

INTRODUCTION :

Hello friend !!!

Welcome to my world !!!

DO ASK ME ANY QUERRY

DO ASK ME FOR ANY SOFTWARE and lot of more u can share with me any

time, ,,,,

ALSO TELL UR FRIENDS ABOUT ME !!!!!

Regards

Aniruddha Rathi

Call / SMS me any time from any where at (+91) 9423575556

email id's

aniruddha.rathi@gmail.com

aniruddha.rathi@rediffmail.com

aniruddha.rathi@hotmail.com and

cacaca333@gmail.com

waiting 4ur replies and comments ...

thanx

dont 4gt to tel abt me to all of ur frnds

GO TO NEXT PAGE FOR THE AMENDMENTS IN DETAIL FOR AY 2010-11

DIRECT TAX

Tax rates

The most simplistic and overarching demand of reduction in corporate tax rates remained unfulfilled. However, the raising of the basic income-tax exemption limit by INR 10,000 (INR 15,000 for citizens of 65 years of age and above) and deletion of surcharge of 10 percent ensured that individual tax payers received marginal relief. The income slabs have otherwise been left unchanged. The new slab rates for individuals, Hindu Undivided Families, Associations of Persons, Bodies of Individuals and artificial juridical persons have been tabulated below:

Income in INR	Rate of tax (Percent)
Up to INR 160,000	NIL
INR 160,001 to INR 300,000	10
INR 300,001 to INR 500,000	20
Above INR 500,000	30

No surcharge is applicable to tax payers other than companies. Surcharge of 10 percent on domestic companies and 2.5 percent on foreign companies and education cess of 3 percent on tax and surcharge continue to apply.

Fringe Benefits Tax (“FBT”)

Recognizing that compliance with the FBT regime was cumbersome, the Finance Minister has proposed to abolish FBT. With this, the taxation of fringe benefits will revert back to the erstwhile regime of taxation as perquisites in the hands of the employees. Key proposals are:

- Specified securities and sweat equity shares allotted or transferred, directly or indirectly, by employers to employees will be taxed in the hands of the employees once they exercise the options. The value of the perquisite will be linked to the fair market value of the securities on the date of exercise, as against the fair market value at the time of vesting under the FBT regime thus delaying the levy of tax. The fair market value so considered for valuation will be taken as cost of acquisition in computing capital gains when the employee disposes off the security
- Any contribution by the employer to an approved superannuation fund in excess of INR 100,000 will also

be taxed as perquisite in the hands of the employees

- Valuation of other fringe benefits as perquisites will be prescribed in due course

Minimum Alternate Tax ("MAT")

MAT is a minimum tax imposed on Indian companies and foreign companies which have a Permanent Establishment in India. It is payable on the book profits if the income tax payable on tax profits is less than such prescribed minimum rate. With a view to broaden the tax base, the Finance Minister has increased the basic MAT rate from 10 percent to 15 percent. The effective tax rate for MAT will be 16.995 percent for Indian companies and 15.836 percent for foreign companies. However, credit for MAT paid can now be availed for 10 subsequent assessment years instead of 7 assessment years. The formula for computation of MAT which is based on book profits arrived at as per the provisions of the Companies Act, 1956 has been retrospectively altered to add back any provision for diminution in the value of assets included in the profit and loss account.

Commodities Transaction Tax ("CTT")

CTT, a tax on commodity derivative transactions on recognized commodity exchanges, introduced in the Finance Act 2008, will never see the light of day since the present Budget proposes to abolish CTT even before it is rendered operational.

Limited Liability Partnerships ("LLPs")

With the introduction of the Limited Liability Partnership Act, 2008 ("the LLP Act"), the taxing framework was an essential next step. Conceptually, LLPs could have been subjected to tax either at the entity level or by adopting an internationally accepted and well-understood structure of treating LLPs as tax pass-through entities (partners being liable to tax for the income accruing to the LLP). The Budget proposes to adopt the former by taxing LLPs along the lines of general partnerships, viz, at the entity level with shares of profit received by the partners from the LLP being exempt from income-tax in the hands of the partners. Other key features are:

- Every partner of the LLP will be jointly and severally responsible for payment of tax unless he proves that non-recovery cannot be attributed to any gross negligence, misfeasance or breach of any duty on his part.
- There is some ambiguity about taxation on conversion of general partnership and companies into LLP. As per the LLP Act, conversion is tantamount to liquidation of the general partnership / company. The Memorandum to the Budget states that conversion of a general partnership into a LLP will have no tax implications if the rights and obligations of the partners remain unchanged after conversion and there is no transfer of any asset or liability after conversion. However, there is no corresponding provision in the Finance Bill to this effect. Hence, whether such conversion will be tax neutral or not is presently unclear.
- The rate of tax applicable to LLPs would be 30 percent plus education cess. No surcharge would be applicable to LLPs. Accordingly, the effective rate of tax for LLPs would be 30.9 percent which is lower than the rate applicable to companies, viz, 33.99 percent. Further, Dividend Distribution Tax and MAT applicable to companies do not apply to LLPs, thus making LLPs a more attractive form of business presence in India. However, exchange controls will need to enable and facilitate foreign investment into LLPs.

Transfer Pricing

After nearly a decade of introduction of Transfer Pricing regulations in India, substantive changes have been brought about. While the basic framework has been kept intact, steps have been taken towards alignment with global best practices. Key proposals are:

- *Introduction of safe harbour rules (effective from April 1, 2009)*

The Central Board of Direct Taxes ("CBDT") has been granted the power to articulate safe harbour rules to address growing disputes on arm's length price between related enterprises. Though the rules have not yet been outlined, globally, the concept of safe harbour requires the Revenue to prescribe a class of taxpayers performing specified functions not to be audited in case their transfer price meets or exceeds a predetermined benchmark. While the introduction of safe harbour rules is a positive step, it still falls short of the expectation of introduction of advance pricing agreements. Till the time the CBDT announces detailed rules, the impact of this proposal cannot be assessed. From the heightened level of interaction between IT / ITeS sector players and the Government in recent times, it is expected that initially, safe harbour rules for the captives operating in this sector may be announced.

- *Adjustment in arm's length price (effective from October 1, 2009)*

In view of a long standing controversy on the application of 5 percent range, it is proposed that only if the taxpayer's price is within the prescribed range, no adjustment would be made. However, in case the price is outside the 5 percent range, adjustment can be made to the arm's length price without providing the benefit of the 5 percent.

- *Alternate dispute resolution mechanism*

Acknowledging that flow of foreign investment is extremely sensitive to prolonged uncertainty in tax related matters, it is proposed to set up a Dispute Resolution Panel ("DRP") for foreign companies and Indian residents to the extent of Transfer Pricing disputes.

The key features are:

- o DRP would consist of three Commissioners of Income-tax appointed by the CBDT
- o It will have wide ranging powers akin to that of a Court under the Code of Civil Procedure, 1908
- o Only taxpayers who are subject to a Transfer Pricing audit or a foreign company can approach the DRP
- o For such tax payers, the tax officer will be required to share a draft order with them before issuing the final order
- o On receipt of the draft order, the taxpayer will need to file its acceptance (with the tax officer) or objections (with the tax officer and the DRP) within 30 days
- o In case of acceptance or no objections being received within 30 days, the tax officer will need to issue the order within one month from the end of the relevant month
- o If an objection is filed, the DRP will be required to analyze the case and give directions to the tax officer for completion of the audit
- o DRP will be required to examine all the relevant facts and submissions. It can also call for

additional evidence and analysis and can confirm, reduce or even enhance the proposed adjustment

- o The directions issued by DRP will be binding on the tax officer
- o DRP will be required to provide an opportunity of being heard to either the taxpayer or the tax officer, whose interest is prejudiced by the directions being given
- o There is a time limit of 9 months (from the end of the month in which the draft order is forwarded to the taxpayer) for DRP to issue its directions
- o Appeal against such an order will lie only with the Income Tax Appellate Tribunal (and thereafter to the respective State level High Court and Supreme Court)

Constitution of the DRP is a positive step towards ensuring faster resolutions of Transfer Pricing and other international tax related disputes. The timelines hint at a clear intent to fast track such controversies and at the same time shield the foreign companies from the aggressive audits and high-pitched tax demands. While for Indian residents, Transfer Pricing disputes will follow the fast track structure, other disputes will continue to follow the normal appellate procedure. This will result in dual appeals for each year for the Indian tax payers.

The efficacy of this panel will depend on the mindset of the collegium and whether they are likely to be able to review the tax officer's draft order as an independent body or whether their conduct is likely to be pro-revenue. Further, the DRP is a dispute resolution body that can be approached post-filing of the tax return. There are several disputes at withholding tax stage (including withholding tax applicability on sale of offshore company shares with the underlying Indian businesses) which remain unaddressed and for which there does not seem to be an appropriate dispute resolution body yet.

Treaties with non-sovereign territories

Section 90 of the Income-tax Act ("the Act") empowers the Central Government to enter into Double Taxation Avoidance Agreement ("DTAA") with the Government of any other country outside India for granting double-taxation relief and facilitate exchange of information concerning avoidance or evasion of tax. It is proposed to expand the scope of this cooperation by empowering the Government to enter into a DTAA or a Tax Information Exchange Agreement with non-sovereign jurisdictions. The Government will notify such specified territories outside India.

Tax holidays and beneficial tax schemes

The following sunset clauses for exemptions / deductions available under the Act have been extended by one year:

- Sections 10A of the Act (Units in Software Technology Parks) and Section 10B (Export Oriented Undertakings) – extended to March 31, 2011. Further, in order to avoid protracted litigation, it has been proposed that the formula for calculation of exempt income of undertakings in Special Economic Zones under Section 10AA of the Act will be based on profits and turnover of an 'undertaking' as against an 'assessee'.
- Setting-up and commencing operations for being eligible to deduction under Section 80-IA(4)(iv) of the Act - generation and distribution of power, or transmission of power by laying a network, or renovation of existing network and transmission of power and Section 80-IA(4)(v) of the Act - reconstruction / revival of

power generating plants has been revised to March 31, 2011.

- Commencement of business of refining mineral oil and natural gas for being eligible for deduction under Section 80-IB(9) has been revised to March 31, 2012.

The term 'manufacture' is proposed to be defined with a view to reduce litigation on eligibility to various deductions. Further, in line with its thrust on infrastructure development, Budget proposes a 100 percent deduction for capital expenditure incurred by new facilities in specified businesses. Specified businesses include the setting up and operation of (a) cold chain facilities, (b) warehousing facilities for storage of agricultural produce and (c) cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities, which form part of such a network. Additionally, losses in such businesses can be set off / carried forward to be set off only against income from such specified businesses.

Taxation of gifts in kind

It is proposed to include receipts of immovable / moveable property by an individual / Hindu Undivided Family without consideration / without adequate consideration as 'Income from Other Sources'. Valuation will be based on stamp duty value for immovable property and fair market value for moveable property. Immoveable property is defined to mean land or building or both whereas moveable property is defined to mean shares and securities, jewelry, archaeological collections, drawings, paintings, sculptures and any art work.

Withholding taxes

The Budget contains the following key proposals regarding withholding taxes:

- Reduction and alignment of various withholding tax rates
- Introduction of time limit for declaring an assessee to be in default for failure to deduct / pay withholding tax
- Permanent Account Number to be necessarily quoted for withholding purposes, else an increased rate of 20 percent to apply

Other Budget proposals

- Change in definition of 'charitable purpose' to include preservation of environment, monuments and places of historic or artistic interest
- Weighted deduction for expenditure on scientific research extended to all manufacturing businesses
- Increase in threshold for applicability of advance tax to INR 10,000
- Increase in limit for deduction on account of remuneration paid to partners in partnerships
- Deduction for donations to recognized electoral trusts
- Incentives for individuals such as extension of deduction for education loans to all courses of study

including vocational courses and increase in the deduction for disabled assesseees

- Simplification of tax reporting especially return of income forms

INDIRECT TAX

Overall

- Median rates for customs, excise and service tax unchanged
- Rationalization in customs and excise duty rates for specified products
- Commitment to implement GST by April 1, 2010 reiterated – dual GST structure formally announced
- No reduction in CST rate

Customs

- Rationalization of duty rates to eliminate distortions in the duty structure of inputs used in the manufacture of LCD TV, mobile phones and set top boxes
- 'Value' for transfer of right to use packaged software exempted from countervailing duty. Importer required to be registered under service tax
- New mechanism for refund of duty paid on imported goods which have been found defective or off-spec. Currently, only method available was to re-export under claim of drawback

Excise

- 'Value' for transfer of right to use packaged software exempted from excise duty. Software company required to be registered under service tax
- Duty on goods manufactured at construction site for use in construction (at such site) exempted unconditionally
- Option to manufacturers of recorded smart cards, recorded proximity cards, etc to pay duty at 8 percent with input credit, or opt for exemption without credits
- Duty on motor vehicles of engine capacity exceeding 1999 cc and petrol driven transport vehicles reduced
- Payment under Rule 6(3) of CENVAT Credit Rules reduced from 10 percent to 5 percent where both taxable and non-taxable / exempt goods are manufactured without maintaining separate accounts

Service tax

- Service tax provisions extended to installations, structures and vessels in the entire Continental Shelf and

Exclusive Economic Zones of India

- Three new taxable services introduced:
 - Transport of (a) coastal goods and (b) goods through inland water including national waterways
 - Legal consultancy services ('business entity' to 'business entity' as defined)
 - Cosmetic surgery or plastic surgery services
- Amendment / modification in scope of existing services
 - Service tax on transport of goods by rail expanded to cover non-containerized freight as also services provided by Government railways
 - Exclusion under business auxiliary service in case of 'manufacture of goods' restricted to 'manufacture of excisable goods'; to impact job work for non-excisable goods such as alcohol
 - Term 'acquiring' substituted with the term 'providing' retrospectively with respect to services involving transfer of right to use IT Software; clarificatory in nature
 - Sub-brokers to be excluded from the purview of service tax by way of exclusion from the definition of stock brokers
- Key exemptions
 - Taxable service provided by a scheduled bank to another scheduled bank in relation to inter-bank purchase and sale of foreign currency
 - Upfront exemption to exporters of goods (as service recipients) in relation to transport of goods by road services and foreign commission agent subject to specified conditions.
 - Refund mechanism continues with respect to services earlier notified and extended to terminal handling charges – procedure simplified
- Other key amendments
 - Central Government vested with power to make rules with respect to the date for determination of rate of service tax and the place of provision of taxable service
 - Works Contract Composition Rules amended to include the value of all goods supplied and services provided in the execution of the works contract

Payment under Rule 6(3) of CENVAT Credit Rules reduced from 8 percent to 6 percent where both taxable and non-taxable / exempt services are provided without maintaining separate accounts

Conclusion

The build up to Budget 2009 had resulted in heightened expectations, from all segments of the economy, and therefore despite the several initiatives and proposals there was an expression of disappointment, especially from the capital markets. The Finance Minister too had recognized the challenge in addressing all of the needs in the span of a single budget. Nevertheless, the process for simplification of the tax framework and a renewed effort to deliver alternate dispute resolution mechanism has been set into motion, and it remains to be seen what structural changes emerge from the promised new direct tax code over the next few months.