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Union Budget 2008-2009

Significant Proposals in Brief

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Contents

Budget Highlights3 -4

Budget Proposals

Income Tax..... 5-8
Wealth Tax..... 9
CTT & STT 10
Fringe Benefit Tax.....11
Banking Cash Transaction Tax.....11
Central Sales Tax.....12
Excise Duty.....12-15
Customs Duty.....15-16
Service Tax.....17-19

Budget Highlights:

DIRECT TAXES

Income –Tax

- Tax exemption for senior citizens: Rs 2.25 lakh.
- Income tax exemption: for women Rs 1.80 lakh.
 - Every income tax assessee to get relief of minimum of Rs 4,000
 - No change in rate of surcharge.
- No change in corporate income tax.
- Tax exemption limit: raised to Rs 1.5lakh.
- **PERSONAL TAXATION: SLABS CHANGED**
- Five year tax holiday for setting up hospitals in tier II and tier III regions for providing healthcare in rural areas from April 1, 2008.
- Five year tax holiday for promoting cultural tourism
- Short-term capital gains increases to 15 per cent.
- PAN requirement to be extended to all transactions in capital market subject to a threshold.
- Amendment to give effect to reverse mortgage scheme
- Additional deduction for health insurance premium paid for parents

Banking Cash Transaction Tax

- Banking cash transaction tax withdrawn from April 1, 2009.

Fringe Benefit Tax

- Fresh facilities, encouragement to sports and guest houses exempted from Fringe Benefit Tax.

Security transaction tax

- Commodities Transaction Tax to be introduced on the lines of Securities Transaction Tax.
- Securities Transaction Tax is a deductible expenditure from now on

INDIRECT TAXES:

Custom Duties:

- No change in peak rate of customs duty for non agriculture imports.
- Customs duty on specified life saving drugs reduced from ten per cent to five per cent.
- Special Countervailing Duty on power imports.
- Customs duty on specified sports goods machinery down from 7.5 per cent to five per cent.
- Duty withdrawn on naphtha for production of polymers.

- Duty on crude and unrefined sulphur reduced from five to 2 per cent to help raise domestic fertiliser production.

Excise Duties:

- Excise duty on small cars reduced to 12 per cent from 16 per cent and hybrid cars to 14 per cent.
- Excise duty reduced from 16 to 8 per cent on water purification items.
- Duty on non filter cigarettes to be raised.

Service Tax:

- **No change in service tax rate.**
- Threshold for small service providers raised from Rs eight lakh to Rs 10 lakh.
- Asset management service under mutual funds, services by stock exchanges to be brought under Services Tax net.

Others:

- Central sales tax cut to 2% from 3%

Budget Proposals

DIRECT TAXES

Income Tax

Tax Rates

- Individual Tax Rates (includes HUF, AoP, Bol)

Income (Rs.)	Tax Rate (%)*
0 -150000 #	NIL
150001-300000	10.30
300001-500000	20.60
500001 -1000000	30.90
1000000+	33.99

- Basic Exemption limit is Rs 1.80,000 for resident Woman and Rs 2,25,000 for Senior Citizens (65years+)

- Partnership Firm Tax Rates

Total Income (Rs.)	Tax Rate (%)*
<100,00,000	30.90
>100,00,000	33.99

- Tax Rates for Domestic Company

Total Income (Rs.)	Tax Rate (%)*
<100,00,000	30.90
>100,00,000	33.99

- Other Corporate Tax Rates

Tax	Tax Rate (%)*
Dividend Distribution Tax	16.995
MAT	11.33

- Fringe Benefit Tax Rates

FBT	Tax Rate (%)*
For AoP, Bol <10,00,000	30.90
For AoP, Bol >10,00,000	33.99
Firm, Domestic Company	33.99

* - includes Surcharge of 10% wherever applicable and Education Cess of 2%, Secondary and Higher Education Cess of 1%

- **Tax Rates for Foreign Company**

Total Income (Rs.)	Tax Rate (%)*
<100,00,000	41.20
>100,00,000	42.23

^ - includes Surcharge of 2.5% wherever applicable Education Cess of 2%, Secondary and Higher Education Cess of 1% .

- Definition of '**agricultural income**' has been amended to include any income derived from saplings or seedlings grown in a nursery. Accordingly, such income will be exempt from tax [Section 2(1A) w.e.f. AY 2009-10]
- Definition of '**charitable purpose**' has been amended to exclude any activity in the nature of trade, commerce or business or any activity of rendering any service in relation thereto for a fee/consideration from the meaning of 'any other object of general public utility' [Section 2(15) w.e.f. AY 2009-10]

Exemption of income

- Income from any source in the State of Sikkim or by way of dividend or interest of a **Sikkimese** individual would be exempt [Section 10(26AAA) w.e.f. AY 1990-91]
- Income received by an individual as a loan, either in lumpsum or installment, in a transaction of **reverse mortgage** would be exempt. Moreover, any transfer of a capital asset in a transaction of reverse mortgage would not be covered as 'transfer' for Capital Gains [Section 47(xvi) and Section 10(43) w.e.f. AY 2008-09]
- **Exemption of income of Coir Board**

Section 10 (29A) provides that any income of certain specified commodity boards and export development authorities shall be exempt from income tax. It is proposed to allow a similar exemption in respect of any income accruing or arising to the Coir Board established under the Coir Industry Act, 1953. This amendment will take effect from the 1st day of April, 2009 and will accordingly apply in relation to the assessment year 2009-10 and subsequent assessment years. [Clause 4]

Business deduction

- Deduction of 1.25 times of the sum paid for **scientific research** to any company registered in India whose main object is scientific research and development which is approved by the prescribed authority and fulfils prescribed conditions [Section 35(1)(iia) w.e.f. AY 2009-10]
- Deduction relating to amortization of certain preliminary expenses after the commencement of the business in connection with the extension of the existing unit or setting up a new unit was hitherto available only to 'industrial undertaking'/'industrial unit'. The deduction has now been extended to **service sector** by deletion of the word 'industrial' in the said section [Section 35D w.e.f. AY 2009-10]
- **Securities Transaction Tax/Commodities Transaction Tax** paid would be allowed as a deduction if the corresponding income is included under the head 'Profits and Gains of business or profession'. Accordingly, rebate under Section 88E stands deleted [Section 88E and Section 36(1)(xv) w.e.f. AY 2009-10]
- Any payment of a sum exceeding Rs 20,000/- other than by an account payee cheque/draft to any person **in a single day** would be disallowed. Any discharge of a liability provided in earlier years, of a sum exceeding Rs 20,000/-, other than by an account payee cheque/draft to any person **in a single day**, would be disallowed and added to the income in the year in which such payment is made [Section 40A(3) and Section 40A(3A) w.e.f. AY 2009-10]
- Depreciation provided in the books of accounts on actual cost of an asset would be **deemed** to have been availed and allowed under this Act, in cases where the assessee was **not** required to compute his total income for the purposes of this Act [Explanation 6 to Section 43(6) w.e.f. AY 2003-04]

Capital gains

- Any transfer by way of **conversion** of FCCB/FCEB bonds into shares or debentures of any company shall not be considered as transfer and the cost of the bonds would be considered as the cost of such share/debenture [Section 47(xa) and Section 49(2A) w.e.f. AY 2008-09]
- **Short Term Capital Gains** Tax on sale of an equity share in a Company or unit of any equity oriented fund, where such transaction is chargeable to STT, increased from 10% to 15%. Correspondingly, the Short Term Capital Gains Tax applicable for FIIs also increased from 10% to 15% [Section 111A and Section 115AD w.e.f. AY 2009-10]

Deductions

- Any sum deposited under the Senior Citizens Savings Scheme Rules, 2004 and 5 year Post Office Time Deposit Rules, 1981 shall also be eligible for tax benefits. However, if such amount is withdrawn before the expiry of 5 years, then the amount so withdrawn shall be deemed to be income [Section 80C w.e.f. AY 2008-09]
- An additional deduction of upto Rs 15,000 would now be available to an individual for amount paid other than by way of cash, for the insurance of the **health of his parent/s** (whether dependent or not) (Rs 20,000 in case of parents aged >65years) [Section 80D w.e.f. AY 2009-10]

Tax holiday

- Tax holiday would not be available to an undertaking engaged in refining of **mineral oil** after April 1, 2009 [Section 80-IB(9) w.e.f. AY 2008-09]
- 5 year Tax holiday of 100% of the profits introduced for **hospitals** located anywhere in India other than urban cities (as defined) from the date of start of such hospital falling between April 1, 2008 to March 31, 2013 and having atleast 100 beds for patients [Section 80-IB(11C) w.e.f. AY 2009-10]
- 5 year Tax holiday of 100% of the profits from 2/3/4 star **hotels** located in districts having a World Heritage Site (as defined) from the date of start of such hotels falling between April 1, 2008 to March 31, 2013 [Section 80-ID w.e.f. AY 2009-10]

MAT

- Provision for Deferred Tax, Dividend Distribution Tax, Surcharges and Cess on Income Tax would **not be allowed as a deduction** from net profit as per the Profit & Loss account for the calculation of 'book profit' in computation of MAT [Section 115JB w.e.f. AY 2001-02]

Dividend Distribution Tax

- The amount of dividend declared by the domestic Holding Company, to be considered for the calculation of DDT, shall be reduced by the amount of dividend **received from its Subsidiary Company** (as defined) in the same financial year provided the Subsidiary Company has paid DDT on dividend declared and the Holding Company is not a subsidiary of any other Company [Section 115O(1A) w.e.f. AY 2008-09]

Administrative Procedures

- Due date for filing income tax returns for Company, a person whose accounts are required to be audited and working partner of a firm whose accounts are required to be audited under this Act changed to **30th September** from 31st October [Section 139(1) w.e.f. AY 2008-09]
- In case of a special audit directed by the department, the Assessing Officer may also **suo motu extend the period** for furnishing the audit period by such period as he thinks fit. [Section 142(2C) w.e.f. April 1, 2008]
- Return of income to be processed for **arithmetical error and incorrect claims** (as defined) and refund/demand to be determined. Intimation (which would also be the notice of demand) to be sent to the assessee if any adjustments are made, else the acknowledgment of filing the return of income would be deemed to be the intimation [Section 143(1) and Section 156 w.e.f. April 1, 2008]
- Notice to attend the tax office or produce books of accounts in relation to the return of income filed by the assessee, can be issued **within 6 months** from the end of the financial year in which return was furnished instead of 12 months from the end of the month in which return was furnished [Section 143(2) w.e.f. April 1, 2008]

- Assessing Officer can now reassess the income which has escaped assessment **other than** the income involving matters which are the subject matter of any appeal [Section 147 w.e.f. April 1, 2008]
- Reassessment of total income in case of search for the 6 assessment years preceding the year of search and the time limit for completion thereon rationalized as under:

If any proceeding of search has been annulled in any appeal, then the abated assessment shall stand revived and if order of such annulment is set aside later, such revival shall cease to have effect o Time limit for completion shall be extended by 1 year from the end of the month in which the abated assessment revives [Section 153 w.e.f. June 1, 2007 and Section 153A w.e.f. June 1, 2003]

Tax Deducted at Source

- Assesses in default will now also include a person who is required to deduct tax at source but **fails** to do so in addition to a person who has deducted tax but failed to deposit the same [Section 191 and Section 201(1) w.e.f. June 1, 2003]
- **No TDS** on interest payable on any listed security issued by a company, in demat form [Section 193 w.e.f. June 1, 2008]
- Association of Persons and Body of Individuals are now **liable to deduct** TDS on payments to contractors/sub-contractors [Section 194C w.e.f. June 1, 2008]
- **Efiling** of information with certificate and undertaking in prescribed form of all remittances made outside India [Section 195 w.e.f. April 1, 2008]
- Certificate for tax deducted to be given to the deductor by the deductee till March 31, 2010, since the **Tax Information Network** could not be ready by March 31, 2008 [Section 203 and Section 206C w.e.f. April 1, 2008]

Other Administrative procedures

- Appellate Tribunal cannot grant stay of demand either under the original order or any subsequent order, **beyond 356 days** in aggregate [Section 254 w.e.f. October 1, 2008]
- Powers have been granted to Board to fix the monetary limit for the purpose of regulating filing appeal by the department. It shall not be lawful for an assessee to take a stand in any appeal that since the income tax authority has not filed an appeal in any matter, it has accepted the stand of the assessee [Section 268A w.e.f. April 1, 1999]
- **No signature** of a Income Tax authority required on printed stamped notices [Section 282A w.e.f. June 1, 2008]
- Where an assessee appears or co-operates in any inquiry relating to an assessment or reassessment, it shall be **deemed that any notice** which was required to be served upon him has been duly served upon him in accordance with the provisions of the Act and he shall be precluded from taking any objection in any future proceedings [Section 292BB w.e.f. April 1, 2008]
- The presumption has been extended to even books of accounts, other documents, etc found in the possession of any person in the course of survey operation, that the books, etc found in the survey belong to such person [Section 292C w.e.f. June 1, 2002]
- The Fourth Schedule to the Act provides that any provident fund should satisfy the conditions as set out by the Board by **March 31, 2009** so as to Commissioner can grant recognition to such provident fund [Fourth Schedule to the Income Tax Act]

Penalties

- Where any amount added or disallowed in an assessment order by the Assessing Officer with a direction for initiation of penalty, then such order shall be deemed to constitute **satisfaction** of the Assessing Officer for initiation of penalty proceedings [Section 271(1B) w.e.f. April 1, 1989]
- If an application for settlement is pending and the proceedings have abated, then the assessee may make an application for **immunity from penalty and prosecution** to the Commissioner which may be granted considering the co-operation extended and the full and fair disclosures made by the assessee [Section 273AA and Section 278AB w.e.f. April 1, 2008]

Wealth Tax

- Assessing Officer can now reassess the wealth which has escaped assessment other than the wealth involving matters which are the subject matter of any appeal [*Section 17 w.e.f. April 1, 2008*]
- Where a proceeding before the Settlement Commission abates, time limit for completion of assessment shall be extended by 1 year from the end of the month in which the abated assessment revives [*Section 17A w.e.f. June 1, 2007*]
- Where any amount added or disallowed in an assessment order by the Assessing Officer with a direction for initiation of penalty, then such order shall be deemed to constitute satisfaction of the Assessing Officer for initiation of penalty proceedings [*Section 18(1A) w.e.f. April 1, 1989*]
- If an application for settlement is pending and the proceedings have abated, then the assessee may make an application for immunity from penalty and prosecution to the Commissioner which may be granted considering the co-operation extended and the full and fair disclosures made by the assessee [*Section 18BA and Section 35GA w.e.f. April 1, 2008*]
- Where an assessee appears or co-operates in any inquiry relating to an assessment or reassessment, it shall be deemed that any notice which was required to be served upon him has been duly served upon him in accordance with the provisions of the Act and he shall be precluded from taking any objection in any future proceedings [*Section 42 w.e.f. April 1, 2008*]
- The presumption has been extended to even books of accounts, other documents, etc found in the possession of any person in the course of survey operation, that such books, etc belong to such person [*Section 42D w.e.f. October 1, 1975*]

Commodities Transaction Tax

A new tax called Commodities Transaction Tax (CTT) is proposed to be levied on taxable commodities transactions entered in a recognized association.

It is proposed to define 'Taxable commodities transaction' to mean a transaction of purchase or sale in a recognised

association of –

- i) option in goods; or
- (ii) option in commodity derivative; or
- (iii) any other commodity derivative.

The tax is proposed to be levied at the rate, given in the Table below, on taxable commodities transactions undertaken by the seller or the purchaser, as the case may be as indicated hereunder:-

S. No.	Taxable commodities transaction	Rate	Payable by
1	Sale of an option in goods or an option in cent on Seller commodity derivative	0.017 per cent option premium	Seller
2	. Sale of an option in goods or an option in commodity derivative, where option is exercised..	0.125 per cent settlement price of the option	Purchaser
3	. Sale of any other commodity derivative	0.017 per cent of the price at which the commodity derivative is sold.	Seller

The provisions with regard to collection and recovery of CTT, furnishing of returns, assessment procedure, power of assessing officer, chargeability of interest, levy of penalty, institution of prosecution, filing of appeal, power to the Central Government, etc. have also been provided.

This tax is proposed to be levied from the date on which Chapter VII of the Finance Bill, 2008 comes into force by way of notification in the Official Gazette by the Central Government.

Further, it is proposed to amend section 36 of the Income-tax Act to provide that any amount of commodities transaction tax paid by the assessee during the year in respect of taxable commodities transactions entered into in the course of business shall be allowed as deduction subject to the condition that such income from taxable commodities transactions is included under the head 'profits and gains of business or profession'.

This amendment in section 36 of the Income-tax Act will take effect from the 1st day of April, 2009 and will accordingly apply in relation to assessment year 2009-10 and subsequent assessment years. [Clauses 7,97 to 116]

Securities Transaction Tax

Amendment made as follows:

S. No.	Taxable Securities Transaction	Rate	Payable by
1	Sale of option in securities	0.017 per cent option premium	Seller
2	Sale of option in securities, where option is exercised	0.125 per cent settlement price of the option	Purchaser
3	Sale of a futures in securities	0.017 per cent of the price at which the securities derivative is sold	Seller

FRINGE BENEFIT TAX

The following changes are proposed in the existing Fringe Benefit Tax

Exclusions

- Expenditure through prepaid electronic meal cards usable only at eating joints
- Expenditure in relation to crèche facility, sportsman, sports event, first aid facilities or any statutory obligation by the employer
- Expenditure on guest house expenses [Section 115WB(2) w.e.f AY 2009-10]

Amendments

- Value of Fringe benefit in respect of expenditure on festival celebrations reduced from 50% to 20% [Section 115WC w.e.f AY 2009-10]

Others

- Due Date of filing FBT returns changed to 30th September from 31st October [Section 115WD w.e.f AY 2008-09]
- Return of FBT to be processed for arithmetical error and incorrect claims (as defined)
- Payment of FBT by employer in relation to ESOPs, subsequently recovered from employee, shall be deemed to be the tax paid by such employee for the purposes of claiming tax credit in a foreign country, but the employee shall not be entitled to any refund out of this

Banking Cash Transaction Tax

- Sunset clause introduced to phase out BCTT by March 31, 2009

INDIRECT TAXES

Central Sales Tax

- CST to be phased out; rate reduced from 3% to 2% with effect from April 1, 2008.

Excise Duty

Effective Dates

Particulars	Date from when effective
Legislative changes in Excise Law	Date of Presidential assent to the Finance Bill, 2008
New Rates of Excise duty	March 1, 2008

General Cenvat Rate Reduced

- General rate of Excise Duty (CENVAT) reduced from 16% to 14%. The advalorem rates of 24%, 12% and 8% remain unchanged.

Sector Specific Relief Measures

Drugs and Pharmaceuticals

Excise duty reduced from 16% to 8% on:

- o All drugs (formulations).
- o Instant sterile dressing pads, burn therapy pads, corn removers etc.
- o Sterile surgical catgut, sterile absorbable surgical and sterile tissue adhesive for wounds closure etc.
- o First aid boxes and kits, blood grouping reagents etc.
 - Excise duty fully exempted on Anti-AIDS drug and bulk drugs for its manufacture.

Auto Sector

- Excise duty reduced on:
 - o Small cars from 16% to 12%.
 - o Hybrid cars from 24% to 14%.
 - o Electric cars from 8% to Nil.
 - o Specified parts of electric cars from 16% to nil on end-use basis.
 - o Buses and other vehicle for transport of more than 13 persons from 16% to 12%, and on the chassis of such vehicles from '16% +Rs.10,000/-' to '12% +Rs.10,000/-'.
 - o Two-wheelers and passenger three-wheelers (upto 7 persons) from 16% to 12%.

Food Processing Sector

- Excise duty fully exempted on:
 - o Packaged tender Coconut water
 - o Paws, mudi (puffed rice) and the like
 - o Milk containing edible nuts
 - o Tea/ coffee pre-mixes
 - o Specified refrigeration equipment for the installation of a cold storage, cold room or refrigerated vehicle, on end-use basis.
 - Excise duty reduced from 16% to 8% on
 - o Muesli, corn flakes & similar breakfast cereals
 - o Sharbats
 - o Packaging material viz.:
 - Open Top Sanitary (OTS) cans
 - Aseptic packaging paper
 - Aseptic bags

Information Technology & Communication sector

- Excise duty fully exempted on Wireless data modem cards. Consequently, CVD shall also be exempted on imported cards. 4% additional duty of customs will, however, be applicable.
- Excise duty reduced from 16% to 8% on specified convergence products.
- Excise duty increased from 8% to 12% on packaged software.

Paper and Paper products

Excise duty on writing paper, printing paper and packing paper reduced from 12% to 8%.

- Excise duty on paper and paper products, manufactured from nonconventional raw materials:
 - o Fully exempted upto clearance of 3500 metric ton in a year from a unit.
 - o Beyond clearance of 3500 metric ton per year from a unit (not having an attached bamboo/wood pulp plant) reduced from 12% to 8%.

Cement

- Excise duty revised on Bulk cement from “Rs.400 per ton” to “14% or Rs. 400 per ton”, whichever is higher.
- Excise duty increased on Cement clinkers from Rs.350 per ton to Rs.450 per ton.

Cigarettes

- Excise duty rates on non-filter cigarettes enhanced to bring them at par with filter cigarettes of corresponding length. The revised rates of excise duty (Basic + NCCD + Health cess) on non-filter cigarettes are as under:

S. No	Description	From	To
	Non-filter cigarettes		
1.	Not exceeding 60 mm in length	168	819
2.	Exceeding 60 mm but not exceeding 70 mm in length	546	1323

Petroleum

- Duty rates on MS/HSD sold without a brand name converted from ‘ad Valorem + specific rate’ to pure ‘specific rate’ as under:

S. No	Description	From	To
1.	Motor Spirit	6% + Rs.13 per litre	Rs.14.35 per litre
2.	HSD	6% + Rs.3.25 per litre	Rs. 4.60 per litre

- The duty rates on branded fuels continue to attract the present ‘ad valorem’ cum specific rates i.e. as under:

- o Motor Spirit : 6% + Rs.13 per litre
- o HSD : 6%+ Rs. 3.25 per litre

Other Concessions

- Excise duty fully exempted on:
 - o Composting machines
 - o Menthol/ Menthol Flakes
- Excise duty reduced from 16% to 8% on:
 - o Water filtration and purification devices
 - o Veneers & Flush doors
 - o Heat resistant rubber tension tape
 - o Inks for marker pens, highlighters etc.
- Excise duty on pan masala, not containing tobacco, with betel nut content not more than 15%, reduced from 16% to 8%. It has also been exempted from National Calamity Contingent Duty.

National Calamity Contingent duty (NCCD)

- NCCD at the rate of 1% imposed on mobile phones. On imported mobile phones, this duty shall be levied as additional duty of Customs.
- NCCD of 1% currently leviable on Polyester filament yarn has been withdrawn.

SSI Exemptions

- General SSI exemption extended on HDPE/ PP tapes consumed captively in the manufacture of sacks/ bags. The change will come into effect from 1st April, 2008.

Miscellaneous

- Rate of duty applicable to clearances of goods to domestic tariff area from export oriented units, software technology parks, electronic hardware technology parks etc. revised from '25% of the basic customs duty + excise duty payable on like goods' to '50% of the basic customs duty + excise duty payable on like goods'.
- Excise duty exemption on "shuttle-less looms" withdrawn. These goods will now attract 8% excise duty/CVD.
- Consequent upon reduction of excise duty rates on specified goods leviable to excise duty on retail sale price basis, abatement rates for such goods revised suitably.

Other Amendments

- Definition of "Goods" amended to include "Any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable".
- Central Government empowered to charge excise duty on the basis of capacity of production in respect of notified goods, and to notify the procedure for the same.
- Section 11B of the Central Excise Act, 1944 amended to provide for refund of interest paid on any duty of excise.
- Note 16 of Chapter 39 to the Central Excise Tariff Act, 1985 amended to specify that the process of lamination or of lacquering shall also amount to manufacture in addition to the process of metallization.
- Notes of certain Chapters in the Central Excise Tariff Act, 1985 amended to align the definition of processes amounting to manufacture with the definition of manufacture in section 2 f(iii) of the Central Excise Act, 1944.

Amendment in Rules

- CENVAT Credit Rules, 2004 amended to bring in the following changes:
 - o Sub-rule (4) of Rule 3 amended to provide that in case of NCCD payable on mobile phones, credit of any duty of excise other than NCCD will not be utilized for payment of the said NCCD. This change shall come into effect from 1st March, 2008.
 - o Rule 6 amended to provide following options to a manufacturer, using common inputs or input services for manufacture of dutiable as well as exempted goods and opting not to maintain separate accounts. Such manufacturers can,-

- either reverse the credit attributable (to be worked out in a manner prescribed in the rule) to the inputs and input services used in the manufacture of exempted goods; or
- pay 10% amount of the value (to be determined in accordance with the provision of section 4/4A of the Central Excise Act, 1944) of the exempted goods. This change shall come into effect from 1st April, 2008.
- The Central Excise (Determination of Retail Sale Price of Excisable Goods) Rules, 2008 issued under section 4A(4) of the Central Excise Act, 1944 to provide the manner of determination of retail sale price, where the same is not declared on the packages or tampered or altered or obliterated. This change shall come into effect from 1st March, 2008.

Customs Duty

Effective Dates

Particulars	Date from when effective
Legislative changes in Customs Laws	Date of Presidential assent to the Finance Bill, 2008
New Rates of Customs duty	March 1, 2008

Project Imports

- Customs duty reduced from 7.5% to 5%.

Chemicals and Petrochemicals

- Customs duty on crude and unrefined sulphur reduced from 5% to 2%.
- Customs duty on phosphoric acid unified at 5% irrespective of its use.
- Customs duty exemption presently available on naphtha for manufacture of specified polymers withdrawn and now will be subject to the normal rate of 5%.

Export Promotion

- Custom duty reduced on
 - o Unworked or simply prepared corals from 10% to 5%.
 - o Cubic zirconia (polished) from 10% to 5%.
 - o Specified machinery for manufacture of sports goods from 7.5% to 5%.
 - o Rough Cubic zirconia from 5% to Nil
 - o Tuna bait from 30% to Nil
 - o Specified raw materials for manufacture of sports goods for export reduced from 10% to Nil, up to 3% of FOB value of exports in the preceding year.

Dairy / Poultry

- Customs duty reduced on
 - o Bactofuges from 7.5% to Nil.
 - o Feed additives / pre-mixes from 30% to 20%.

Information Technology / Electronic Industry

- Customs duty reduced on
 - o Specified convergence products from 10% to 5%.
 - o Specified raw materials and inputs for use in IT/electronic hardware industry from 10%/7.5% to Nil, on end-use basis.
 - o Specified parts of set-top boxes from 7.5% to Nil on end-use basis.

Tobacco Products

Customs duty on cigars, cheroots and cigarillos increased from 30% to 60%.

Metals

- Customs duty reduced on
- o Iron or steel melting scrap from 5% to Nil.
- o Aluminium scrap from 5% to Nil.

Drugs and Kits

- Customs duty reduced on
- o six specified drugs/kits used in the treatment of cancer/ diabetes/ asthma/ Hepatitis B etc, and bulk drugs for their manufacture, from 10% to 5% with Nil CVD by way of excise duty exemption.
- o Specified raw materials for manufacture of ELISA kits from 10% / 7.5% to 5%.

National Calamity Contingent duty (NCCD)

- NCCD of 1% currently leviable on Polyester filament yarn withdrawn.

Others

- Customs duty reduced on
- o Specified raw materials for tyre industry from 10% to 5%.
- o Helicopter simulators from 10% to Nil.
 - Concessional customs duty of 5% provided on polymer long rod insulators restricted to polymer long rod insulators of 765 KV rating only.
 - Customs duty and CVD on 0.177 calibre airguns exempted. Consequently, 4% additional duty of customs shall also be exempted on these airguns.
 - Tariff rate of Rs.2000 per 1000 kWh prescribed on 'electrical energy'. However, the effective rate will continue to be Nil.

4% Additional Duty of Customs

- Exemption from additional duty of customs of 4% withdrawn from power generation projects (other than mega power projects), transmission, sub transmission and distribution projects, and goods for high voltage transmission projects.

Export Duty

- Export duty rate on chromium ores and concentrates, all sorts, increased from Rs.2000 PMT to Rs.3000 PMT.

Miscellaneous

- Period for re-export of leased equipment and machinery, imported for temporary use in contracts, increased from 12 months to 18 months. The slab rates of duty applicable on such imports have now been provided on a quarterly basis and have also been aligned with the rates of drawback admissible. No drawback, however, will be admissible when such leased goods are re-exported.
- Rates of drawback, in respect of goods used after importation, aligned with the rates prescribed for duty payable on leased equipment and machinery, imported for temporary use in contracts, depending on the period of retention in India. The maximum period of retention of such goods, for admissibility of drawback, reduced from 36 months to 18 months.

Service Tax

Effective Dates

Particulars	Date from when effective
New Services and Changes in Existing Services	From a date to be notified later
Amendments to Service Tax Rules, 1994	March 1, 2008
Increase in threshold limit of Service tax	April 1, 2008
Amendments to Cenvat Credit Rules, 2004	April 1, 2008

Increase in Threshold Exemption Limit for Small Service Providers

- The threshold limit of service tax exemption for small service providers increased from Rs.8 lacs to Rs.10 lacs; effective 1st April, 2009.
- Consequent to increase in the threshold exemption limit, the turnover limit for obtaining service tax registration increased from Rs.7 lacs to Rs.9 lacs

Following Services are specifically included in the list of taxable services

- Services provided in relation to information technology software for use in the course, or furtherance, of business or commerce [Section 65(105)(zzzze)];
- Services provided in relation to management of investment, under unit linked insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme [Section 65(105) (zzzzf)];
- Services provided by a recognised stock exchange in relation to securities [Section 65(105) (zzzzg)];
- Services provided by a recognised association or a registered association (commodity exchange) in relation to sale or purchase of any goods or forward contracts [Section 65(105) (zzzzh)];
- Services provided by a processing and clearinghouse in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts [Section 65(105) (zzzzi)];
- Services provided in relation to supply of tangible goods, without transferring right of possession and effective control of the tangible goods [Section 65(105) (zzzzj)]; and
- Services provided in relation to internet telecommunication. Consequently, reference to services provided in relation to internet telephony, being covered as part of internet telecommunication, shall be omitted [Section 65(105) (zzzu)].

The above changes will come into effect from a date to be notified after the enactment of the Finance Bill, 2008.

Scope of Specified Taxable Services is being amended as follows

Inclusion

- **Foreign Exchange Broker Service** - Purchase or sale of foreign currency, including money changing, by an authorized dealer or an authorized money changer,
 1. under banking and other financial service;
 2. under foreign exchange broker services provided by an individual.
- **Cargo Handling Services** – Services of packing together with transportation of cargo or goods, with or without one or more other services like loading, unloading, unpacking, under cargo handling service;
- **Testing or analysis of information technology software** under technical testing and analysis service;
- Inspection, examination and certification of information technology software under technical inspection and certification service;
- **Tour Operator Service** –
 - o Services provided in relation to a journey from one place to another in a contract carriage vehicle, under tour operator service.
 - o Services provided for use by an educational body, other than a commercial training or coaching centre, imparting skill or knowledge or lessons on any subject or field shall be excluded.
 - o Prior to the amendment, Services provided in relation to a journey in a tourist vehicle were leviable to service tax under 'tour operator service';

Clarifications

- Service in relation to promotion or marketing of service provided by the client includes any service provided in relation to promotion or marketing of games of chance, organized, conducted or promoted by the client and are leviable to service tax under business auxiliary service;
- Renting of immovable property service include allowing or permitting the use of space in an immovable property, irrespective of the transfer of possession or control of the immovable property;
- “Properties” referred to in management, maintenance or repair service includes information technology software.
- Services provided by a consulting engineer in relation to advice, consultancy or technical assistance in the disciplines of both computer hardware/ software engineering shall also be classifiable under consulting engineer service;

Exemption from Service Tax

- The taxable service provided by a person located outside India for a customer located outside India, and received by a hotel located in India, in relation to booking of an accommodation in the said hotel located in India (Notification No.14/2008-ST dated 01.03.2008);
- 75% of the gross amount charged as freight for services in relation to transport of goods by road in a goods carriage by a goods transport agency (GTA), unconditionally. Consequently, 75% abatement provided under notification No.1/2006-Service tax, dated the 1st March, 2006 is withdrawn.

The exemptions will come into effect from 1st March, 2008.

Transactions between Associated Enterprises

- As per Rule 6 of the Service Tax Rules, 1994, service tax is required to be paid only after receipt of the payment.
- The new amendment proposes that, in case of transactions with associated enterprises, service tax is leviable on taxable services provided by the person liable to pay service tax even if the amount is not actually received, but the amount is credited or debited in the books of account of the service provider. In other words, service tax is required to be paid after receipt of payment or crediting/debiting of the amount in the books of accounts, whichever is earlier.
- The term “associated enterprises” has the same meaning as assigned to it in section 92A of the Income Tax Act, 1961.

Amendments in Acts and Rules

- Finance Act, 1994 amended to –

o To empower the Board to frame a Scheme by notification in the Official Gazette to enable preparation and filing of service tax returns through a person or class of persons known as Service Tax Return Preparer authorized to act for the said purpose;

o To authorize the Central Excise Officer to make assessment on the basis of best judgment after allowing assessee to represent his case where assessee has failed to make service tax returns or failed to assess the tax;

o Empower the Central Government to issue orders for removal of difficulty in respect of implementing, classifying or assessing the value of any taxable service incorporated by the Finance Bill, 2008 upto one year from the date of enactment of the Finance Bill, 2008.

The above changes will come into effect from the date of enactment of the Finance Bill, 2008.

- **Service Tax Rules, 1994, are being amended to:**

o To enable payment of an amount as service tax in advance to the credit of the Central Government and adjust such amount paid towards payment of service tax for the subsequent period;

o Increase the monetary limit from Rs.50,000/- to Rs.1,00,000/- for self-adjustment of excess service tax paid;

o Increase the time limit from 60 days to 90 days for rectification of mistakes and file revised return;

o Empower the Central Excise Officer to reduce or waive the penalty for delayed filing of return, where the gross amount of service tax payable is nil;

The above changes will come into effect from 1st March, 2008.

- **CENVAT Credit Rules, 2004 are being amended to,—**

o Exclude goods transport agency service from the scope of "output service";

This change will come into effect from 1st March, 2008.

o Allow removal of capital goods outside the premises of the provider of the output service without any time restriction, if the same is for providing output service;

This change shall come into effect from 1st April, 2008.

o Provide following options to a provider of output services, using common inputs or input services for providing taxable as well as exempted services and opting not to maintain separate accounts.

Such provider of output services can -

- Either reverse the credit attributable (to be worked out in a manner prescribed in the rule) to the inputs and input services used for providing exempted service; or
- Pay 8% amount of the value (determined in terms of section 67 of the Finance Act, 1994) of the exempted services;

This change shall come into effect from 1st April, 2008.

o Insert a new rule 7A to prescribe a procedure to enable the provider of output services to take credit on inputs and capital goods on the basis of an invoice / challans / bill issued by its other office.

This change shall come into effect from 1st April, 2008.

- **Export of Services Rules, 2005** are being amended so as to treat the following services provided remotely through internet or any electronic network including a computer network, or any means in relation to goods or material or any immovable property situated outside India at the time of provision of service as export of services, namely,-

o Management, maintenance or repair;

o Technical testing and analysis; and

o Technical inspection and certification [Rule 3(1)(ii)].

The above change will come into effect from 1st March, 2008.

- **Taxation of Services (Provided from Outside India and Received in India) Rules, 2006** are being amended so as to treat the following services provided remotely through internet or any electronic network including a computer network, or any means in relation to goods or material or any immovable property situated in India at the time of provision of service as import of services and leviable to service tax under reverse charge method, namely,-

o Management, maintenance or repair;

o Technical testing and analysis; and

o Technical inspection and certification [Rule 3(ii)].

The above change will come into effect from 1st March, 2008.

- **Works Contract (Composition Scheme for Payment of Service Tax)**

Rules, 2007 are being amended to enhance the rate prescribed for optional scheme for payment of service tax under works contract service from 2% of the total value of the contract to 4% of the total value of the contract.

The above change will come into effect from 1st March, 2008.

- **Service Tax Disputes Resolution Scheme (Amnesty Scheme)**- In order to settle disputes pending as on 1st March 2008 involving tax arrears (service tax, interest and penalty) not exceeding Rs.25,000/-, Service Tax Disputes Resolution Scheme is being introduced. The scheme is valid during 1st July, 2008 to 30th September, 2008.