Overview of the Union Financial Budget 2010-11

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Foreword

The Union Budget 2010-11 was tabled in the backdrop of an improving economic scenario both globally and more particularly, within the country. The budget was keenly anticipated amidst expectations that it would signal a return to the heady days of nine percent GDP growth. While the reaction to the budget has been mixed, it has been generally viewed as being balanced.

If anything, this budget reinforces the tenets of last years budget which are inclusive, equitable and sustainable growth based on fiscal prudence. The increase in slabs for individuals will ensure that they have more to spend which will spur consumption. The dire need for improving infrastructure in the country has found its voice in a forty six percent of the plan allocation being earmarked towards infrastructure. The increased spending on social welfare schemes and rural development is an attempt at ensuring that the growth is inclusive and not just within restricted strata.

However, there are reasons to be cautious. Despite the renewed focus on disinvestment, the burgeoning fiscal deficit ensures that there is very little leeway for additional expenditure in providing a stimulus to the economy. While reducing and eventually doing away with subsidies to petroleum and petroleum products is a long term necessity, in the short term it will further spiral the existing food price inflation.

The increase in Minimum Alternate Tax to eighteen percent and roll back of the reduction in excise duty will adversely affect the bottom line. On a positive note, the policy statement on introduction of the Direct Tax Code, the Goods and Services Tax and the Companies Bill is a clear indicator that tax and regulatory reforms are very much on the radar.

To quote the Finance Minister from his budget speech, '*The opportunity is great. The time is right.*' It is up to us to seize the opportunity and spur India to a different growth trajectory.

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Bharat Nirman

- Allocation of **Rs.48,000 crore for Bharat Nirman** and **Rs.66,100 crore for Rural Development**
- An increased allocation of **Rs.10,000 crore** proposed for Indira Awas Yojana, **a rural housing scheme**
- An **increased allocation of Rs.5,400 crore proposed for urban development** for the FY (Financial Year) 2010-11 as against Rs.3,060 crore for last FY
- Under **Rajiv Awas Yojana, allocation increased to Rs.1,270 crore** for FY 2010-11 as compared to Rs.150 crore
- The scheme of **1% interest subvention** on housing loans announced for the FY 2009-10 has been **extended up to 31 March 2011**

Exports

- The **interest subvention of 2%** on pre-shipment export credit up to 31 March 2010 for exports is proposed to be **extended for one more year**, for exports covering handicrafts, carpets, handlooms and small and medium enterprises

Rationalisation of Key Policies

- Implementation of **DTC** (Direct Tax Code) and **GST** (Goods and Services Tax) proposed in April 2011
- Simplified **FDI** (Foreign Direct Investment) regime and liberalized pricing & payment of technology transfer/royalty norms introduced. These payments can now be made under automatic route
- A comprehensive & consolidated FDI policy is placed in public domain
- Emphasis laid on improvement in **Corporate Governance** and regulation by Introduction of New Companies Act

Disinvestment of stake in PSUs

- **Disinvestment** of Government's stake in National Mineral Development Corporation and Satluj Jal Vidyut Nigam along with other PSUs to raise about **Rs.25,000** crore during the FY 2010-11

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Key policy announcements

Power

- **Allocation for power sector doubled** from Rs.2,230 crore in FY 2009-10 to Rs.5,130 crore in FY 2010-11
- Modification of **Mega Power policy to** maintain consistency with the National Electricity Policy, 2005 and Tariff Policy, 2006 which will **lower the cost of generation**
- Setting up of a **Coal Regularity Authority** for coal sector
- Introduction of **competitive bidding process proposed for allocating coal blocks** for captive mining and increased participation in production from these blocks
- An **increased outlay of Rs.1,000 crore** proposed for Renewable Energy resources in FY 2010-11
- A target of **20,000 mega watt of Solar power** has been set to be achieved by the year 2022

Infrastructure

- Allocation of **Rs.1,73,552 crore for infrastructure development** (46% of total plan allocation); **Rs. 19,894** crore for road transport (up by 13%) and **Rs. 16,752** for railways
- **Disbursements of long term financial assistance** to infrastructure projects by **IIFCL** (India Infrastructure Finance Company Limited) to reach around **Rs. 20,000 crore** by March 2011
- **IIFCL to increase refinancing bank lending** to infrastructure projects

Key policy announcements

Financial Sector

- **Additional banking licenses** to be provided to private sector players and to eligible Non Banking Finance Companies
- Allocation of **Rs.16,500 crore** to **Public Sector Banks** to attain a minimum **8%** Tier-I capital by 31 March 2011
- Set up of **Financial Sector Legislative Reforms Commission** proposed for rewriting and cleaning up the financial sector laws to bring them in line with the requirements of the sector

Agriculture & allied sector

- **Target for agriculture credit flow by banks set at Rs.3,75,000 crore** for the FY 2010-11 as compared to Rs.325,000 crore in the previous FY
- Extension of time for farmers under **Debt Waiver and Debt Relief Scheme** from 31 December 2009 to 30 June 2010
- Incentive of additional **1% interest subvention increased to 2%** for FY 2010-11 to farmers who repay short-term crop loans as per schedule
- **External Commercial Borrowings to be available for cold storage or cold room facility**, including farm level pre-cooling, preservation or storage of agricultural and allied produce, marine products and meat

Healthcare

- **Allocation for Ministry of Health and Family Welfare increased to Rs.22,300 crore** from Rs.19,534 in previous year

Education

- **Allocation for school education increased by Rs. 4,236 crores**
- States to have access to **Rs.3,675 crore for elementary education**

Environment

- Establishment of **National Clean Energy Fund** for funding research & innovative projects in clean energy technologies

Defence

- Increased Allocation of **over Rs.1,47,000 crores to Defence sector**

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Fiscal and economic review

Economic growth

- Growth rate of **GDP** (Gross Domestic Product) during FY 2009-10 was **7.2%** as compared to 6.7% in the previous FY
- A **growth rate of 18.5% recorded in manufacturing sector** in December 2009 which is the highest in the past two decades
- A **growth of 127%** recorded in the exports from **Special Economic Zones** in the first three quarters of FY 2009-10 over the corresponding period
- **Double digit food inflation** remained a major concern in FY 2009-10 due to increase in global commodity prices
- Reversal of the stimulus packages proposed with a move towards financial consolidation

Fiscal deficit

- **Decrease in fiscal deficit** from 7.8% in FY 2008-09 to 6.9% of GDP in FY 2009-10 and the target is to reduce it further to 4.8% and 4.1% for FY 2011-12 and FY 2012-13, respectively
- The fiscal deficit of 5.5% of GDP in FY 2010-11 amounts to Rs. 381,408 crore

Key initiatives

- Provision of **Rs. 1,900** crores made for Unique Identification Authority of India to enable it to issue the first set of **Unique Identification** numbers in the coming FY
- Set up of **TAGUP (Technology Advisory Group for Unique Projects)** proposed for creation of IT projects for initiatives like GST, New Pension Scheme etc
- Setting up of **National Mission for Delivery of Justice and Legal Reforms** to reduce the legal backlog and improve speedy disposal of justice
- **Delhi Mumbai Industrial Corridor** to be taken up for development

Snapshot of tax proposals

Direct taxes

- **Retrospective amendment** to clarify that income of non-residents is **deemed to accrue or arise in India** regardless of whether or not services are rendered in India
- Tax holiday benefit for **STP** (Software Technology Parks) **/ EOU** (Export Oriented Undertaking) **units not extended** beyond 31 March 2011
- Relaxation of conditions to claim deduction with respect to approved residential projects by **extension of time limit for their completion and increase in the permitted area** for shops and other commercial establishments in such projects
- **Deduction of capital expenditure** incurred in the business of building and operating a **new hotel** of two star or above category
- The amount of **weighted deduction allowed for scientific research expenditure** has been increased and the benefit extended to research associations engaged in social science research and statistical research
- **Conversion** of certain small companies into **limited liability partnership** not to be treated as transfer for the purpose of capital gains
- New section introduced for allowance of **additional deduction upto Rs.20,000** for investment in long-term Infrastructure bonds

Direct taxes (Cont …)

- Time limit for deposit of tax withheld extended to claim **deduction of expenses**
- Upward revision **of the threshold limits for deduction of tax at source**
- **Threshold** limits for carrying out **tax audits** enhanced for individuals and companies
- Subject to certain conditions, it is proposed to permit an **application to be filed before the Settlement Commission** with respect to Search Assessments or requisition of books of accounts
- Time limits for admission of **appeal with the High Court** against order of Appellate tribunal proposed to be **extended** in case of sufficient cause for delay
- Rate for levy of **interest on failure to deposit the tax** from the date on which tax was deducted to the date on which tax is deposited has been raised **to 18% per annum** from current rate of 12% per annum

Snapshot of tax proposals

Indirect taxes

Roadmap to GST

- The major objective guiding the indirect tax proposals has been the Government's commitment to reform the multi-layered indirect tax regime by introduction of the unified Goods and Services Tax (GST). However the date of implementation has been pushed back to 1 April 2011.
- Contrary to the expectations the Central Sales Tax has not been reduced and remains at 2%
- The mean rate of central excise duty on manufactured goods has been increased from 8% to 10%. The rate of service tax has been maintained at 10%. The convergence of rate of tax on goods and services at 10% is a positive step towards a unified GST

Service tax on renting of commercial property introduced retrospectively with effect from 1 June 2007

Indirect taxes (Cont…)

New levies under service tax

- The levy of service tax has been extended to the following services:
  - promotion of 'brand'
  - commercial use or exploitation of any event
  - copyright on cinematographic films and sound recording
  - health checkup for employees by business entities
  - maintenance of medical records of employees
  - services by electricity exchanges

Scope of services expanded under service tax

- domestic and international air travel of all classes
- all commercial training or coaching organizations irrespective of their profit motive
- all information technology software services irrespective of their end use

Snapshot of tax proposals

Indirect taxes (Cont…)

Significant exemptions/ concessions

- Service tax on pre-packaged IT software
- Service tax on Indian news agencies under Online Information Database Access or Retrieval Services
- Incentives granted to agriculture & related sectors by way of reduced duties of excise, customs and service tax
- Several exemptions granted to help in preserving the environment. Concessional customs duty at 5% and NIL excise duty given to equipment required for initial setting up of photovoltaic and solar thermal power generating units. Similarly parts of equipment for generating wind energy have also been exempted from central excise duty
- Specific exemptions have been granted for infrastructure projects such as monorail, equipment imports for road construction projects, etc
- Complete exemption is provided on customs duty on movies and motion pictures recorded on digital medium. The exemption would also apply to music and gaming software. The duty would only be charged on the cost of recording medium and cost of freight and insurance

Indirect taxes (Cont…)

Refund for exporters

- Process of obtaining refund of accumulated credit to exporters of information technology (IT) and business process outsourcing services simplified

Clean Energy Cess

- Imposed on coal produced in India/ imported into India at a nominal rate of Rs. 50 per tonne

Export Rules for services

- The condition of services qualifying as exports only if 'used outside India' deleted
- Chartered accountants, company secretary and cost accountants services would be treated as exports only if the recipient is located outside India
- Mandap keeper services to be treated as exports if mandap is situated outside India

Other changes

- Benefit of reversing CENVAT credit on proportionate basis to a manufacturer of both taxable and exempt products extended retrospectively for pending cases
- Scope of Settlement Commission extended for Customs and Central Excise
- No penalty leviable in cases where duty and interest paid before issuance of demand notice
- Small scale industries allowed full credit on capital goods in year of receipt and can make quarterly payment and filings

Direct tax proposals

Rates of taxes

Personal tax

- Personal income-tax slabs are proposed to be revised as under

Rate (%)	Existing Slab (Rs.)	Revised Slab (Rs.)
NIL	Upto 160,000	Upto 160,000
10	160,001 to 300,000	160,001 to 500,000
20	300,001 to 500,000	500,001 to 800,000
30	Above 500,000	Above 800,000

- Minimum exemption limit remains unchanged for women (Rs.190,000) and for senior citizen (Rs.240,000)
- Education cess and Secondary and Higher Education Cess at 2% and 1% respectively to continue

Rates of taxes (Cont...)

Corporate Tax

- No change in corporate tax rate
- MAT increased from 15% to 18%
- Surcharge on domestic companies reduced to 7.5% from 10% where income exceeds Rs.10,000,000
- Surcharge on foreign companies remains unchanged at 2.5%
- Education cess and Secondary and Higher Education Cess at 2% and 1% respectively to continue

Direct tax proposals

Definitions

Charitable Purpose [Section 2(15)]

- 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 does not qualify as an activity for charitable purpose
- Therefore, income from the above activity is subject to income tax
- In order to remove hardship, it is proposed to relax the above restriction where total receipts from any such activity do not exceed Rs.1,000,000 in the previous year
- This amendment will take effect retrospectively from AY (Assessment Year) 2009-10

Scope of Income

Income deemed to accrue or arise in India [Section 9]

- It has been held in certain judicial precedents that income from offshore services is not deemed to accrue or arise in India in the absence of a specific provision to that effect in the Act
- For the removal of doubts, it is proposed to retrospectively include a clause stating that income would be deemed to accrue or arise in India whether or not the services have been rendered in India
- This amendment will take effect, retrospectively, from 1 June 1976 in relation to the AY 1977-78 and subsequent years

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Direct tax proposals

Trusts or Charitable Institutions

Procedure for registration of Trusts [Section 12AA]

- It is proposed to provide the Commissioner of Income tax with the power to cancel registrations of the trusts / institutions registered under Section 12A (prior to FY 1997-98) where the activities of such trust / institution are not genuine or are not in accordance with their objects
- This amendment will take effect from 1 June 1 2010 (relevant for A.Y 2011-12)

Business income

Expenditure on Scientific Research [Section 35]

- Weighted deduction of 125% presently allowed for any sum paid to research association/ university/ college/ other institution for scientific research (subject to certain conditions) is proposed to be increased to 175%
- Weighted deduction of 125% is presently allowed for any sum paid to university/college/other institution for social science research or statistical research subject to certain conditions. It is proposed that payment made to research association which has as its object, the undertaking of social science research or statistical research will also be eligible for this weighted deduction
- Increased weighted deduction of 175% (instead of 125% at present) is proposed to be allowed for payments made to National Laboratory/ University/ Indian Institute of Technology/ specified person for conducting scientific research under a program approved in this behalf by the prescribed authority
- Where a company engaged in certain specified business e.g. bio-technology, pharmaceuticals, electronic equipments etc. incurs any expenditure (other than on land and building) on scientific research or in an in-house research facility, weighted deduction of 150% is allowed in respect of such expenditure. It is proposed to increase the weighted deduction to 200%

Direct tax proposals

Business income (Cont…)

Corresponding amendment made in Section 10

- Existing section 10(21) exempts the income of scientific research association which has been approved under Section 35
- Pursuant to the amendment in Section 35, corresponding amendment has been made in section 10(21) to widen its scope to include social science research and statistical research within the category of activities that can be carried out by such associations in addition to scientific research

Corresponding amendment made in Section 80GGA

- Existing section 80GGA provides deduction to any assessee for any sum paid to a Scientific Research Association engaged in scientific research or to a University/ College /Institution engaged in social science or statistical research
- Similar to the amendments in Section 10 and Section 35, it is proposed to allow deduction for any sum paid to a research association for social science research or statistical research.

Business income (Cont…)

Deduction in respect of specified business [Section 35AD]

- Existing section 35AD allows a deduction for the whole of capital expenditure incurred by certain specified businesses subject to certain conditions
- It is also proposed to include "business of building and operating a new hotel of two-star or above category as classified by Central Government" within the specified businesses eligible to claim deduction under this section
- With respect to the business of laying and operating cross-country natural gas/ crude oil/ petroleum oil pipeline, one of the eligibility conditions is that it makes available one third of its pipeline capacity available for use on common carrier basis. It is proposed to replace this limit with such proportion of its pipeline capacity as specified by Petroleum and Natural Gas Regulatory Authority
- It is proposed that where a deduction under 35AD 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
- These amendments will apply from assessment year 2011-12 and subsequent years.

Direct tax proposals

Business income (Cont…)

Corresponding amendment in section 80A

- It is proposed that where a deduction is claimed and allowed under the provisions of Chapter VI-A in respect of profits of any specified business referred to in section 35AD(8)(c) for any assessment year, no deduction shall be allowed under section 35AD in relation to such specified business for the same or any other assessment year
- By virtue of the proposed amendments in section 80A and section 35AD with effect from 1 April 2011, the assessee has an option to claim:
  - deduction of capital expenditure incurred for specified business under section 35AD; **or**
  - deduction in respect of profits from specified business under the provisions of Chapter VI-A
- Once the assessee exercises such option, he shall continue to be governed by the relevant provisions (Chapter VI-A or 35AD)

Business income (Cont…)

Time limit for deposit of tax withheld [Section 40]

- Under the existing provisions of section 40(a)(ia), deduction of expenditure such as interest, commission, brokerage, professional fees, etc. (other than expenses incurred in the last month of the financial year) is not allowed if tax on such expenditure was not deducted, or after deduction was not paid during the previous year
- The proposed amendment in the section grants deduction of the expenditure incurred during the entire year if the tax deductible is deposited on or before the due date of filing of return of income
- While the Finance Bill is silent on the date from which the above provisions will come into effect, the Notes to Clauses states that the above amendments will be effective retrospectively from assessment year 2010-11 and subsequent years.

Direct tax proposals

Business income (Cont...)

Tax Audit [Section 44AB, Section 271B]

- Tax audit of accounts is not required if the turnover is below a threshold. These thresholds have not been revised since 1984. Revised thresholds are Rs.6,000,000 (from existing Rs.4,000,000) for business and to Rs.1,500,000 (from existing Rs.1,000,000) for profession.

In light of the above, the following amendments have been made:

- Maximum penalty leviable under section 271B for failure to get accounts audited under section 44AB or to furnish a report of such audit has been increased from Rs.100,000 to Rs.150,000
- Under Section 44AD, the maximum total turnover or gross receipts by individuals, HUF or partnership firms (excluding LLP) under presumptive scheme of taxation for plying, hiring or leasing goods carriages has been increased from Rs.4,000,000 to Rs.6,000,000.
- These amendments will apply in relation to the assessment year 2011-12 and subsequent years

Business income (Cont...)

Special provision for computing income of non resident [Section 44BB and section 44DA]

- Existing provisions contained in section 44DA provides the procedure for computation of income under the head business and profession of a non-resident from royalty or fees for technical services or professional services performed through a permanent establishment in India
- The existing section 44BB provides a presumptive method of taxing the income of a non resident from providing services or facilities (including leasing of plant and machinery) in connection with the prospecting for, or extraction or production of, mineral oils
- Section 44BB has been amended so as to exclude income which is covered under section 44DA and similarly section 44DA has also been amended exclude the income covered under section 44BB
- These amendments clarify that a particular income can be taxed only under one of the above sections and are proposed to take effect from 1 April 2011

Direct tax proposals

Capital Gains

Conversion of certain companies into LLP (Limited Liability Partnership) [Section 47 (xiiib)]

Any transfer of capital asset or intangible asset by Private Company or Unlisted Public Company (referred to as 'company') pursuant to the conversion of such company into a LLP as per the provisions of LLP Act, 2008 will not be treated as transfer for the purpose of capital gains tax. The following conditions need to be satisfied in order to avail this benefit:

- All the assets and liabilities of the company should become the assets and liability of the LLP
- All the shareholders of the company should become partners in the LLP
- The capital contribution and profit sharing ratio of the partners in LLP should be in the same proportion as their shareholding in the company on the date of conversion
- The shareholders of the company do not receive any consideration or benefit, directly or indirectly, other than by way of share in profit and capital contribution of the LLP
- The aggregate of the profit sharing ratio of the shareholders of the company in the LLP shall not be less than 50% for 5 years from the date of conversion
- The turnover or gross receipts of the company in any 3 years preceding the year of conversion should not exceed Rs.6,000,000.

Capital Gains (cont...)

- No amount is paid, either directly or indirectly, to any partner out of balance of accumulated profit standing in the books of the company on the date of conversion for a period of three years from the date of conversion

Corresponding amendments made:

- If any of the conditions specified above are violated, the capital gains exempted earlier will be taxed as capital gains income in the hands of the LLP in the year in which the condition is violated [Section 47A]
- Depreciation allowed to LLP and company in the year of conversion cannot exceed the depreciation allowable to the company in case the conversion had not taken place [Section 32]
- Deduction for expenditure incurred by the company by way of payment to employees pursuant to voluntary retirement scheme will be available to the LLP. Further, no deduction shall be allowed to the company for such expenditure in the year of conversion [Section 35DDA]
- Where the entire actual cost of a capital asset has been allowed to a company as a deduction under section 35AD, the actual cost of such asset shall be nil in the hands of the LLP [Section 43(1)]
- The WDV (Written Down Value) of any block of assets in the hands of LLP shall be the WDV of such block in the hands of the company on the date of conversion [Section 43(6)]

Capital Gains (cont...)

- The cost of acquisition of a capital asset in the hands of LLP transferred on conversion shall be deemed to be the cost at which the company had acquired such asset [Section 49]
- In the hands of the LLP, the accumulated business loss or unabsorbed depreciation of the company shall be deemed to be the loss or depreciation allowance of the LLP of the previous year in which the conversion takes place. It appears that a fresh lease of 8 years will be available to the LLP for business loss If the conditions for conversion listed above are violated in any year, the amount of business loss or depreciation adjusted by the LLP in any previous year shall be deemed to be the income of the year in which the condition is violated [Section 72A]
- Where a private company or unlisted public company has been converted into a LLP as per the provisions of LLP Act, 2008, then the LLP shall not be eligible to carry forward any MAT credit which was otherwise allowed to be carried forward in the hands of the company [Section 115JAA]

Income from Other Sources

Immovable property without consideration [Section 56(2)(vii)(b)]

- With effect from 1 October 2009, where any individual or a HUF (Hindu Undivided Family) receives any immovable property for inadequate consideration, the difference will not be taxed as income from other sources
- It is proposed that where an immovable property the stamp duty value of which exceeds Rs.50,000 is received without any consideration, such value will be taxed in the hands of the recipient of the property
- This amendment will take effect from AY 2010-11
- It is pertinent to note that under Section 50C, transfer of a capital asset being land or building for a consideration lower than stamp duty value is taxable in the hands of the transferor on the differential

Direct tax proposals

Income from Other Sources (Cont...)

Scope of 'Property' amended [Explanation to Section 56(2)(vii)]

- Individuals or HUFs receiving **specified assets** ('property') for no consideration or for inadequate consideration, the value or difference of which exceeds Rs.50,000 are subject tax under the head 'Income From Other Sources'
- The definition of property has been amended to restrict itself to any 'property' which is in the nature of capital asset of the assessee. Therefore, any specified asset which is in the nature of stock in trade of the recipient will not be taxed under this Section by virtue of this amendment
- The amendment will take effect retrospectively from 1 October 2009
- Further, 'bullion' has been included within the definition of property. This amendment will take effect from 1 June 2010

Income from Other Sources (Cont...)

Receipt of shares by companies or firms [Section 56(2)(viia)]

- With effect from 1 June 2010, where any shares of a company (not being a company in which the public are substantially interested) is received by firm or another company (not being a company in which the public are substantially interested), without consideration or where the fair market value exceeds consideration by an amount exceeding Rs.50,000, the difference is taxable as income from other sources
- The above is not applicable in cases where such property is received by way of transactions undertaken for business re-organisation, amalgamation and de-merger which are not regarded as transfer under Sections 47 (via), (vib), (vic), (vid) or (vii)
- Corresponding amendment has been made under Section 49(4) whereby the value of which has been subject to tax under this Section shall be deemed to be the cost of acquisition of such shares in the hands of the recipient
- A corresponding amendment has been made in the definition of 'Income' under Section 2(24)(xv) to include the above
- This above amendments will take effect from AY 2011-12

Direct tax proposals

Income from Other Sources (Cont...)

Income from other sources – Reference to Valuation Officer

- Corresponding amendment is made to Section 142A to allow the Assessing Officer to make reference to a valuation officer to estimate the fair market value of the property as defined under Section 56

Tax Holiday

Computation of exempted profits for SEZ units [Section 10AA]

- There was an anomaly in the formula for computing exempted profits in case of SEZ units, whereby exempted profits were computed with respect to total turnover of the business carried on by assessee and not of the eligible undertaking
- This was resolved by an amendment introduced by Finance Act, 2009 under which 'assessee' was replaced with 'undertaking' with effect from 1 April 2010
- It is proposed that the above amendment will be applicable retrospectively with effect from AY 2006-07 which is the first year for claim of exemption by SEZ units under Section 10AA
- The proposed amendment will ensure that there is no dispute over the manner of computation of exempted profits under Section 10AA

Deductions

Developing and building housing projects [Section 80IB(10)]

- The following eligibility criteria prescribed for claiming deduction under Section 80(IB)(10) with respect to developing and building housing project are proposed to be amended
  - For housing projects which are approved by the local authority on or after 1 April 2004 and upto 31 March 2005, the period for completion of housing project is stipulated as 4 years from the end of the financial year in which the housing project is so approved
  - For housing projects which are approved by the local authority on or after 1 April 2005, the period for completion of housing project has been increased from 4 to 5 years from the end of the financial year in which the housing project is so approved
  - The existing limits with respect to the built-up area of the shops and other commercial establishments included in the housing project is 5% of the built-up area of the housing project or 2,000 square feet whichever is less. This limit is proposed to be increased to 3% of the aggregate built-up area of the housing project or 5,000 square feet, whichever is higher
- This amendment will apply for AY 2010-11 and subsequent years

Snapshot of tax proposals

Deduction (Cont...)

Business of Hotels and Convention Centers in specified areas [Section 80ID]

- In case of undertakings engaged in business of hotel or building, owning and operating a convention center located in the specified area, the following conditions prescribed for claiming deduction u/s 80ID have been amended
  - such hotel is constructed and has started or starts functioning at any time between 1 April 2007 to 31 July 2010
  - in case of convention centers, such convention center is constructed at any time between 1 April 2007 to 31 July 2010
- The above amendments will apply for AY 2011-12 and subsequent years

Deduction (Cont...)

Investment made in long-term infrastructure Bonds [Section 80CCF]

- In case of an Individual or a Hindu Undivided Family, it is proposed to allow a deduction in respect of the amount paid or deposited as a subscription to long-term infrastructure bonds as may be notified by Central Government
- The amount of deduction is in addition to the deduction of Rs.100,000 specified under Section 80C and shall be **lower** of:
  - Actual amount of subscription; or
  - Rs.20,000
- This deduction is proposed in respect of amount paid or deposited during FY 2010-11

Deduction in respect of health insurance premium paid by the assessee for himself or his family [Section 80D]

- It is proposed that with effect from 1 April 2011, deduction under Section 80D shall also be allowed in respect of any contribution made to the Central Government Health Scheme by Government Servants within the existing limits

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Withholding tax

Revision in the threshold for withholding tax

- The withholding tax provisions are not applicable if the transaction is below a prescribed threshold. These thresholds were exceedingly low and an upward revision to reduce compliance burden was long overdue
- The change will take effect from 1 July 2010
- Existing and the proposed threshold limits for aggregate of payment to a payee in a financial year are as follows:

Section	Existing threshold (Rs.)	Proposed threshold (Rs.)
194B – Winnings from lottery or crossword puzzle	5,000	10,000
194BB – Winnings from horse race	2,500	5,000
194C – Payment to contractors (for single transaction)	20,000	30,000

Withholding tax (Cont …)

Section	Existing threshold (Rs.)	Proposed threshold (Rs.)
194C – Payment to contractors (for aggregate of transactions during the financial year)	50,000	75,000
194D – Insurance commission	5,000	20,000
194H – Commission or brokerage	2,500	5,000
194-I – Rent	120,000	180,000
194J – Fees for professional or technical services	20,000	30,000

Direct tax proposals

Withholding tax (Cont...)

Interest on failure to deposit withholding tax [Section 201(1A)]

- Interest on failure to deposit the tax deducted will now be levied at 1.5% per month – for the month or part of the month from the date on which tax was deducted to the date on which tax is deposited
- Interest on failure to deduct the tax will continue to be levied at 1% per month – for the month or part of the month from the date on which tax was deductible to the date on which tax is deducted
- The above changes will take effect from 1 July 2010

Settlement Commission

Definitions [Section 245A]

- It is proposed to amend the definition of the term 'case' to permit an assessee to make an application to the Settlement Commission with respect to pending proceedings with respect to assessment or reassessment resulting from search or as a result of requisition of books of account or other documents or any assets
- The proceedings for assessment or reassessment shall be deemed to have commenced on the date of issue of notice initiating such proceedings and concluded on the date on which the assessment is made

Settlement Commission (Cont...)

- This amendment is proposed to take effect from 1 June 2010
- Similar consequential amendments are proposed under the Wealth Tax Act

Application for settlement of cases [Section 245C]

- It is proposed that with respect to the cases described above, an application can be made to the Settlement Commission only where the additional amount of income-tax payable on such income disclosed exceeds Rs. 5,000,000
- In other cases, it is proposed that such application may be made to the Settlement Commission only where the additional amount of income-tax payable on income exceeds Rs 1,000,000
- This amendment will take effect from 1 June 2010
- Similar consequential amendments are proposed under the Wealth Tax Act

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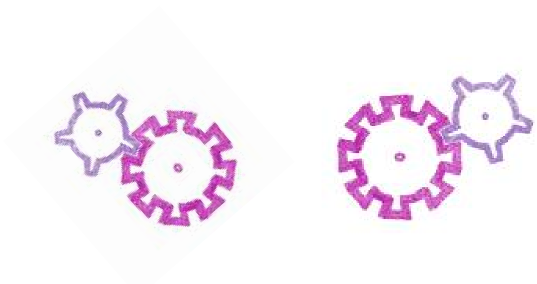
Settlement Commission (Cont ...)

Procedure on receipt of application for settlement of cases [Section 245D]

- The time-limits for passing an order of the Settlement Commission has been amended as follows:
  - In respect of applications made between 1 June 2007 and 1 June 2010, the order should be passed within twelve months from the end of the month in which such application was made;
  - In respect of applications made to Settlement Commission on or after 1 June 2010, on order should be passed within eighteen months from the end of the month in which such application was made
- This amendment will take effect from 1 June 2010
- Similar consequential amendments are proposed under the Wealth Tax Act



Appellate Proceedings

Statement of case to the High Court [Section 256(2A)]

- In case of an order passed by Appellate Tribunal before 1 October 1998, an assessee / the tax department could have applied to the Appellate Tribunal and required it to refer a question of law decided against the assessee / the tax department to the High Court
- In cases where a refusal order was passed by the Appellant Tribunal with respect to the above, an appeal could have been filed with the High Court within a period of six months from the date of service of such refusal order
- It has now been proposed that such an appeal may be admitted by the High Court beyond the period of six months if the High Court is satisfied that there is a sufficient cause for delay
- This amendment shall be applicable with retrospective effect from 1 June 1981
- Similar amendment allowing the appeal to be admitted by the High Court beyond the prescribed time has been made in Section 27 of the Wealth-tax Act, 1957

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Appellate Proceedings

Appeal to High Court [Section 260A(2A)]

- In respect of orders passed by Appellate Tribunal on or after 1 October 1998, an assessee / tax department can file an appeal against the order of Appellate Tribunal with the High Court within a period of 120 days from the date of receipt of such order
- It is proposed that such an appeal may be admitted by the High Court beyond the period of 120 days if the High Court is satisfied that there is a sufficient cause for delay
- This amendment shall be applicable with retrospective effect from 1 October 1998
- Similar amendment allowing the appeal to be admitted by the High Court beyond the prescribed time has been made in Section 27A of the Wealth-tax Act, 1957

Procedural

Centralized Processing of Returns

- Under the existing provisions, the Central Government can issue directions till March 31 2010 to the effect that any provisions of the Act relating to processing of Income-tax and Fringe benefits tax returns shall not apply or shall apply with exceptions or modifications
- It is proposed to extend the time limit to issue notifications relating to processing of such returns to 31 March 2011
- The rationale for the extension is that the CPC (Centralised Processing Centre) needs to cater to additional functionalities in the processing of such returns in order to ensure that is a complete end-to-end process. Therefore, a further period of one year has been provided to issue necessary directions in this regard

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Procedural (Cont ...)

Allotment of Document Identification Number [Section 282B]

- Under the Finance Act 2009, it was proposed that with effect from 1 October 2010 the income-tax authorities will allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued or accepted by an income-tax authority
- The date for the introduction of the above requirement on a pan-India basis has been deferred to 1 July 2011

Requirement to issue TDS/ TCS Certificates

- The Finance Act, 2009 had omitted the requirement to issue physical copies of TDS (Tax Deducted at Source) and TCS (Tax Collection at Source) certificates with effect from 1 April 2010 since the tax authorities were to furnish statement of tax credit to every assessee
- Since the system is not fully operational and TDS and TCS certificates being important documents for claim of credit by the deductee, the requirement to issue such certificates by the deductor/collector has not been dispensed with

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Service Tax

Rate

- Service tax rate remains unchanged at 10%

Service tax on commercial rent

- The activity of commercial renting is now a taxable service effective from 1 June 2007. The judgment of the Delhi High Court that struck down the levy of service tax on commercial rent has been sought to be reversed by this retrospective amendment

Levy extended to the following new services

- **Promotion of a 'brand'** of goods, services, event, business entity, etc.
- Permitting **commercial use or exploitation of any event**
- **Assigning of copyrights** on cinematographic films and sound recording
- **Health checkup** by hospitals/medical establishments and **health services provided under health insurance schemes** offered by insurance companies. Provided the cost is borne by employer /business entity
- **Maintenance of medical records** of employees of a business entity

Service Tax (Cont…)

- Services provided by **electricity exchanges**
- Certain **additional services provided by a builder to prospective buyers** such as preferential location or external or internal development of complexes; however services of providing parking spaces are not taxable

Scope of the following services altered

- **Information technology software services** – the limitation of tax being applicable only in case of use for furtherance of business or commerce has been removed
- **Commercial training or coaching services** expanded to include commercial training or coaching irrespective of the profit motive (retrospectively from 1 July 2003)
- **Air passenger transport services** to include domestic and international travel of all classes
- **Sponsorship of sporting events** becomes taxable
- **Construction of complex services** taxable if the entire consideration for the property is paid prior to receipt of completion certificate
- **Port and airport services** - all services provided within their premises made taxable without any pre-condition

Indirect tax proposals

Service tax (Cont...)

- **Commercial renting of immoveable property** to include **renting of vacant land** where there is an agreement between the lessor and lessee for undertaking construction activities on such land for commercial purposes during the tenure of the lease
- **Management of investment under ULIP Services** - definition amended to provide the value of taxable services to be the actual amount charged by the insurer for management of funds
- **Marketing or organizing games of chance** including bingo, lottery, etc. is being carved out from the category of Business Auxiliary Services and is being made separately taxable under a new category

Specific exemptions granted to following services:

- **Pre-packaged IT software**, with the license for right to use, provided applicable excise and customs duty is paid
- **Air passenger transport service** – statutory taxes charged by the foreign government shown separately are excluded
- **Erection, commissioning or installation** of mechanized food grain handling systems, cold storages 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

Service tax (Cont...)

- **Transportation** of food grains and pulses **by road**
- Indian news agencies under the category of **Online Information and Database Retrieval Services**
- **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
- **Transmission of electricity**

Following exemptions are withdrawn or amended

- Exemption provided in relation to **transport of goods by rail** has been withdrawn with effect from 1 April 2010 except for certain specified goods such as defence, railway equipment, postal mail bags, relief material, etc.
- Exemption for **vocational training services** provided by **commercial training or coaching centers** restricted to courses designated under the trades specified in the Apprentices Act, 1961

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Service tax (Cont...)

Amendments to Export Rules

- The condition of services qualifying as exports only if 'used outside India' deleted
- Services of chartered accountant, company secretary and cost accountant will qualify as exports only if the recipient is located outside India.
- Services of mandap keeper will qualify as exports only if the mandap is situated outside India

Amendments to Import Rules

- Services of chartered accountant, company secretary and cost accountant will qualify as imports only if the recipient is located in India
- Services of mandap keeper will qualify as imports only if the mandap is situated in India

Amendments to refund procedure

- Retrospective – the rigid requirement of evidencing one to one nexus between output and input services has been removed and refund shall not be linked to CENVAT taken only in a particular period

Service tax (Cont...)

Other changes

- 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 the supply of any goods connected with these activities would be taxable

Effective dates

Amendment/ changes	Effective dates
Levy of service tax on new services	From a date to be notified after the enactment of the Finance Bill, 2010
Expansion of scope of existing services	From a date to be notified after the enactment of the Finance Bill, 2010
Exemption from service tax	27 February 2010
Withdrawal or amendments of exemptions	27 February 2010
Amendments to Rules and Notification	27 February 2010

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Central excise

- Fiscal stimulus package has been partially rolled back and basic rate of excise duty increased from 8% to 10%, the increase in excise duty, increase in duty on petroleum products and levy of service tax on rail transportation could result into increase in cost of inputs
- The new rates would be effective from 27 February 2010

Products	Pre Budget Rates	Post Budget Rates
Branded manufactured tobacco refuse	42%	50%
Chewing tobacco, Zarda, Scented tobacco, snuff tobacco	50%	60%
Other Branded chewing tobacco	34%	40%
Smoking Mixture of pipe and cigarettes	300%	360%
Cement (Mini cement Plant) RSP above Rs.190 per 50 Kg bag or Rs.3800 pmt	250 pmt	315 pmt

Central excise (Cont…)

Products	Pre Budgt Rates	Post Budgt Rates
Cement (Mini cement Plant) RSP not below Rs.190 per 50 Kg bag or Rs 3800 pmt	Rs. 145 pmt	Rs. 185 pmt
Cement (Mini cement Plant) except packing form	170 pmt	215pmt
Cement (other than mini Cement plant) RSP not below Rs.190 per 50 Kg bag or Rs.3800 pmt	230 pmt	290 pmt
Cement (other than mini Cement plant) RSP above Rs.190 per 50 Kg bag or Rs.3800 pmt	8% of RSP	10% of RSP
Cement (other than mini Cement plant) other than in packing form	8% or Rs. 290 pmt - whichever is higher	10% or Rs. 230 pmt- whichever is higher
Cement Clinker	Rs 300 pmt	Rs 375 pmt

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Central excise (Cont…)

Products	Pre Budgt Rates	Post Budgt Rates
Motor Sprit (Petrol) Unbranded	Rs 13.35/Ltr	Rs 14.35/Ltr
Motor Sprit (Petrol) Branded	Rs 14.50/ltr	Rs 15.50/Ltr
High Speed Diesel Unbranded	Rs 3.60/Ltr	Rs 4.60/Ltr
Tapioca Starch & Maize Starch	Nil	4%
Mosquito Net	Nil	4%
Umbrella &panels	Nil	4%
Ceramic Tiles	8%	10%
Plain Gold Jewellery	500/10g	750/10g
Plain Silver Jewellery	1000/kg	1500/kg
Gold Bar other than tola bar bringing manufactures engraved serial number	Nil	280/10g
Microprocessor other than motherboard, floppy disk drive CD ROM	Nil	4%

Central excise (Cont…)

Products	Pre Budgt Rates	Post Budgt Rates
Electronically operated vehicle, cars, electric motor assisted rickshaw	Nil	4%
Large motor cars/ SUVs	20% + Rs 15000	22% + Rs 15000
Medical Equipment parts & accessories	4%	10%
Baby & clinical diapers & sanitary napkins	Nil	10%
Potato Starch	8%	4%
Betel Nut (Supari) Product except scented Supari	8%	Nil
Fractioned/ De-terpenated Mentha oil, de-mentholised oil, supermint oil, etc	8%	Nil
Latex Rubber Thread	8%	4%
Toy Rubber Balloons of natural rubber latex	8%	Nil

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Indirect tax proposals

Central excise (Cont...)

Products	Pre Budgt Rates	Post Budgt Rates
Cartons Boxes and cases of corrugated paper	8%	4%
LED light/ Lighting Fixtures	8%	4%
Plantation Machinery	8%	Nil
Battery Charger & hand free headphone or parts of mobile phone	8%	Nil
Equipment required for setting up solar power generation project	8%	Nil
Parts of battery pack, battery charger, AC/DC Motor Controller when used in electrically operated vehicle	8%	4%

Amendments made to the Excise & CENVAT Rules

- A manufacturer of exempt and taxable goods is allowed to reverse credit or pay an amount equivalent to credit attributable to inputs used for manufacture of exempted goods. Interest @ 24% p.a. is payable from the date of clearance till date of reversal of the said credit. This is a retrospective amendment applicable for the period 1 September 1996 to 31 March 2008

Central excise (Cont...)

- Small scale undertakings can now avail full credit of excise duty paid on capital goods in a single installment in the year of receipt. They can also pay duty and file returns on a quarterly basis as against the earlier monthly requirements (effective 1 April 2010)
- CENVAT credit is now allowed on inputs used in the manufacture of goods supplied to specified mega power projects (effective 1 April 2010)
- The requirement regarding the pre-authentication of each folio of invoice has been removed (effective 1 April 2010)

Amendments to Central Excise Act

- It is clarified that no penalty shall be leviable in cases where the duty and interest is paid before issuance of a demand notice
- The provisions relating to the Settlement Commission are being amended to extend its scope (the above would come into effect from the date of enactment of the Finance Bill)

Amendments to refund procedure

- Retrospective – the rigid requirement of evidencing one to one nexus between output and input services has been removed and refund shall not be linked to CENVAT taken only in a particular period

Amendments to Central Excise Tariff

- Activities of cutting, sawing, sizing, etc. for converting stone blocks into slabs or tiles and the process of drawing or redrawing of aluminum tubes and pipes shall amount to “manufacture" with immediate effect

Indirect tax proposals

Customs

- No changes in the peak rate of customs duty
- Several exemption have been granted with a view to incentivizing certain thrust areas for sustainable growth and development
- Goods imported in pre packaged form for intended retail sale and other goods namely ready-made garments, mobile phones and watches have been exempted from special additional duty
- The key sectors where such exemptions have been granted are agriculture, environment, infrastructure, medical and infotainment
- The Government has increased the duty on following product effective from 27 February 2010

Products	Pre Budgt Rates	Post Budgt Rates
Motor Sprit commonly known as petrol	2.5%	7.5%
High Speed Diesel	2.5%	7.5%
Other petroleum products (excepts Naphtha, LPG, LNG, etc.)	5%	10%

Customs (Cont...)

Products	Pre Budgt Rates	Post Budgt Rates
Gold in any other form (including ornaments imported as personal baggage)	Rs. 500/ 10gm	Rs. 750/ 10gm
Specified gold bars	Rs. 200/ 10 gm	Rs. 300 /10gm
Silver in any form (Including ornaments imported as personal baggage excluding ornaments studded with stones or pearls)	Rs. 1000/ Kg	Rs. 1500/ Kg
Platinum	Rs. 200/ 10gm	Rs. 300/ 10gm
Specified medical equipment, accessories and parts thereof	5%	7.50%

Indirect tax proposals

Customs (Cont...)

- The Government has decreased the duty on the following product effective from 27 February 2010

Products	Pre Budgt Rates	Post Budgt Rates
Compostable Polymer or bio-plastic used in the manufacturing of biodegradable agro mulching films, nursery plantations pots and flower pots	10%	Nil
Waste paper and paper scrap	10%	Nil
Rhodium	10%	2%
Tunnel Boring Machine	7.5%	Nil
Agriculture machinery	7.5%	5%
Truck refrigeration unit	7.5%	Nil
Machinery including prime movers and other equipments for initial setting up of a solar power generation project or facility	7.5%	5%

Customs (Cont...)

Products	Pre Budgt Rates	Post Budgt Rates
Parts, components of battery chargers and hands free headphones of mobile handsets including cellular phones	7.5%	Nil
Motion pictures, music, gaming software for use on gaming console	7.5%	Nil
Battery Pack, Battery Charger, AC/DC motor and AC/DC motor controller for use in manufacture of electrically operated vehicle	10%	Nil
Goods required for medical, surgical, dental or veternity use including parts and accessories	7.5%	5%
Hospital equipment, apparatus and parts thereof for use in specified hospitals	5%	4%

Indirect tax proposals

Customs (Cont…)

Products	Pre Budgt Rates	Post Budgt Rates
Life saving medical equipment, accessories and spare parts or both of such equipment for personal use	5%	4%
Exemption from Special CVD for Goods imported in pre-packaged form for retail sale including – apparel & clothing but not the parts Telephone sets Wrist watches	4% CVD	Nil
Pepper long	70%	30%
Asafoetida	30%	20%
Gold ores and concentrates	5% BCD 4% CVD	NIL
Carbon black fee stock	4% CVD	NIL

Project Imports

- Following projects have been added into the list of Project Imports and would be chargeable to concessional rate of customs duty @ 5% at the time of imports

Customs (Cont…)

  – Monorail projects for urban public transportation
  – digital head end projects
  – projects for installation of mechanized food grain handling systems and pallet racking in mandis and warehouses for food grains and sugar
  – cold storage, cold room (including for farm level pre-cooling) or Industrial projects for preservation, storage or processing of agricultural, apiary, horticultural, dairy, poultry, aquatic and marine produce and meat

Settlement Commission

- Provisions relating to the Settlement Commission are being amended on similar lines with Central Excise

Amendments to Customs Tariff Act

- It is provided that the 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 computed on the retail sale price declared on such imported goods less the amount of abatement, if any. This change will be effective from the enactment of the Finance Bill
- The current limit of Rs. 1 lakh per annum for duty free import of samples is being enhanced to Rs. 3 lakhs per annum

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