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Union Budget 2010-2011

Significant Proposals in Brief

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Union Budget 2010-11

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Budget Highlights

DIRECT TAXES

- 1) Saral form 2 to be rolled out for simplification of tax filing in 2010-11
- 2) Income Tax Slab Revised
 - For income between 1.6 lakh - 5 lakh tax liability 10%. (old slab was Rs. 1.6 to 3 lakh)
 - For income between 5 lakh - 8 lakh 20%. (Old slab was Rs 3-5 lakh)
 - For income above 8 lakh 30% (old slab was Rs 5 lakh +)
- 3) Additional investment of 20K in infra bonds over and above Rs 1 lakh in 80C.
- 4) Surcharge on domestic Companies reduced to 7.5% from 10%, MAT increased from 15% to 18%.
- 5) Sops for real estate, housing projects extended by a year.
- 6) Enhance tax audit limits
 - For Professionals to Rs. 15 lakh
 - For Business Assessee to Rs. 60 lakhs
- 7) Maximum Penalty under section 271B for failure to get accounts audited under section 44AB
 - Increased from Rs. 1 lakhs to Rs. 1.5 lakhs

INDIRECT TAXES

Service Tax

- 1) Service tax rate retained at 10%, to bring more services under service tax net

Excise Duty :

- 1) To partially roll back central excise duty
- 2) Excise duty on large cars, SUVs raised to 22%, up 2
- 3) Raised excise duty from 5% to 10%
- 4) To enhance duty on oil products to 10%
- 5) To raise excise duty from 8% to 10%

Import Duty :

- 1) Custom duty on crude oil back to 5%
- 2) To levy clean energy cess on imported coal
- 3) Import duty on silver raised to Rs 1500 per kg

Budget Proposals

DIRECT TAXES

Income Tax

Tax Rates

- **Individual Tax Rates (includes HUF, AoP, BoI)**

Income (Rs.)	Tax Rates (%)
0 -160,000	NIL
160,001 - 500,000	10.30
500,001 - 800,000	20.60
800,001 +	30.90

Basic Exemption limit is Rs 190,000 for resident Woman and Rs 240,000 for Senior Citizens (65years+)

- **Partnership Firm Tax Rates (including LLP) – 30.90%**
- **Tax Rates for Domestic Company**

Total Income (Rs)	Tax Rates (%)
<100,00,000	30.90
>100,00,000	33.22

includes Surcharge of 7.5% wherever applicable and Education Cess of 2%, Secondary and Higher Education Cess of 1%

- **Other Corporate Tax Rates**

Tax	Tax Rates (%)
Dividend Distribution Tax	16.61
Minimum Alternative Tax	20.39

includes Surcharge of 7.5% and Education Cess of 2%, Secondary and Higher Education Cess of 1%.

- **Tax Rates for Foreign Company**

Total Income (Rs)	Tax Rates (%)
<100,00,000	41.20
>100,00,000	42.23

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

Definition

❖ Definition of “Charitable purpose”

For the purposes of the Income-tax Act, “charitable purpose” has been defined in section 2(15) which, among others, include “the advancement of any other object of general public utility”. However, “the advancement of any other object of general public utility” is not a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity.

The absolute restriction on any receipt of commercial nature may create hardship to the organizations which receive sundry considerations from such activities. It is, therefore, proposed to amend section 2(15) to provide that “the advancement of any other object of general public utility” shall continue to be a “charitable purpose” if the total receipts from any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business do not exceed Rs.10 lakhs in the previous year.

This amendment is proposed to take effect retrospectively from 1st April, 2009 and will, accordingly, apply in relation to the assessment year 2009-10 and subsequent years.

❖ Income deemed to accrue or arise in India to a non-resident

Section 9 provides for situations where income is deemed to accrue or arise in India.

This was the settled position of law till 2007. However, the Hon’ble Supreme Court, in the case of *Ishikawajima-Harima Heavy Industries Ltd., Vs DIT (2007)[288 ITR 408]*, held that despite the deeming fiction in section 9, for any such income to be taxable in India, there must be sufficient territorial nexus between such income and the territory of India. It further held that for establishing such territorial nexus, the services have to be rendered in India as well as utilized in India.

This interpretation was not in accordance with the legislative intent that the *situs* of rendering service in India is not relevant as long as the services are utilized in India. Therefore, to remove doubts regarding the source rule, an *Explanation* was inserted below sub-section (2) of section 9 with retrospective effect from 1st June, 1976 vide Finance Act, 2007. The *Explanation* sought to clarify that where income is deemed to accrue or arise in India under clauses (v), (vi) and (vii) of

sub-section (1) of section 9, such income shall be included in the total income of the non-resident, regardless of whether the non-resident has a residence or place of business or business connection in India.

However, the Karnataka High Court, in a recent judgement in the case of *Jindal Thermal Power Company Ltd. vs DCIT (TDS)*, has held that the *Explanation*, in its present form, does not do away with the requirement of rendering of services in India for any income to be deemed to accrue or arise to a non-resident under section 9. It has been held that on a plain reading of the *Explanation*, the criteria of rendering services in India and the utilization of the service in India laid down by the Supreme Court in its judgement in the case of *Ishikawajima-Harima Heavy Industries Ltd.(supra)* remains untouched and unaffected by the *Explanation*.

In order to remove any doubt about the legislative intent of the aforesaid source rule, it is proposed to substitute the existing Explanation with a new Explanation to specifically state that the income of a non-resident shall be deemed to accrue or arise in India under clause (v) or clause (vi) or clause (vii) of sub-section (1) of section 9 and shall be included in his total income, whether or not,

- (a) the non-resident has a residence or place of business or business connection in India; or
- (b) the non-resident has rendered services in India.

This amendment is proposed to take effect retrospectively from 1st June, 1976 and will, accordingly, apply in relation to the assessment year 1977-78 and subsequent years. [*Clause 4*]

Exemption

❖ Computation of exempted profits in the case of units in Special Economic Zones (SEZs)

Section 10AA was inserted in the Income-tax Act by the Special Economic Zone Act, 2005 with effect from 10.2.2006. Through the Finance (No.2) Act, 2009, section 10AA(7) of the Income-tax Act, 1961 was amended and the words "by the undertaking" were substituted for "by the assessee" with effect from assessment year 2010-11 and subsequent assessment years. This was done as the existing formula was perceived to be discriminatory in so far as those assesseees are concerned who have multiple units in both the SEZ and the domestic tariff area (DTA) vis-à-vis those assesseees who were having units in only the SEZ. With a view to removing the anomaly, the provisions of sub-section (7) of section 10AA of the Income-tax Act were amended.

In order to make the amendment effective for earlier years, it is proposed, by inserting a proviso to sub-section (7), to provide that the provision of sub-section (7), as amended by Finance (No. 2) Act 2009, will apply to the assessment year 2006- 07 and subsequent assessment years. [*Clause 6*]

Cancellation of registration obtained under section 12A

Section 12AA provides the procedure relating to registration of a trust or institution engaged in charitable activities. Section 12AA(3) currently provides that if the activities of the trust or institution are found to be non-genuine or its activities are not in accordance with the objects for which such trust or institution was established, the registration granted under section 12AA can be cancelled by the Commissioner after providing the trust or institution an opportunity of being heard.

The power of cancellation of registration is inherent and flows from the authority of granting registration. However, judicial rulings in some cases have held that the Commissioner does not have the power to cancel the registration which was obtained earlier by any trust or institution under provisions of section 12A as it is not specifically mentioned in section 12AA.

It is, therefore, proposed to amend section 12AA so as to provide that the Commissioner can also cancel the registration obtained under section 12A as it stood before amendment by Finance (No.2) Act, 1996.

This amendment is proposed to take effect from 1st June 2010.

Deductions

❖ Weighted deduction for scientific research and development

Under the existing provisions of section 35(2AB) of the Income-tax Act, a company is allowed weighted deduction of 150 per cent of the expenditure (not being expenditure in the nature of cost of any land or building) incurred on scientific research on an approved in-house research and development facility.

In order to further incentivise the corporate sector to invest in in-house research, it is proposed to increase this weighted deduction from 150 per cent to 200 per cent.

The existing provisions of section 35(1)(ii) of the Income-tax Act provide for a weighted deduction from the business income to the extent of 125 per cent of any sum paid to an approved scientific research Association that has the object of undertaking scientific research or to an approved university, college or other institution to be used for scientific research. Further, under section 35(2AA) of the Act, weighted deduction to the extent of 125 per cent is also allowed for any sum paid to a National Laboratory or a university or an Indian Institute of Technology (IIT) or a specified person for the purpose of an approved scientific research programme.

In order to encourage more contributions to such approved entities for the purposes of scientific research, it is proposed to increase this weighted deduction from 125 per cent to 175 per cent.

These amendments are proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

❖ Weighted deduction on payments made to associations engaged in research in social science or statistical research and exemption in respect of the income of such associations

Section 35 of the Income-tax Act provides for deduction in respect of expenditure on research and development. The existing provisions of section 35(1)(ii) provide for a weighted deduction from business income to the extent of 125 per cent of any sum paid to an approved and notified scientific research association or to a university, college or other institution to be utilized for scientific research. Section 35(1)(iii) provides similar deduction if the sum is paid to an approved and notified university, college or other institution to be used to carry on research in social science or statistical research. Section 80GGA allows deductions for donations made to such association, universities, etc.

Under section 10(21), exemption is granted in respect of the income of a scientific research association which is approved and notified under section 35(1)(ii). The university, college or other

institutions which are approved either under section 35(1)(ii) or under section 35(1)(iii) also qualify for exemption of their income under section 10(23C) of the Act subject to specified conditions.

The associations which are engaged in undertaking research in social science or statistical research are not currently covered by the provisions of section 35(1)(iii). Such research associations are also not entitled to exemption in respect of their income.

It is now proposed to amend section 35(1)(iii) so as to include an approved research association which has as its object undertaking research in social science or statistical research. It is also proposed to amend section 10(21) so as to also provide exemption to such associations in respect of their income. This exemption will be subject to the same conditions under which an approved research association undertaking scientific research is entitled to exemption in respect of its income. An amendment to include allowability of deductions for donations made to such associations is also proposed.

These amendments are proposed to take effect from 1st April 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

❖ Investment linked deduction for specified business

Benefits of profit linked deduction under Chapter VI-A of the Income-tax Act are currently available to specified categories of hotels in Uttarakhand and Himachal Pradesh; National Capital Territory and adjacent districts; 22 districts having World Heritage Sites and North-Eastern States, which start functioning before specified dates mentioned in the Act.

In view of the high employment potential of this sector, it is proposed to provide investment linked incentive to the hotel sector, irrespective of location, under section 35AD of the Income-tax Act. The investment-linked tax incentive allows 100 per cent deduction in respect of the whole of any expenditure of capital nature (other than on land, goodwill and financial instrument) incurred wholly and exclusively, for the purposes of the "specified business" during the previous year in which such expenditure is incurred.

Currently, such "specified business" means the business of setting up and operating cold chain facilities, warehousing facilities for storage of agricultural produce and laying and operating a cross-country natural gas or crude or petroleum oil pipeline network. It is now proposed to include the business of building and operating a new hotel of two-star or above category, anywhere in India, which starts functioning after 1.4.2010 within the purview of "specified business".

It is also proposed to substitute sub-section (3) of section 35AD so as to provide that where a deduction under this section is claimed and allowed in respect of the specified business for any assessment year, no deduction shall be allowed under the provisions of Chapter VI-A under the heading "C.-Deductions in respect of certain incomes" in relation to such specified business for the same or any other assessment year. A similar amendment is proposed in section 80A.

These amendments are proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

One of the conditions for availing the benefit under section 35AD in the case of laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network, is that the specified business 'has made not less than one-third of its total pipeline capacity available for use on common carrier basis by any person other than the assessee or an associated person'. The Petroleum & Natural Gas Regulatory Board has, by regulations, specified a common carrier capacity condition of 'one-third' for a natural gas pipeline network and 'one-fourth'

for petroleum product pipeline network. In order to rationalise the existing condition regarding common carrier capacity, it is proposed to amend sub-section (2) of section 35AD to provide that the proportion of the total pipeline capacity to be made available for use on common carrier basis should be as specified by the said regulations.

This amendment is proposed to take effect retrospectively from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Tax Deducted at Source

❖ Disallowance of expenditure on account of non-compliance with TDS provisions

A. The existing provisions of section 40(a)(ia) of Income-tax Act provide for the disallowance of expenditure like interest, commission, brokerage, professional fees, etc. if tax on such expenditure was not deducted, or after deduction was not paid during the previous year. However, in case the deduction of tax is made during the last month of the previous year, no disallowance is made if the tax is deposited on or before the due date of filing of return.

It is proposed to amend the said section to provide that no disallowance will be made if after deduction of tax during the previous year, the same has been paid on or before the due date of filing of return of income specified in sub-section (1) of section 139.

This amendment is proposed to take effect retrospectively from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years

B. Under the existing provisions of section 201(1A) of the Act, a person is liable to pay simple interest at one per cent for every month or part of month in case of failure to deduct tax or payment of tax after deduction.

With a view to discourage the practice of delaying the deposit of tax after deduction, it is proposed to increase the rate of interest for non-payment of tax after deduction from the present one per cent to one and one-half per cent for every month or part of month.

This amendment is proposed to take effect from 1st July, 2010.

• Tax deduction rates have been rationalized as under:

Sr. No.	Section	Nature of Payments	Existing Threshold limit of payments (Rupees)	Proposed Threshold limit of payments (Rupees)
01	194B	Winnings from lottery or crossword puzzle	5,000	10,000
02	194BB	Winnings from horse race	2,500	5,000

03	194C	Payment to contractors	20,000 (for a single transaction)	30,000 (for a single transaction)
			50,000 (for aggregate of transactions during financial year)	75,000 (for aggregate of transactions during financial year)
04	194D	Insurance commission	5,000	20,000
05	194H	Commission or Brokerage	2,500	5,000
06	194-I	Rent	1,20,000	1,80,000
07	194J	Fees for professional or technical services	20,000	30,000

w.e.f. July 1, 2010

Certificate of Tax Deduction at Source (TDS) and Tax Collection at Source(TCS)

The existing provisions of section 203(3) of the Income-tax Act dispense with the requirement of furnishing of TDS certificates by the deductor to the deductee on or after 1st April, 2010. Similarly, under section 206C(5) of the Act, a collector of tax at source will also not be required to issue tax collection certificate to the person from whom tax has been collected on or after 1st April, 2010.

Considering the fact that the TDS/TCS certificate constitutes an important document for the deductee/collectee, it is proposed that the deductor/collector will continue to furnish TDS/TCS certificates to the deductee/collectee even after 1st April, 2010.

These amendments are proposed to take effect retrospectively from 1st April, 2010.

Limit of turnover or gross receipts for the purpose of audit of accounts and for presumptive taxation

A. Under the existing provisions of section 44AB, every person carrying on business is required to get his accounts audited if the total sales, turnover or gross receipts in business exceed forty lakh rupees in the previous year. Similarly, a person carrying on a profession is required to get his accounts audited if the gross receipts in profession exceed ten lakh rupees in the previous year.

In order to reduce compliance burden of small businesses and professionals, it is proposed to increase the aforesaid threshold limit from forty lakh rupees to sixty lakh rupees in the case of

persons carrying on business and from ten lakh rupees to fifteen lakh rupees in the case of persons carrying on profession.

B. In view of the amendment proposed above, it is also proposed to increase the maximum penalty, leviable under section 271B for failure to get accounts audited under section 44AB or to furnish a report of such audit, from one lakh rupees to one lakh fifty thousand rupees.

C. It is also proposed that for the purpose of presumptive taxation under section 44AD, the threshold limit of total turnover or gross receipts would be increased from forty lakh rupees to sixty lakh rupees.

These amendments are proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

Income of a non-resident providing services or facilities in connection with prospecting for, or extraction or production of, mineral oil

Under the existing provisions contained in section 44BB(1) of the Income-tax Act, income of a non-resident taxpayer who is engaged in the business of providing services or facilities in connection with, or supplying plant and machinery on hire used, or to be used, in the prospecting for, or extraction or production of, mineral oils is computed at ten per cent. of the aggregate of the amounts paid.

Section 44DA provides the procedure for computing income of a non-resident, including a foreign company, by way of royalty or fee for technical services, in case the right, property or contract giving rise to such income are effectively connected with the permanent establishment of the said non-resident. This income is computed as per the books of account maintained by the assessee.

Section 115A provides the rate of taxation in respect of income of a non-resident, including a foreign company, in the nature of royalty or fee for technical services, other than the income referred to in section 44DA i.e., income in the nature of royalty and fee for technical services which is not connected with the permanent establishment of the non-resident.

Combined effect of the provisions of sections 44BB, 44DA and 115A is that if the income of a non-resident is in the nature of fee for technical services, it shall be taxable under the provisions of either section 44DA or section 115A irrespective of the business to which it relates. Section 44BB applies only in a case where consideration is for services and other facilities relating to exploration activity which are not in the nature of technical services. However, owing to judicial pronouncements, doubts have been raised regarding the scope of section 44BB vis-à-vis section 44DA as to whether fee for technical services relating to the exploration sector would also be covered under the presumptive taxation provisions of section 44BB.

In order to remove doubts and clarify the distinct scheme of taxation of income by way of fee for technical services, it is proposed to amend the proviso to section 44BB so as to exclude the applicability of section 44BB to the income which is covered under section 44DA. Similarly, section 44DA is also proposed to be amended to provide that provisions of section 44BB shall not apply to the income covered under section 44DA.

These amendments are proposed to take effect from 1st April 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

Conversion of a private company or an unlisted public company into a limited liability partnership (LLP)

The Finance (No. 2) Act, 2009 provided for the taxation of LLPs in the Income-tax Act on the same lines as applicable to partnership firms. Section 56 and section 57 of the Limited Liability Partnership Act, 2008 allow conversion of a private company or an unlisted public company (hereafter referred as company) into an LLP. Under the existing provisions of Income-tax Act, conversion of a company into an LLP has definite tax implications. Transfer of assets on conversion attracts levy of capital gains tax. Similarly, carry forward of losses and of unabsorbed depreciation is not available to the successor LLP.

It is proposed that the transfer of assets on conversion of a company into an LLP in accordance with section 56 and section 57 of the Limited Liability Partnership Act, 2008 shall not be regarded as a transfer for the purposes of capital gains tax under section 45, subject to certain conditions. These conditions are as follows:

(i) the total sales, turnover or gross receipts in business of the company do not exceed sixty lakh rupees in any of the three preceding previous years;

(ii) the shareholders of the company become partners of the LLP in the same proportion as their shareholding in the company;

(iii) no consideration other than share in profit and capital contribution in the LLP arises to partners;

(iv) the erstwhile shareholders of the company continue to be entitled to receive at least 50 per cent of the profits of the LLP for a period of 5 years from the date of conversion;

(v) all assets and liabilities of the company become the assets and liabilities of the LLP; and

(vi) no amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company for a period of 3 years from the date of conversion. It is also proposed to allow carry forward and set-off of business loss and unabsorbed depreciation to the successor LLP which fulfills the above mentioned conditions.

It is also proposed that if the conditions stipulated above are not complied with, the benefit availed by the company shall be deemed to be the profits and gains of the successor LLP chargeable to tax for the previous year in which the requirements are not complied with.

It is also proposed that the aggregate depreciation allowable to the Predecessor Company and successor LLP shall not exceed, in any previous year, the depreciation calculated at the prescribed rates as if the conversion had not taken place.

It is further proposed that the actual cost of the block of assets in the case of the successor LLP shall be the written down value of the block of assets as in the case of the predecessor company on the date of conversion.

It is also provided that the cost of acquisition of the capital asset for the successor LLP shall be deemed to be the cost for which the predecessor company acquired it.

Credit in respect of tax paid by a company under section 115JB is allowed only to such company under section 115JAA. It is proposed to clarify that the tax credit under section 115JAA shall not be allowed to the successor LLP.

These amendments are proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

Taxation of certain transactions without consideration or for inadequate consideration

Under the existing provisions of section 56(2)(vii), any sum of money or any property in kind which is received without consideration or for inadequate consideration (in excess of the prescribed limit of Rs. 50,000/-) by an individual or an HUF is chargeable to income tax in the hands of recipient under the head 'income from other sources'. However, receipts from relatives or on the occasion of marriage or under a will are outside the scope of this provision.

The existing definition of property for the purposes of section 56(2)(vii) includes immovable property being land or building or both, shares and securities, jewellery, archeological collection, drawings, paintings, sculpture or any work of art.

A. These are anti-abuse provisions which are currently applicable only if an individual or an HUF is the recipient. Therefore, transfer of shares of a company to a firm or a company, instead of an individual or an HUF, without consideration or at a price lower than the fair market value does not attract the anti-abuse provision

In order to prevent the practice of transferring unlisted shares at prices much below their fair market value, it is proposed to amend section 56 to also include within its ambit transactions undertaken in shares of a company (not being a company in which public are substantially interested) either for inadequate consideration or without consideration where the recipient is a firm or a company (not being a company in which public are substantially interested). Section 2(18) provides the definition of a company in which the public are substantially interested.

It is also proposed to exclude the transactions undertaken for business reorganization, amalgamation and demerger which are not regarded as transfer under clauses (via), (vic), (vicb), (vid) and (vii) of section 47 of the Act.

Consequential amendments are proposed in—

- (i) section 2(24), to include the value of such shares in the definition of income;
- (ii) section 49, to provide that the cost of acquisition of such shares will be the value which has been taken into account and has been subjected to tax under the provisions of section 56 (2).

These amendments are proposed to take effect from 1st June 2010 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

B. The provisions of section 56(2)(vii) were introduced as a counter evasion mechanism to prevent laundering of unaccounted income under the garb of gifts, particularly after abolition of the Gift Tax Act. The provisions were intended to extend the tax net to such transactions in kind. The intent is not to tax the transactions entered into in the normal course of business or trade, the profits of which are taxable under specific head of income. It is, therefore, proposed to amend the definition of property so as to provide that section 56(2)(vii) will have application to the 'property' which is in the nature of a capital asset of the recipient and therefore would not apply to stock-in-trade, raw material and consumable stores of any business of such recipient.

C. In several cases of immovable property transactions, there is a time gap between the booking of a property and the receipt of such property on registration, which results in a taxable differential. It is, therefore, proposed to amend clause (vii) of section 56(2) so as to provide that it would apply only if the immovable property is received without any consideration and to remove the stipulation regarding transactions involving cases of inadequate consideration in respect of immovable property.

These amendments are proposed to take effect retrospectively from 1st October, 2009 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

D. It is proposed to amend the definition of 'property' as provided under section 56 so as to include transactions in respect of 'bullion'.

This amendment is proposed to take effect from 1st June, 2010 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

E. It is proposed to amend section 142A(1) to allow the Assessing Officer to make a reference to the Valuation Officer for an estimate of the value of property for the purposes of section 56(2).

This amendment is proposed to take effect from 1st July, 2010.

Deduction in respect of long-term infrastructure bonds

In tune with the policy thrust of promoting investment in the infrastructure sector, it is proposed to insert a new section 80CCF in the Income-tax Act to provide that subscription during the financial year 2010-11 made to long-term infrastructure bonds (as may be notified by the Central Government), to the extent of Rs. 20,000, shall be allowed as deduction in computing the income of an individual or a Hindu undivided family. This deduction will be over and above the existing overall limit of tax deduction on savings of upto Rs.1 lakh under section 80C, 80CCC and 80CCD of the Act.

This amendment is proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12.

Deduction in respect of contribution to the Central Government Health Scheme

Under the existing provisions of section 80D, deduction in respect of premium paid towards a health insurance policy upto a maximum of Rs. 15,000 is available for self, spouse and dependent children. A further deduction of Rs. 15,000 is also allowed for buying an insurance policy in respect of dependent parents. The deduction is enhanced to Rs. 20,000 in both cases if the person insured is of age of 65 years or above.

The Central Government Health Scheme (CGHS) is a medical facility available to serving and retired Government servants. This facility is similar to the facilities available through health insurance policies.

It is, therefore, proposed to also allow deduction in respect of any contribution made to CGHS by including such contribution under the provisions of section 80D. The deduction will be limited to the current aggregate as mentioned in the section.

This amendment is proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years. [Clause 25]

Deduction for developing and building housing projects

Under the existing provisions of section 80-IB(10), 100 per cent deduction is available in respect of profits derived by an undertaking from developing and building housing projects approved by a local authority before 31.3.2008. This benefit is available subject to, *inter alia*, the following conditions:

- (a) the project has to be completed within 4 years from the end of the financial year in which the project is approved by the local authority.
- (b) the built-up area of the shops and other commercial establishments included in the housing project should not exceed 5 per cent of the total built-up area of the housing project or 2,000 sq.ft. whichever is less.

To allow for extraordinary conditions due to the global recession and the resultant slowdown in the housing sector, it is proposed to increase the period allowed for completion of a housing project in order to qualify for availing the tax benefit under the section, from the existing 4 years to 5 years from the end of the financial year in which the housing project is approved by the local authority. This extension will be available for housing projects approved on or after 1.4. 2005.

Further, it is also proposed to enhance the current norms for built-up area of shops and other commercial establishments in housing projects in order to enable basic facilities for the residents. The built-up area of the shops and other commercial establishments included in the housing project is proposed to be three per cent of the aggregate built-up area of the housing project or 5000 sq. ft., whichever is higher. This benefit will be available to projects approved on or after the 1.4.2005, which are pending for completion, in respect of their income relating to assessment year 2010-11 and subsequent years.

These amendments are proposed to take effect retrospectively from 1st April, 2010 and will, accordingly, apply in relation to the assessment year 2010-11 and subsequent years.

Deduction of profits of a hotel or a convention centre in the National Capital Territory

Section 80-ID of the Income-tax Act provides for 100 per cent deduction for five years, of profits derived by an undertaking from the business of a two-star, three-star or four-star category hotel or from the business of building, owning and operating a convention centre located in the National Capital Territory of Delhi and the districts of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad, provided such hotel has started functioning or such convention centre is constructed during the period 1.4.2007 to 31.3.2010.

To provide some more time for these facilities to be set up in light of the Commonwealth Games in October, 2010, it is proposed to amend clauses (i) and (ii) of section 80-ID to extend the date by which the hotel has to start functioning or the convention centre has to be constructed, from the present 31st March, 2010 to 31st July, 2010.

This amendment is proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

Minimum Alternate Tax under Section 115JB

Under the existing provisions of section 115JB of the Income Tax Act, a company is required to pay a Minimum Alternate Tax (MAT) on its book profit, if the income-tax payable on the total income, as computed under the Act in respect of any previous year relevant to the assessment year commencing on or after the 1st day of April, 2010, is less than such minimum. The amount of tax paid under section 115JB is allowed to be carried forward and set off against tax payable upto the tenth assessment year immediately succeeding the assessment year in which tax credit becomes allowable under the provisions of section 115JAA.

It is proposed to amend sub-section (1) of section 115JB to increase the MAT rate to eighteen per cent from the existing fifteen per cent.

This amendment is proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years. [*Clause 30*]

Centralised Processing of Returns

Under the existing provisions of section 143(1B), the Central Government may, for the purposes of giving effect to the scheme of centralised processing of returns under section 143(1A), issue a notification relating to such processing of returns. Such a notification can be issued up to 31st March, 2010.

A Centralised Processing Centre has been set up where returns are being processed in batches. However, some more functionalities in the processing of returns may need to be added to make it a complete end-to-end process.

Therefore, it is proposed to extend the time limit for issue of such notification under section 143 (1B) from 31st March, 2010 to 31st March 2011.

Consequential amendments on similar lines are proposed to be made in section 115WE of the Income-tax Act. These amendments are proposed to take effect retrospectively from 1st April, 2010. [Clauses 31, 34]

Other Administrative procedures

❖ Settlement Commission

The conditions for filing of an application before the Settlement Commission and the time for disposal of an application by the Settlement Commission are proposed to be modified. The changes proposed are as under:-

A. Under the existing provisions of section 245A(b), the term “case”, in relation to which an application can be made is defined as any proceeding for assessment, of any person in respect of any assessment year or assessment years which may be pending before an Assessing Officer on the date on which an application is made to the Settlement Commission. However, it excludes, among others, proceedings for assessment or reassessment resulting from a search or as a result of requisition of books of account or other documents or any assets, initiated under the Act.

It is now proposed to include proceedings for assessment or reassessment resulting from search or as a result of requisition of books of account or other documents or any assets, within the definition of a “case” which can be admitted by the Settlement Commission.

It is also proposed to amend the *Explanation* to section 245A(b) to specify the date on which the proceedings for assessment or reassessment shall be deemed to have commenced and concluded in the case of a person whose income is being assessed or reassessed as a result of search or as a result of requisition of books of account or other documents or any assets.

Similarly, consequential amendments are also proposed to be made in section 22A of the Wealth-tax Act.

These amendments are proposed to take effect from 1st June, 2010.

B. Under the existing provisions of section 245C of the Income-tax Act, an application can be filed before the Settlement Commission, if the additional amount of income-tax payable on the income disclosed in the application exceeds three lakh rupees.

It is proposed to substitute the proviso to section 245C, so as to provide that an application can be filed before the Settlement Commission, in cases where proceedings for assessment or reassessment have been initiated as a result of search or as a result of requisition of books of account or other documents or any assets, if the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees. It is further proposed that, in other cases, an application can be made before the Settlement Commission, if the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

These amendments are proposed to take effect from 1st June, 2010.

C. Under the existing provisions of section 245D(4A) of the Income-tax Act, the Settlement Commission shall pass an order within twelve months from the end of the month in which the application was made.

It is proposed to amend clause (ii) of sub-section (4A) so as to provide that the Settlement Commission, shall, in respect of an application filed on or after 1st June, 2007 but before 1st June, 2010, pass an order within the said period of twelve months.

It is further proposed to insert a new clause (iii) in sub-section (4A) so as to provide that the Settlement Commission shall, in respect of an application made on or after 1st June, 2010, pass an order within eighteen months from the end of the month in which the application is made.

Consequential amendments on similar lines are proposed to be made in section 22D of the Wealth-tax Act.

These amendments are proposed to take effect from 1st June, 2010.

❖ Power of the High Court to condone delay in filing of appeals

A. The existing provisions of section 260A(2) provide that an appeal against the order of Income-tax Appellate Tribunal can be filed before the High Court within a period of one hundred and twenty days from the date of the receipt of the order by the assessee or the Commissioner. Sub-section (7) of section 260A of the Income-tax Act provides that the provisions of Code of Civil Procedure, 1908 (5 of 1908) shall, as far as may be, apply in the case of an appeal filed under this section before the High Court.

The Delhi High Court, while interpreting provisions of section 260A, has held that the High Court has the power to condone delay in filing of an appeal. However, Allahabad, Bombay, Kolkata, Guwahati and Chattisgarh High Courts have held otherwise.

It is, therefore, proposed to retrospectively insert sub-section (2A) in section 260A of the Income-tax Act to specifically provide that the High Court may admit an appeal after the expiry of the period of one hundred and twenty days, if it is satisfied that there was sufficient cause for not filing the appeal within such period.

Consequential amendments on similar lines are proposed to be made in section 27A of the Wealth-tax Act.

These amendments are proposed to take effect retrospectively from 1st October, 1998.

B. Under section 256 of the Income-tax Act, the Income-tax Appellate Tribunal could refer a case to the High Court. In case where the Income-tax Appellate Tribunal refused to refer a case to the High Court, the assessee or the Commissioner were allowed to file an appeal before the High Court against such refusal of the Tribunal within a period of six months from the date on which he was served with an order of refusal.

It is proposed to retrospectively insert sub-section (2A) in section 256 so as to empower the High Court to admit an application after the expiry of the period of six months, if it is satisfied that there was sufficient cause for not filing the same within such period.

Consequential amendments on similar lines are also proposed to be made in section 27 of the Wealth-tax Act.

These amendments are proposed to take effect retrospectively from 1st June, 1981.

Document Identification Number

Section 282B (Allotment of Document Identification Number) is a new section inserted by the Finance (No. 2) Act, 2009 in the Income-tax Act with effect from 1st October, 2010.

Under the provisions of this section, an income-tax authority is required to allot a computer generated Document Identification Number before issue of every notice, order, letter or any correspondence to any other income-tax authority or assessee or any other person and such number shall be quoted thereon. It also provides that every document, letter, correspondence received by an income-tax authority or on behalf of such authority, shall be accepted only after allotting and quoting of a computer generated Document Identification Number.

In order to cover the entire gamut of services mentioned in section 282B on a pan-India basis, it would be essential to have the requisite infrastructure and facilities in place.

It is proposed to amend the provisions of section 282B so as to provide that Document Identification Number will be required to be issued on or after 1st July, 2011.

This amendment is proposed to take effect from 1st October, 2010. [*Clause 51*]

Taxation of income of non-life insurance business

Section 44 read with the First Schedule to the Income-tax Act provides the scheme of computation of income of insurance companies. According to Rule 5 of the said Schedule, the income of non-life insurance business is taken as 'profit before tax and appropriations' as per the profit and loss account of the company, prepared in accordance with the regulations made by the Insurance Regulatory Development Authority (IRDA), subject to certain adjustments.

The Finance (No. 2) Act, 2009 amended the First Schedule to provide that in case of non-life insurance business, appreciation of or gains on realisation of investments taken credit for in the accounts shall be treated as income and be included in the computation of the total income.

The appreciation in the value of investments, being in the nature of unrealized gain is not taken into account for determining profit or loss of non-life insurance business as per the IRDA regulations. It is, therefore, proposed that the unrealized gains due to appreciation in the value of investments will not be included in the total income. Similarly, deduction will not be allowed for provision for losses due to diminution in the value of investments as this is not a realized loss.

It has also been provided that any gain or loss on realisation of investments shall be added or deducted for the purpose of computation of the total income, if the same is not already credited or debited in the profit and loss account.

This amendment is proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

CUSTOMS DUTY

Effective Dates

Particulars	Date from when effective
Legislative changes in Customs Laws	Date of Presidential assent to the Finance Bill, 2010
New Rates of Customs duty	Immediate

Sector wise Changes in Custom Duty

Petroleum Sector

Particulars	Change
Crude Petroleum	Increased from NIL to 5%
Duty paid High Speed Diesel and Motor Spirit (petrol)	Increased from 2.5% to 7.5%
Duty on some other specified petroleum products	Increased from 5% to 10%.

Precious Metals

Particulars	Change
Serially numbered gold bars (other than tola bars) and gold coins	Duty increased from Rs.200 per 10 gram to Rs.300 per 10 gram.
Other forms of gold	Duty increased from Rs.500 per 10 gram to Rs.750 per 10 gram.
Silver	Duty increased from Rs.1000 per Kg. to Rs.1500 per Kg.
Platinum	Duty increased from Rs.200 per 10 gram to Rs.300 per 10 gram

** The above change in rates would also be applicable when gold, silver and platinum (including ornaments) are imported as personal baggage.

Food / Agro Processing

Particulars	Change
Project imports status is being granted to the initial setting up or substantial expansion of, a cold storage, cold room (including farm pre-coolers) for preservation or storage or an industrial unit for processing of agricultural, apiary, horticultural, dairy, poultry, aquatic & marine produce and meat	Increased from NIL to 5%
Installation of Mechanized Handling Systems & Pallet Racking Systems, in mandis or warehouses for food grains and sugar,	Increased from NIL to 5% with Nil CVD and SADV
Truck Refrigeration units for the manufacture of refrigerated vans/trucks	Fully exempted
Specified agricultural machinery such as paddy transplanter, laser land leveler, cotton picker, reaper-cum-binder, straw or fodder balers, sugarcane harvesters, track used for manufacture of track-type combine harvester etc.	Reduced from 7.5% to 5%

Agriculture / Horticulture

Particulars	Change
Long Pepper	Reduced from 70% to 30%.
'Asafoetida' (Heeng)	Reduced from 30% to 20%.
Bio-polymer/bio-plastics (HS Code 39139090) used for manufacture of bio-degradable agro mulching films, nursery plantation & flower pots.	Fully exempted

Capital Goods

Particulars	Change
Mono Rail Projects for urban transport	Concessional rate of 5% basic customs duty.
Tunnel Boring machine for hydro-electric power projects	Fully exempted with NIL CVD
Specified machinery for tea, coffee and rubber plantations	Concessional Duty of 5% presently available upto 06.07.2010 is extended upto 31.03.2011
Mechanical harvester for coffee plantation	Duty reduced from 7.5% to 5% and CVD reduced to Nil.
Specified road construction machinery items	Fully exempted

Concessions To Environment-Friendly Items

Particulars	Change
Specified parts namely, batteries including battery chargers, electric motors and AC or DC motor controllers imported for manufacturing all categories of electrical vehicles including cars, two wheelers and three wheelers (like Soleckshaw)	Fully exempted. This concession will be available till 31.03.2013.
Machinery items, instruments, appliances required for initial setting up of solar power generation projects or facilities.	Concessional rate of 5%
Ground source heat pump (for geo-thermal energy applications)	Fully exempted

Health Care

Particulars	Change
All medical equipments (with some exceptions)	Concessional rate of 5% basic customs duty, 4%CVD and NIL special additional duty (eff. duty of 9.2%)
Parts required for the manufacture and accessories of medical equipment	Concessional rate of 5% basic customs duty with NIL special CVD
Concessional customs duty available to spares for the maintenance of medical equipment	withdrawn except in specified cases

Specified medical devices (exempt by description) as well as for assistive devices, rehabilitation aids and other goods for disabled (List 41).	Fully exempted from basic customs duty and CVD/excise duty is being retained
Cobalt-chrome alloys, special grade stainless steel etc. for the manufacture of orthopaedic implants	Exempted from basic customs duty subject to actual user condition.

Electronic Hardware

Particulars	Change
additional specified capital goods and raw materials for the manufacture of electronic hardware.	Fully exempted
Parts for manufacture of mobile phones and accessories	Fully exempted from 4% special CVD upto 06.07.2010 extended upto 31.03.2011
Parts, components, accessories for manufacturing of mobile handsets including cellular phones and parts thereof is being extended to parts for the manufacture of battery chargers and hands-free headphones also.	Fully exempted
Magnetrons of upto 1,000 kw for the manufacture of microwave ovens.	Reduced from 10% to 5%

Entertainment / Media

Particulars	Change
Films for exhibition, Digital masters/ Stampers of films	Customs duty would now be charged only on the value of the carrier medium and the customs duty on the balance value will be exempt.
Music and gaming software (other than pre-packaged form) for retail sale imported on digital media for duplication	Customs duty would now be charged only on the value of the carrier medium and the customs duty on the balance value will be exempt.
Pre-packaged Movies, Music and Games (meant for use with	Charged to import duties on value determined in terms of the provisions of

gaming consoles)	the Customs Act.
Promotional material like trailers, making of films etc. imported free of cost in the form of electronic promotion kits (EPK)/ Betacams	Fully exempted with NIL CVD
'Setting up of Digital Head End'	Concessional rate of 5% and NIL special additional duty

Gold Refining

Particulars	Change
Gold ore and concentrate	Fully exempted, but chargeable to CVD @ Rs.140 per 10 gram of gold content. This duty structure is subject to actual user condition.

Export Promotion

Particulars	Change
Rhodium	Reduced from 10% to 2%.
Duty free import of samples	Increased from current limit of Rs. 1 lakh per annum to Rs. 3 lakh per annum
Specified components, raw materials and accessories for the manufacture of sports goods	Fully exempted

Electrical Energy

Particulars	Change
Special Economic Zone to the Domestic Tariff Area and non - processing areas of SEZ	duty of 16% ad valorem + Nil Special CVD. This change is being made retrospectively w.e.f. 26th June, 2009.

Miscellaneous

Particulars	Change
ADDITIONAL DUTY OF CUSTOMS OF 4 % (SPECIAL CVD)	Goods imported in pre-packaged form and intended for retail sale and certain specified goods namely, ready-made garments, mobile phones and watches are being provided an outright exemption from additional duty of customs of 4%. In addition, outright exemption from this duty is also being provided to Carbon Black Feedstock, waste paper and paper scrap. The existing exemption by way of refund would continue on other items.

❖ **AMENDMENTS IN CUSTOMS ACT, 1962**

Section 127 dealing with Settlement Commission is being amended so as to restore certain provisions as they obtained prior to the enactment of the Finance Bill, 2007. Accordingly, the prohibition on filing of applications for the settlement of cases where an assessee admits short-levy in respect of goods not included in the entry made under the said Act. (i.e. cases of misdeclaration, suppression etc.) is being removed. Similarly, the restriction that an assessee may seek only one-time settlement is also being relaxed. The Commission is being empowered to extend the time limit of nine months for disposal of applications by another three months, for reasons to be recorded in writing.

❖ **AMENDMENTS IN CUSTOMS TARIFF ACT, 1975**

1. Section 3 of the Customs Tariff Act is being amended to provide that the value of the imported goods for the purpose of charging CVD in respect of goods chargeable to excise duty on the basis of Maximum Retail Sale Price under Medicinal and Toilet Preparations (Excise Duties) Act, 1955 shall be the retail sale price declared on such imported goods less the amount of abatement, if any. This change will come into effect on enactment of the Finance Bill.
2. Consequent upon insertion of a new tariff item covering filter cigarettes of length not exceeding 60 mm and other changes in the schedule to the Central Excise Tariff Act, similar change is being carried out in heading 2402 with the new tariff item attracting customs duty of 30% ad valorem.
3. In Chapter 27, sub-heading 2712 20 and the tariff items 2712 20 10 and 2712 20 90 are being substituted by 2712 2000 covering 'Paraffin Wax containing by weight less than 0.75% of oil'. Further, tariff item 2712 90 40 covering 'Paraffin wax containing by weight 0.75% and more of oil' is being inserted.

EXCISE DUTY

Effective Dates

Particulars	Date from when effective
Legislative changes in Excise Laws	Date of Presidential assent to the Finance Bill, 2010
New Rates of Excise duty	Immediate

The standard rate of excise duty of 8% on non-petroleum products is being increased to 10% with a few exceptions where exemptions/concessions have been given.

Sector wise Changes in Excise Rates

Cement

Particulars	Change
Cement and cement clinker	Increased from 8% to 10%

Mini cement plant:

Cement Present rate Proposed rate

1. Cleared in packaged form,-
 - I. of retail sale price not exceeding Rs. 190 per Rs.145 per tonne Rs.185 per tonne 50 kg bag or of per tonne equivalent retail sale price not exceeding Rs. 3800;
 - II. of retail sale price exceeding Rs. 190 per Rs. 250 per tonne Rs.315 per tonne 50 kg bag or of per tonne equivalent retail sale price exceeding Rs. 3800;
2. Cleared other than in packaged form Rs. 170 per tonne Rs.215 per tonne

Other than mini cement plant:

Cement Present rate Proposed rate

1. Cleared in packaged form,-
 - I. of retail sale price not exceeding Rs. 190 per Rs. 230 per tonne Rs.290 per tonne 50 kg bag or of per tonne equivalent retail sale price not exceeding Rs. 3800;
 - II. of retail sale price exceeding Rs. 190 per 8% of retail sale price 10% of retail sale price 50 kg bag or of per tonne equivalent retail sale price exceeding Rs. 3800
2. Cleared other than in packaged form 8% or Rs. 230 per tonne, 10% or Rs.290 per tonne whichever is higher whichever is higher

Cement clinker Rs.300 per tonne Rs. 375 per tonne

Automobile Sector

Particulars	Change
Ad-valorem component of excise duty on large cars, Multi Utility Vehicles and Sports Utility Vehicles etc. and chassis	increased from 20% to 22%.
specific component	will continue to be levied as applicable.

Petroleum Products

Particulars	Change
Motor Spirit (petrol) and HSD (diesel)	increased by Re.1 per litre.
Motor Spirit *	Increased from Rs.14.35 per litre to Rs.15.50 per litre
HSD	Increased from Rs.4.60 per litre to Rs.5.75 per litre

Note: * Includes Rs.2 Additional Excise Duty and Rs.6 Special Additional Excise Duty.

** Includes Rs.2 Additional Excise Duty.

Food / Agro Processing And Agriculture Sector

Particulars	Change
20 specified equipments for preservation, storage or transport of agricultural produce is being extended to apiary, horticultural, dairy, poultry, aquatic & marine produce and meat as well as processing thereof.	Fully exempted
self-loading / self-unloading trailers & semi trailers for Agricultural Purposes (tariff item 8716 20 00).	Fully exempted

Environment Friendly and Energy Savings Goods

Particulars	Change
parts, namely batteries including battery chargers, electric motors and AC or DC motor controllers required for manufacture of all categories of electrical vehicles including cars, two wheelers and three wheelers (like 'Soleckshaw')	Concessional rate of duty of 4% subject to actual user condition. This concession will be available till 31.03.2013. Such vehicles will also be charged to excise duty @ 4%.
LED lights/lighting fixtures	Reduced from 8% to 4%
Additional specified raw materials for the manufacture of rotor blades for wind operated electricity generators.	Fully exempted

Capital Goods

Particulars	Change
goods supplied against International Competitive Bidding is now being extended to goods supplied to mega power projects from which power supply has been tied up through tariff-based competitive bidding.	Fully exempted. The exemption would also be available where the mega power project has been awarded through tariff based competitive bidding.

MSME/ Small Scale Sector

Particulars	Change
Changes are being made in the relevant provisions to provide certain facilities to Small Scale Industrial (SSI) units eligible for availing benefit under Notification No. 8/2003-CE as under: a) capital goods in one installment in the year of receipt of such goods. b) facility of payment of excise duty on quarterly basis.	Full cenvat Credit. The above changes come into effect from 1st April, 2010 and will be applicable even if an eligible unit opts not to avail of the SSI exemption.

❖ **WITHDRAWAL OF EXEMPTIONS/CONCESSIONS**

1. Full exemption from excise duty on following items is being withdrawn. They will now attract excise duty of 4%.
 - a) Mosquito nets impregnated with insecticides;
 - b) Av gas;
 - c) Microprocessor for computers (other than motherboard), Floppy disk drive, Hard disk drive, flash drive, CD/DVD and Combo Drive meant for external use.
- 2) Full exemption from excise duty on baby & clinical diapers and sanitary napkins is being withdrawn. These items will now attract duty at 10%.
- 3) Concessional rate of excise duty on open tin sanitary (OTS) cans is being withdrawn. OTS cans will now attract duty at 10%.
- 4) Concessional rate of excise duty on goggles is being withdrawn except those used for correcting vision. These items will now attract duty at 10%.

❖ **AMENDMENTS IN CENTRAL EXCISE ACT, 1944**

1. In section 11A (2B), an Explanation is being inserted to clarify that no penalty shall be imposed where duty along with interest has been paid before the issuance of a demand notice by the Department.
2. Section 32 dealing with Settlement Commission is being amended so as to restore certain provisions as they obtained prior to the enactment of the Finance Bill, 2007. Accordingly, the prohibition on filing of applications for the settlement of cases where an assessee admits short-levy for goods in respect of which he has not maintained proper records (i.e. cases of misdeclaration, clandestine removal etc.) is being removed. Similarly, the restriction that an assessee may seek only onetime settlement is also being relaxed. The Commission is being empowered to extend the time limit of nine months for disposal of applications by another three months, for reasons to be recorded in writing.
3. In Section 37, a new clause is being inserted to provide rule-making powers to the Central Government for withdrawal of facilities or imposition of restrictions including restrictions on utilization of Cenvat credit on a manufacturer or exporter or suspension of registration of a dealer for dealing with evasion of duty or misuse of Cenvat credit. The above changes will come into effect on enactment of the Finance Bill.

❖ **AMENDMENTS IN THE FIRST SCHEDULE TO CENTRAL EXCISE TARIFF ACT, 1985**

1. In heading 2402, a new tariff item covering filter cigarettes of length not exceeding 60 mm has been inserted. Consequential changes have been made to other tariff items in the said heading.
2. In Chapter 27, sub-heading 2712 20 and the tariff items 2712 20 10 and 2712 20 90 are being substituted by 2712 2000 covering 'Paraffin Wax containing by weight less than 0.75% of oil'. Further, tariff item 2712 90 40 covering 'Paraffin wax containing by weight 0.75% and more of oil' is being inserted.
3. In chapter 68, Note 3 is being inserted to provide that in relation to goods of headings 6802 and 6810 the process of cutting or sawing or sizing or polishing or any other process for converting stone blocks into slabs or tiles shall amount to "manufacture".
4. In Chapter 76, Note 2 is being inserted to declare the process of drawing or redrawing of aluminium tubes and pipes as amounting to "manufacture"

❖ **AMENDMENTS IN CENTRAL EXCISE RULES AND CENVAT CREDIT RULES**

1. Rule 11 (5) of the Central Excise Rules, 2002 is being deleted so as to dispense with the requirement of pre-authentication of the invoice.
2. The Central Excise Rules, 1944, the Cenvat Credit Rules, 2000, the Cenvat Credit Rules 2001, the Cenvat Credit Rules 2002 and the Cenvat Credit Rules, 2004 are being amended retrospectively w.e.f. 01.09.1996 to 31.03.2008 (for periods as applicable to respective rules) to provide that where a manufacturer avails Modvat/Cenvat credit in respect of any inputs, other than fuel, to manufacture both dutiable and exempted goods, he can opt to reverse credit or pay an amount equivalent to credit attributable to inputs used for manufacture of exempted goods. It is being further provided that such manufacturers shall pay interest @ 24% p.a. from the date of clearance till date of reversal of the said credit or payment of equivalent amount. Such option will, however, be available only in such cases where disputes in this regard are pending on the date of enactment. This change will come into effect on the enactment of Finance Bill, 2010.
3. Rule 3(5) of the Cenvat Credit Rules, 2004 is being amended to provide accelerated depreciation in the case of computers and computer peripherals cleared after use at the same rates as applicable for similar capital goods of EOU/EHTP/STP units under Notification No. 52/2003-Customs.
4. Rule 4(5) (b) of the Cenvat Credit Rules, 2004 is being amended to permit sending of jigs, fixtures, moulds and dies to a vendor for production of goods according to the specifications of the principal manufacturer without reversal of credit.
5. Rule 6 (6) (vii) of the Central Credit Rules, 2004 is being amended so as to allow Cenvat credit on inputs used in the manufacture of goods supplied to such mega power projects from which power has been tied up through tariff-based competitive bidding or the projects awarded through tariff-based competitive bidding. Similar facility available to goods supplied against International Competitive Bidding available at present is also being continued.
6. Rule 15 of the Cenvat Credit Rules, 2004 is being amended to harmonize the penal provisions for incorrect availment of Cenvat credit of duty paid on inputs or capital goods or input services.

❖ **AMENDMENTS IN MEDICINAL AND TOILET PREPARATIONS (EXCISE DUTIES) ACT, 1955**

Section 3 of the M&TP Act is being amended to exclude goods manufactured or produced by units in SEZ from excise duty leviable under that Act. This change will come into effect on enactment of the Finance Bill.

❖ **AMENDMENTS IN CENTRAL SALES TAX ACT, 1956**

The provisions of CST Act are being amended so as to provide for:

1. Reassessment by the assessing authority on the basis of new facts discovered or revision by a higher authority.
2. Filing of appeals to the highest authority of every State against the orders made by assessing authorities on issues involving stock transfer or inter state sale including incidental issues relating to rate of tax, computation of assessable turnover, penalty and procedure.
3. Filing of appeal against any order passed by the highest appellate authority of a State on disputes of interstate nature relating to stock transfer or consignments of goods to the CST Appellate Authority.

The above changes will come into effect on enactment of the Finance Bill.

SERVICE TAX

Effective Dates

Particulars	Date from when effective
New services / changes in existing services	From a date to be notified later
Amendment in Finance Act, 1994	Date of Presidential assent to the Finance Bill, 2010

❖ SERVICE TAX IS BEING IMPOSED ON THE FOLLOWING SPECIFIED SERVICES:

1. Service of permitting commercial use or exploitation of any event organized by a person or organization.
2. The existing taxable service 'Intellectual Property Right (IPR)' excludes copyright from its scope. Copyrights on (a) cinematographic films and (b) sound recording are being brought under the ambit of service tax. However, copyright on original literary, dramatic, musical and artistic work would continue to remain outside the scope of service tax.
3. Service tax on the following health services:
 - a) health check up undertaken by hospitals or medical establishments for the employees of business entities; and
 - b) health services provided under health insurance schemes offered by insurance companies.
 - c) (The tax on these health services would be payable only if the payment for such health check up or preventive care or treatment etc. is made directly by the business entity or the insurance company to the hospital or medical establishment).
4. Service provided for maintenance of medical records of employees of a business entity.
5. Service provided by Electricity Exchanges.
6. Certain additional services provided by a builder to the prospective buyers such as providing preferential location or external or internal development of complexes on extra charges. However, service of providing vehicle-parking space would not be subjected to tax.
7. Service of promoting of a 'brand' of goods, services, events, business entity etc.
8. The promotion, marketing or organizing of games of chance, including lottery, is being introduced as a separate service.

Consequently, the Explanation in provision relating to Business Auxiliary Service is being deleted.

The above changes will come into effect from a date to be notified, after the enactment of Finance Bill, 2010.

❖ **SCOPE OF CERTAIN EXISTING SERVICES IS BEING EXPANDED OR ALTERED AS FOLLOWS:**

1. The scope of air passenger transport service is being expanded to include domestic journeys, and international journeys in any class.
2. At present, in the case of Information Technology Software Service the levy of tax is limited only to cases where IT software is used for furtherance of business or commerce. The scope of the taxable service is being expanded to cover all cases irrespective of its use.
3. In the case of 'Commercial training or coaching' service, an Explanation is being added to clarify that the term 'commercial' in the context of this service would mean any training or coaching, which is provided for a consideration, whether or not for profit. This change is being given retrospective effect from 01.07.2003.
4. In the definition of 'Sponsorship Service', the exclusion relating to sponsorship pertaining to sports is being removed.
5. In the 'Construction of complex service', it is being provided that unless the entire consideration for the property is paid after the completion of construction (i.e. after receipt of completion certificate from the competent authority), the activity of construction would be deemed to be a taxable service provided by the builder/promoter/developer to the prospective buyer and the service tax would be charged accordingly
6. Amendments are being made in the definition of the 'Renting of immovable property service' to,-
 - a. provide explicitly that the activity of 'renting' itself is a taxable service. The change has been given retrospective effect from 01.06.2007; and
 - b. levy service tax on rent of vacant land where there is an agreement or contract between the lessor and lessee for undertaking construction of buildings or structures on such land for furtherance of business or commerce during the tenure of the lease.
7. Definitions of 'Airport Services, 'Port services' and 'Other port services' are being amended to provide that,-
 - i. all services provided entirely within the airport/port premises would be classified under these services; and
 - ii. an authorization from the airport/port authority would not be a pre-condition for taxing these services.
8. An explanation is being added in 'Auctioneer's service' to clarify that the phrase 'auction by government' means an auction involving sale of government property and not when the government acts as an auctioneer for sale of the private property.
9. Definition of 'Management of Investment under ULIP Service' is being amended to provide that the value of the taxable service for any year of the operation of policy shall be the actual amount charged by the insurer for management of funds under ULIP or the maximum amount of fund management charges fixed by the Insurance Regulatory and Development Authority (IRDA), whichever is higher.

The above changes will come into effect from a date to be notified, after the enactment of Finance Bill, 2010.

❖ **AMENDMENTS IN ACT:**

Chapter V of the Finance Act, 1994 is being amended to,-

1. insert an explanation in sub-section (3) of Section 73 to clarify that no penalty shall be imposed where service tax along with interest has been paid before issuance of notice by the department under this sub-section.
2. provide definition of the term 'business entity' to include an association of persons, body of individuals, company or firm but not an individual.

The above changes at (a) will come into effect from a date of enactment of the Finance Bill, 2010 and (b) from a date to be notified after the enactment of Finance Bill, 2010.

❖ **EXEMPTIONS:**

1. Statutory taxes charged by the foreign governments are being excluded from taxable value for levy of service tax under the Air passenger transport service.
2. Exemption from service tax is being provided to services relating to 'Erection, Commissioning or Installation' of,-
 - (a) Mechanized Food Grain Handling Systems etc.;
 - (b) Equipment for setting up or substantial expansion of cold storage; and
 - (c) Machinery/equipment for initial setting up or substantial expansion of units for processing of agricultural, apiary, horticultural, dairy, poultry, aquatic, marine or meat products.
3. Pre-packaged I.T. software, with the license for right to its use, is being exempted from service tax, subject to specified conditions.
4. At present exemption from service tax is available to transport of fruits, vegetables, eggs or milk by road by a goods transport agency. The scope of exemption is being expanded to include food grains and pulses in the list of exempted goods.
5. Exemption from service tax is being provided to Indian news agencies under 'Online Information and Database Retrieval Service' subject to specified conditions.
6. Exemption from service tax is being provided to the 'Technical Testing and Analysis Service' and 'Technical Inspection and certification service' provided by Central and State seed testing laboratories, and Central and State seed certification agencies.
7. Exemption from service tax is being provided to the transmission of electricity.

The above changes will come into effect immediately.

❖ **WITHDRAWAL OR AMENDMENTS OF EXEMPTIONS:**

1. Exemption from service tax on 'Service provided in relation to transport of goods by rail' is being withdrawn. The levy will come into effect from 01.04.2010.
2. Exemption from service tax, presently available to Group Personal Accident Insurance Scheme provided by Govt. of Rajasthan to its employees, under General Insurance Service is being withdrawn.
3. The exemption from service tax on 'Commercial training or coaching service' is being restricted to vocational training courses in the designated Trades notified under the Apprentices Act, 1961.

The above changes, except at S. No.1, will come into effect immediately.

❖ **AMENDMENTS IN RULES AND NOTIFICATIONS:**

1. Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 are being amended so as to move some of the specified taxable services from one category to another.
2. In the Export of Services Rules, 2005, the condition prescribed i.e. 'such service is provided from India and used outside India' is being deleted.
3. Notification No. 1/2002-ST dated 01.02.2002 is being superceded by another notification to provide that the construction and operation of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oils and natural gas in the Exclusive Economic Zone and the Continental Shelf of India and for supply of any goods connected with these activities would be within the purview of the provisions of Chapter V of Finance Act, 1994. Suitable changes are being made in the Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.
4. Notification No. 5/2006-CE (NT) is being amended and given partial retrospective effect to remove the bottlenecks in refund of accumulated credit to the exporters.

The above changes will come into effect immediately.