

Recent Amendments in Direct Taxes for A.Y. 2010-11

- Basic exemption limit for individual and women has been increased by Rs 10,000. New tax rates are as follows:

In case of individual not being a women

Upto Rs. 1,60,000	Nil
Rs. 1,60,001 to Rs. 3,00,000	10%
Rs. 3,00,001 to Rs. 5,00,000	20%
Rs. 5,00,000 and above	30%

In case of women not being senior citizen

Upto Rs. 1,90,000	Nil
Rs. 1,90,001 to Rs. 3,00,000	10%
Rs. 3,00,001 to Rs. 5,00,000	20%
Rs. 5,00,000 and above	30%

For senior citizen

Upto Rs. 2,40,000	Nil
Rs. 2,40,001 to Rs. 3,00,000	10%
Rs. 3,00,001 to Rs. 5,00,000	20%
Rs. 5,00,000 and above	30%

- No surcharge on the income above Rs 10,00,000 in case of individuals.
- No changes made in the Tax rates of companies/firms/local authorities/ co-operative societies.
- Fringe Benefit Tax on the value of certain fringe benefits provided by employers to their employees to be abolished. It is proposed to insert a new section 115WM to abolish the fringe benefit tax. Consequently, it is also proposed to restore the taxation of the fringe benefits as perquisites in the hands of the employees.
- Section 115 JB Minimum Alternate Tax (MAT) to be increased to 15 per cent of book profits from 10 per cent. These amendments will take effect from 1st April, 2010.
- Commodity Transaction Tax (CTT) to be abolished. These amendments will take effect from 1st April, 2009.
- Scope of presumptive taxation to be extended to all small businesses with a turnover upto Rs. 40 lakh. All such taxpayers to have option to declare their income from business at the rate of 8 percent of their turnover and simultaneously enjoy exemption from the compliance burden of maintaining books of accounts. As a procedural simplification, they are also to be exempted from advance tax and allowed to pay their entire tax liability from business at the time of filing their return. This new scheme to come into effect from the financial year 2010-11.
- Deduction under section 80-DD in respect of maintenance, including medical treatment, of a dependent who is a person with severe disability being raised from the present limit of Rs.75,000 to Rs.1 lakh. This amendment will take effect from 1st day of April, 2010.
- Deduction under section 80E of the Income-tax Act allowed in respect of interest on loans taken for pursuing higher education in specified fields of study to be extended to cover all fields of study, including vocational studies, pursued after completion of schooling. This amendment will take effect from 1st day of April, 2010.
- The proposed amendment will take effect from the 1st April, 2009. Accordingly, advance-tax for the financial year 2009-2010 would be payable only if the advance tax liability is Rs. 10,000/- or more.
- It is proposed to raise the threshold limit for payment of wealth tax from fifteen lakh rupees to thirty lakh rupees. The proposed amendment will apply for the valuation of net wealth as on 31st March, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years.
- Sec 40A (3). Given the special circumstances of transport operators for incurring expenditure on long haul journeys, it is proposed to raise the limit of payment to such transport operators otherwise than by an account payee cheque or account payee bank draft to Rs 35,000/- from the existing limit of Rs 20,000/-. The proposed amendment will apply to transactions effected on or after the 1st October, 2009.

- Sec 10(23C) – Income of educational institutions
⇒ Time limits for an application for seeking exemption extend to the 30th day of September in the succeeding financial year.
- Under the existing provisions of the Income-tax Act, the payment of salary, bonus, commission or remuneration (hereinafter referred to as “remuneration”) to a working partner of a partnership firm is allowed as deduction if it is authorized by the partnership deed and subject to the overall ceiling of monetary limits prescribed under sub-clause (v) of clause (b) of section 40. It is proposed to make upward revision of the existing limits of the remuneration. It is also proposed to prescribe uniform limits for both professional and non professional firms for simplicity and administrative ease. The revised limits are proposed to be as under:

(a) On the first Rs. 3,00,000 of the book-profit or in case of a loss	Rs. 1,50,000 or at the rate of 90 per cent of the book-profit, whichever is more;
(b) On the balance of the book-profit	at the rate of 60 per cent;

The proposed amendment will take effect from 1st April, 2010.

- Scope of provisions relating to weighted deduction of 150% on expenditure incurred on in-house R&D to all manufacturing businesses being extended except for a small negative list. The proposed amendment will take effect from 1st April, 2010.
- Anonymous Donations w.e.f A.Y. 2007-08, any anonymous donation referred in section 115BBC, on which tax is payable at 30% (SC+EC). Now, w.e.f. 1st April, 2010, wholly religious entities are outside the purview of taxation of anonymous donations. Partly religious and partly charitable entities have also been exempted from the taxation of anonymous donations. To mitigate the practical difficulties faced by charitable organizations, anonymous donations received by charitable organizations to the extent of 5 percent of their total income or a sum of Rs.1 lakh, whichever is higher, not to be taxed.
- With a view to reforming the system of funding of political parties it is proposed to amend section 80GGB and section 80GGC of the Income-tax Act, 1961 to provide that donations to electoral trusts by companies any persons shall be allowed as a 100 percent deduction in the computation of the income of the donor.
- Under the existing provisions of section 44AE, a presumptive scheme is available to assessee engaged in business of plying, hiring or leasing goods carriages. The scheme applies to an assessee, who owns not more than 10 goods carriages at any time during the previous year. It is proposed to enhance the presumed income per vehicle for the owners of–
 - (i) Heavy goods vehicle from Rs. 3,500 to Rs.5,000/- per month; and
 - (ii) Other than heavy goods vehicles from Rs. 3,150 to Rs.4,500/- per month.
- By inserting new section 35AD businesses to be incentivised by providing investment linked tax exemptions rather than profit linked exemptions. Investment linked tax incentives to be provided, to begin with, to the businesses of setting up and operating ‘cold chain’, warehousing facilities for storing agricultural produce and the business of laying and operating cross country natural gas or crude or petroleum oil pipeline network for distribution on common carrier principle. Under this method, all capital expenditure, other than expenditure on land, goodwill and financial instruments to be fully allowable as deduction.
- Under section 132(1) of income tax act empowers income tax authorities specified to conduct search and seizure, now r.e.f 1st Oct 1998 includes additional director and additional commissioner as an authorized officer.
- Under section 80CCD of Income Tax Act, 1961, New Pension System (NPS) to continue to be subjected to the Exempt-Exempt- Taxed (EET) method of tax treatment of savings. Income of the NPS Trust to be exempted from income tax and any dividend paid to this Trust from Dividend Distribution Tax. All purchase and sale of equity shares and derivatives by the NPS Trust also to be exempt from the Securities Transaction Tax. Self employed persons to be enabled to participate in the NPS and to avail of the tax benefits available thereto.
- Section 56 of the Income-tax Act to provide that the value of any property received without consideration or for inadequate consideration will also be included in the computation of total income of the recipient. Such properties will include immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art.
- It is proposed to incorporate the taxation scheme of LLPs in the Income Tax Act on the same lines as the taxation scheme currently prevalent for general partnerships, i.e. taxation in the hands of the entity and

exemption from tax in the hands of its partners. A “limited liability partnership” and a general partnership will be accorded the same tax treatment.

- Under section 194 I following changes are as follows:

<i>Nature of Payment (194-I)</i>	<i>Existing rate</i>	<i>Proposed rate* (w.e.f. 1-10-2009)</i>
Rent —		
a. rent of plant, machinery or equipment	10%	2%
b. rent of land, building or furniture to an individual and Hindu undivided family	15%	10%
c. rent of land, building or furniture to a person other than an individual or Hindu undivided family	20%	10%

** The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1.04.2010.*

- Under the existing provisions of section 194C of the Income-tax Act, TDS at the rate of 2% is deducted on payment for a contract. However, in the case of a sub-contract, TDS is deducted at the rate of 1%. Further, in the case of payment for an advertising contract, TDS is required to be deducted at the rate of 1%.
- In order to reduce the scope for disputes regarding classification of contract as sub contract, it is proposed to specify the same rate of TDS for payments to both contractors as well as sub-contractors. To rationalize the TDS rates and to remove multiple classifications it is also proposed to provide same rate of TDS in the case of payment for advertising contracts. To avoid hardship to small contractors/sub-contractors most of whom are organized as individuals/HUFs, it is proposed to prescribe following rates of TDS:
 - (a) 1% where payment for a contract are to individuals/HUF
 - (b) 2% where payment for a contract are to any other entity.

<i>Nature of Payment (194C)</i>	<i>Existing Rate</i>	<i>Proposed rate** (w.e.f. 1-10-2009)</i>
Payment to —		
a. Individual/HUF contractor	2%	1%
b. Other than individual/HUF contractor	2%	2%
c. Individual/HUF sub-contractor	1%	1%
d. Other than individual/HUF sub-contractor	1%	2%
e. Individual/HUF contractor/sub-contractor for advertising	1%	1%
f. Other than individual/HUF contractor/ sub-contractor for advertising	1%	2%
g. Sub-contractor in transport business	1%	nil*
h. Contractor in transport business	2%	nil*

** 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 upto 31.3.2010.*

*** The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1.04.2010.*

- In order to strengthen the PAN mechanism, it is proposed to make amendments in the Income Tax Act to provide that any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates:
 - (i) the rate prescribed in the Act;
 - (ii) at the rate in force i.e., the rate mentioned in the Finance Act; or
 - (iii) at the rate of 20 per cent.

TDS would be deductible at the above-mentioned rates will also apply in cases where the taxpayer files a declaration in form 15G or 15H (under section 197A) but does not provide his PAN. Further, no certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant. This amendment will take effect from 1st April, 2010.

- The Income-tax department is in the process of setting up a Centralized Processing Centre (CPC) at Bengaluru for centralized processing of Income-tax and Fringe benefits tax returns.

Source: Finance (No. 2) Bill 2009

Compiled By:

CA Chetan Vyas

Chirag Mehta