Booklet on

Union Budget 2010

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PREFACE

Union Budget is an important event in our Country. The policies declared by it have a huge impact on the growth and prosperity of our Country. It is of utmost importance for every person associated with India to understand the policies declared in the Union Budget, since it effects the allocations and mobilization of scarce resources of the Country. This prompted us with an idea to present the Union Budget in simplified manner to create general awareness in all sections of the society.

This booklet contains provisions as amended by the Finance Bill, 2010.

We thank CA Sukanto Mullick for his unequivocal support and being pillar of strength throughout. We also thank CA Mahesh Jamdar without whom this book would not have been possible. A quality book cannot be prepared unless there are quality people involved in it, Mr. Shriram Dhawde provided us with quality inputs and acted as backbone in preparing the booklet. We also thank Mr. Mukesh Sharma for providing us constant encouragement while preparing the booklet.

We have tried to make this book as simple and lucid as possible, but we would be grateful to the readers to send their valuable feedback, which will help us to make the book more user friendly next time.

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Rates of Taxes

Induvidual, HUF, AOP and BOI and Artificial juridical person refered to in section 2(31)(vii)

F Y 2009-10	F Y 2010-11	Rate of Tax
Income upto Rs 1.6 lakh	Income upto Rs 1.6 lakh	Nil
Income above Rs 1.6 lakh and upto Rs. 3 lakh	Income above Rs 1.6 lakh and upto Rs. 5 lakh	10 per cent
Income above Rs.3 lakh and upto Rs. 5 lakh	Income above Rs.5 lakh and upto Rs. 8 lakh	20 per cent
Income above Rs. 5 lakh	Income above Rs. 8 lakh	30 per cent

* The above mentioned exemption limit of Rs 160000 will get enhanced to Rs 190000 in case of resident womens (below 65 years) and to Rs 240000 in case of resident seniors citizens ageing 65 years or more at any time during the previous year

Cooperative Society

F Y 2009-10	F Y 2010-11	Rate of Tax
Income upto Rs 10000	Income upto Rs 10000	10 Per Cent
Income above Rs 10000 and upto Rs 20000	Income above Rs 10000 and upto Rs 20000	20 Per Cent
Income above Rs. 20000	Income above Rs. 20000	30 Per Cent

Patnership firms

F Y 2009-10	F Y 2010-11	Rate of Tax
Net Total Income	Net Total Income	30 Per Cent

Companies

a) Normal Tax

Company Type	F Y 2009-10	F Y 2010-11
Domestic Company	30 Per Cent	30 Per Cent

Company Type	F Y 2009-10	F Y 2010-11
Other Than domestic Companies		
A) In Case of Royalties received from Central Govt or Indian concern in pursuance of contract Between 31 Mar 1961 but before 1st April 1976	50 Per Cent	50 Per Cent
B) In Case of Fees received from Central Govt or Indian concern in pursuance of contract Between 29th Feb 1964 but before 1st April 1976	50 Per Cent	50 Per Cent
C) Any other Income	40 Per Cent	40 Per Cent

b) Minimum Alternate Tax

	F Y 2009-10	F Y 2010-11
Minimum Alternate Tax for Companies under Sec 115JB	15 Percent* on Book Profit of Tax calculated As per normal provision of Income Tax, Whichever is Less	18 Percent* on Book Profit of Tax calculated As per normal provision of Income Tax, Whichever is Less

Surcharge on Total Income

Company Type	F Y 2009-10	F Y 2010-11
I) In Case of Domestic company having total income exceeding Rs 1 Cr	10 Per Cent on Tax Calculated	7.5 Per Cent on Tax Calculated
II) In Case of any company other than Domestic company having total income exceeding Rs 1 Cr	2.5 Per Cent on Tax Calculated	2.5 Per Cent on Tax Calculated

However, marginal relief shall be allowed in all the above cases to ensure that the additional amount of income tax payable, including surcharge, on the excess of income over one crore rupees is limited to the amount by which the income is more than one crore rupees.

Educational Cess and Secondary & Higher Educational Cess

Educational Cess and Secondary & Higher Educational Cess shall continue to be levied at the rate of two percent, and one percent, respectively, of income tax including surcharge wherever applicable in all cases

TDS Rates Charts

Section Code	Nature of Payment	FY 2009-10 w.e.f 1st Oct 2009			FY 2010-11		
		Threshhold Limit to deduct tax	If the recipient is an Individual / HUF	If the recipient is other than Individual / HUF	Threshhold Limit to deduct tax	If the recipient is an Individual / HUF	If the recipient is other than Individual / HUF
194-A	Interest other than interest on securities Interest from Banking Company	Rs. 10,000/- p.a.	10%	20%	Rs. 10,000/- p.a.	10%	20%
194-A	Interest other than interest on securities Interest other than from Banking Company	Rs. 5,000/- p.a.	10%	20%	Rs. 5,000/- p.a.	10%	20%
194-B	Winning from Lotteries & Puzzles	Rs. 5,000/- p.a.	30%	30%	Rs. 10,000/- p.a. (From 1st July 2010)	30%	30%
194-BB	Winning from Horse Races	Rs. 2,500/- p.a.	30%	30%	Rs. 5,000/- p.a. (From 1st July 2010)	30%	30%
194-C	Payment to Contractor/ Advertising Contractor / Sub Contractor	Rs. 20,000/- Per Single Contract or Rs.50,000/- exceed during the financial year	1%	2%	Rs. 30,000/-Per Single Conntract or Rs.75,000/- exceed during the financial year (From 1st July 2010)	1%	2%
194-D	Insurance Commission	Rs.5,000/-	10%	10%	Rs.20,000/-p.a. (From 1st July 2010)	10%	10%
194-E	Payment to non resident sportsmen or sports association		10%			10%	
194-EE	Payment in respect of deposits under National Savings scheme covered u/s 80CCA		20%			20%	

Section Code	Nature of Payment	FY 2009-10 w.e.f 1st Oct 2009			FY 2010-11		
		Threshhold Limit to deduct tax	In case recipient is an Individual / HUF	If the recipient is other than Individual / HUF	Threshhold Limit to deduct tax	In case recipient is an Individual / HUF	If the recipient is other than Individual / HUF
194-F	Payment on A/c of repurchase of units by mutual funds or UTI covered u/s 80CCB		20%		20%		
194-G	Commission,etc on sale of Lottery Tickets		10%		10%		
194-H	Payment of commission or brokerage to resident	Rs. 2,500/- p.a.	10%	10%	Rs. 5,000/- p.a. (From 1st July 2010)	10%	10%
194-I	Payment of Rent for Land Building or both or Rent for Furniture or fittings	Rs.1,20,000/- p.a.	10%	10%	Rs.1,80,000/- p.a. (From 1st July 2010)	10%	10%
194-I	Payment of Rent for use of Plant , Machinery or Equipment	Rs.1,20,000/- p.a.	2%	2%	Rs.1,80,000/- p.a. (From 1st July 2010)	2%	2%
194-J	Payment of professional or technical services	Rs.20,000/- p.a.	10%	10%	Rs.30,000/- p.a. (From 1st July 2010)	10%	10%

Notes :

1) W.e.f 01-10-2009, the NIL rate will be applicable if the transporter quotes his PAN. If PAN is not quoted the rate will be 1% for an individual/HUF transporter and 2% for other transporters up to 31-03-2010
2) The Rate of TDS will be 20% in all cases, if PAN is not quoted by the deductee (including transporter) w.e.f. 01-04-2010
3) Surcharge & Educational Cess is applicable in case of payment to non-residents including company other than domestic company
4) Till 1st July 2010 The threshhold limit will be at preveiling limits

Disallowance of expenditure on account of non compliance with Tax Deducted at Source provisions

Section 40(a)(ia) provides for disallowance of specified expenditure 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 due date of filing of return.

It is proposed to amend above provisions to provide for non-disallowance of expenditure, if tax is deducted in the previous year and the same has been paid on or before due date of filing returns u/s 139(1).

These provisions are proposed to be retrospectively amended from AY 2010-11 onwards.

Increase in rate of interest for late payment of TDS-

Section 201(1A) provides for payment of interest on failure to deduct tax or payment of tax after deduction within the due date. The provisions of this section are proposed to be amended as follows:-

Existing Provisions	1% simple interest for every month or part thereof
Proposed Provisions	1.5 % simple interest for every month or part thereof

These provisions are proposed to be amended from 1st July, 2010 onwards.

Compulsory Issuance of Certificate of Tax Deduction at Source (TDS) and Tax Collected at Source (TCS)

The existing provisions under section 203(3) and under section 206C(5) provides that TDS/TCS Certificates respectively are not required to be issued on or after 1st April, 2010.

The TDS/TCS Certificates constitutes an important document for the deductee/collectee, it is therefore proposed that the deductor/collector will compulsorily continue to issue TDS/TCS Certificates to the deductee/collectee even after 1st April, 2010.

Investment in notified long term infrastructure bonds allowed as deduction

Individuals & HUF can avail additional deduction of Rupees 20000/- by investing in notified long term infrastructure bonds. This deduction is over and above deduction available u/s 80C, 80CCC & 80CCD. This amendment is proposed to take effect from the AY 2011-12 onwards.

Extension of schemes u/s 80D

Central Government Health Scheme is a medical facility available to serving and retired Government Servant. This facility is similar to the facilities available through health insurance policies.

It is proposed that contribution to Central Government Health Scheme be allowed as deduction u/s 80D from AY 2011-12 onwards.

Transactions involving no or inadequate consideration

a) Provisions regarding transfer of shares/securities for inadequate consideration

Section 56(2)(vii) provides for taxation of shares/securities received for inadequate consideration. It is presently applicable only to individuals and HUF. In order to curb tax evasion, firms and companies *(in which public are not substantially interested)* are also brought under tax net by the legislature.

If shares of companies*(in which public are not substantially interested)* are transferred to the firm or companies *(in which public are not substantially interested)* for no consideration or inadequate consideration then fair market value of the shares would be included in total income of the firm or companies *(in which public are not substantially interested).*

Accordingly section 2(24) is proposed to be amended to include the fair value of above shares/securities in the definition of total income.

Section 49 is proposed to be amended to include the fair value of such shares/securities which are subjected to tax under section 56(2)(vii) as cost of acquisition for calculation of capital gains when these shares are further transferred by such firm or companies *(in which public are not substantially interested)*.

The above provisions are proposed to be amended from 1st June, 2010

b) Amendment in the definition of Property for the purpose of section 56(2)(vii)
Bullion is to be included in the definition of property for the purpose of section 56(2)(vii). This provision is proposed to be amended from 1st June, 2010.

c) Transfer of Immovable Property taxable only on receipt for the purpose of section 56(2)(vii)

Section 56(2)(vii) is currently applicable on transactions of immovable property where there is no consideration or inadequate consideration. There is a time gap between booking of property and receipt of property, in order to reduce the anomaly regarding transactions in immovable property, the section is proposed to be amended to make transfer of immovable property where there is no consideration or inadequate consideration taxable only on receipt of immovable property, this provisions are proposed to be amended from 1st October, 2009 and retrospectively applicable from AY 2010-11

d) Enhancement in the power of Assessing Officer u/s 142A

Assessing officer is granted power to refer transactions u/s 56(2)(vii) to Valuation Officer for estimating the value of the property as required in the said section.

Provisions regarding LLP

a) Exemption of Capital gains on transfer of assets on conversion of private company or an unlisted public company into Limited liability partnership

It is proposed that the transfer of assets on conversion of private company or unlisted public company into LLP as per section 56 and 57 of LLP Act, 2008 shall not amount to transfer u/s 45 of Income Tax Act, 1961, subject to certain conditions:-

- a) The total sales, turnover or gross receipts in the business of the company do not exceed 60 lakhs rupees in any of the three preceding previous years.
- b) The shareholders of the company become partners in the LLP in the same proportion as their shareholding pattern.
- c) No consideration other than share in profit and capital contribution in the LLP arises to the partners.
- d) The erstwhile shareholders of the company continue to be entitled to receive at least 50% of profits of LLP for the period of 5 years from the date of conversion.
- e) All the assets and the liabilities of the company become the assets and liabilities of the successor LLP.
- f) No amount is paid directly or indirectly to any partner out of accumulated profits of the company for a period of three year from the date of conversion

b) Provision regarding carry forward and set-off of business loss and unabsorbed depreciation on conversion of private company or an unlisted public company into LLP

It is also proposed to allow carry forward and set-off of business loss and unabsorbed depreciation to the successor LLP which fulfills the above mentioned conditions.

c) Provisions regarding non compliance of conditions stipulated in (a) above

It is also proposed that if the conditions stipulated in (a) 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.

d) Provisions regarding claim of depreciation and block of assets by the successor LLP

It is also proposed that 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.

It is further proposed that 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.

e) Provisions regarding cost of acquisition of capital asset to the successor LLP

It is also provided that the cost of acquisition of capital asset for the successor LLP shall be deemed to be the cost for which the predecessor company acquired it.

f) Non availability of credit under section 115JAA to the successor LLP

Credit in respect of tax paid by a company under section 115JB is allowed only to such company under section 115JAA. It is proposed to clarify that the tax credit under section 115JAA shall not be allowed to the successor LLP.

g) Amortisation of expenditure incurred under VRS

In case of conversion of a private company or unlisted public company into LLP, the provisions of the section 35DDA regarding amortisation of expenses incurred under VRS shall apply to the successor LLP as they would have applied to the predecessor company. It is also proposed to amend the said section to provide that in case of such conversion, no deduction under this section shall be allowed to predecessor Company.

Applicability of above provisions

The above amendments mentioned in points (a) to (g) are proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

Provisions applicable to Non-Residents

Income by way of interest, royalty or fees for technical services were brought to tax for the non-residents by the legislature through introduction of source rule which created 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 provide further clarification in this following retrospective amendments are made from AY 1977-78 stating that the above income would be taxable even if :-

a) The non resident has whether or not a residence or place of business or business connection in India
b) The non-resident has whether or not rendered services in India.

Provisions encouraging scientific, social & statistical research

a) Contribution made to 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 is allowed as weighted deduction u/s 35(1)(ii). The provisions of section 35(1)(ii) are proposed to be amended as follows:-

Existing Provision	125% of contribution made to above
Proposed Provision	175% of contribution made to above

The above provisions are proposed to be amended from AY 2011-12 onwards.

b) Contribution made to National Laboratory or a university or an Indian Institute of Technology or a specified person for the purpose of an approved scientific research programme is allowed as weighted deduction u/s 35(2AA). The provisions of section 35(2AA) are proposed to be amended as follows:-

Existing Provision	125% of contribution made to above
Proposed Provision	175% of contribution made to above

The above provisions are proposed to be amended from AY 2011-12 onwards.

c) Weighted deduction on expenditure (not being expenditure in nature of cost of any land or building) incurred on in house research and development facility is allowed as weighted deduction to the company assessee u/s 35(2AB). The section 35(2AB) is proposed to be amended as follows:-

Existing Provision	150% of expenditure incurred on above
Proposed Provision	200% of expenditure incurred on above

The above provisions are proposed to be amended from AY 2011-12 onwards.

d) Approved research association included in scope of section 35(1)(iii):-
It is proposed to amend section 35(1)(iii) so as to include an approved research association which has the object of undertaking research in social science or statistical research as an association qualified for weighted deduction of 125%.

These provisions are proposed to be amended from AY 2011-12 onwards.

e) Extension of scheme of section 10(21) to approved research association u/s 35(1)(iii):-
Section 10(21) provides exemption of income to scientific research association which is approved and notified u/s 35(1)(ii).

The research association engaged in research in social science or statistical research as approved and notified as per section 35(1)(iii) is to be allowed exemption in respect of their income u/s 10(21). This is subject to conditions which are specified u/s 10(21).

These provisions are proposed to be amended from AY 2011-12 onwards.

Tax Audits

a) Increase in basic limit of turnover/gross receipts for carrying out compulsory audit of accounts

Section 44AB provides for compulsory audit of accounts if the total sales, turnover or gross receipts in business/profession exceeds specified limits. It is proposed to amend the specified limits of sales, turnover or gross receipts as under:-

Existing Provisions

Business	Forty Lakhs
Profession	Ten Lakhs

Proposed Provisions

Business	Sixty Lakhs
Profession	Fifteen Lakhs

These provisions are proposed to be amended from AY 2011-12 onwards.

b) Increase in Penalty u/s 271B for non-compliance under section 44AB

Section 44AB provides compulsory audit of accounts if specified limits of sales, turnover or gross receipts are exceeded. Section 271B provides for levy of penalty for failure to get accounts audited under section 44AB and to furnish a report of such audit. The maximum penalty for non compliance as specified in section 271B is proposed to be amended as under:-

Existing provisions	1,00,000
Proposed Provisions	1,50,000

These provisions are proposed to be amended from AY 2011-12 onwards.

Provisions applicable to Builders & Developers

Relief in conditions to be complied for claiming exemption u/s 80IB

Any Undertaking which is engaged in developing and building a housing project which are approved by the local authority before 31st March, 2008 are qualified to claim 100%

deductions from profits u/s 80IB(10) for the said housing projects subject to following conditions:-

a) 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

b) The built up area of the shops and other commercial establishments included in the housing project should not exceed 5 percent of the total built up area of the housing project or 2000 sq ft whichever is less.

In order to give relief to the undertakings due to hardship faced by them due to global recession, it is proposed to extend time period for completion of housing projects from 4 years to 5 years from the end of the financial year in which it was approved. This is applicable to projects which are approved on or after 1st April, 2005.

Further it is also proposed to increase the norms for built up area of the shops and other commercial establishments to 3% or 5000 sq.fts whichever is higher, this is applicable to projects which are approved on or after 1st April, 2005.

The above provisions are proposed to be retrospectively amended from AY 2010-11 onwards.

Provisions applicable to Small Business

Increase in limit of turnover/gross receipts eligible for presumptive taxation

Section 44AD provides for presumptive taxation if gross receipts or turnover of the small businessman is below the specified limits. It also provides that those who fall under section 44AD are not required to maintain regular books of accounts. Section 44AD is proposed to be amended to increase the specified limits of gross receipts/turnover which are as follows:-

Existing provisions	Forty Lakhs
Proposed Provisions	Sixty Lakhs

Provisions applicable to Charitable Trusts

a) Meaning of Charitable Purpose

Section 2(15) defines the term "Charitable Purpose". Earlier if 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 was carried on by the Charitable Trust, it was not held to be for charitable purpose.

The above section is proposed to be retrospectively amended from AY 2009-10 to include 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 carried on by the Charitable Trust, if the total aggregate receipts from above activities are less than rupees ten lakhs.

b) Enhancement of power of Commissioner to cancel registration of trust registered u/s 12A

If Commissioner finds that the activities of the trust or institution registered u/s 12A are non genuine or its activities are not in accordance with the objects for which such trust or institution was established, the registration of such trust u/s 12A can be cancelled by the Commissioner as per amended section 12AA.

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

Clarification in computation of exemption for units in Special Economic Zone (SEZ)

The calculation of exemption under section 10AA for unit in SEZ is currently based on "total turnover of the assessee" as this provides a uniform platform to aseessees who have single unit in SEZ only and those who have multiple units both in Domestic Tariff Area and SEZ. This provision was applicable from AY 2010-11 onwards.

In order to provide equity, it is proposed that the above amendment will be made effective retrospectively from AY 2006-07 and onwards.

Provisions applicable to Hotel Industry

a) Inclusion of Hotel business in definition of specified business

Section 35AD provides "investment linked deduction" to specified business. This section allows 100% deduction any expenditure of capital nature (other than land, goodwill and financial instrument) It is proposed to amend section 35AD to include business of building and operating a new hotel of two star or above category any where in India, which starts functioning after 1/4/2010**.**

These provisions are proposed to be amended from AY 2011-12 onwards.

b) Provisions applicable to Hotels and Convention Centre in National Capital Territory

Any undertaking carrying on the business of two-star, three-star or four-star category hotel or the business of building, owing and operating a convention centre located in National Capital Territory of Delhi or districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad are allowed a deduction of 100% of the profits derived by such undertaking for a period of five years u/s 80ID. This deduction is allowed only if hotels have started functioning and convention centre is constructed during the period of 1/04/2007 and 31/3/2010.

In order to boost building of infrastructure before the Commonwealth Games to be held in October, 2010, it is proposed to extend the time limit for functioning of hotels and construction of convention centre to 31/07/2010. These provisions are applicable from AY 2011-12 onwards.

Provisions governing procedures in Income Tax Department

a) Procedure in Settlement Commission

i) Enhancement of scope of admittance of case in Settlement Commission

The tem “case” as defined u/s 245A(b) is proposed to be amended. It is now proposed to include proceedings for assessment or reassessment resulting from search or as result of requisition of books of account or other documents or any assets, within the definition of a “case” which can be admitted by the Settlement Commission

These provisions are proposed to be amended from 1st June, 2010 onwards.

ii) Enhancement in the minimum amount of additional tax payable for admittance of case in Settlement Commission

It is proposed to substitute the proviso to section 245C, so as to provide that an application can be filed before the Settlement Commission, in cases where proceedings for assessment or reassessment resulting from search or as result of requisition of books of account or other documents or any assets, if additional amount of income tax payable on income disclosed in the application exceeds fifty lakhs rupees. It is further proposed that, in other cases, an application can be made before the Settlement Commission, if the additional amount of income tax payable on the income disclosed in the application exceeds ten lakhs rupees.

These provisions are proposed to be amended from 1st June, 2010 onwards.

iii) Enhancement in the time limit for passing an order by the Settlement Commission

Existing Provision	Within 12 months from the end of the month in which the application was made (245D(4A)
Proposed Provisions	
Application made on or after 1st June, 2007 but before 1st June, 2010	Within 12 months from the end of the month in which the application was made (245D(4A)(ii))
Application made on or after 1st June, 2010	Within 18 months from the end of the month in which the application was made (245D(4A)(iii))

These provisions are proposed to be amended from 1st June, 2010 onwards.

b) Power of High Court to condone delay in filing of appeals

i) On orders passed by Income Tax Appellate Tribunal (ITAT)

There were conflicting views of various High Courts in India whether High Courts have power to condone delay in filing of appeals u/s 260A. In order to have uniformity section 260A is retrospectively amended from 1st October, 1998 to give High Court power to condone delay in filing of appeals, if it is satisfied that there was sufficient cause for not filing the appeal within period.

ii) On refusal of referral by ITAT

Under existing provisions of section 256, the ITAT could refer a case to High Court. In case where the ITAT refused to refer a case to the High Court, the assessee or the Commissioner were allowed to file an appeal before the High Court within 6 months from the date on which he was served order for refusal.

It is proposed to retrospectively amend the above from 1st June, 1981 to give High Court power to condone delay in filing of appeals, if it satisfied that there was sufficient cause for not filing the appeal within period.

c) Issuance of computer generated Document identification Number

Under the existing provisions of section 282B, an income tax authority is required to allot a computer generated Document Identification Number before issue of every notice, order, letter or any correspondence to any other income tax authority or assessee or any other person and such number shall be quoted thereon from 1St October, 2010. It also provides that every document, letter, correspondence received by an Income Tax Authority or on behalf of such authority ,shall be accepted only after allotting and quoting of a computer generated Document Identification Number

Due to lack of requisite infrastructure and facilities to cover entire gamut of services mentioned in section 282B on pan India basis, it is proposed that Document Identification Number would be mandatory only on or after 1st July, 2011.

d) Extension of time limit for issuance of notification for Centralised Processing of Returns

Central Government may for the purposes of giving effect to the scheme of centralized processing of returns under section 143(1A), issue a notification relating to such processing of returns. This notification can be issued up to 31st March, 2010 under existing provisions. It is proposed to amend the above provisions and increase the time limit for issuance of notification up to 31st March, 2011.

Provisions applicable to non life insurance business

Section 44 provides rules for computation of income of non life insurance companies, where "profit before tax and appropriation" as per the profit and loss account of the company prepared in accordance with the regulations made by the Insurance Regulatory Development Authority (IRDA), subject to certain adjustments is taken as total income.

It also provides that appreciation of or gains on realization of investments taken credit for in the accounts shall be treated as income and be included in the computation of the total income. But as per IRDA regulations unrealized gains on investments is not taken into account for determining profit or loss of non life insurance business. Therefore from AY 2011-12 it will not be included in the computation of total income.

Similarly it is provided that gain or loss on realization of investments shall be added or deducted for the purpose of computation of total income, if the same is not already credited or debited in the profit and loss account.

Provisions applicable to Oil and Petroleum Industry

a) Specified business under Section 35AD

Section 35AD provides "investment linked deduction" to specified business. The term specified business includes laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being the integral part of such network. There are certain conditions regarding "common carrier capacity" subject to which these businesses are allowed deduction u/s 35AD. The conditions prescribed under Income Tax Act are contradictory to conditions specified by "The Petroleum & Natural Gas Regulatory Board". In order to remove these contradictory provisions it is proposed to amend section 35AD to provide the conditions regarding "common carrier capacity" would be applicable as per regulations of "The Petroleum & Natural Gas Regulatory Board"

These provisions are proposed to be retrospectively amended from AY 2010-11 onwards

b) Non-Residents engaged in Oil & Petroleum sector

Clarification under section 44BB and 44DA

Section 44BB contains provisions regarding computation of 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 use, in the prospecting for or extraction or production of, mineral oils. Total income of such assesses is calculated at the rate 10% of the amount paid to them.

Section 44DA contains provisions 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 books of accounts maintained by the non-resident. Where the right, property or contracts giving rise to such income are not effectively connected with the permanent establishment of the said non-resident, then the rates of tax are as per section 115A

Various judiciary pronouncements have raised questions whether technical services relating to the exploration sector are to be included in the scheme of presumptive taxation as provided by 44BB. Technical services relating to any nature of business is specifically included under section 44DA or section 115A.

In order to reduce confusion over the issue, Section 44BB is proposed to be amended to exclude income covered under section 44DA from its scope.

Accordingly section 44DA is also proposed to be amended to exclude income covered under section 44BB from its scope.

The above provisions are proposed to be amended from AY 2011-12 onwards.

Amendments in Wealth Tax Act

Provisions regarding Settlement Commission

a) Change in Definition of the term “Case”
The definition of term “case” is proposed to be amended under section 22A of Wealth Tax Act on same lines as amended in Income Tax Act, 1961.

b) Change in time limit for passing an order by the Settlement Commission
The time limit for passing an order by the Settlement Commission under section 22D is proposed to be amended on the same lines as amended in Income Tax Act, 1961.

Power of High Court to condone delay in filing of appeal to the High Court

a) On orders passed by Wealth Tax Appellate Tribunal (WTAT)
The amendments are done u/s 27D of Wealth Tax Act on the same lines as amendments done u/s 260A of Income Tax Act, 1961.

b) On refusal of WTAT to refer the case to High Court
The amendment are done u/s 27 of Wealth Tax Act on the same lines as amendments done u/s 256 of Income Tax Act, 1961.

Particular / Impact	Exemption	Changes in Rates: Enhanced	Changes in Rates: Reduced	Newly Introduced	Amendments
1) Information Technology/Electronic Hardware/ Telecom Industry.					
• Parts used for manufacture of battery charger and head phones used with mobile phones	From BCD & CVD				
• Specified capital goods & raw materials for manufacture of electronic hardware.	From BCD				
• Parts of battery charger and headphones up to March 31, 2011	From 4% SAD				
• Magnetrons of up to 1000 k w for the manufacture of microwave ovens			BCD from 10% to 5%		
• Mobile phones imported to retail sale	From SAD				
• The value paid for transfer of the right to use imported packaged software. Conditions relating to commercial exploitation removed	From CVD				
2) Tea/Coffee/ Rubber Industry					
• Specified machinery for tea, coffee and rubber plantation					Concessional BCD @5% till March 31, 2011
3) Media, Entertainment And Sports Industry					
• Import of films recorded on cinematographic or digital medium, music and gaming	When goods are imported in a pre- packaged from retail sale			Liable to custom duty on the value of the media plus freight and insurance.	
• Promotional material like trailers, making of films etc. imported free	From BCD and CVD				
• Project imports status given to Setting up of Digital head				5% BCD and NIL SAD	
4) Pharmaceuticals And Drugs Industry					
• All medical equipment(with some exceptions)·				5% BCD, 4% CVD, NIL SAD	
• Parts (Required for the manufacture of medical equipments)				5% BCD & NIL SAD	
• Spares for the maintained of medical equipments					Concessional custom duty withdrawn, Except in Specified Cases
• Specified medical devices as well as for assistive devices, rehabilitation aids and other goods for disabled	From BCD and CVD being retained				
• Cobalt- chrome alloys, special grade stainless steel etc. for the manufacture of orthopedic implants	From BCD				
5) Oil And Gas Industry					
• Crude Petroleum		BCD From NIL to 5%			
• Petrol & Diesel		BCD From 2.5% to 7.5%			
• Naphtha, LPG, LNG, petroleum gases and pet coke					5% BCD Remain Unchanged
• Certain specified petroleum products		BCD From 5% to 10%			
• Carbon black feed stock			SAD From 4% to NIL		
6) Agriculture/ Horticulture Industry					
• Long Pepper		BCD from 70% to 30%			
• Asofoetida (Heeng)		BCD from 30% to 20%			
Bio-polymer/bio-plastics used for manufacture of bio-degradable agro mulching films/ nursery plantation & flower pots	From BCD				

Impact Particular	Exemption	Changes in Rates		Newly Introduced	Amendments
		Enhanced	Reduced		
7) Renewable Energy Industry.					
• Batteries, including battery chargers , electric motors and AC or DC motors controllers imported from manufacturing electrical vehicles	From BCD and SAD till march 31,2013				4% CVD Remain Unchanged
• Machinery items, instruments appliances required for initial setting up of solar power generation project and facilities.	From CVD		Concessional rate of BCD of 5%		
• Ground source heat pumps (for geo-thermal energy)	From BCD and SAD.				
• Tunnel boring machine for hydro-electric power projects	From BCD and SAD				
8) Food / Agro Processing Industry					
• 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, aquatic & marine produce and meat.					Project import status granted
• The installation of mechanized handling system & pallet racking system for food grains and sugar.		BCD@5%	NIL rate of CVD & SAD		
• The truck refrigeration units used for the manufacture of refrigerated vans/ trucks	From BCD				
9) Gems And Jewellery Industry					
• BCD on the following items, whether imported as cargo or baggage					
a) Gold ore and concentrate	From BCD and SAD	CVD charged @INR 140per 10 grams of gold content			
b) Rhodium(*See table 1*)		BCD from10% to 2%			
10) Miscellaneous					
• Goods imported in pre-packaged form intended for retail sale and certain specified goods namely, ready made garments , watches etc	From SAD				
• Mono rail projects for urban transports		BCD@5%			Project import status granted
• Sale or disposal of road construction machinery at depreciated value allowed					On payment of customs duty at the rates applicable at the time of import subject to specified conditions
• Duty free import of samples					Current limits of INR 1 lakh is being enhanced to INR 3 lakh per annuam.
• Electrical energy supplied from a special economic zone to the domestic tariff area and non- processing areas of SEZ		BCD @16%	NIL SAD		Change made retrospectively effective June 26,2009
• New tariff entry covering filter cigarettes of length not exceeding 60mm		BCD @30%			
11) Other Key Amendments CVD in respect of goods chargeable to excise duty on the basis of MRP under medical and toilet preparations (excise duties) act, 1955 to be charged on the basis of retail sale price.					

Particular / Impact	Exemption	Changes in Rates		Newly Introduced	Amendments
		Enhanced	Reduced		
1) Rate Of Excise duty Non petroleum items Betel nut products Toy balloons made up of natural rubber Specified plantation machinery (till March 31, 2011) Goods supplied to specified mega power projects Self-loading/self-unloading trailers and semi trailers meant for agricultural purposes.	From ED From ED From ED From ED From ED	ED from 8% to 10%			
2) Information Technology/Electronic Industry. Packaged software, whether or not used for commercial exploitation Micro processor for computers(other then mother board),floppy disk drive, hard disk drive flesh drive, CD/DVD and combo drive meant for external use LED lights/lighting fixture Additional specified raw materials for the manufacture of rotor blades for wind operated electricity generators.	From ED From Full ED	ED from NIL to 4%	ED 8% to 4%		
3) Automobile Industry Large cars, multi utility vehicles and sports utility vehicles etc. and chassis thereof. (Fixed component of duty on such vehicles remains unchanged) Specified components of certain electrical vehicles, subject to specified conditions (applicable till march 31 2013) Electric vehicle Parts components and assemblies of vehicles (including chassis fitted engines)		ED from 20% to 22% ED @ 4%			Uniform concessional ED of 4% Assessment of ED with reference to retail Sale price.
4) Cement Industry ED on cement and cement clinker revised upwards as under:Manufactured by mini cement plant (other than mini cement plant):(*See table 2(a) & (b))*					
5) Oil & Gas Industry. Revision of Petrol & Diesel Dementholised oil, Deterpenated Mentha oil, Spearmint / Mentha piperita oils and all intermediaries and all by-products of menthol.(*See table 4*)	Full ED Exemption				Re.1 per litre on both branded and non-branded

Particular / Impact	Exemption	Changes in Rates: Enhanced	Changes in Rates: Reduced	Newly Introduced	Amendments
7) Tobacco Industry Cigarette					Composite ED of 10% or Rs. 1227 per thousand (whichever is higher) and composite additional duty of 1.6% or Rs.246 per thousand(whichever is higher) on cigars, cheroots and cigarillos of tobacco replaces the ad valorem duty. ED of 10% or Rs. 1473 per thousand (whichever is higher) on cigars, cheroots and cigarillos of tobacco substitutes
On branded un manufactured tobacco and tobacco refuse.		From 42% to 50%			
On branded 'hookah' or 'gudaku' tobacco.		From 8% to 10%			
On chewing tobacco, preparations containing chewing tobacco, jarda, scented tobacco, tobacco extracts and essences etc.		From 50% to 60%			
On branded homogenised or reconstituted tobacco.		From 50% to 60%			
On items of other branded smoking tobacco.		From 34% to 40%			
On unbranded smoking tobacco.		From 8% to 10%			
On smoking mixtures of pipes and cigarettes.		From 300% to 360%			
On cut tobacco *[see on next page]*		From RS.50 per kg to Rs.60per kg			
Tobacco Industry On other pan masala ED to be based on capacity of production levied on chewing tobacco and branded un manufactured tobacco packed in pouches with the aid of packing machines w.e.f. March 8, 2010(see table 4).		From 8%to 10%			
8) Gems And Jewellery Industry On refined serially numbered gold bars made from the ore/concentrate stage with Cenvat credit. DTA clearances of plain gold and silver jewellery manufactured by a 100% EOU		Rs. 500 per 10 gram to Rs. 750 per 10 gram for gold jewellery; and Rs. 1000 per kg to Rs. 1500 per kg for silver jewellery.			ED of Rs. 280 per 10 grams (instead of 10% as valorem)
9) Miscellaneous • ED equalized/unified in the following cases:					
a) Maize starch, tapioca starch and potato starch					@ 4%
b) Umbrellas, umbrella parts and umbrella cloth panels					@ 4%
c) Ceramic tiles manufactured in kilns fired by not using electricity, and other ceramic tiles					@ 10% with Cenvat credit.
On coal, lignite and peat produced in India					Clean energy cess imposed

Particular / Impact	Exemption	Changes in Rates		Newly Introduced	Amendments
		Enhanced	Reduced		
On mosquito nets impregnated with insecticides		From NIL to 4%			
On Av gas		From NIL to 4%			
On Baby & Clinical diapers and sanitary napkins.		From NIL to 4%			
On open top sanitary cans		From 4% to 10%			
On goggles, other than those for correcting vision		From 4% to 10%			
On all Ceramic tiles , regardless of the fuel used for firing the kiln with Cenvat credit.		From 8% to 10%			
On apiary, horticultural, dairy, poultry, aquatic and marine produce and meat and processing thereof.	Full ED Exemption				
On replaceable kits from all household type water filters (Except those operating on RO technology)			Concessional ED of 4%		
On latex rubber thread			Concessional ED of 4%		
On goods covered under Medicinal & Toilet Preparations Act		From 16% to 10%			
Medical and Toilet Preparations					Amended to exclude goods manufactured or produced by units in SEZ from levy of ED
For umbrella and its parts.		ED @ 4%			

Gems & Jewellery Table 1

Item	Present Rate	Proposed Rate
Gold Bars (other than tola Bars) and gold coins	Rs 200 Per 10 Gram	Rs 300 per 10 Grams
Gold in any other form	Rs 500 Per 10 grams	Rs 750 per 10 Grams
Silver	Rs 1000 Per Kg	Rs 1500 Per Kg
Platinum	Rs 200 Per 10 Gram	Rs 300 per 10 Grams

Mini Cement Plant Table 2(a)

Item	**Present Rate**	**Proposed Rate**
Cleared in packaged form:		
RSP not exceeding Rs 190 per 50 kg bag (or Rs 3800 per tonne)	Rs 145 per tonne	Rs 185 Per tonne
RSP exceeding Rs 190 per 50 kg bag (or Rs 3800 per tonne)	Rs 250 per tonne	Rs 315 per tonne
Cleared other than in packaged form	Rs 170 per tonne	Rs 215 per tonne

Other than Mini Cement Plant Table 2(b)

Item	**Present Rate**	**Proposed Rate**
Cleared in packaged form:		
RSP not exceeding Rs 190 per 50 kg bag (or Rs 3800 per tonne)	Rs 230 Per tonne	Rs 290 Per tonne
RSP exceeding Rs 190 per 50 kg bag (or Rs 3800 per tonne)	8% of retail sales price	10% of retail sales price
Cleared other than in packaged form	8% or Rs 230 per tonne, whichever is higher	10% or Rs 290 per tonne whichever is higher
Cement clinker	Rs 300 per tonne	Rs 375 Per tonne

Oil & Petroleum Table 3

Item	**Without Brand name**	**With Brand name**
Petrol	Rs 14.35 Per litre	Rs 15.50 per litre
Diesel	Rs 4.60 per litre	Rs 5.75 per litre

Tabacco Products Table 4

Description	**Without Brand name**	**With Brand name**
Non-filter (length in mm)-Rs Per 1000		
Below 60	Rs 819	Rs 669
60-70	Rs 1323	Rs 1473

Filter (length in mm)		
Exceeding 60	Rs 819	Rs 669
60-70	Rs 819	Rs 969
70-75	Rs 1323	Rs 1473
75-85	Rs 1759	Rs 1959
Others	Rs 2163	Rs 2363
Cigarettes of tobacco substitutes	Rs 1208	Rs 1408

Service Tax

New Services Proposed to be taxed (After enactment of Finance Bill)

1. Service of permitting commercial use or exploitation of any event organized by a person or organisation.
2. The existing taxable service 'Intellectual Property Right (IPR)' excludes copyright from its scope. Copyrights on;
   a) Cinema to graphics films
   b) Sound recording

   Are being brought under the ambit of service tax however copyright on original literary, dramatics, musical and artistic work would continue to remain outside the scope of service tax.
3. Health services (Taxable only if paid directly by business entity or insurance company)
   a) Healths check up undertaken by hospitals or medical establishments for the employees of business entities, and
   b) Health services provided under health insurance schemes offered by health insurance companies
4. Services provided for maintenance of medical records of employees of a business entity
5. Services provided by Electricity Exchange
6. Certain additional services provided by Builders 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 would not be subjected to tax.
7. Service of promoting of a 'brand' of goods, services, events, business entity etc.
8. The promotion, marketing or organising of games of chance, including lottery, is being introduced as separate service. Consequently, the Explanation in provision relating to Business Auxiliary Service is being deleted.

Expansion or Alternation of Existing Services:-

1) The scope of air passenger transport service is being expanded to include domestic journeys, and international journeys in any class.
2) At present, in case of Information Technology Software Service the levy of tax is limited only to cases where IT software is used for furtherance of business or commerce. The scope of taxable services is being expanded to cover all cases irrespective of its use.
3) In case of 'Commercial Training and Coaching' services, an Explanation is being added to clarify that the term 'commercial' is in context of this services would mean any training or coaching, which is provided for consideration, whether or not for profit. This change is being given retrospective effect from 01.07.2003.
4) In the definition of 'Sponsorship Services', the exclusion relating to sponsorship pertaining to sports is being removed.
5) In the 'Construction of Complex services', 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 taxable service provided by builders/ promoter/ developer to the prospective buyer and the service tax would be charged accordingly.

Amendments in Definitions:-

1) **"Renting of Immovable Property" :-**
   i. To provide explicitly that the activity of 'renting' itself is taxable service (w.r.e.f. 01.06.2007) and
   ii. Levy service tax on rent of vacant land where there is an agreement or contract between the lessor and lessee for undertaking constructions of buildings or structures on such land for furtherance of business or commerce during the tenure of lease.
2) **"Airport Services, Port Services and Other Port Services":-**
   i. All services provided entirely within the airport/port premises would be classified under these services and
   ii. An authorisation from airport/port authority would not be a pre-condition for taxing these services.
3) **"Auctioneer's Service":-**
   To clarify that the phrase auction by 'auction by Government' means an auction involving selling of Government property and not when the Government acts as an auctioneer for sale of private property.
4) **"Management of Investment under ULIP Service":-**
   To provide that the value of taxable service for any year of the operation of the policy shall be actual amount charged by insurer for management of funds under ULIP or maximum amount of fund management charges fixed by IRDA, whichever is higher.

Amendments in Act

1) **Explanation to Section 73(3):-** 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.
2) **"Business entity":-** to include AOP, BOI, Company and Firm but not an Individual. To be effected from date notified after enactment of Finance bill, 2010.

Exemptions (w.e.f. 27.02.2010)

1) Statutory taxes charged by foreign governments are being excluded from taxable value under the air passenger transport service
2) Services relating to Erection, Commissioning or Installation of;
   i. Mechanized Food Grains Handling Systems, etc
   ii. Equipment for setting up or substantial expansion of cold storage; and

iii. Machinery/ Equipment for initial setting up or substantial expansion of units for processing of agricultural, apiary, horticultural, diary, poultry, aquatic, marine or meat products.

3) Pre-packaged I.T. Software, with the licence of right to its use, subject to specified conditions.
4) Food Grains and Pulses transported by Goods transport agencies
5) To Indian News Agencies under 'Online Information and Database Retrieval Service' subject to specified conditions.
6) 'Technical Testing and Analysis Service' and 'Technical Inspection and Certification Services' provided by Central and State seed testing labs, and Central and State seed certification agencies.
7) Transmission of electricity.

Withdrawal/Amendments to existing Exemption:-

1) Service provided in relation to transport of good by rail
2) Group personal accident insurance scheme provided by Govt. of Rajasthan to its employees, under General Insurance Service
3) Exemption from Service tax on commercial training or coaching services, restricted to vocational training courses provided by NCVT.

Amendments in Rules & Notifications (w.e.f. enactment of Financial bill)

1) Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 are been amended so as to **move** some of the specified taxable services from **one category to another**.
2) In the Export of Service Rules, 2005, the condition prescribed i.e. 'such service is provided from India and used Outside India' is been **DELETED.**
3) Notification No. 1/2002-ST dated 01.02.2002 is being super ceded 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 **Export of Service Rules, 2005** and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.
4) Notification No. 5/2006-CE(NT) is being amended and given partial retrospective effect to remove the bottle necks in refund of accumulated credit to the exporters.

Clean Energy Cess

Clean energy cess is being 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 Finance bill, 2010.

Clean energy cess is being imposed on coal, lignite and peat imported in India in form of CVD.

Central Sales Tax (w.e.f enactment of Finance Bill)

The provisions of Central sales tax act, 1956 are being amended so as to provide for:-

1) Reassessment by the assessing authority on the basis of new facts discovered or revision by a higher authority.
2) Filling of appeals to the highest authority of every state against the orders made by the assessing authority on the issue involving stock transfer or inter state sale including issues relating to rate of tax, computation of assessable turnover, penalty and procedure
3) Filling of appeal against any order passed by the highest appellate authority of a state on disputes of interstate nature relating to stock transfer or consignments of goods to the CST Appellate authority.

Glossary of terms used in the booklet:

ED - Excise duty
BCD - Basic Custom duty
CVD - Countervailing duty
SAD - Special Additional duty
MRP - Maximum retail price
SEZ - Special Economic Zone