TAX PROPOSALS IN THE UNION BUDGET 2012

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Changes in Income tax

- No Major Changes in slabs or rates
- But there are some changes with far reaching effects
- Some new Concepts introduced

CHANGE IN BASIC EXEMPTION LIMITS

Category	Existing Limit	New Limit
Individual (Male, age < 60)	1.80 Lakhs	2.00 Lakhs
Individual (Female – age < 60)	1.90 Lakhs	2.00 Lakhs
Senior Citizens (Individual 60<age<80	2.50 Lakhs	2.50 Lakhs
Super Seniors (Individual >80)	5.00 Lakhs	5.00 Lakhs

Changes in Rates – Individual – Male < 60 Years

Income in Rs. Lakhs	Existing Rate	New Rate	Max Savings in Tax Rs.
0 .00– 1.80	Nil	Nil	
1.80 – 2.00	10%	Nil	2,060.00
2.00 – 5.00	10%	10%	
5.00 – 8.00	20%	20%	
8.00 – 10.00	30%	20%	20,600.00
10.00 +	30%	30%	

Changes in Rates – Individual – Female < 60 Years

Income in Rs. Lakhs	Existing Rate	New Rate	Max Savings in Tax Rs.
0 .00– 1.90	Nil	Nil	
1.90 – 2.00	10%	Nil	1,030.00
2.00 – 5.00	10%	10%	
5.00 – 8.00	20%	20%	
8.00 – 10.00	30%	20%	20,600.00
10.00 +	30%	30%	

Changes in Rates – Senior Citizens– age >60 & <80 Years

Income in Rs. Lakhs	Existing Rate	New Rate	Max Savings in Tax Rs.
0 .00– 2.50	Nil	Nil	
2.50 – 5.00	10%	10%	
5.00 – 8.00	20%	20%	
8.00 – 10.00	30%	20%	20,600.00
10.00 +	30%	30%	

Changes in Rates – Super Seniors– < 80 Years

Income in Rs. Lakhs	Existing Rate	New Rate	Max Savings in Tax Rs.
0 .00– 5.00	Nil	Nil	
5.00 – 8.00	20%	20%	
8.00 – 10.00	30%	20%	20,600.00
10.00 +	30%	30%	

Corporate Taxation

No Change in Corporate Taxation Rates

Income Tax – 30%

MAT – 18.50%

Cess – 3%

Surcharge – 5% (if total income exceeds Rs. 1 Cr)

Special Benefit to Senior Citizens

- IF the assessee having age < 60 years is having NO business income, he need not pay advance tax.
- \- So he will be relieved from procedural compliances
- \- There will be no interest u/s 234 B and 234 C

OTHER BENEFITS TO INDIVIDUALS

- Interest upto Rs. 10,000/- from SAVINGS BANK account is exempted

- Payment towards PREVENTIVE MEDICAL CHECK UP – upto an amount of Rs. 5000/- is deductible u/s 80D – alongwith Mediclaim premiums - for assessee and his family

ENCOURAGING RETAIL INVESTMENT

- A new Scheme called 'Rajiv Gandhi Equity Investment Scheme' is introduced.
- An individual having total income less than Rs. 10 Lakhs can invest up to Rs. 50,000/- in the scheme
- A deduction of 50% of the investment will be given from the total income
- There will be a lock in period of 3 years for such investments
- Details of the Schemes are not available as of now

WEIGHTED DEDUCTION FOR CAPITAL EXPENDITURE – SEC 35D

- Deduction of 150% of the capital expenditure will be allowed for cold chain facilities, warehousing for agricultural produce, hospitals with at least 100 beds, affordable housing projects and fertilizers projects which commence operations after April 1, 2012.

- Businesses such as inland container depots, container freight stations, etc., commencing operations after April 1, 2012 will be eligible for a deduction of 100% of the capital expenditure.

- Deduction of 100% of capital expenditure offered to hotels will be available to even those assessees who have outsourced their hotel operations.

Other Weighted Deductions

- 150% weighted deduction for expenditure for agriculture extension projects
  - CBDT will notify the eligible projects
- 150% weighted deduction of ‘Skill Development Program”
  - CBDT will notify the eligible projects

Increase in Compulsory Audit Threshold

- Turnover limit for compulsory audit u/s 44AB increased
  - From Rs. 60 Lakhs to Rs. 1 Cr for business
  - From Rs. 15 Lakhs to Rs. 25 Lakhs for profession
- Consequently the limit of presumptive Taxation u/s 44AD is also increased to the above limits
  - This is not applicable to Professionals, Agency Business and Commission & Brokerage

Long Term Capital gain – Relief

- LTCG to an individual on sale of residential property
- Net SALE CONSIDERATION to be invested on a new start up company in SME in manufacturing sector
- Company utilises the amount for purchase of new machinery within a period of one year
- He should have at least 50% share in that company
- Shares of the company or Plant and Machinery can not be transferred within 5 years
- Applicable till 31.03.2017

Payments without TDS

- If an assessee pays an amount without TDS, effects are two
  - such expenditure are not deductible in his computation
  - He is liable to pay such tax with interest and penalty or otherwise he will be deemed as an assessee in default
- Now, if it can be proved that such payee has filed his ITR, included such income in his ITR and paid applicable taxes
  - The payer will not be deemed as assessee in default
  - He will be given the allowance of such expenditure

Now moving to some 'Not-So-Pleasant' provisions

New TDS Provisions

- 1% of TDS on sale of land (other than Agricultural land)
  - For Rs. 50 Lakhs or more in specified urban conglomerates
  - For Rs. 20 Lakhs in other places
  - Registration only after producing the proof of remittance of TDS
  - One page challan containing full details for payment
  - No TAN required
  - No TDS Return

New TDS Provisions

- 13 Urban Conglomerates have been specified
- Unfortunately no place in Kerala specified
- So any land transaction above Rs. 20.00 Lakh will be covered by this provision

New TCS Provisions

- 1% of TCS on purchase of Jewellery in CASH for more than Rs. 2 Lakhs
- Applicable even if the purchase is for personal purpose
- A measure to curb black money
- Have to wait and see how far it will be practiced in actual situation

TDS on Payment of Directors

- So far any remuneration payable to directors were liable for TDS as salary
- Now new proposal stipulates any other payment including commission to directors will be treated as 'Professional Charges' and 10% TDS is applicable

PENALTY FOR DELAY IN FILING TDS RETURN

- Current penalty is Rs. 100/- day for delay and no penalty of furnishing incorrect info like PAN etc.

- Proposed penalty
  - A fee of Rs. 200/- per day for delay in filing TDS return
  - A penalty ranging from Rs. 10,000 to Rs. 1 lakh for delay
  - A penalty ranging from Rs. 10,000 to Rs. 1 lakh for filing incorrect particulars

Premium to Sum Assured in Life Insurance Policies

- Presently, the premium paid in a year should be 20% or less of the sum assured , you will get benefit u/s 80C for insurance premium.
- Similarly, all receipts on account of such policy will be exempted
- Now it is proposed to change the provision so that if the premium is more than 10% of the sum assured, the benefit of 80C will not be available
- Moreover, any amount received from that policy will be taxable income

Measures to Curb Black Money

- TCS on cash purchase of Jewlellary
- Closely held private companies to establish the identity, source and credit worthiness of any resident person who contributes to the share capital (including share premium and share application money) – Sec 68
- All unexplained credits etc will be taxed at maximum rate

Measures to Curb Black Money

- Any premium on share capital collected by a Private company in excess of the Fair Value of Shares will be treated as income of the company

- Method of valuation to be prescribed

Measures to Curb Black Money

- Compulsory filing of return for those who owns assets (including financial assets) abroad or who is a signing authority of any account abroad
- Extended period for re-opening assessment – in case of persons having any assets outside India increased from 6 years to 16 years if there is income escaping assessment
- Penalty for undisclosed income – presently no penalty is leviable
  - If income admitted during search – 10%
  - If income declared in return filed after search – 20%
  - In other cases – 50%

Measures to Curb Black Money

- No Cash payment permitted for Donation in excess of Rs. 10,000/-

- Currently, there is no provision specifying the mode of payment of money.

- Sections 80G and 80GGA is amended that any payment exceeding a sum of Rs. 10,000 shall only be allowed as a deduction if such sum is paid by any mode other than cash.

Alternate Minimum Tax (AMT)

- Presently Companies are subject to MAT and LLP's are subject to AMT
- AMT will be extended to all assessees having total income in excess of Rs. 20 Lakhs who claims Chapter VI-A Deductions or Sec 10AA exemptions
- Mainly targeted at SEZ units and units claiming exemption u/s 80IA etc

Payment for computer software is royalty

- Income by way of royalty is deemed to be accruing or arising in India, even if paid outside India

- There was a lot decisions as to whether consideration for use of computer software is royalty or not.

- To put these doubts to rest, a retrospective amendment of Sec. 9 of the Act is proposed which clarifies that consideration for use or right to use of computer software is royalty.

Transfer pricing regulations to apply to domestic transactions

- Presently Transfer Pricing regulations are applicable only to international transactions.
- As far as domestic transactions are concerned, the assessing officer has power to disallow unreasonable expenditure incurred between related parties.
- However, no specific method to determine the reasonableness of expenditure or fair market value
- Now transfer pricing regulations have been extended to domestic transactions whereby the aggregate of such transactions exceeding Rs. 5.00 Cr will be subject to such transfer pricing regulations.

SERVICE TAX

Rate Change

- Rate of Service Tax increased from 10% to 12%. So the effective rate will be 12.36% instead of 10.30%

- This is for aligning with the GST

- New rates are applicable from April 1, 2012

Service Tax

- A Major Change in Service Tax
- Till now, only the specified (119) services were taxable
- Now onwards all Services other than in the negative list (17) and in the exempted list are taxable
- This will reduce the confusion and litigation

Negative List of Services

- 17 services are specified – Major items are:
  - Most of the services by Govt or local authority
  - Services by RBI
  - Services Relating to Agriculture
  - Trading of Goods
  - Manufacturing of Goods
  - Toll Charges
  - Selling of Space and Time for advertisement other than by Radio and TV
  - Entertainment Events/Amusement Facilities
  - Education up to Higher Secondary, Technical education, courses providing degree recognized by Indian law

Negative List Contd…

- Renting of residential dwellings for residential use
- Interest or discount earned by Banks and Financial institutions
- Transportation of passengers
  - By a stage carriage
  - By railway other than AC and First Class
  - Metro, mono rail, Tramway
  - Inland water ways
  - Public transport
  - Metered Cabs
- Transportation of goods
  - By road except GTA and Courier Agency
  - By an aircraft or vessel from outside India to first custom station in India
  - By inland waterways

Exempted Services

- 10 Exemption Notification instead of 88
- Major exempt services are:
  - Health Care
  - Charitable institutions (registered u/s 12A)
  - Individual advocates to individual clients
  - Training or coaching in arts, culture or sports
  - Construction of specific infrastructure such as road, bridge, tunnel, pipe line, port, airport, railways etc
  - Single residential unit otherwise as a part of a residential complex
  - Hotel accommodation with declared tariff less than Rs. 1000/-
  - Non-A/C restaurants without a liquor license
  - Pay and Park

Exempted Services Contd…

- Apartment owners association with monthly contribution less than Rs. 5000/-
- Copyright to Cinematographic films
- Services of Sports Persons to a recognised sports body
- Specified Sports sponsorships
- Services by a performing artist in classical art forms of music, dance or theater
- Transportation of Vegetables, fruits, egg, Milk, foodgrains etc

Declared Services

- In order to avoid ambiguity and mis-interpretation , some of the services are declared as taxable services
  - Renting of Immovable property
  - Construction of a complex or building or civil structure except when the entire sale consideration is received after the completion certificate is received
  - Development, customisation, implementation etc of Software
  - Service portion in Works Contract

Other changes

- Common Registration for Service tax and Central Excise
- Common , single page Return for ST and CenEx
- Tax payment frequency
  - Monthly – for those who paid Rs. 25 L or more in the previous year, new assessees other than Individuals and firms
  - Quarterly – for others
- Time limit for issue of invoice – increased from 14 days to 30 days

Other Changes

- Time limit for issue of Show Cause Notice increased from 1 year to 1.5 years

- Place of Supply Rules introduced and Taxable Territory defined. Hence services provided in the taxable territory will only be taxable

- However, if the service provider is not in the taxable territory, and the service is provided in the taxable territory, service receiver will be liable to pay tax by Reverse Charge

Changes to Works Contract

- Compounding rate increased from 4% to 4.8%
- Valuation Rules changes
  - Assessable value = Total Amount – Value of goods declared for VAT
  - If no such value is declared for VAT, actual value of goods can be reduced
  - If no such deduction made, then compulsory compounding
    - For original works – 40% will be value of service
    - For other works – 60%
    - For construction of complex or building for sale where any part of the consideration is received before completion of building – 25%

Changes in Abatement Rates

Service	Existing Taxable Portion	Proposed Taxable Portion
Restaurant	30%	40%
Outdoor Catering	50%	60%
Convention Centre	60%	70% with input credits on services and some of the goods
Pandal, Shamiana with Catering	70%	70% with input credits on services and some of the goods
Costal Shipping	75%	50%
Hotel Accommodation	50%	60% with credit on input services
Railways – goods	30%	30% with all credits
Railways – Passengers	New	30% with all credits

Instances where both the provider and receiver is liable to pay tax

- Applicable where the Service Provider is Individual, Firm or LLP and the Receiver is a Company
- Applicable only for 3 services as below

Service	Service Provider	Service Receiver
Hiring of Motor Vehicle -With abatement -Without abatement	 Nil 40%	 100% 60%
Supply of Manpower	25%	75%
Works Contract	50%	50%

Changes to Point of Taxation Rules

- As per the Point of taxation Rules introduced last year, the liability was fixed based on accrual basis instead of cash basis (receipt of amount)
- But there was exemption given for 8 services (mainly professionals)
- Now this has been extended to all individuals and Firms
  - having turnover up to Rs. 50 Lakhs
  - Provided PY turnover was below Rs. 50 Lakhs
  - They can pay service tax based on receipt of money

Other Important Points

- Vodafone Case nullified
  - Retrospective Amendment of Sec 9, definition of Capital Asset and definition of transfer
- General Anti Avoidance Rule (GAAR) specified
  - Any aggressive tax planning method can be classified as an 'Impermissible Avoidance Agreement'
  - In that case, the AO can disregard the arrangement and assess the income

THANK YOU !