

# FINAL COURSE

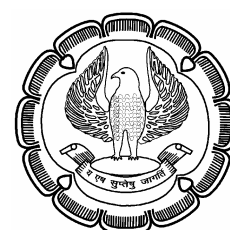
## **SUPPLEMENTARY STUDY PAPER - 2009**

DIRECT TAXES AND INDIRECT TAXES  
(Existing Final Course)

DIRECT TAX LAWS AND INDIRECT TAX LAWS  
(New Final Course)

[Covers amendments made by the Finance (No.2) Act, 2009 and Important Circulars/Notifications issued between 1<sup>st</sup> May 2008 and 30<sup>th</sup> April 2009 and budget notifications]

(Relevant for students appearing for May, 2010 and November, 2010 examinations)



BOARD OF STUDIES  
THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA

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Website : [www.icaai.org](http://www.icaai.org)

Department/Committee : Board of Studies

E-mail : [bosnoida@icaai.org](mailto:bosnoida@icaai.org)

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## FOREWORD

Direct Tax Laws and Indirect Tax Laws are among the extremely dynamic subjects of the chartered accountancy course. The level of knowledge prescribed at the final level for the subjects is 'expert knowledge' and 'advanced knowledge' for the existing and new course, respectively. For attaining such a level of knowledge, the students have not only to be thorough with the basic provisions of the relevant laws, but also have to constantly update their knowledge regarding statutory developments.

The Board of Studies brings out the annual Supplementary Study Paper to help the students to update their knowledge relating to recent statutory developments in the field of direct and indirect tax laws made by the Annual Finance Acts, Notifications/Circulars etc.

I compliment the Board of Studies for its good work in bringing out this publication, which would help the students to update their knowledge regarding the latest statutory developments. I am sure that this publication will be of great use to the students in preparing for their examination.



Date: October, 2009  
Place: New Delhi.

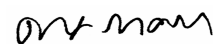
CA. Uttam Prakash Agarwal  
President

## PREFACE

The Board of Studies is engaged in the task of providing quality study materials and other inputs to enable the students to prepare for their examinations. One of the important inputs of the Board on taxation is the supplementary study paper in direct and indirect tax laws to be used by the final students. The supplementary study papers are annual publications and contain a discussion of the amendments made by the Annual Finance Acts and Notifications/Circulars in income-tax, wealth-tax, excise, customs and service tax. They are very important to the students for updating their knowledge regarding the latest statutory developments in the respective areas mentioned above. A lot of emphasis is being placed on these latest amendments in the final examinations.

The faculty of the Board of Studies have incorporated in this Supplementary Study Paper-2009, the amendments made by the Finance (No.2) Act, 2009 and important Notifications/Circulars issued between 1<sup>st</sup> May 2008 and 30<sup>th</sup> April, 2009 and budget notifications. I am happy to note that this Supplementary Study Paper has many student-friendly features like presentation of the amendments point-wise in a simplified and lucid manner, supporting the theory with examples wherever possible, giving 'amendments at a glance' etc. These features will help the students to understand and grasp the essence of the new amendments in an easy and methodical manner.

It may be noted that this supplementary study paper would be relevant for both the existing final course and the new final course. I appreciate the earnest and sincere efforts taken by CA. Priya Subramanian (Direct Taxes) & CA. Shefali Jain (Indirect Taxes), Faculty, Board of Studies in bringing out this valuable publication. I am sure that, as in the past, this Supplementary Study Paper would be highly useful to the students preparing for final examinations.



CA. Jaydeep Narendra Shah  
Chairman  
Board of Studies

October, 2009.  
New Delhi.

## DIRECT TAXES / DIRECT TAX LAWS

### AMENDMENTS AT A GLANCE – FINANCE (No.2) ACT, 2009

| S.No. | Particulars                                                                                                                                                                                                                                 | Section                             |
|-------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
| I     | INCOME-TAX ACT, 1961                                                                                                                                                                                                                        |                                     |
| 1.    | A. Rates of tax                                                                                                                                                                                                                             |                                     |
|       | B. Basic Concepts                                                                                                                                                                                                                           |                                     |
| 2.    | Scope of definition of charitable purpose expanded                                                                                                                                                                                          | 2(15)                               |
| 3.    | Definition of the term “manufacture” incorporated in the Act                                                                                                                                                                                | 2(29BA)                             |
| 4.    | Zero Coupon Bonds to include bonds issued by scheduled banks also                                                                                                                                                                           | 2(48), 36(1)(iiiia) & 194A(3)       |
|       | C. Incomes which do not form part of total income                                                                                                                                                                                           |                                     |
| 5.    | Denial of double benefit in respect of VRS compensation                                                                                                                                                                                     | 10(10C) & 89                        |
| 6.    | Extension of time limit for filing application for tax exemption                                                                                                                                                                            | 10(23C)                             |
| 7.    | Exemption under section 10(23D) to be available to mutual funds set up by “other public sector banks” also                                                                                                                                  | 10(23D)                             |
| 8.    | Exemption of income received by any person on behalf of NPS Trust                                                                                                                                                                           | 10(44), 115-O & 197A                |
| 9.    | Sunset clause for deductions under sections 10A and 10B to be deferred by one more year                                                                                                                                                     | 10A & 10B                           |
| 10.   | Exempted profits in the case of units in Special Economic Zones (SEZs) to be computed as a percentage of total turnover of the business carried on by the undertaking and not the total turnover of the business carried on by the assessee | 10AA                                |
| 11.   | Exemption for voluntary contributions received by electoral trusts                                                                                                                                                                          | 13B, 2(22AAA), 2(24), 80GGB & 80GGC |
| 12.   | Exemption limit for taxation of anonymous donations                                                                                                                                                                                         | 115BBC                              |
|       | D. Salaries                                                                                                                                                                                                                                 |                                     |
| 13.   | Certain fringe benefits to be taxed as perquisites in the hands of employees                                                                                                                                                                | 17(2), 49(2AA) & 115WM              |

#### E. Profits and gains of business or profession

- |     |                                                                                                                                                           |                                |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| 14. | Definition of “block of assets” as per section 2(11) to apply for all purposes of the Income-tax Act                                                      | 32(1)                          |
| 15. | Scope of benefit of weighted deduction of 150% for in-house research and development expanded                                                             | 35(2AB)                        |
| 16. | Introduction of “investment-linked tax incentives” for specified businesses                                                                               | 35AD, 28, 43, 50B, 73A & 80-IA |
| 17. | Withdrawal of commodities transaction tax                                                                                                                 | 36(1)(xvi)                     |
| 18. | Scope of deduction under section 36(1)(viii) expanded to include business of providing long-term finance for development of housing in India              | 36(1)(viii)                    |
| 19. | Increase in limits for deductibility of remuneration paid to partners by a firm                                                                           | 40(b)(v)                       |
| 20. | Increase in limit for attracting disallowance under section 40A(3)/(3A) from Rs.20,000 to Rs.35,000 for payments to transport operators                   | 40A(3)/(3A)                    |
| 21. | Increase in presumptive income for transport operators                                                                                                    | 44AE                           |
| 22. | Increase in scope of coverage of presumptive tax provisions                                                                                               | 44AD, 44AA, 44AB               |
| 23. | Full depreciation to be deducted to arrive at the written down value under section 43(6) in cases of composite income covered under Rules 7A, 7B & 8 also | 43(6)                          |
| 24. | Taxation of investment income/loss of non-life insurance business [Rule 5 of the First Schedule to the Income-tax Act]                                    |                                |

#### F. Capital Gains

- |     |                                                                                                       |     |
|-----|-------------------------------------------------------------------------------------------------------|-----|
| 25. | Transfer of land and/or building through “power of attorney” to attract the provisions of section 50C | 50C |
|-----|-------------------------------------------------------------------------------------------------------|-----|

#### G. Income from Other Sources

- |     |                                                                                                                                                           |                           |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|
| 26. | Transfer of movable/immovable property without consideration or for inadequate consideration to be taxed in the hands of the recipient                    | 56(2)(vii), 2(24) & 49(4) |
| 27. | Interest received on compensation/enhanced compensation deemed to be income in the year of receipt and taxable under the head “Income from Other Sources” | 56(2)(viii), 57 & 145A    |

#### H. Deductions from Gross Total Income

|     |                                                                                                                                                                                                                                        |            |
|-----|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------|
| 28. | Certain exemptions and profit-linked deductions in Chapter VI-A to be allowed only if claimed in the return and to be restricted to the profits and gains of such undertaking/unit/enterprise or eligible business, as the case may be | 80A        |
| 29. | Deduction in respect of contribution to NPS extended to self-employed individuals also                                                                                                                                                 | 80CCD      |
| 30. | Increase in deduction for a person with severe disability and for maintenance including medical treatment of a dependent with severe disability                                                                                        | 80DD & 80U |
| 31. | Expansion of scope of section 80E to cover all fields of study after Class XII, including vocational study, for the purpose of interest deduction in respect of loan taken for pursuing such courses                                   | 80E        |
| 32. | One-time approval for institutions and funds for the purpose of recognition under section 80G                                                                                                                                          | 80G        |
| 33. | Extension of sunset clause for tax holiday under section 80-IA for power-sector undertakings and industrial parks                                                                                                                      | 80-IA      |
| 34. | Tax holiday under section 80-IA not available in respect of works contract                                                                                                                                                             | 80-IA      |
| 35. | Extension of time limit for refineries in the private sector to begin refining of mineral oil and expansion of scope of tax holiday under section 80-IB(9)                                                                             | 80-IB(9)   |
| 36. | All blocks licensed under a single contract to be treated as a single "undertaking"                                                                                                                                                    | 80-IB(9)   |
| 37. | Further conditions to be satisfied by an undertaking developing and building housing projects for claiming benefit of deduction under section 80-IB(10)                                                                                | 80-IB(10)  |
| 38. | Deduction under section 80-IB extended to an undertaking deriving profit from the business of processing, preservation and packaging of meat and meat products or poultry or marine or dairy products                                  | 80-IB(11A) |

#### I. Double Taxation Relief and Transfer Pricing

|     |                                                                                               |    |
|-----|-----------------------------------------------------------------------------------------------|----|
| 39. | Central Government empowered to enter into agreement with specified non-sovereign territories | 90 |
|-----|-----------------------------------------------------------------------------------------------|----|

|     |                                                                                                                                                                  |                                        |
|-----|------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------|
| 40. | No adjustment required if the variation between arm's length price and transfer price is within 5% of transfer price                                             | 92C(2)                                 |
| 41. | Safe harbour rules to be introduced for determination of arm's length price in case of international transactions                                                | 92CB                                   |
|     | J. Assessment of various entities                                                                                                                                |                                        |
| 42. | Tax treatment for Limited Liability Partnerships (LLPs)                                                                                                          | 2(23), 140 & 167C                      |
| 43. | Increase in rate of MAT as well as its scope of coverage                                                                                                         | 115JB                                  |
| 44. | Provision for diminution in the value of asset to be added back for computation of book profit                                                                   | 115JB                                  |
| 45. | Increase in period for set-off of credit in respect of MAT paid under section 115JB                                                                              | 115JAA                                 |
|     | K. Income-tax Authorities                                                                                                                                        |                                        |
| 46. | Power of Joint Director, Joint Commissioner, Additional Director & Additional Commissioner to issue warrant of authorization                                     | 132 & 132A                             |
|     | L. Assessment Procedure                                                                                                                                          |                                        |
| 47. | Time limit extended for issue of notification for relaxation, modification or adaptation of any provision of law to facilitate centralized processing of returns | 143(1B)                                |
| 48. | Provision for constitution of alternate dispute resolution mechanism                                                                                             | 144C, 131, 246A & 253                  |
| 49. | Assessing Officer empowered to assess or reassess income which comes to his notice subsequently though he has not recorded reasons for the same                  | 147                                    |
|     | M. Collection and recovery of tax                                                                                                                                |                                        |
| 50. | Change in TDS rates on payments to contractors and sub-contractors and rental payments                                                                           | 194C & 194-I                           |
| 51. | Definition of "work" under section 194C amended                                                                                                                  | 194C                                   |
| 52. | Periodicity of filing TDS/TCS statements to be prescribed by the Government                                                                                      | 200, 206C, 139A, 201, 203A, 206A, 272A |
| 53. | Correction of arithmetic mistakes and adjustment of incorrect claim during computerized processing of TDS statements                                             | 200A                                   |

|     |                                                                                                                                                     |              |
|-----|-----------------------------------------------------------------------------------------------------------------------------------------------------|--------------|
| 54. | Time limit for passing of orders under section 201(1) holding a person to be an assessee in default                                                 | 201(3) & (4) |
| 55. | Mandatory requirement of furnishing PAN in all TDS statements, bills, vouchers and correspondence between deductor and deductee                     | 206AA        |
| 56. | Advance tax payable only if advance tax liability is Rs.10,000 or more                                                                              | 208          |
|     | N. Penalties                                                                                                                                        |              |
| 57. | Scope of levy of penalty under Explanation 5A to section 271(1) expanded                                                                            | 271(1)       |
|     | O. Miscellaneous provisions                                                                                                                         |              |
| 58. | Exclusion of period of stay of proceedings of assessment/reassessment while computing the period of validity of the order of provisional attachment | 281B         |
| 59. | Introduction of Document Identification Number and facility for electronic communication                                                            | 282B & 282   |
| 60. | Authority empowered to grant an approval under the Income-tax Act deemed to have power to withdraw the approval granted                             | 293C         |
| II. | WEALTH-TAX ACT, 1957                                                                                                                                |              |
| 61. | Wealth-tax exemption limit raised                                                                                                                   | 3            |
| 62. | Central Government empowered to enter into agreement with specified non-sovereign territories                                                       | 44A          |

## INDIRECT TAXES / INDIRECT TAX LAWS

### AMENDMENTS AT A GLANCE – FINANCE (No.2) ACT, 2009

| S.No. | Particulars                                                                                                                                      | Section                 |
|-------|--------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|
| I.    | EXCISE                                                                                                                                           |                         |
| A.    | Central Excise Act, 1944                                                                                                                         |                         |
| 1.    | Certain types of offences and circumstances excluded from the purview of the compounding provisions                                              | 9A(2)                   |
| 2.    | Chartered Accountants can also be nominated for conducting the valuation audit                                                                   | 14A                     |
| 3.    | Chartered Accountants can also be nominated for conducting the CENVAT audit                                                                      | 14AA                    |
| 4.    | Definition of “authority” substituted by a new definition                                                                                        | 23A(e)                  |
| 5.    | High Court empowered to condone the delay in filing the appeal                                                                                   | 35G                     |
| 6.    | High Court empowered to condone the delay in filing the reference application and memorandum of cross objections                                 | 35H                     |
| 7.    | Central Government empowered to make rules regarding manner of compounding                                                                       | 37(2)(id)               |
| B.    | Central Excise Tariff Act, 1985                                                                                                                  |                         |
| 1.    | Excise duty rate - Concessional excise duty rate of 4% increased to 8% with certain exceptions                                                   |                         |
| 2.    | Process of adding or mixing certain ingredients to betel nut in any form would amount to manufacture                                             |                         |
| II.   | CUSTOMS                                                                                                                                          |                         |
| A.    | Customs Act, 1962                                                                                                                                |                         |
| 1.    | Refund of import duty in certain cases                                                                                                           | New section 26A         |
| 2.    | Authority for Advance Ruling under Income Tax Act, 1962 may also be notified by the Central Government to act as Authority under the customs law | Section 28F(2A) to (2D) |
| 3.    | High Court empowered to condone the delay in filing the appeal                                                                                   | 130                     |

|      |                                                                                                                                                                                                                                                                           |                                |
|------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------|
| 4.   | High Court empowered to condone the delay in filing the reference application and memorandum of cross objections                                                                                                                                                          | 130A                           |
| 5.   | Certain types of offences and circumstances excluded from the purview of the compounding provisions                                                                                                                                                                       | 137(3)                         |
| 6.   | Central Government empowered to make rules regarding manner of compounding                                                                                                                                                                                                | 156(2)(h)                      |
| 7.   | Clause (ai) and (aii) inserted in section 157(2)                                                                                                                                                                                                                          | 157(2)(ai) and (aii)           |
| B.   | Customs Tariff Act, 1975                                                                                                                                                                                                                                                  |                                |
| 1.   | Additional duty of customs                                                                                                                                                                                                                                                | Second proviso to section 3(2) |
| 2.   | Machinery provisions of the Customs Act, 1962 made applicable to following duties imposed under the Customs Tariff Act, 1975:-                                                                                                                                            |                                |
|      | (a) Safeguard duty                                                                                                                                                                                                                                                        | 8B(4A)                         |
|      | (b) Specific Safeguard duty on imports from China                                                                                                                                                                                                                         | 8C(5A)                         |
|      | (c) Countervailing duty on subsidized articles                                                                                                                                                                                                                            | 9(7A)                          |
|      | (d) Anti-Dumping duty                                                                                                                                                                                                                                                     | 9A(8)                          |
| 3.   | Section 9A amended - Anti-Dumping Duty                                                                                                                                                                                                                                    | 9A(1) and 9A(6A)               |
| 4.   | Custom duty rate – No change in overall rate structure                                                                                                                                                                                                                    |                                |
| III. | SERVICE TAX                                                                                                                                                                                                                                                               |                                |
|      | Chapter V and VA of the Finance Act, 1994                                                                                                                                                                                                                                 |                                |
| 1.   | 3 new services brought under the service tax net                                                                                                                                                                                                                          | 65                             |
|      | A. Service provided in relation to transport of coastal goods and goods transported through inland water including National Waterways.                                                                                                                                    |                                |
|      | B. Service provided in relation to cosmetic surgery or plastic surgery other than the surgery undertaken to restore or reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, degenerative diseases, injury or trauma. |                                |

|    |                                                                                                                                                            |        |
|----|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------|
|    | C. Service provided in relation to advice, consultancy or assistance in any branch of law                                                                  |        |
| 2. | Scope of existing services amended                                                                                                                         | 65     |
|    | (i) Business auxiliary services                                                                                                                            |        |
|    | (ii) Stock broker services                                                                                                                                 |        |
|    | (iii) Information technology software services                                                                                                             |        |
|    | (iv) Transport of goods in containers by rail services                                                                                                     |        |
| 3. | Revision of orders by the Commissioner abolished                                                                                                           | 84     |
| 4. | Appeal to Appellate Tribunal under section 86 cannot be filed against the order passed by Commissioner of Central Excise under section 84                  | 86     |
| 5. | Central Government empowered to frame rules in relation to the date for determination of rate of service tax and the place of provision of taxable service | 94(2)  |
| 6. | Central Government empowered to remove difficulty by making an order                                                                                       | 95(1F) |
| 7. | Amendment in the definition of "authority"                                                                                                                 | 96A(d) |