Ankit B Agrawal & Associates

BUDGET 2010 -11

February, 2010

Glossary of Terms

Acronyms	Full Form
AOP	Association Of Persons
BCD	Basic Customs Duty
CENVAT	Central Value Added Tax
CST	Central Sales Tax
CVD	Countervailing Duty
DTA	Domestic Tariff Area
DTC	Direct Tax Code
EOU	Export Oriented Unit
GDP	Gross Domestic Product
GST	Goods & Services Tax
HUF	Hindu Undivided Family
IRDA	Insurance Regulatory Development Authority
LLP	Limited Liability Partnership
MAT	Minimum Alternate Tax
MRP	Maximum Retail Price
NBFC	Non Banking Financial Company
SEZ	Special Economic Zone
TCS	Tax Collected at Source
TDS	Tax Deducted at Source
ULIP	Unit Linked Insurance Plan

ECONOMIC STATISTIC

- GDP accounted growth of 6.7%
- Forex Reserves have marked increased

SECTOR IMPACT

Agriculture Industry

- Four strategy to be adopted for growth in agricultural industry
  - Increase in agricultural production
  - Reduction in wastage of produce
  - Credit support to farmers
  - Thrust to food processing sector
- Nutrient based subsidy policy for fertilizer sector to become effective April 1, 2010
- Interest subvention on crop loans increased from 1% to 2%

Auto Industry

- Proposed construction of national highways
- Increase in Excise duty
- Exemption to trailers use for agriculture purpose
- Truck Refrigeration Unit for manufacture of refrigerated vans or trucks

BFSI Industry

- Reserve Bank of India has proposed to grant new banking licenses to private sector players including NBFC
- Public sector banks to get Rs 16,500 crores towards maintaining Tier-1 capital
- Banking facilities to villages with population in excess of 2000 by March 2012
- Agricultural debt waiver and debt relief scheme to be extended till 30 June 2010
- Increase in threshold limit to Rs.20,000 for deduction of tax from payment of insurance commission
- Amendment in valuation under service provided under management of ULIP Scheme

Pharmaceutical Industry

- Weighted deduction enhanced from 125% to 175% on payments to specified entities for use in scientific research programmes
- Changes in rate structure of various medical, surgical equipments levied at the time of import
- Concessional exemption from customs duty of spares for the maintenance of medical equipment stands withdrawn

Infrastructure Industry

- Increased allocation for Road and Railways Transport
- Allocation of Rs.48,000 crore to Bharat Nirman Programmes
- 1% interest subvention on housing loan up to INR 1 million extended to March 31, 2011
- A port facility to be set up at Sagar Island in the State of West Bengal
- To bring in certainty the tax liability, the definition of "Renting of Immovable Property Service" is being amended with retrospective effect from 1st June, 2007
- Extension of time limit for completion of pending project to 5 years from 4 years
- Relaxing norms for built up area of shop and commercial establishment in housing project to enable basic facility for their resident
- All services charged for prior to a building obtaining a completion certificate would now bear service tax.
- Rate of Excise duty increased on packaged cement

DIRECT TAX PROPOSALS

Direct Tax Code

- DTC to be proposed to be introduced from April 1, 2011

Corporate Taxation

- No change in corporate tax rates
- Reduction in surcharge for domestic companies from 10% to 7.5%
- MAT increased to 18% from existing 15%
- Threshold limit for getting the accounts audited:

Persons carrying on	Existing	Amended
Business	4,000,000	6,000,000
Profession	1,000,000	1,500,000

- Weighted Deduction for following research activities:

Activities	Existing	Amended
In-house research & Development	150%	200%
Payment for scientific research	125%	175%
Payment for research in social sciences or statistical research	Nil	125%

- Investment linked deduction extended to new two star and above hotels which start operation on or after April 1, 2010
- Relaxation of conditions for claiming deduction on approved housing projects

- The benefit of presumptive tax under section 44BB of the Act may not be available to many service providers in the E&P sector

Personal Taxation

- Tax slabs for individuals/ HUF / AOPs proposed to be revised as follows:

Current Slab [INR]	Proposed Slab [INR]	Rate of Tax
Upto 160,000	Upto 160,000	Nil
160,000 – 300,000	160,000 – 500,000	10%
300,000 – 500,000	500,000 – 800,000	20%
500,001 & above	800,001 & above	30%

- A two page form SARAL-II for individual tax returns to be notified
- The contribution to Central Government Health Scheme for self or family to qualify for deduction within overall ceiling limits
- Donations to Approved Research Associations to qualify for 100% deduction

Withholding Tax [TDS]

- Increase in threshold limits for TDS provisions on payments to residents
- Interest on delay in deposit of TDS proposed to be increased from 12% p.a. to 18% p.a. from July 1, 2010
- Deductor/ Collector of TDS/ TCS to continue to furnish TDS/TCS certificates even after March 31, 2010

Conversion into LLP

- Conversion of a private company or an unlisted public company into an LLP will not attract capital gains tax subject to fulfillment of conditions
- Total sales or turnover or gross receipts of the company do not exceed INR 6,000,000 in any of the immediate 3 preceding previous years
- Any unabsorbed business loss / depreciation allowance of the company converted into the LLP would be eligible for carry forward and set-off in hands of the successor LLP
- No carry forward for MAT credit
- The profits or gains on conversion and benefit of losses set off by LLP to be taxable for LLP if the stipulated conditions are not met

Other Proposed Amendments

- A computer generated Document Identification Number to be allotted by Tax Authorities for any documents or correspondences on or after July 1, 2011
- Definition of 'Charitable Purpose' is being amended

- Jurisdiction of Settlement Commission enlarged to entertain search cases, provided that additional income tax payable exceeds INR 5 million
- Transfer of unlisted shares of a company to a firm / company without consideration or for inadequate consideration would be taxable income in hands of the recipient

INDIRECT TAX PROPOSALS

GST

- GST to be proposed to be introduced from April 1, 2011
- Focus on strong IT infrastructure

Central Excise

- Rate of duty increased from 8% to 10% for non-petroleum goods
- Facility of quarterly payment extended to assesses availing exemption under a notification based on value of clearances. Effective from April 1, 2010

Method of Payment	Due Date
E – Payment	6th day of the month following the quarter
Any other case	5th day of the month following the quarter

For the last quarter of the financial year, 31st day of March will be considered as the due date

- Pre-Authentication of Central Excise Invoice is dispensed with
- Sending of jigs, fixtures, moulds and dies to a vendor for production of goods according to the specification of the principal manufacturer without reversal of credit permitted
- No penalty shall be imposed where duty along with interest has been paid before the issuance of a demand notice by the Department.
- Removal of computer and computer peripherals from the factory after use, the provisions has been amended to provide the computation of reversal of credit on the basis of accelerated depreciation as compared to other goods
- Benefit of availment of CENVAT credit on inputs and input service used in the manufacture of goods supplied under exemption to mega power projects
- Full CENVAT credit on capital goods in one installment in the tear of receipt of such goods
- Amnedments in the rates of abatement in some specified products
- Scope of Settlement Commission widened to include cases where no proper records have been maintained
- 'Clean energy Cess' proposed to be levied on coal, lignite and peat produced in India
- Excise duty on goods covered under Medicinal & Toilet Preparation Act reduced from 16% to 10%

- Exemption from Excise duty for following products:

  - Goods supplied to mega power project

  - Parts and components of battery chargers and hands-free head phones of mobile handsets

  - Supari other than scented supari

  - De – mentholised oil

  - Any intermediate or by product arising in the manufacture of menthol

  - Specified items intended to be used for cold storage, cold room, refrigerated vehicle for preservation, storage, transportation of apiary, horticulture, dairy, poultry, aquatic and marine produce

  - Specified goods required for initial setting up of solar power generation projects

- Exemption from Excise Duty withdrawn:

  - Micro processor for computers (other than mother board)

  - Floppy disc drive

  - Hard disc drive

  - Flash drive

  - CVD/ DVD

  - Blood glucose monitoring system

  - Products wholly made of quilted textile material

  - Specified medical equipments

- Increase in rate of excise duty for:

  - Tobacco

  - Cement

  - Motor Spirit

  - HSD

  - Plain gold jewellery manufactured by EOU and cleared by DTA units

- Decrease in rate of excise duty for:

  - Latex rubber thread

  - Cartons, boxes

  - Replaceable Kits

  - LED Lights

  - Quilted Textile Materials

  - Parts of umbrellas and sun umbrellas including panels

Customs

- Peek rate of Basic Customs Duty remains unchanged

- Effective duty at the time of import will increase due to increase in the CVD which is levied in lieu of excise duty

- Section 3 of the CTA has been amended so as to levy CVD on MRP basis for goods falling under Medicinal and Toilet Preparations (Excise Duty) Act

- Settlement Commission can admit cases where the goods were not included in the bill of entry

- Settlement Commission has been empowered to extend the time limit of nine months for disposal of application by another three months
- Additional projects are notified under heading 98.01 of Customs Tariff as "Project Imports"
- Relaxation in the conditions specified for the exemption of specified road construction machinery items to allow sale/ disposal of such machinery
- 'Clean Energy Cess' on coal produced will be levied on imported coal at rate of Rs.50 per tonne
- The limit of duty free import of samples in terms of notification no. 154/94- Cus dated 13-7-94 is being enhanced to Rs.3 lakhs p.a. from Rs.1 lakh p.a.
- Exemption from BCD for following products:

  - Security fibre, security threads
  - Bio/Compostable polymer or bio-plastic
  - Titanium Alloys
  - Special Grade Stainless Steel
  - Promotional Material
  - High Density Polyethylene
  - Battery Pack, Battery Charger, AC or DC motor and AC or DC motor controller imported for manufacture of all categories of electrical vehicles
- Increase in the rate of BCD for:

  - Crude Petroleum
  - Petrol & HSD
  - Other specified Petroleum Products
  - Serially numbered gold bars
  - Gold Coins
  - Other forms of gold
  - Silver
  - Platinum
  - Crude
- Decrease in the rate of BCD for:

  - Rhodium
  - Long Pepper
  - Asafoetida
- Electrical energy removed from SEZ to DTA or non-processing areas of SEZ would now attract duty of 16% ad valorem and Nil Special CVD under retrospective amendment w.e.f. June 26, 2009
- Concessional BCD of 5% on specified machinery for tea, coffee and rubber plantations has been extended upto March 31, 2011
- Condition of transfer of right to use packaged software for 'commercial exploitation' has been deleted in the notification providing exemption from payment of CVD
- Special CVD is exempted but concessional exemption for CVD is available for gold ore & concentrates for use in the manufacture of gold

Service Tax

- No change in the rate of Service Tax
- Eight new taxable services introduced, namely:

Section 65(105)	Taxable Service
zzzzn	Promotion, Marketing or Organising of Games of Chance (including lottery, bingo, lotto) Service
zzzzo	Health Service
zzzzp	Maintenance of Medical Records of Employees of a Business Entity
zzzzq	Promotion of a 'brand' of goods, services, events, business entity, etc. Service
zzzzr	Permitting Commercial use or Exploitation of any event Service
zzzzs	Electricity Exchange Service
zzzzt	Services of transferring temporarily or Permitting the use or Enjoyment of any Copyright except sub-clause (a) of clause (1) of section 13 of Indian Copyright Act, 1957
zzzzu	Special services provided by builder to the prospective buyers such as providing preferential location or external or internal development of complexes on extra charges

- Amendments in the scope of existing taxable service:

- Air Passenger Transport Service

Domestic and international journey in any class will be covered

- Auctioneer's Service

'Auction by government' means an auction of government property by any auctioneer

- Commercial Training or Coaching Service

The service provided should be against consideration whether there is profit motive or not. This is retrospectively amended from July 1, 2003

- Information Technology Software Service

To include even if service whether or not for use in the course of, or furtherance of, business or commerce

- Management of Investment under ULIP Service

The value of the taxable service for any year of the operation of policy shall be the actual amount charged by the insurer for the management of funds under ULIP or the maximum amount of fund management charges fixed by the IRDA whichever is higher

- **Sponsorship Service**

  Service will also include sponsorship pertaining to sports events

- **Renting of Immovable Property**

  Definition of taxable service has been amended to levy service tax on renting activity itself w.e.f. June 1, 2007 and to levy service tax on rent of vacant land provided such land is used for furtherance of business or commerce

• Exemption from Service Tax:

  - Transmission of electricity

  - Pre-packaged Information Technology software, with the license for right to its use, is being exempted from service tax, subject to specified conditions

  - Transportation of food grains and pulses by road exempted

  - Services provided by Indian news Agencies which are liable for service tax under the categories 'Online Information and Database Retrieval Service' and 'Business Auxiliary Service' exempted subject to specified conditions

  - 'Technical testing and analysis service' and 'Technical inspection and certification service': To exempt service provided by specified agencies in relation to seeds

• Withdrawal to existing amendments:

  General insurance service : Withdrawal of exemption granted to the Government of Rajasthan in relation to the Group Personal Accident Scheme provided to its employees

  - Exemption provided to 'Transport of Goods by Rail services' withdrawn with grant of abatement of 70% from value of taxable services. Exemption from service tax under this category to certain essential goods restored

• Amendments in criteria of service under Export of Service Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006:

Service	Existing	Amended
Chartered Accountant's Service	Performance Based	Recipient Based
Company Secretary's Service	Performance Based	Recipient Based
Cost Accountant's Service	Performance Based	Recipient Based
Mandap Keeper Service	Performance based	Immovabl e Property Based

Central Sales Tax

• CST rate against prescribed declaration form (Form 'C') continues to be 2%

• For assessing transactions of transfer of goods, tax authorities provided with the power of re-assessment and revision under specific circumstances

• Besides submitting Form F, additional responsibility cast upon the dealer to prove that the inter-state movement of goods was not by way of sale

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