowed under this section for any assessment year, deduction to the extent of such profits and gains shall not be allowed under any other provision of the Act and shall in no case exceed the profits and gains of the undertaking or hotel as the case may be.

- Any undertaking claiming deduction under this section must furnish a report of audit in the prescribed form duly signed and verified by an accountant.

- No deduction under 80IA, 80IB, 80IAB, 80IC, 80ID, 80IE will be allowed unless the assessee files return of income within the due date specified under section 139(1).

- With retrospective effect from FY 2002-03.

  - deduction in respect of profits and gains shall not be allowed under any provisions of section 10A or section 10AA or section 10B or section 10BA of the IT Act or under any provisions of Chapter VIA under the heading "C.- Deductions in respect of certain incomes" in any assessment year, if a deduction in respect of same amount is claimed and allowed under the various provisions referred above in such assessment year;
  - the aggregate of the deductions under the various provisions referred above, shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be;
  - no deductions under the various provisions referred above, shall be allowed if the deduction has not been claimed in the return of income;

- With retrospective effect from FY 2008-09, the transfer price of goods and services between the undertaking or unit or enterprise or eligible business and any other undertaking or unit or enterprise or business of the assessee shall be determined at the market value of such goods or services as on the date of transfer.

- It is proposed that no deduction, claimed and allowed in respect of any of the specified business referred to in 35AD(8)(c) for any AY, shall be allowed under chapter VI A under the heading 'C-Deduction in respect of certain income' for the same or any other AY.

CHAPTER 5 : DIRECT TAXES - SIGNIFICANT CHANGES

5.1 Business Entities

5.1.1 Minimum Alternate Tax ('MAT') increased from 15% to 18%

Under the existing provisions of section 115JB of the IT Act, a company is required to pay MAT @ 15% on its book profit, if the income-tax payable on the total income, as computed under the IT Act in respect of any previous year relevant to the assessment year commencing on or after the 1 April 2010, is less than the MAT.

It is proposed to amend section 115JB (1) to increase the MAT rate to 18% from the existing 15%.

5.1.2 Extension of tax holiday under section 80IB for developing and building housing projects

Under the existing provisions of section 80-IB(10), 100% deduction is available in respect of profits derived by an undertaking from developing and building housing projects approved by a local authority before 31 March 2008. This benefit is available subject to, inter alia, the following conditions:

- the project has to be completed within 4 years from the end of the financial year in which the project is approved by the local authority.
- the built-up area of the shops and other commercial establishments included in the housing project should not exceed 5% of the total built-up area of the housing project or 2,000 sq.ft., whichever is less.

It is proposed to increase the period allowed for completion of a housing project in order to qualify for availing the tax benefit under the section, from the existing 4 years to 5 years from the end of the financial year in which the housing project is approved by the local authority. This extension will be available for housing projects approved on or after 1 April 2005.

Further, it is also proposed to enhance the current norms for built-up area of

shops and other commercial establishments in housing projects in order to enable basic facilities for the residents. The built-up area of the shops and other commercial establishments included in the housing project is proposed to be 3% of the aggregate built-up area of the housing project or 5,000 sq. ft., whichever is higher. This benefit will be available to projects approved on or after the 1 April 2005, which are pending for completion, in respect of their income relating to AY 2010-11 and subsequent years.

These amendments are proposed to take effect from 1 April 2010 and will accordingly, apply in relation to the AY 2010-11 and subsequent years.

5.1.3 Relaxation in disallowance of expenditure on account of late payment of TDS

- The existing provisions of section 40(a)(ia) of the IT Act provide for disallowance of expenditure like interest, commission, brokerage, professional fees, etc., if tax on such expenditure was not deducted, or after deduction was not paid during the previous year. However, in case the deduction of tax is made during the last month of the previous year, no disallowance is made if the tax is deposited on or before the due date of filing of return.

  It is proposed to amend the said section to provide that no disallowance will be made if after deduction of tax during the previous year, the same has been paid on or before the due date of filing of return of income specified in section 139(1) of the IT Act.

  This amendment is proposed to take effect from 1 April 2010 and will accordingly, apply in relation to the AY 2010-11 and subsequent years.

- Under the existing provisions of section 201(1A) of the IT Act, a person is liable to pay simple interest @ 1% for every month or part of month in case of failure to deduct tax or payment of tax after deduction.

  It is proposed to increase the rate of interest for non-payment of tax after deduction from the present 1% to 1.5% for every month or part of month.
  This amendment is proposed to take effect from 1 July 2010.

5.1.4 Investment linked deduction for specified businesses including hotels

➢ Presently, profit linked deduction under Chapter VI-A of the IT Act is available to specified categories of hotels in certain specified regions, which start functioning before specified dates mentioned in the IT Act. However, no investment linked incentive is available to the hotel sector.

It is proposed to provide investment linked incentive to the hotel sector, irrespective of location, under section 35AD of the IT Act. The investment-linked tax incentive allows 100% deduction in respect of the whole of any expenditure of capital nature (other than on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the 'specified business' during the previous year in which such expenditure is incurred.

Currently, such 'specified business' means the business of setting up and operating cold chain facilities, warehousing facilities for storage of agricultural produce and laying and operating a cross-country natural gas or crude or petroleum oil pipeline network. It is now proposed to include the business of building and operating a new hotel of two-star or above category, anywhere in India, which starts functioning after 1 April 2010 within the purview of 'specified business'.

➢ It is also proposed to provide that where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of Chapter VI-A in relation to such specified business for the same or any other assessment year. A similar amendment is proposed in section 80A.

5.1.5 Taxation of certain transactions without consideration or for inadequate consideration

Presently, any sum of money or any property in kind which is received without consideration or for inadequate consideration (in excess of the prescribed limit of Rs. 50,000) by an individual or an HUF is, chargeable to income tax in the hands of recipient under the head 'income from other sources'. However, receipts from relatives or on the occasion of marriage or under a will are outside the scope of this provision.

The existing definition of property includes immovable property being land or building or both, shares and securities, jewellery, archeaological collection,

drawings, paintings, sculpture or any work of art.

- It is proposed to include within its ambit, transactions undertaken in shares of closely held company either for inadequate consideration or without consideration where the recipient is a firm or a closely held company.

  It is also proposed to exclude the transactions undertaken for business reorganization, amalgamation and demerger, which are not regarded as transfer under the IT Act.

  These amendments are proposed to take effect from 1 June 2010 and will accordingly, apply in relation to the AY 2011-12 and subsequent years.

- Further, it is proposed to amend the definition of property so as to provide that it will have application to the 'property', which is in the nature of a capital asset of the recipient and therefore would not apply to stock-in-trade, raw material and consumable stores of any business of such recipient.

- In several cases of immovable property transactions, there is a time gap between the booking of a property and the receipt of such property on registration, which results in a taxable differential. It is, therefore, proposed to provide that it would apply only if the immovable property is received without any consideration and to remove the stipulation regarding transactions involving cases of inadequate consideration in respect of immovable property.

  These amendments are proposed to take effect retrospectively from 1 October 2009 and will, accordingly, apply in relation to the AY 2010-11 and subsequent years.

- It is also proposed to amend the definition of 'property' to include transactions in respect of 'bullion'.

- This amendment is proposed to take effect from 1 June 2010 and will accordingly, apply in relation to the AY 2011-12 and subsequent years.

- It is further proposed to amend section 142A(1) to allow the AO to make a reference to the Valuation Officer for an estimate of the value of property for the purposes of section 56(2).

This amendment is proposed to take effect from 1 July 2010.

5.1.6 Anomaly in computation of exempted profits is removed in the case of units in SEZ

Section 10AA was inserted in the IT Act by the SEZ Act, 2005 with effect from 10 February 2006. As per the said provision, the deduction was available on the profit of the business of the undertaking, in the same proportion as the export turnover of the unit bears to the total turnover of the business carried on by the assessee. This formula was perceived to be discriminatory for those assessees which have multiple units in both the SEZ and the DTA vis-à-vis those assessees who were having units in only the SEZ. With a view to removing this anomaly, the provisions of section 10AA (7) of the IT Act were amended by replacing the words 'by the undertaking' with the worlds 'by the assessee' with effect from AY 2010-11 and subsequent years.

In order to make the amendment effective for earlier years, it is proposed to provide that the provision of 10AA(7) as amended by Finance (No. 2) Act 2009, will apply to the AY 2006-07 and subsequent years.

5.1.7 Increase in weighted deduction for scientific research and development

Under the existing provisions of section 35(2AB) of the IT Act, a company is allowed weighted deduction of 150% of the expenditure (not being expenditure in the nature of cost of any land or building) incurred on scientific research on an approved in-house research and development facility.

It is proposed to increase this weighted deduction from 150% to 200%.

The existing provisions of section 35(1)(ii) of the IT Act provide for a weighted deduction from the business income to the extent of 125% of any sum paid to an approved scientific research association that has the object of undertaking scientific research or to an approved university, college or other institution to be used for scientific research. Further, under section 35(2AA) of the IT Act, weighted deduction to the extent of 125% is also allowed for any sum paid to a National Laboratory or a university or an IIT or a specified person for the purpose of an approved scientific research programme.

It is proposed to increase this weighted deduction from 125% to 175%.

5.1.8 Weighted deduction extended to associations engaged in research in social science or statistical research and exemption in respect of the income of such associations

Section 35(1)(ii) provide for a weighted deduction from business income to the extent of 125% of any sum paid to an approved and notified scientific research association or to a university, college or other institution to be utilized for scientific research. Section 35(1)(iii) provides similar deduction if the sum is paid to an approved and notified university, college or other institution to be used to carry on research in social science or statistical research. Section 80GGA of the IT Act allows deductions for donations made to such association, universities, etc.

Under section 10(21) of the IT Act, exemption is granted in respect of the income of a scientific research association which is approved and notified under section 35(1)(ii). The university, college or other institutions which are approved either under section 35(1)(ii) or under section 35(1)(iii) also qualify for exemption of their income under section 10(23C) of the IT Act subject to specified conditions.

The associations which are engaged in undertaking research in social science or statistical research are not currently covered by the provisions of section 35(1)(iii) of the IT Act. Such research associations are also not entitled to exemption in respect of their income.

It is now proposed to amend section 35(1)(iii) of the IT Act so as to include an approved research association which has as its object undertaking research in social science or statistical research. It is also proposed to amend section 10(21) so as to also provide exemption to such associations in respect of their income. This exemption will be subject to the same conditions under which an approved research association undertaking scientific research is entitled to exemption in respect of its income. An amendment to include allowability of deductions for donations made to such associations is also proposed.

5.1.9 Exemption from capital gains tax upon conversion of a private company into a LLP

The Finance (No. 2) Act, 2009 provided for the taxation of LLPs in the IT Act on the same lines as applicable to partnership firms. Sections 56 and 57 of

the LLP Act allow conversion of a private company or an unlisted public company into an LLP. Under the existing provisions of IT Act, conversion of a company into an LLP has definite tax implications. Transfer of assets on conversion attracts levy of capital gains tax. Similarly, carry forward of losses and of unabsorbed depreciation is not available to the successor LLP.

It is proposed that the transfer of assets on conversion of a company into an LLP in accordance with sections 56 and 57 of the LLP Act shall not be regarded as a transfer for the purposes of capital gains tax under section 45 of the IT Act, subject to the following conditions:

- the total sales, turnover or gross receipts in business of the company do not exceed Rs. 60,00,000 in any of the 3 preceding previous years;
- the shareholders of the company become partners of the LLP in the same proportion as their shareholding in the company;
- no consideration other than share in profit and capital contribution in the LLP arises to partners;
- the erstwhile shareholders of the company continue to be entitled to receive at least 50% of the profits of the LLP for a period of 5 years from the date of conversion;
- all assets and liabilities of the company become the assets and liabilities of the LLP; and
- no amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company for a period of 3 years from the date of conversion.

In the above context, it is further proposed as under:

- to allow carry forward and set-off of business losses and unabsorbed depreciation to the successor LLP, which fulfills the above mentioned conditions.
- If the conditions stipulated above are not complied with, the benefit availed by the company shall be deemed to be the profits and gains of the successor LLP chargeable to tax for the previous year in which the requirements are not complied with.
- the aggregate depreciation allowable to the predecessor company and successor LLP shall not exceed, in any previous year, the depreciation calculated at the prescribed rates as if the conversion had not taken place.
- the actual cost of the block of assets in the case of the successor LLP shall be the written down value of the block of assets as in the case of the predecessor company on the date of conversion.

- the cost of acquisition of the capital asset for the successor LLP shall be deemed to be the cost for which the predecessor company acquired it.
- the tax credit under section 115JAA shall not be allowed to the successor LLP.

5.1.10 Rationalisation of provisions relating to TDS

As per the TDS provisions of the IT Act, every person responsible for payment of any specified sum to any person is required to deduct tax at source at the prescribed rate and deposit it with the Central Government within the specified time. However, no deduction is required to be made if the payments do not exceed prescribed threshold limits.

It is proposed to raise the threshold limit for payments mentioned in sections 194B, 194BB, 194C, 194D, 194H, 194-I and 194J as under:

Sct-tion	Nature of payment	Existing threshold limit of payment (Rs.)	Proposed threshold limit of payment (Rs.) (effective from 1 july 2010)
194B	Winnings from lottery or crossword puzzle	5,000 2,500	10,000 5,000
194BB	Winnings from horse race		
194C	Payment to contractors	20,000 (for a single transaction) 50,000 (for aggregate of transactions during the financial year)	30,000 (for a single transaction) 75,000 (for aggregate of transactions during the financial year)
194D	Insurance commission	5,000	20,000
194H	Commission or Brokerage	2,500	5,000
194I	Rent		
194J	Fees for professional or technical services	1,20,000 20,000	1,80,000 30,000

5.1.11 Widening the scope of Settlement Commission

It is proposed to modify the conditions for filing of an application before the Settlement Commission and the time for disposal of an application by the Settlement Commission. The changes proposed are as under:

- To include 'proceedings for assessment or reassessment resulting from search or as a result of requisition of books of account or other documents or any assets', within the definition of a 'case' as defined under section 245A(b) of the IT Act, which can be admitted by the Settlement Commission. Further, it is proposed to amend the Explanation to section 245A(b) of the IT Act, to

specify the date on which the proceedings for assessment or reassessment shall be deemed to have commenced and concluded in the case of a person whose income is being assessed or reassessed as a result of search or as a result of requisition of books of account or other documents or any assets.

Similarly, consequential amendments are also proposed to be made in section 22A of the WT Act.

- Under section 245C of the IT Act, an application can be filed before the Settlement Commission, if the additional amount of income tax payable on the income disclosed in the application exceeds Rs. 3,00,000.

  It is proposed to substitute the proviso to section 245C of the IT Act, so as to provide that an application can be filed before the Settlement Commission, in cases where proceedings for assessment or reassessment have been initiated as a result of search or as a result of requisition of books of account or other documents or any assets, if the additional amount of income tax payable on the income disclosed in the application exceeds Rs. 50,00,000 and in other cases exceeds Rs. 10,00,000.

- Under the existing provision of section 245D(4A) of the IT Act, the Settlement Commission shall pass an order within 12 months from the end of the month in which the application was made.

  It is proposed to provide that the Settlement Commission shall, in respect of an application made on or after 1 June 2010, pass an order within 18 months from the end of the month in which the application is made.

  Consequential amendments on similar lines are proposed to be made in section 22D of the WT Act.

  All the above amendments are proposed to take effect from 1 June 2010.

5.1.12 Increased limit of turnover or gross receipts for the purpose of tax audit and for presumptive taxation

- Under the existing provisions of section 44AB, every person carrying on business is required to get his accounts audited if the total sales, turnover or gross receipts in business exceed Rs. 40,00,000 in the previous year. Similarly, a person carrying on a profession is required to get his accounts

audited if the gross receipts in profession exceed Rs. 10,00,000 in the previous year.

It is proposed to increase the aforesaid threshold limit from Rs. 40,00,000 to Rs. 60,00,000 in the case of persons carrying on business and from Rs. 10,00,000 to Rs. 15,00,000 in the case of persons carrying on profession.

- In view of the amendment proposed above, it is also proposed to increase the maximum penalty, leviable under section 271B for failure to get accounts audited under section 44AB or to furnish a report of such audit, from Rs. 1,00,000 to Rs. 1,50,000.

- It is also proposed that for the purpose of presumptive taxation under section 44AD, the threshold limit of total turnover or gross receipts would be increased from Rs. 40,00,000 to Rs. 60,00,000.

5.1.13 Extension of tax holiday under section 80ID for a hotel or a convention centre in the National Capital Territory

Section 80-ID of the IT Act provides for 100% deduction for 5 years, of profits derived by an undertaking from the business of a two-star, three-star or four-star category hotel or from the business of building, owning and operating a convention centre located in the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad, provided such hotel has started functioning or such convention centre is constructed during the period 1 April 2007 to 31 March 2010.

To provide some more time for these facilities to be set up in light of the Commonwealth Games in October 2010, it is proposed to amend section 80-ID to extend the date by which the hotel has to start functioning or the convention centre has to be constructed, from the present 31 March 2010 to 31 July 2010.

5.1.14 Issue of TDS and TCS Certificates

As per the present regulations of the IT Act, requirement of furnishing of TDS and TCS certificates by the deductor / collector to the deductee / collectee on or after 1 April 2010 is dispensed with.

It is proposed that the deductor / collector will continue to furnish TDS / TCS

certificates to the deductee / collectee even after 1 April 2010.

These amendments are proposed to take effect from 1 April 2010.

5.1.15 Taxation of income of non-life insurance business

Section 44 read with the First Schedule to the IT Act provides the scheme of computation of income of insurance companies. According to Rule 5 of the said Schedule, the income of non-life insurance business is taken as 'profit before tax and appropriations' as per the profit and loss account of the company, prepared in accordance with the regulations made by the IRDA, subject to certain adjustments. Further, it provides that in case of non-life insurance business, appreciation of or gains on realisation of investments taken credit for in the accounts shall be treated as income and be included in the computation of the total income. The appreciation in the value of investments, being in the nature of unrealized gain is not taken into account for determining profit or loss of non-life insurance business as per the IRDA regulations.

It is proposed that the unrealized gains due to appreciation in the value of investments will not be included in the total income. Similarly, deduction will not be allowed for provision for losses due to diminution in the value of investments as this is not a realized loss.

5.2 Personal

5.2.1 Additional deduction for investment in long-term infrastructure bonds

It is proposed to insert a new section 80CCF in the IT Act to provide that subscription during the FY 2010-11 made to long-term infrastructure bonds (as may be notified by the Central Government), to the extent of Rs. 20,000, shall be allowed as deduction in computing the income of an individual or a HUF. This deduction will be over and above the existing overall limit of tax deduction on savings of up to Rs.1,00,000 under section 80C, 80CCC and 80CCD of the IT Act.

5.2.2 Deduction in respect of contribution to the Central Government Health Scheme

Under the existing provisions of section 80D, deduction in respect of premium

paid towards a health insurance policy up to a maximum of Rs. 15,000 is available for self, spouse and dependent children. A further deduction of Rs. 15,000 is also allowed for buying an insurance policy in respect of dependant parents. The deduction is Rs. 20,000 in both cases if the person insured is of the age of 65 years or above.

It is proposed to also allow deduction in respect of any contribution made to Central Government Health Scheme by including such contribution under the provisions of section 80D. The deduction will be limited to the current aggregate as mentioned in the section.

5.3 Non Resident

5.3.1 Income deemed to accrue or arise in India to a non-resident even if services are rendered outside India

Section 9 of the IT Act provides for situations where income is deemed to accrue or arise in India. Vide Finance Act, 1976, a source rule was provided in section 9 through insertion of clauses (v), (vi) and (vii) in sub-section (1) for income by way of interest, royalty or fees for technical services respectively. It was provided, inter alia, that in case of payments as mentioned under these clauses, income would be deemed to accrue or arise in India to the non-resident under the circumstances specified therein. The intention of introducing the source rule was to bring to tax interest, royalty and fees for technical services, by creating a legal fiction in section 9, even in cases where services are provided outside India as long as they are utilized in India.

In order to remove any doubt about the legislative intent of the aforesaid source rule, it is proposed to substitute the existing Explanation with a new Explanation to specifically state that the income of a non-resident shall be deemed to accrue or arise in India under clause (v) or clause (vi) or clause (vii) of sub-section (1) of section 9 of the IT Act and shall be included in his total income, whether or not,

(a) the non-resident has a residence or place of business or business connection in India; or
(b) the non-resident has rendered services in India.

This amendment is proposed to take effect retrospectively from 1 June 1976 and will accordingly, apply in relation to the AY 1977-78 and subsequent years.

5.3.2 Increased tax exposure for non-residents providing services or facilities in connection with prospecting for, or extraction or production of, mineral oil.

Under the existing provisions contained in section 44BB(1) of IT Act, income of a non-resident taxpayer 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 oils is computed at 10% of the aggregate of the amounts paid.

Section 44DA provides the procedure for computing income of a non-resident, including a foreign company, by way of royalty or fee for technical services, in case the right, property or contract giving rise to such income are effectively connected with the permanent establishment of the said non-resident. This income is computed as per the books of account maintained by the assessee.

Section 115A provides the rate of taxation in respect of income of a non-resident, including a foreign company, in the nature of royalty or fee for technical services, other than the income referred to in section 44DA i.e., income in the nature of royalty and fee for technical services which is not connected with the permanent establishment of the non-resident.

Combined effect of the provisions of sections 44BB, 44DA and 115A is that if the income of a non-resident is in the nature of fee for technical services, it shall be taxable under the provisions of either section 44DA or section 115A, irrespective of the business to which it relates. Section 44BB applies only in a case where consideration is for services and other facilities relating to exploration activity which are not in the nature of technical services. However, owing to judicial pronouncements, doubts have been raised regarding the scope of section 44BB vis-à-vis section 44DA as to whether fee for technical services relating to the exploration sector would also be covered under the presumptive taxation provisions of section 44BB.

In order to remove doubts and clarify the distinct scheme of taxation of income by way of fee for technical services, it is proposed to amend the proviso to section 44BB so as to exclude the applicability of section 44BB to the income which is covered under section 44DA. Similarly, section 44DA is also proposed to be amended to provide that provisions of section 44BB shall not apply to the income covered under section 44DA.

5.4 General

5.4.1 Definition of 'charitable purpose'

For the purposes of the IT Act, 'charitable purpose' has been defined in section 2(15) of the IT Act, which, among others, includes 'the advancement of any other object of general public utility'. However, 'the advancement of any other object of general public utility' is not a charitable purpose, if it involves carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity.

It is proposed to amend section 2(15) of the IT Act to provide that 'the advancement of any other object of general public utility' shall continue to be a 'charitable purpose', if the total receipts from any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business do not exceed Rs.10,00,000 in the previous year.

This amendment is proposed to take effect retrospectively from 1 April 2009 and will accordingly, apply in relation to the AY 2009-10 and subsequent years.

5.4.2 Power to CIT for cancellation of registration of charitable organization obtained under section 12A

Section 12AA(3) currently provides that if activities of the trust or institution are found to be non-genuine or its activities are not in accordance with the objects for which such trust or institution was established, the registration granted under section 12AA of IT can be cancelled by the Commissioner after providing the trust or institution an opportunity of being heard.

The power of cancellation of registration is inherent and flows from the authority of granting registration. However, judicial rulings in some cases have held that the Commissioner does not have the power to cancel the registration which was obtained earlier by any trust or institution under provisions of section 12A as it is not specifically mentioned in section 12AA.

It is, therefore, proposed to amend section 12AA of IT Act so as to provide that the Commissioner can also cancel the registration obtained under section 12A of IT Act, as it stood before amendment by Finance (No.2) Act, 1996.

This amendment is proposed to take effect from 1 June 2010.

CHAPTER 6 : INDIRECT TAXES - SIGNIFICANT CHANGES

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

6.1 Goods and Services Tax ('GST')

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

6.2 Service Tax

6.2.1 General

- 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%].

6.2.2 Services proposed to be specifically included in the list of taxable services

- Services of permitting commercial use or exploitation of any event organised by a person or organisation.
- The existing taxable service 'intellectual property rights' excludes copyright from its scope. It is proposed to bring copyrights on cinematographic films and sound recording within the ambit of service tax. However, copyright on original literary, dramatic, musical and artistic work would continue to remain outside the scope of service tax.
- Health services viz. health check up undertaken by hospitals or medical establishments for the employees of business entities and health services provided under health insurance schemes offered by insurance companies.

However, it has been proposed that the service tax on these health services would be payable only if the payment for such health check up or preventive care or treatment etc. is made directly by the business entity or the insurance company to the hospital or medical establishment.

- Services provided for maintenance of medical records of employees of a business entity.
- Services provided by electricity exchanges.
- Certain additional services provided by a builder to the prospective buyers such as providing preferential location or external or internal development of complexes on extra charges. However, service of providing vehicle-parking space would not be subjected to service tax.
- Services of promoting of a 'brand' of goods, services, events, business entity etc.
- Promotion, marketing or organizing of games of chance, including lottery, is being introduced as a separate service.

6.2.3 Extension / Alteration of the scope of existing services

- 'Air passenger transport service' is being expanded to include domestic journeys and international journeys in any class.
- At present, in the case of 'information technology software services', the levy of service tax is limited only to cases where information technology software is used for furtherance of business or commerce. The scope of taxable service is being expanded to cover all cases, irrespective of its use.
- In the case of 'commercial training or coaching services', 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. Further, the service is being expanded to cover services provided by any person to any person, wheres the existing provisions only included services provided to any body corporate or firm.
- In 'construction of complex service' / '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 and
  - to levy service 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.
- 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 authorisation from the airport/port authority would not be a pre-condition for taxing these services.
- An explanation is being added in 'auctioneer service' to clarify that the phrase 'auction by government' means an auction involving sale of government property and not when the government acts as an auctioneer for sale of the private property.
- Definition of 'management of investment under ULIP service' is being amended to provide that the value of the taxable service for any year of the operation of policy shall be the actual amount charged by the insurer for management of funds under ULIP or the maximum amount of fund management charges fixed by the Insurance Regulatory and Development Authority ('IRDA'), whichever is higher.

6.2.4 Additional exemptions

- Statutory taxes charged by the foreign governments are being excluded from taxable value for levy of service tax under the 'air passenger transport service'.
- Exemption from service tax is being provided to services relating to 'erection, commissioning or installation' of,
  - Mechanised food grain handling systems etc.
  - Equipment for setting up or substantial expansion of cold storage and
  - Machinery/equipment for initial setting up or substantial expansion of units for processing of agricultural, apiary, horticultural, dairy, poultry, aquatic, marine or meat products.
- Pre-packaged information technology software, with the license for right to its use, is being exempted from service tax, subject to specified conditions.

- At present, exemption from service tax is available to transport of fruits, vegetables, eggs or milk by road by a goods transport agency. The scope of exemption is being expanded to include food grains and pulses in the list of exempted goods.
- Exemption from service tax is being provided to Indian news agencies under 'online information and database retrieval service' and 'business auxiliary service', subject to specified conditions.
- Exemption from service tax is being provided to 'technical testing and analysis service' and 'technical inspection and certification service' provided by Central and State seed testing laboratories and Central and State seed certification agencies.
- Exemption from service tax is being provided to service for transmission of electricity.

The above changes will come into effect from 27 February 2010.

6.2.5 Withdrawal of existing exemptions

- Exemption on 'service provided in relation to transport of goods by rail' is being withdrawn with effect from 1 April 2010. However, an abatement of 70% of the gross value of the freight charged on goods (other than exempted goods) is being provided.
- Exemption from service tax on 'commercial training or coaching service' is being restricted to industrial training institutes / centres affiliated to National Council of Vocational Traning, offering courses in the designated trades notified under the Apprentices Act, 1961. The above change will come into effect from 27 February 2010.

6.2.6 Amendments to the Export of Services Rules, 2005

- Keeping in view the difficulties faced by the trade, one of the conditions prescribed i.e. 'such service is provided from India and used outside India' is being deleted.
- Some of the specified taxable services are being moved 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.

The aforesaid amendments are proposed with effect from 27 February 2010.

6.2.7 Amendments to the existing regulations

➢ The following amendments are proposed with effect from 27 February 2010:

- Notification No. 1/2002-ST dated 1 February 2002 is being superceded by another notification to provide that the construction and operation of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oils and natural gas in the Exclusive Economic Zone and the continental shelf of India and for supply of any goods connected with these activities would be within the purview of the provisions of Chapter V of Finance Act, 1994. Suitable changes are being made in the definition of the term 'India' Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.

- Notification No. 5/2006 of Central Excise (NT) which provides for refund to exporters is being amended and given partial retrospective effect to remove the bottlenecks in refund of accumulated credit to the exporters.

➢ The following amendments are proposed with effect from a date to be notified after the enactment of the Bill:

- To provide for a definition of the term 'business entity' to include an association of persons, body of individuals, company or firm but not an individual.

➢ The following amendments are proposed with effect from the date of enactment of the Bill:

- To insert an explanation in sub-section (3) of section 73 to clarify that no penalty shall be imposed where service tax along with interest has been paid before issuance of notice by the department under this sub-section.

6.3 Customs Duty

6.3.1 General

➢ There is no change in the overall rate structure of basic customs duty. The peak rate of 10% and the lower rate slabs are being maintained.

6.3.2 Precious metals, gems and jewellery

- Duty on gold, silver, platinum and rhodium have been revised as under:

Product description	Present duty	Revised duty
Gold bars (other than tola bars) bearing manufacturer's or refiner's engraved serial number and weight expressed in metric units and gold coins	Rs.200 per 10 gms.	Rs. 300 per 10 gms.
Gold in any form (other than those covered above)	Rs. 500 per 10 gms.	Rs. 750 per 10 gms.
Silver in any form	Rs. 1,000 per kg.	Rs. 1,500 per Kg.
Platinum	Rs. 200 per 10 gms.	Rs. 300 per 10 gms.
Rhodium	10%	2%

The above revised duty shall also apply to gold and silver including gold / silver ornaments (excluding ornaments studded with stones or pearls) imported as personal baggage.

- Gold ore and concentrate are being exempted from basic customs duty and special additional duty of customs. They will, however, be chargeable to concessional CVD @ Rs.140 per 10 gms. of gold content. The above concessions are however subject to end user condition.

6.3.3 Entertainment / Media

- Exemption is provided on movies / motion pictures recorded on cinematographic films or digital medium (CD / DVDs etc.), whereby customs duty would be charged only on the cost of the carrier medium and the freight and insurance. Similar exemption is being extended to music and gaming software (other than pre-packaged form) for retail sale imported on digital media for duplication.
- Promotional material like trailors, making of films etc. imported free of cost in the form of Electronic Promotion Kits (EPK) or beta-cams are being fully exempted from basic customs duty and CVD.
- Project imports status is being accorded to 'Setting up of Digital Head End' with 5% concessional basic customs duty and Nil special additional duty of customs.

6.3.4 Changes in rates of duty of certain items

Product description	Present duty	Revised duty
Crude petroleum	Nil	5%
Motor spirit (Petrol) and HSD (Diesel)	2.5%	7.5%
Specified agricultural machinery such as paddy transplanter, laser land leveler, cotton picker, reaper-cum-binder, straw or fodder balers, sugarcane harvestes, track used for manufacture of track-type combine harvester etc.	7.5%	5%
Long peper (Piper longum)	70%	30%
'Asafoetida' (heeng)	30%	20%
Magnetrons of upto 1,000 kw used for the manufacture of microwave ovens.	10%	5%

6.3.5 Project imports

- Project imports status is being granted to the initial setting up or substantial expansion of a cold storage, cold room (including farm pre-coolers) for preservation or storage or an industrial unit for processing of agricultural, apiary, horticultural, dairy, poultry, aquatic and marine produce and meat. These projects would attract concessional basic customs duty of 5%.
- Project imports status is also being granted to installation of mechanised handling systems and pallet racking systems in mandis or warehouses for food grains and sugar with concessional basic customs duty of 5%. Such systems are also being exempted from additional duty of customs (CVD) and special additional duty of customs.
- Monorail projects for urban transport are also being granted project imports status under Heading No. 9801 and would accordingly attract concessional basic customs duty of 5%.

6.3.6 Grant / Extension of exemption

- Goods imported in pre-packaged form and intended for retail sale and certain specified goods viz. ready-made garments, mobile phones and watches are being provided an outright exemption from special additional duty of customs of 4%. In addition, outright exemption from this duty is also being provided to carbon black feedstock, waste paper and paper scrap. The existing exemption by way of refund would continue on other items.

- Tunnel boring machine for hydro-electric power projects is 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.
- A concessional rate of basic customs duty of 5% is being provided to all machinery items, instruments, appliances required for initial setting up of solar power generation projects or facilities. These items have been exempted from CVD also by way of excise duty exemption provided to them.
- Ground source heat pump (for geo-thermal energy applications) is being fully exempted from basic customs duty and special additional duty of customs.
- All medical equipments (with some exceptions) will attract 5% basic customs duty, 4% CVD duty and Nil special additional duty of customs. Parts required for the manufacture and accessories of medical equipment will also attract 5% concessional basic customs duty with Nil special CVD.
- Exemption from basic customs duty and CVD presently available for parts, components, accessories for manufacturing of mobile handsets including cellular phones and parts thereof is being extended to parts for the manufacture of battery chargers and hands-free headphones also.
- Exemption from 4% special additional duty of customs presently available upto 6 July 2010 on parts, components and accessories for manufacture of mobile handsets including cellular phones, parts thereof (except accessories) is being extended to parts of two specified accessories also upto 31 March 2011.
- Exemption from customs duty is being extended to additional specified capital goods and raw materials for the manufacture of electronic hardware.
- 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.

6.3.7 Withdrawal of exemption

- Electrical energy supplied from a SEZ to the DTA and non-processing areas of SEZ would attract duty of 16% ad-valorem and Nil Special CVD. This change is being made retrospectively with effect from 26 June 2009. Exemption on supplies or imports of electrical energy, other than the above, would continue.

- Concessional customs duty available to spares for the maintenance of medical equipment is being withdrawn except in specified cases.

6.3.8 Other amendments

- The prohibition on filing of applications for the settlement of cases where an assessee admits short-levy in respect of goods not included in the entry made under the Act (i.e. cases of misdeclaration, suppression etc.) is being removed. Similarly, the restriction that an assessee may seek only one-time settlement is also being relaxed. The Commission is being empowered to extend the time limit of 9 months for disposal of applications by another 3 months, for reasons to be recorded in writing.
- Section 3 of the Customs Tariff Act is being amended so as to provide that the value of imported goods for the purpose of charging CVD in respect of goods chargeable to excise duty on the basis of Maximum Retail Sale Price under Medicinal and Toilet Preparations (Excise Duties) Act, 1955 shall be the retail sale price declared on such imported goods less the amount of abatement, if any. This change will come into effect on enactment of the Bill.
- In order to claim the exemption from CVD presently available to packaged software or canned software, the condition of commercial exploitation is being removed. Consequently, the exemption would be available on imported packaged software in all cases.

6.4 Excise Duty

6.4.1 General

- The standard rate of 8% on non-petroleum products has been increased to 10% with certain exceptions.

6.4.2 Gems and jewellery sector

- Refined serially numbered gold bars made from the ore/concentrate stage would attract duty of Rs.280 per 10 gms. (instead of 8% ad-valorem) with Cenvat credit facility on inputs and capital goods.
- Duty on DTA clearances of jewellery manufactured by 100% EOU has been increased as under:

Product description	Present duty	Revised duty
Plain Gold Jewellery	Rs.500 per 10 gms.	Rs.750 per 10 gms.
Plain Silver Jewellery	Rs. 1,000 per kg.	Rs.1,500 per kg.

6.4.3 Automobile sector

- 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%.

6.4.4 Petroleum sector

- Duty on motor spirit (petrol) and HSD (diesel) has been increased by Re.1 per litre. The revised rates of duty (including additional excise duty and / or special additional excise duty) is as under:

Product description	Without Brand Name	With Brand Name
Motor Spirit	Rs.14.35 per litre	Rs. 15.50 per litre
HSD	Rs. 4.60 per litre	Rs. 5.75 per litre

6.4.5 Cement

- The specific rates of duty on cement has been revised upwards as follows:

Cement	Mini cement plant		Other than mini cement plant	
	Present rate	Revised rate	Present rate	Revised rate
Cleared in packaged form: Retail Sale Price ('RSP') not exceeding Rs. 190 per 50 kg bag or of per tonne equivalent RSP not exceeding Rs. 3,800	Rs.145 per tonne	Rs.185 per tonne	Rs.230 per tonne	Rs.290 per tonne
RSP exceeding Rs.190 per 50 kg bag or of per tonne equivalent RSP price exceeding Rs. 3,800	Rs.250 per tonne	Rs.315 per tonne	8% of retail sale price	10% of retail sale price
Cleared other than in packaged form	Rs.170 per tonne	Rs.215 per tonne	8% or Rs. 230 per tonne whichever is higher	10% or Rs. 290 per tonne whichever is higher

- The duty on cement clinkers has been increased from Rs.300 per tonne to Rs.375 per tonne.

6.4.6 Food/Agro processing and agriculture sector

- Exemption from duty presently available to 20 specified equipments for preservation, storage or transport of agricultural produce has been extended to apiary, horticultural, dairy, poultry, aquatic and marine produce and meat as well as processing thereof.
- Exemption from duty has been extended to self-loading/self-unloading trailers and semi trailers for agricultural purposes (tariff item 8716 20 00).

6.4.7 Tobacco products

- Structural changes have been made in the duty on cigarettes, cigars and cigarillos with increase in rates.
- Duty on all non-smoking tobacco such as scented tobacco, snuff, chewing tobacco etc. has been increased.
- Duty will be levied on chewing tobacco and branded unmanufactured tobacco packed in pouches with the aid of packing machines based on capacity of production under Section 3A of the Central Excise Act, 1944 (compounded levy). This levy will come into effect on 8 March 2010.

6.4.8 Mega power projects

- Exemption from duty presently available to goods supplied against international competitive biddings has been extended to goods supplied to mega power projects from which power supply has been tied up through tariff-based competitive bidding. The exemption would also be available where the mega power project has been awarded through tariff-based competitive biddings.

6.4.9 Micro, small and medium enterprises / small scale sector

- Small Scale Industrial ('SSI') units eligible for availing benefits under Notification No. 8/2003-CE have been given additional facilities of:
  - Full Cenvat credit on capital goods in one installment in the year of receipt of such goods.
  - Facility of payment of excise duty on quarterly basis.

  The above changes will come into effect from 1 April 2010 and will be applicable even if an eligible unit opts not to avail of the SSI exemption.

- The relaxation from brand name restriction under the general SSI exemption scheme has been extended to plastic bottles and plastic containers used as packing material.

6.4.10 Grant of exemption

- The following products have been fully exempted from duty:
  - Articles of bedding wholly made of quilted textile materials.
  - Toy balloons made of natural rubber.
  - Betel nut product known as 'Supari'.
  - Dementholised oil, deterpenated mentha oil, spearmint/mentha piperita oils and all intermediates and by-products of menthol.
  - Specified raw materials for the manufacture of rotor blades for wind operated electricity generators.

6.4.11 Reduction in rates of duty for certain items

Product description	Present duty	Revised duty
Replaceable kits for all household type water filters (except those operating on RO technology)	8%	4%
Corrugated boxes/cartons manufactured by stand-alone manufacturers	8%	4%
Latex rubber thread	8%	4%
LED lights / lighting fixtures	8%	4%
Goods covered under the Medicinal and Toilet Preparations Act	16%	10%

6.4.12 Withdrawal of exemption / concessions

- The following products which were exempted from duty will now attract duty @ 4%:
  - 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.
- 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%.

6.4.13 Other Amendments

- Rule 11 (5) of the Central Excise Rules, 2002 has been deleted so as to dispense with the requirement of pre-authentication of the invoices.
- 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 ('Cenvat Rules') 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 Rules has been 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 Rules has been 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 Rules has been amended to harmonise the penal provisions for incorrect availment of Cenvat credit of duty paid on inputs or capital goods or input services.

6.4.14 Amendments in Medicinal and Toilet Preparations (Excise Duties) Act, 1955 ('M&TP Act')

- Section 3 of the M&TP Act is proposed to be amended to exclude goods manufactured or produced by units in SEZ from duty leviable under that Act. This change will come into effect on enactment of the Bill.

6.4.15 Clean energy cess

- Clean energy cess @ Rs.50 per tonne 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.

6.5 Central Sales Tax ('CST')

- It is being proposed to amend sub-section 2 of section 6A (regarding stock transfers) to provide that for making an order under that sub-section, the assessing officer shall, in addition to satisfying himself about the truthfulness of the particulars furnished by a dealer, shall also satisfy himself that no inter-state sales have been effected to arrive at the conclusion that the movement of goods from one state to another has not occasioned as a result of sale.
- Further, it is being proposed to introduce a new sub-section (3) to section 6A, to provide for reassessment by the assessing authority based on new facts or revision by a higher authority on the ground that the findings of the assessing authority are contrary to law and such reassessment or revision may be done in accordance with the provision of general sales tax law of the state.
- It is being proposed to introduce a new section 18A, to provide that any person aggrieved by an order made by the assessing authority under sub-section 2 or 3 of section 6A, may prefer an appeal to the highest appellate authority of the state, established or constituted under the General Sales Tax Law of a state. Further, any incidental issues including the rate of tax, computation of assessable turnover and penalty may be raised in such appeal.
- It is being proposed to introduce a new sub-section (1B) to section 22, to provide that the authorities may issue direction for refund of tax collected by a state, which has been held by the authority to be not due to that state, or alternatively, direct that State to transfer the refundable amount to the state to which CST is due on the same transaction. Further, the amount of tax directed to be refunded by a state shall not exceed the amount of CST payable by the appellant on the same transaction.

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

CHAPTER 7: OTHER SIGNIFICANT PROPOSALS

7.1 Tax And Administrative Measures

7.1.1 It is expected that the Direct Tax Code and Goods and Services Tax will be implemented from 1 April 2011.

7.1.2 It is expected that the income tax department will notify a 2 pager SARAL-II Form for filing of income tax returns by individual salaried taxpayers for the coming assessment year.

7.1.3 The Income Tax department has introduced “Sevottam”, a pilot project at Pune, Kochi and Chandigarh through Aayakar Seva Kendras, which provides a single window system for registration of all applications including those for redressal of grievances as well as paper returns. It is proposed that the scheme will be extended to 4 more cities.

7.1.4 The Government has commenced bilateral discussions for exchange of bank related and other information to effectively track tax evasion and identify resident Indians' undisclosed assets lying abroad.

7.1.5 The Centralized Processing Centre set up by the Government of India at Bengaluru has been set up and is fully functional and is processing around 20,000 tax returns daily. Two more similar centers are proposed to be set up during the year.

7.2 Measures For Foreign Direct Investment (FDI)

The Government proposes to make the FDI policy user-friendly by consolidating all prior regulations and guidelines into one comprehensive document for better clarity.

7.3 Banking Licences

RBI is considering giving some additional banking licenses to private sector players. NBFCs could also be considered, if they meet RBI's eligibility criteria.

7.4 Supporting Export Sector - Interest Subvention

It is proposed to extend the existing interest subvention of 2% on pre-shipment export credit for 1 more year upto 31 March 2011 for exports covering handicrafts, carpets, handlooms and small and medium enterprises.

7.5 Agriculture Growth

The period for repayment of the loan amount by farmers has been extended by 6 months from 31 December 2009 to 30 June 2010 under the Debt Waiver and Debt Relief Scheme for farmers.

7.6 Unique Identification Number

It is expected that the Unique Identification Authority of India (UIDAI) will be able to meet its commitments of issuing the first set of UID numbers in the coming year.

CHAPTER 8 : IMPACT ON SELECT INDUSTRIES

8.1 Gems And Jewellery Industry

Key Highlights

- The Gems & Jewellery Industry is one of the fastest growing industries in the country.
- The total exports of Gems and Jewellery industry for the FY 2009-10 (upto January 2010) is about US $ 22.54 billion.
- Gems and Jewellery industry is one of the largest employment providers in India.

Positive Proposals / Impact

- 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 gms. of gold content.
- Refined serially numbered gold bars made from the ore/concentrate stage would attract excise duty of Rs.280 per 10 gms. (instead of 8% ad-valorem) with Cenvat credit facility on inputs and capital goods.
- Customs duty on Rhodium has been reduced from 10% to 2%.
- Revision of income tax slab rates in the case of individual assessees, would substantially benefit the employees / workers as the industry is highly labour intensive.
- Effective corporate income tax rate for domestic companies having income exceeding Rs.1,00,00,000 has been reduced from 33.99% to 33.2175% as a result of reduction in surcharge from 10% to 7.5%.
- The amendment in section 10AA(7) of the IT Act, with respect to computation of profits in relation to the total turnover of the undertaking instead of the total turnover of the assessee has been proposed with retrospective effect from AY 2006-07.
- Tax audit limit has been enhanced from Rs. 40,00,000 to Rs. 60,00,000 for businesses. 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, in the said financial year.
- 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.
- 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.
- Scope of cases which may be admitted by the Settlement Commission has been 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.

Negative Proposals / Impact

- Increase in the rate of MAT from existing 15% to 18% (plus applicable surcharge and education cess) shall increase the tax burden of units in EOU / SEZ.
- There is no extension of tax holiday enjoyed by units in EOU / FTZ under Section 10A / 10B of the IT Act beyond 31 March 2011.
- Excise duty on DTA clearances of jewellery manufactured by a 100% EOU have been increased for plain gold jewellery from Rs.500 per 10 gms. to Rs.750 per 10 gms. and for plain silver jewellery from Rs.1,000 per kg to Rs.1,500 per kg.
- Customs duty on gold, silver and platinum have been increased as under:

Product description	Present duty	Revised duty
Gold bars (other than tola bars) bearing refiner's or manufacturer's engraved serial number and expressed in metric units, and gold coins	Rs. 200 per 10 gms.	Rs. 300 per 10 gms.
Gold in any form (other than those covered above)	Rs. 500 per 10 gms.	Rs.750 per 10 gms.
Silver in any form	Rs.1,000 per kg.	Rs.1,500 per kg.
Platinum	Rs.200 per 10 gms.	Rs.300 per 10 gms.

The above revised duty shall also apply to gold and silver including gold / silver ornaments (excluding ornaments studded with stones or pearls) imported as personal baggage.

8.2 Entertainment And Media Industry

Key Highlights

- The entertainment and media industry has demonstrated tremendous dynamism in the recent years. The industry is likely to witness a compounded annual growth rate of 12.5% per annum.
- The entertainment and media industry is expected to reach an estimated size of US$ 20.09 Billion by 2013.

Positive Proposals / Impact

- Service Tax exemption being provided to Indian news agencies under 'online information and database retrieval service' and 'business auxiliary service', subject to specified conditions.
- Exemption is provided on movies / motion pictures recorded on cinematographic films or digital medium (CD / DVDs etc.), whereby customs duty would be charged only on the cost of the carrier medium and the freight and insurance. Similar exemption is being extended to music and gaming software (other than pre-packaged form) for retail sale imported on digital media for duplication.
- Promotional material like trailors, making of films etc. imported free of cost in the form of electronic promotion kits (EPK) or beta-cams are being fully exempted from basic customs duty and CVD.
- Project imports status is being accorded to 'Setting up of Digital Head End' with 5% concessional basic customs duty and Nil special additional duty of customs.
- Revision of income tax slab rates in the case of individual assessees, would substantial benefit the employees / workers as well as to the customers due to increase in the disposable income.
- Effective corporate tax rate for domestic companies having income exceeding Rs.1,00,00,000 has been reduced from 33.99% to 33.2175% as a result of reduction in surcharge from 10% to 7.5%.

- 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 in the said financial year.
- 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.
- Service Tax rate remains unchanged at 10.30%.
- The Export of Services Rules, 2005 are being amended to delete one of the conditions prescribed i.e. 'such service is provided from India and used outside India'.

Negative Proposals / Impact

- Services of permitting commercial use or exploitation of any event organised by a person or organisation is brought within the ambit of Service Tax.
- The existing taxable service 'intellectual property rights' excludes copyright from its scope. It is also proposed to bring copyrights on cinematographic films and sound recording within the ambit of service tax.
- In the definition of 'sponsorship service', the exclusion relating to sponsorship pertaining to sports is being removed.
- Increase in the rate of MAT from existing 15% to 18% (plus applicable surcharge and education cess) shall increase the tax burden of companies.
- 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 have been rendered in India or not.

8.3 Information Technology & ITeS Industry

Key Highlights

- Domestic market expected to witness 12% growth in FY 2009-10;
- Contributes over 25% of total India exports.

Positive Proposals / Impact

- Pre-packaged information technology software, with the license for right to its use, is being exempted from service tax, subject to specified conditions.
- Exemption from customs duty is being extended to additional specified capital goods and raw materials for the manufacture of electronic hardware.
- In order to claim the exemption from CVD presently available to packaged software or canned software, the condition of commercial exploitation is being removed. Consequently, the exemption would be available on imported packaged software in all cases.
- The Export of Services Rules, 2005 are being amended to delete one of the conditions prescribed i.e. 'such service is provided from India and used outside India'.
- Revision of income tax slab rates in the case of individual assessees, would substantially benefit the employees as the industry is labour intensive.
- Effective corporate tax rate for domestic companies having income exceeding Rs.1,00,00,000 has been reduced from 33.99% to 33.2175% as a result of reduction in surcharge from 10% to 7.5%.
- The amendment in Section 10AA(7) of the IT Act, with respect to computation of profits in relation to the total turnover of the undertaking instead of the total turnover of the assessee has been proposed with retrospective effect from AY 2006-07.
- 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 in the said financial year.
- 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.
- Service Tax rate remains unchanged at 10.30%

Negative Proposals / Impact

- At present, in the case of 'information technology software service' the levy of service tax is limited only to cases where information technology software is used for furtherance of business or commerce. The scope of the taxable service is being expanded to cover all cases irrespective of its use.
- There is no extension of tax holiday enjoyed by units in STP/ FTZ under Section 10A of the IT Act beyond 31 March 2011.

- Microprocessors for computers (other than motherboard), floppy disk drives, hard disk drives, flash drives, CD/DVDs and combo drives meant for external use will now attract excise duty @ 4%.
- Increase in the rate of MAT from existing 15% to 18% (plus applicable surcharge and education cess) shall increase the tax burden of units in EOU / SEZ.
- 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 have been rendered in India or not.

8.4 Real Estate And Infrastructure Industry

Key Highlights

- The Indian real estate sector plays a significant role in the country's economy.
- The real estate sector is 2nd only to agriculture in terms of employment generation and contributes heavily towards the gross domestic product (GDP).

Positive Proposals/ Impact

- Allowed pending projects 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 under Section 80IB(10). Also the commercial area included in the housing project is proposed to be 3% of the aggregate built-up area of the housing project or 5000 sq. ft., whichever is higher, compared to existing limit of 2% and 2000 sq.ft. respectively.
- Revision of income tax slab rates in the case of individual assessees, would substantially benefit the employees / workers as the industry is labour intensive.
- Effective corporate tax rate for domestic companies having income exceeding Rs.1,00,00,000 has been reduced from 33.99% to 33.2175% as a result of reduction in surcharge from 10% to 7.5%.

- The benefit of investment linked deduction has been extended to new hotels of two-star category and above which starts functioning after 1 April 2010, anywhere in India to boost investment in the tourism sector.
- Extension of date by which the hotel to start functioning or convention centre has to be constructed, for claiming 100% deduction for 5 years of profit under Section 80-ID in the National Capital Territory from the present 31 March 2010 to 31 July 2010.
- Exclusion of the immovable property transactions for inadequate transactions from the purview of income from other sources.
- Deduction of an additional amount of Rs. 20,000 allowed under section 80CCF, over and above the existing limit of Rs.1,00,000 on tax savings under section 80C of the IT Act, for investment in long-term infrastructure bonds as notified by the Central Government.
- TDS threshold limit specifically in case of contracts has been increased from existing Rs. 20,000 to Rs. 30,000 for a single payment and from Rs. 50,000 to Rs. 75,000 per financial year. Also, the threshold limit up to which TDS is not required has been increased for payments for commission and brokerage, rent, Fees for professional and technical services etc.
- Scheme of 1% interest subvention on housing loan upto Rs.10,00,000 where the cost of the house does not exceed Rs.20,00,000 announced in the last Budget extended up to 31 March 2011
- Service Tax rate remains unchanged at 10.30%.

Negative Proposals / Impact

- In 'construction of complex service' / '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.
- Excise duty on cement and cements clinkers has been hiked.
- Amendments are being made in the definition of the '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; and
  - to levy service 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.

- Certain additional services provided by a builder to the prospective buyers such as providing preferential location or external or internal development of complexes on extra charges excluding vehicle-parking space have been brought within the ambit of Service Tax.
- Increase in the rate of MAT from existing 15% to 18% (plus applicable surcharge and education cess) shall increase the tax burden of corporate entities enjoying benefits under Section 80(IB) of the IT Act.

CHAPTER 9 : DTAA RATES
(As Updated Upto The Date Of Finance Bill, 2010)

One of the major hurdles faced by businesses, while operating on an international scale has been the complexities of the taxation systems existing in various jurisdictions. India being a major player in the world market has entered into Double Taxation Avoidance Agreements with almost 78 countries in order to mitigate the taxation complexities and to facilitate international business transactions. In this chapter we have complied the tax rates in respect of Dividend, Interest, Royalty and Fees for technical services, based on the DTAA agreements entered by India with various countries.

Sr. No.	Country	Dividend [Note 1]	Interest	Royalty	Fees for Technical Service ('FTS')	Remarks
		Tax rate	Tax rate	Tax rate	Tax rate	
1.	Armenia	10%	10% [Note 4]	10%	10%	
2.	Australia	15%	15%	Note 5	No Separate Provision	
3.	Austria	10%	10% [Note 4]	10%	10%	
4.	Bangladesh	10% / 15%	10% [Note 4]	10%	No separate provision	10% tax on dividends if at least 10% of the capital is owned by company; in other cases 15%.
5.	Belarus	10% / 15%	10% [Note 4]	15%	15%	10% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%.
6.	Belgium	15%	15% / 10%	10%	10%	Interest taxable at 10% if recipient is bank; in other cases 15%.
7.	Botswana	7.5% / 10%	10% [Note 4]	10%	10%	7.5% tax on dividends if at least 25% of the capital is owned by company; in other cases 10%.
8.	Brazil	15%	15% [Note 4]	15% (25% for trademark)	No separate provision	15% tax on dividends if paid to a company; otherwise as per local tax laws.

Sr. No.	Country	Dividend [Note 1]	Interest	Royalty	Fees for Technical Service ('FTS')	Remarks
		Tax rate	Tax rate	Tax rate	Tax rate	
9.	Bulgaria	15%	15% [Note 4]	15% / 20%	20%	15% tax on royalties if relating to copyrights of literary, artistic or scientific works, other than cinematograph films or films or tapes used for radio or television broadcasting; in any other case 20%.
10.	Canada	15% / 25%	15% [Note 4]	Note 5	Note 5	15% tax on dividends if at least 10% of the capital is owned by company; in any other cases 25%.
11.	China	10%	10% [Note 4]	10%	10%	
12.	Cyprus	10% / 15%	10% [Note 4]	15%	15%	10% tax on dividends if at least 10% of the capital is owned by company; in other cases 15%.
13.	Czech Republic	10%	10% [Note 4]	10%	10%	
14.	Denmark	15% / 25%	15% / 10% [Note 4]	20%	20%	1. 15% tax on dividends if at least 25% of the capital is owned by company; in any other cases 25%. 2. Interest taxable at 10% if recipient is bank; in other cases 15%.
15.	Finland [Note 6]	15%	10% [Note 4]	10% / 15%	Note 5	In case royalty is paid for industrial, commercial or scientific equipment then 10%; in other cases 15%.
16.	France	10%	10% [Note 4]	10%	10%	
17.	Germany	10%	10% [Note 4]	10%	10%	
18.	Greece	Taxable as per domestic laws			No separate provision	Source country has right to tax.
19.	Hungary	10%	10% [Note 4]	10%	10%	
20.	Indonesia	10% / 15%	10% [Note 4]	15%	No separate provision	10% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%.
21.	Ireland	10%	10% [Note 4]	10%	10%	
22.	Iceland	10%	10% [Note 4]	10%	10%	
23.	Israel	10%	10% [Note 4]	10%	10%	
24.	Italy	15% / 25%	15% [Note 4]	20%	20%	15% tax on dividends if at least 10% of the capital is owned by company; in any other cases 25%.
25.	Japan	10%	10% [Note 4]	10%	10%	

Sr. No.	Country	Dividend [Note 1]	Interest	Royalty	Fees for Technical Service ('FTS')	Remarks
		Tax rate	Tax rate	Tax rate	Tax rate	
26.	Jordan	10%	10% [Note 4]	20%	20%	
27.	Kazakhstan	10%	10% [Note 4]	10%	10%	
28.	Kenya	15%	15% [Note 4]	20%	No separate provision for FTS	17.5% tax in case of management and professional fees.
29.	Korea	15% / 20%.	15% / 10% [Note 4]	15%	15%	1. 15% tax on dividends if at least 20% of the capital is owned by company; in any other cases 20%. 2. Interest taxable at 10% if recipient is bank; in other cases 15%.
30.	Kuwait	10%	10% [Note 4]	10%	10%	
31.	Kyrgyz Republic	10%	10% [Note 4]	15%	15%	
32.	Libya	Taxable as per domestic laws			No Separate Provision	Source country has right to tax.
33.	Luxembourg	10%	10% [Note 4]	10%	10%	
34.	Malaysia	10%	10% [Note 4]	10%	10%	
35.	Malta	10% / 15%	10% [Note 4]	15%	10%	10% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%.
36.	Mauritius	5% / 15%	Taxable as per domestic laws [Note 4]	15%	No separate provision	5% tax on dividends if at least 10% of the capital is owned by company; in other cases 15%.
37.	Mongolia	15%	15% [Note 4]	15%	15%	
38.	Montenegro	5% / 15%	10% [Note 4]	10%	10%	5% tax on dividends if at least 25% of the capital is owned by company (other than a partnership); in other cases 15%.
39.	Morocco	10%	10% [Note 4]	10%	10%	
40.	Myanmar	5%	10% [Note 4]	10%	No separate provision	
41.	Namibia	10%	10% [Note 4]	10%	10%	

Sr. No.	Country	Dividend [Note 1]	Interest	Royalty	Fees for Technical Service ('FTS')	Remarks
		Tax rate	Tax rate	Tax rate	Tax rate	
42.	Nepal	10% / 15%	15% / 10% [Note 4]	15%	No separate provision	1. 10% tax on dividends if at least 10% of the capital is owned by company; in other cases 15%. 2. Interest taxable at 10%, if recipient is bank; in other cases 15%.
43.	Netherlands	10%	10% [Note 4]	10%	10%	
44.	New Zealand	15%	10% [Note 4]	10%	10%	
45.	Norway	15% / 25%	15% [Note 4]	10%	10%	15% tax on dividends if at least 25% of the capital is owned by company; in any other cases 25%.
46.	Oman	10% / 12.5%	10% [Note 4]	15%	15%	10% tax on dividends if at least 10% of the capital is owned by company; in any other cases 12.5%.
47.	Philippines	15% / 20%	15% / 10% [Note 4]	15%	No separate provision	1. 15% tax on dividends if at least 10% of the capital is owned by company; in any other cases 20%. 2. Interest taxable at 10% if recipient is insurance company or similar financial institution and also in case of public issues of bonds, debentures etc.; in other cases 15%. 3. Royalty taxable @ 15% if it is payable in pursuance of any collaboration agreement approved by the Government of India. No rates prescribed in other cases.
48.	Poland	15%	15% [Note 4]	22.5%	22.5%	
49.	Portuguese Republic	10% / 15%	10% [Note 4]	10%	10%	10% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%.
50.	Qatar	5% / 10%.	10% [Note 4]	10%	10%	5% tax on dividends if at least 10% of the capital is owned by company; in any other cases 10%.
51.	Romania	15% / 20%.	15% [Note 4]	22.5%	22.5%	15% tax on dividends if at least 25% of the capital is owned by company; in any other cases 20%.
52.	Russian Federation	10%	10% [Note 4]	10%	10%	
53.	Saudi Arabia	5%	10% [Note 4]	10%	No separate provision	

Sr. No.	Country	Dividend [Note 1]	Interest	Royalty	Fees for Technical Service ('FTS')	Remarks
		Tax rate	Tax rate	Tax rate	Tax rate	
54.	Serbia	5% / 15%	10% [Note 4]	10%	10%	5% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%.
55.	Singapore	10% / 15%	10% / 15% [Note 4]	10%	10%	1. 10% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%. 2. Interest taxable at 10% if recipient is bank, insurance company or similar financial institution; in other cases 15%.
56.	Slovenia	5% / 15%	10% [Note 4]	10%	10%	5% tax on dividends if at least 10% of the capital is owned by company; in other cases 15%.
57.	South Africa	10%	10% [Note 4]	10%	10%	
58.	Spain	15%	15% [Note 4]	20% / 10%	20%	10% tax on royalties if paid for industrial, commercial or scientific equipment; in any other case 20%.
59.	Sri Lanka	15%	10% [Note 4]	10%	No Separate Provision	
60.	Sudan	10%	10% [Note 4]	10%	10%	
61.	Sweden	10%	10% [Note 4]	10%	10%	
62.	Swiss Confederation	10%	10% [Note 4]	10%	10%	
63.	Syria	5% / 10%	10% [Note 4]	10%	No separate provision	5% tax on dividends if at least 10% of the capital is owned by company (other than a partnership); in other cases 10%.
64.	Tanzania	10% / 15%	12.5% [Note 4]	20%	No separate provision	10% tax on dividends if at least 10% of the capital is owned by company; in other cases 15%.
65.	Thailand	15% / 20%	25% / 10% [Note 4]	15%	No separate provision	1. 15% tax on dividends if at least 10% of the capital is owned by company; 20% if company paying dividend is engaged in industrial undertaking or company owns 25% of the company paying the dividend. 2. Interest taxable at 10% if recipient is insurance company or similar financial institution; in other cases 25%.

Sr. No.	Country	Dividend [Note 1]	Interest	Royalty	Fees for Technical Service ('FTS')	Remarks
		Tax rate	Tax rate	Tax rate	Tax rate	
66.	Trinidad and Tobago	10%	10% [Note 4]	10%	10%	
67.	Turkey	15%	10% / 15% [Note 4]	15%	15%	Interest taxable at 10% if recipient is bank, insurance company or similar financial institution; in other cases 15%.
68.	Turkmenistan	10%	10% [Note 4]	10%	10%	
69.	Tajikistan	5% / 10%.	10% [Note 4]	10%	No separate provision	5% tax on dividends if at least 25% of the capital is owned by company; in other cases 10%.
70.	Uganda	10%	10% [Note 4]	10%	10%	
71.	Ukraine	10% / 15%	10% [Note 4]	10%	10%	10% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%.
72.	United Arab Emirates	10%	12.5% / 5%	10%	No separate provision	Interest taxable at 5% if recipient is bank or similar financial institution; in other cases 12.5%.
73.	United Arab Republic (Egypt)	For rate of tax and basis of taxation, refer to DTAA provision			No separate provision	Source country has right to tax.
74.	United Kingdom	15%	15% / 10% [Note 4]	Note 5	Note 5	Interest taxable at 10% if recipient is bank; in other cases 15%.
75.	United States of America	15% / 25%	10%/15%	Note 5	Note 5	1. 15% tax on dividends if at least 10% of the capital is owned by company; in any other cases 25%. 2. Interest taxable at 10% if recipient is bona fide bank or financial institution, in other cases 15%. 3. Fees for Technical Services have been referred as 'Fees for Included Services'.
76.	Uzbekistan	15%	15% [Note 4]	15%	15%	
77.	Vietnam	10%	10% [Note 4]	10%	10%	
78.	Zambia	5% / 15%	10% [Note 4]	10%	No separate provision	5% tax on dividends if at least 25% of the capital is owned by company; in other cases 15%.

Notes:

1. As per section 115-O of the Income Tax Act, 1961, subject to certain exceptions, any amount declared, distributed or paid by a domestic company by way of dividend shall be chargeable to Dividend Distribution Tax @ 16.60875%. In such cases, dividend distributed (which is subject to DDT) is not subject to any withholding tax. The rates mentioned in the Table are limited to dividend other than the dividend declared, distributed or paid by Indian companies (such as deemed dividend etc.).

2. Unless otherwise provided in 'Remarks' Column, both States have right to tax.

3. In case of Agreements made after 1 June 2005, the rate of tax under the IT Act on Royalty and/or Fees for Technical Services receivable by a non-resident is reduced to 10% (plus Surcharge and Education Cess) by the Finance Act, 2005. As per section 90(2) of the IT Act, rate as per the provisions of DTAA or the IT Act, whichever is beneficial, shall apply.

4. Interest earned by the Government and certain institutions like the Reserve Bank of India or Central Bank of other State is exempt from taxation in the country of source.

5. In case of Royalties, rate of tax is 15% (for first 5 years of the agreement- 20% in case of payer other than government or specified institution and 15% in case of government or specified institution); 10% for equipment rentals and for services ancillary or subsidiary thereto.

6. The Government of India has agreed to revise the DTAA with Finland vide press release no. 402/92/2006-MC (03 of 2010), dated 15 January 2010; however the same has not been notified till date. As per the proposed revision to DTAA, the rate of tax on Dividend, Royalties and Fees for technical services has been reduced from 15% to 10%.

CHAPTER 10 : TDS RATES
(As Proposed In The Finance Bill, 2010)
On Certain Payments To Residents

In this chapter we have made an attempt to consolidate the provisions of Tax Deduction at Source (TDS) relating to residents, incorporating therein the nature of payment, threshold limit for tax deduction and the rate of TDS for different class of recipients.

Sr. No.	Nature of Payment	Section	Threshold For Deduction		Rate at which tax to be deducted (%)
			Existing	Proposed w.e.f. 1 July 2010	
1	Salary	192	As per slab rates prescribed for women, senior citizens and other individuals		
2	Interest other than interest on securities [Note-9]	194A	Payment in excess of Rs.5,000 p.a. [Note-8]		10
3	Winning from lottery or crossword puzzle or card game or other game	194B	Payment in excess of Rs. 5,000	Payment in excess of Rs. 10,000	30
4	Winnings from horse race	194BB	Payment in excess of Rs. 2,500	Payment in excess of Rs. 5,000	30
5	Payments to Contractors [Note-9]	194C	Payment in excess of Rs. 20,000 per contract or Rs. 50,000 p.a. in aggregate	Payment in excess of Rs. 30,000 per contract or Rs. 75,000 p.a. in aggregate	1 (2 for companies and firms)
6	Insurance Commission	194D	Payment in excess of Rs. 5,000	Payment in excess of Rs. 20,000	10
7	Commission or Brokerage [Note-9]	194H	Payment in excess of Rs. 2,500 p.a	Payment in excess of Rs. 5,000 p.a	10
8a	Rent of Land / Building / Furniture [Note-9]	194I	Payment in excess of Rs. 1,20,000 p.a	Payment in excess of Rs. 1,80,000 p.a	10
8b	Rent of Plant, Machinery or Equipment [Note-9]	194I	Payment in excess of Rs. 1,20,000 p.a	Payment in excess of Rs. 1,80,000 p.a	2
9	Fees for Professional & Technical Services / Royalty [Note-9]	194J	Payment in excess of Rs. 20,000 p.a	Payment in excess of Rs. 30,000 p.a	10

Notes:

1. Time of deduction of tax: Except in case of salary (wherein tax is to be deducted at the time of payment), tax is to be deducted at the time of payment or credit, whichever is earlier.
2. Time of deposit of tax: In all other cases, except in case of salary, where amount is credited to the account of the payee as on the date up to which accounts of the payer are made, the tax is required to be deposited with the Government within 2 months from the month in which the income is credited. In all other cases, the tax is required to be deposited within 7 days from the end of the month in which deduction is made.
3. TDS return: Person deducting the tax is required to file quarterly statements for the quarter ending on 30 June, 30 September, 31 December and 31 March in each financial year, in Form 26Q (Form 24Q for Salary) along with Form 27A, on or before 15 July, 15 October, 15 January and 15 June respectively.
4. Certificate for tax deduction in case of non-salary payments: TDS certificate in Form 16A is required to be issued within 1 month from the end of the month during which the credit has been given or the sums have been paid (except in case of Insurance commission where Form 16A is to be issued by 30 April). However, if amount is credited by a person to the payee's account as on the date up to which accounts of such persons are made, then such certificate may be issued within a week after expiry of 2 months from the month in which the amount is credited.
5. Issue of TDS certificates: Where more than 1 certificate is required to be furnished to a payee during the financial year and if the payee desires, a consolidated certificate covering all the deductions during the financial year can be issued within 1 month from the close of that financial year.
6. Certificate for tax deduction in case of salary payments : TDS certificate in Form 16 (Form 16AA in case salary does not exceed Rs.1,50,000 before deductions under Section 16) is required to be issued by 30 April.
7. Higher TDS rate of 20% for not furnishing correct PAN: In case the payee is not able to furnish the PAN to the payer, tax shall be deducted @20%. w.e.f. 1 April 2010.
8. Under section 194A, the threshold limit is Rs. 10,000 where the payer is a banking company or a co-operative society engaged in banking business, or in case of deposits with post office under a scheme notified by Central Government. Further, tax is not to be deducted if the payee furnishes to the payer a declaration in writing in duplicate in Form No.15G or 15H, as the case may be.
9. In the case of an individual or HUF or AOP or BOI, who are liable to tax audit under section 44AB during the financial year immediately preceding the financial year in which sum is credited or paid, shall be liable to deduct tax under section 194A, 194C, 194H, 194I and 194J, as the case may be.
10. Above rates are not applicable in case of payments made to foreign companies and non-residents.

ABBREVIATIONS

ADR	Alternate Dispute Resolution
AMC	Asset Management Company
AO	Assessing Officer
AOP	Association of Persons
ARC	Asset Reconstruction Companies
AY	Assessment Year
BOI	Body of Individuals
BSE	Bombay Stock Exchange
CBDT	Central Board of Direct Taxes
CIT	Commissioner of Income Tax
CPC	Centralised Processing Centre
CST	Central Sales Tax
CVD	Additional Duty of Customs levied under section 3 of the Customs Tariff Act, 1975
DDT	Dividend Distribution Tax
DIN	Document Identification Number
DRP	Dispute Resolution Panel
DTA	Domestic Tariff Area
DTC	Direct Tax Code
DTAA	Double Taxation Avoidance Agreement
ECB	External Commercial Borrowing
EHTP	Electronic Hardware Technology Park
EOU	Export Oriented Unit
ESOP	Employees' Stock Option Plan
FAQ	Frequently Asked Questions
FBT	Fringe Benefits Tax
FCCB	Foreign Currency Convertible Bond
FCEB	Foreign Currency Exchange Bond
FDI	Foreign Direct Investment
FEMA	Foreign Exchange Management Act
FI	Financial Institutions
FII	Foreign Institutional Investors
FIPB	Foreign Investment Promotion Board
FM	Finance Minister
FTZ	Free Trade Zone
FY	Financial Year
GDP	Gross Domestic Product
GST	Goods and Services Tax
HUF	Hindu Undivided Family
IIT	Indian Institute of Technology
IRDA	Insurance Regulatory and Development Authority
IT Act	Income-tax Act, 1961
ITAT	Income Tax Appellate Tribunal
JVs	Joint Ventures
LLP	Limited Liability Partnership
LLP Act	Limited Liability Partnership Act
MRP	Maximum retail Sale Price
MAT	Minimum Alternate Tax
NABARD	National Bank for Agricultural and Rural Development

NBFC	Non-banking Financial Company
NCCD	National Calamity Contingent Duty
NHAI	National Highway Authority of India
NPS	New Pension System
NRI	Non-resident Indian
OCB	Overseas Corporate Bodies
OTS	Open Tin Sanitary
PAN	Permanent Account Number
PIO	Person of Indian Origin
PSU	Public Sector Undertaking
QIB	Qualified Institutional Buyer
R&D	Research & Development
RBI	Reserve Bank of India
RECL	Rural Electrification Corporation Limited
RSP	Retail Sale Price
SEBI	Securities and Exchange Board of India
SEZ	Special Economic Zones
SME	Small and Medium Enterprises
SPV	Special Purpose Vehicle
SSI	Small Scale Industries
STEP	Science and Technology Entrepreneurship Parks
STP	Software Technology Park
TBI	Technology Business Incubators
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
TIEA	Tax Information Exchange Agreement
UIDAI	Unique Identification Authority of India
ULIP	Unit Linked Insurance Policy
UMPP	Ultra Mega Power Projects
VAT	Value Added Tax
WDV	Written Down Value
WPI	Wholesale Price Index
WTAct	Wealth Tax Act, 1957

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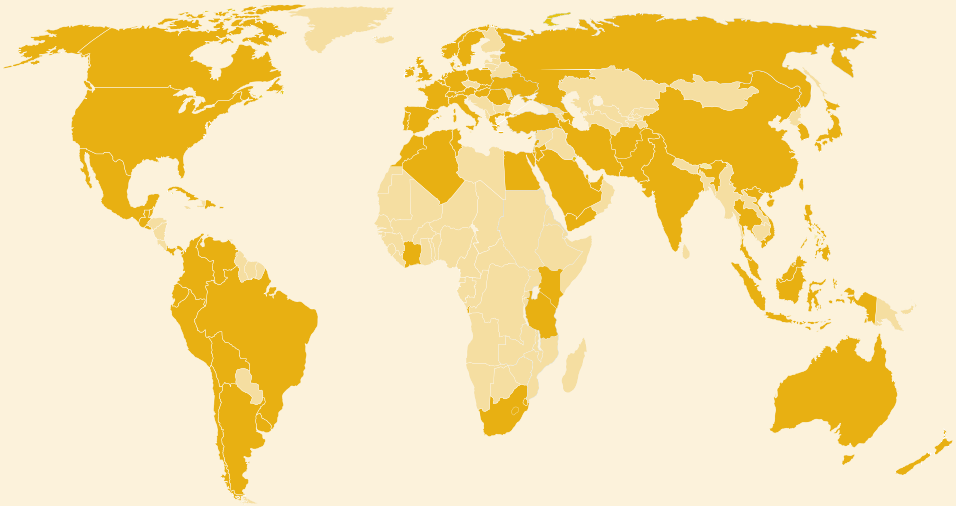
RSM International's Global Presence



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