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BUDGET 2010

Highlights of Union Budget 2010 proposals that were presented in Parliament on 26th February 2010:

1. DIRECT TAX PROPOSALS**1.1. INCOME TAX**

1.1.1. Rates of Tax

Personal income tax rates:

Existing slabs	Revised slabs	Rate of tax
Upto Rs.160,000	Upto Rs.160,000	Nil
160,001 to 300,000	160,001 to 500,000	10%
300,001 to 500,000	500,001 to 800,000	20%
Above 500,000	Above 800,000	30%

Minimum exemption limit remains unchanged for women (Rs.190,000) and for senior citizen (Rs.240,000)

Education cess and Secondary and Higher Education Cess at 2% and 1% respectively to continue

Corporate tax:

- a) No change in corporate tax rate
- b) MAT increased **to 18%** from 15%
- c) Surcharge on domestic companies **reduced to 7.5%** from 10% where income exceeds Rs.1 crores
- d) Surcharge on foreign companies remains at 2.5%
- e) Education cess at 2% and Secondary & Higher Education Cess at 1% continues.

Firms:

There has been no change in the basic tax rate of 30%. However, no Surcharge will be levied.

1.1.2. Definition of `charitable purpose`

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 any consideration does not qualify as an activity for charitable purpose and is subject to tax.

It is proposed to relax the above restriction where total receipts from any such activity do not exceed Rs.10 lakhs in the previous year.

The above amendment will take effect retrospectively from AY 2009-10.

1.1.3. Sec. 9 - Income deemed to accrue or arise in India

It is proposed to include a clause stating that income would be deemed to accrue or arise in India whether or not the services have been rendered in India. This amendment will be applicable retrospectively, from 1.6.1976.

1.1.4. Sec.10AA – computation of profits of SEZ units

To remove the drafting error in the computation formula for exempted profits of SEZ units, it is proposed to retrospectively amend Sec.10AA w.e.f from AY 2006-07. Accordingly the total turnover will mean the total turnover of the SEZ undertaking and not that of the business.

1.1.5. Sec.12AA – registration of Trusts

It is proposed to provide the Commissioner of Income tax with the power to cancel registrations of the trusts / institutions registered under Sec. 12A (prior to FY 1997-98) where the activities of such trust / institution are not genuine or are not in accordance with their objects

This amendment is w.e.f. A.Y 2011-12.

1.1.6. Sec.35 – Scientific research expenditure

Weighted deduction of 175% is proposed to be allowed for any sum paid to research association/ university/ college/ other institution for scientific research (subject to certain conditions).

Weighted deduction of 175% is proposed to be allowed for any sum paid to National Laboratory / University / Indian Institute of Technology for scientific research.

Companies engaged in bio-technology, pharmaceuticals, electronic equipments etc. will now be allowed a weighted deduction of 200% on scientific research or in an in-house research facility (excluding land and building).

1.1.7. Tax audit under Sec.44AB

Thresholds limits for audit under Sec.44AB have been enhanced to Rs.60 lacs from Rs.40 lacs in case of business. In case of profession, the limits have been enhanced to Rs. 15 lacs from Rs.10 lacs. Consequently the following amendments have been made:

Penalty under 271B for failure to get accounts audited or to furnish a report of such audit has been increased to Rs.1.5 lacs.

The above amendments are w.e.f. AY 2011-12.

1.1.8. Conversion of companies into LLP

Any transfer of capital asset or intangible asset by a Private company or an unlisted Public company for the purpose of conversion of such company into a LLP in accordance with the provisions of LLP Act, 2008 will not be treated as transfer. The following conditions will have to be adhered to avoid capital gains tax on transfer:

- a) All the assets and liabilities of the company should become the assets and liability of the LLP.
- b) All the shareholders of the company should become partners in the LLP.
- c) The capital contribution and profit sharing ratio of the partners in LLP should be in the same proportion as their shareholding in the company on the date of conversion.
- d) The shareholders of the company do not receive any consideration or benefit, directly or indirectly, other than by way of share in profit and capital contribution of the LLP.
- e) The aggregate of the profit sharing ratio of the shareholders of the company in the LLP shall not be less than 50% for 5 years from the date of conversion.

- f) The turnover or gross receipts of the company in any 3 years preceding the year of conversion should not exceed Rs.60 lacs.
- g) No balance in the accumulated profits as on the date of conversion is permitted to be paid out to the partners for a period of 3 years.

If a private company or unlisted public company has been converted into a LLP, the LLP shall not be eligible to carry forward any MAT credit under 115JAA.

1.1.9. Sec.56 - Gifts / receipts without consideration

- If an immovable property the stamp duty value of which exceeds Rs.50,000 is received without any consideration, then such value will be taxed in the hands of the recipient of the property as Income from Other Sources [Sec56(2)(vii)(b)] w.e.f. 1.10.2009

The term 'property' has been defined as property which is in the nature of capital asset of the assessee. Therefore, stock in trade will escape taxing under this amendment.

'Bullion' has been included within the definition of property, but w.e.f from 1.6.2010.

- Receipts of shares by companies

W.e.f.1.6.2010, if the shares of a private is received by firm or another private company, without consideration or where the fair market value exceeds consideration by an amount exceeding Rs.50,000, the difference is taxable as income from other sources.

1.1.10. Sec.80CCF - Deduction for investment in Infrastructure Bonds

Individuals and HUF are allowed an deduction for investment in Long term Infrastructure Bonds made upto 31.3.2011 subject to maximum of Rs.20,000. This deduction is in addition to the limit of Rs.100,000 under Sec.80C.

1.1.11. Sec.80D – Medical premium for CGHS

W.e.f. AY 2011-12, Govt. servants are allowed deduction for contribution to Central Govt. Health Scheme. The contribution is subject to the existing limits of Rs.15,000.

1.1.12. TDS provisions

- Sec.40(a)(ia) – Time limit for deposit of TDS

The proposed amendment grants deduction of the expenditure of expenditure such as interest, commission, brokerage, professional fees, etc. incurred during the entire year if the tax deductible is deposited on or before the due date of filing of return of income. The amendment is w.e.f. AY 2010-11.

- Limits for tax deduction w.e.f 1.7.2010

Section	Nature of payment	Existing threshold Rs.	Proposed threshold Rs.
194B	Winnings from lottery or crossword puzzles	5,000	10,000
194BB	Winnings from horse race	2,500	5,000
194C	Payments to contractors	20,000 (for a single transaction) 50,000 (for aggregate of transactions during financial year)	30,000 (for a single transaction) 75,000 (for aggregate of transactions during financial year)
194D	Insurance commission	5,000	20,000
194H	Commission or brokerage	2,500	5,000
194 I	Rent	120,000	180,000
194J	Fees for professional or technical services	20,000	30,000

- Interest on defaults – Sec.201(1A)

Interest for default in deducting tax continues @ 1% for every month or part thereof. Interest for default in not depositing tax will now be levied @ 1.5% for every month or part thereof. This amendment is w.e.f 1.7.2010.

- Physical TDS certificates

The requirement to file physical copies of TDS certificates had been omitted by the Finance Act 2009 w.e.f 1.4.2010. However the system of UTN could not be implemented and hence it has now been proposed to continue the earlier system of submitting physical TDS certificates for tax credit.

1.1.13. Appeal to High Court Sec.256(2A)

- Sec.256(2A): Under existing provisions, a refusal order passed by ITAT to refer to the High Court on question of law can be appealed against within a period of 6 months of the service of the refusal order. It is now proposed that the High Court may admit appeal beyond the time limit of 6 months if it is satisfied that there was a sufficient cause for delay.
- Sec.260A (2A): In case of order passed by Appellate Tribunal the tax payer / Revenue can file appeal with the High Court within a period of 120 days from the date of receipt of such order. It is now proposed that the High Court may admit appeal beyond the time limit of 120 days if it is satisfied that there was a sufficient cause for delay.

2. INDIRECT TAX PROPOSALS

2.1. CUSTOMS

- 2.1.1. Goods imported in pre packaged form for retail sale such as ready-made garments, mobile phones and watches have been exempted from special additional duty (previous 4% CVD).
- 2.1.2. Duty for Petrol and High Speed Diesel has been increased to 7.5% from 2.5%.
- 2.1.3. Gold in any form is proposed to levied at Rs.750/ 10gm (previous 500/ 10gm)
- 2.1.4. Duty on Motion pictures, music, gaming software for use on gaming, will be levied Nil rate of duty (previous 7.5%)
- 2.1.5. Life saving medical equipment, accessories and spare parts or both of such equipment for personal use will be levied at 4% (previous 5%)

2.1.6. CVD on goods chargeable to excise duty on the basis of MRP for medicinal and toilet preparations will be computed on the retail sale price declared on such imported goods less the amount of abatement.

2.1.7. Limit for duty free import of samples enhanced to Rs.3 lacs per annum from Rs.1 lacs per annum.

2.2. CENTRAL EXCISE

2.2.1. Basic rate of Excise increased to 10% from 8 %.

2.2.2. Duty on Unbranded Petrol raised to Rs.14.35 per liter from 13.35 per liter. Duty on Unbranded Diesel raised to Rs.4.60 per liter from 3.60 per liter.

2.2.3. Duty on Microprocessor other than motherboard, CD ROM raised to 4% from Nil.

2.2.4. Duty on large motor cars / SUVs raised to 22% plus Rs.15000.

2.2.5. Duty on Battery Charger & hand free headphone and parts of mobile phone reduced to Nil rate from 8%.

2.2.6. Duty on solar power generation equipment reduced to Nil rate from 8%.

2.2.7. Small scale undertakings can avail full credit of excise duty paid on capital goods in a single installment in the year of receipt. They can also pay duty and file returns on a quarterly basis as against the earlier monthly requirements. This is w.e.f. 1.4.2010.

2.2.8. Penalty will not be levied in cases where the duty and interest is paid before issuance of a demand notice.

2.3. SERVICE TAX

2.3.1. Service tax rate is retained at the rate of 10%.

2.3.2. Clarification on existing service head

- In a major ramification relating to the issue of Service tax on Renting of Immovable property, an amendment is proposed to levy tax with retrospective effect from 1.6.2007. This amendment seeks to negate the Delhi High Court judgement that service tax cannot be levied on renting because the charging is towards services in relation to renting and not renting per se.

2.3.3. Service tax imposed on following heads– w.e.f from notified date after enactment of Finance Bill.

- Promotion of brand of goods, services, events, business, etc. would be taxable.
- Assignment of copyrights on cinematographic films and sound recording.
- In case of cost of health checkup borne by employers for or on behalf of the employees in hospitals or medical establishments under health insurance schemes offered by insurance companies.
- Maintenance of medical records of employees of a business entity.
- Services provided by a builder to potential buyers with respect to preferential location or development of complexes.
- Services provided by electricity exchanges.
- Transport of goods by Rail w.e.f 1.4.2010 (by virtue of withdrawal of exemption).

2.3.4. Scope of following services has been expanded

- Commercial training or coaching services expanded to include commercial training or coaching irrespective of the profit motive (retrospective amendment w.e.f 1.7.2003).

In respect of vocational training services, exemption is restricted to courses coming within the purview of the Apprentices Act 1961.

- Air passenger transport services to include domestic and international travel of all classes.
- Information technology software services – Tax is now levied on personal use also. Previously it was levied only in case of use for furtherance of business or commerce.
- Sponsorship of sporting events becomes taxable
- Construction of complex services – Service is taxable if the entire consideration for the property is paid before receipt of completion certificate.

- Port and airport services - all services provided within ports / airports are taxable.
- Management of investment under ULIP - definition of the service has been amended to tax the actual amount charged by the insurer for fund management.
- Marketing or organizing games of chance.

2.3.5. Exemptions granted in some heads

- Information Tech Software in pre-packaged form which confers the license for right to use is exempt from levy provided applicable excise and customs duty has been paid.
- Transportation of food grains and pulses by road.
- Online database retrieval services - Indian news agencies are exempt from levy.
- Seed testing provided by Central and State laboratories are exempt from Technical testing & analysis service and Technical inspection & certification service.

2.3.6. Refund of service tax

The onus of proving one-to-one nexus between output and input services has been removed and refund will not be restricted to CENVAT credit availed in a particular period.

2.3.7. Changes to Export and Import Rules

- One of the three criteria for qualifying as exports and consequent exemption - used outside India – has been deleted. Hence the service need not be consumed outside India.
- Services of CAs, ACS & ICWAI will qualify as exports only if the recipient of the service is located outside India.

OTHER NEWS

ECONOMIC INDICATORS

a. Major indices & bullion

Particulars	Opening 1.2.2010	Closing 26.2.2010
SENSEX	16306.87	16429.55
NIFTY	4867.25	4922.30
Gold Rates 22K (gms.)	1,535	1571

b. Forex

Particulars	Opening 1.2.2010	Closing 26.2.2010
USD v INR	46.37	46.23
Euro v INR	64.63	62.81
Pound St v INR	74.78	70.65

COMPLIANCE CALENDAR

Particulars	For the period	Due Date
Payment of TDS and TCS collection	Feb' 2010	7.3.2010
Service Tax payments by Corporates	Feb' 2010	5.3.2010 (In case of E-payment 6.3.2010)