India

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Corporate Update – Budget Special

Content

INDIAN BUDGET – 2010-11

Government of India's Budget proposals for the Financial Year 2010-11 were -presented by the Finance Minister on 26th February, 2010.

As per the speech of Finance Minister, the Indian Economy is expected to grow in the Financial Year 2009-10 at GDP growth rate of 7.2%. The Indian Economy is estimated to achieve a GDP growth rate of 8.5% in the financial year 2010-11.

The focus of the Budget is on giving impetus to Agricultural, Infrastructure sector, disinvestment of public sector enterprises.

Government of India also intends to make Foreign Direct Investment (FDI) policy user-friendly by consolidating all prior regulations and guidelines into one comprehensive document with a view to enhance clarity and predictability of our FDI policy to foreign investors.

Tax Proposals:

1. Amongst the tax proposals, the Hon'ble Finance Minister announced that :

   (i) Direct Tax Code is expected to be introduced by April 2011.

   (ii) Goods and Service Tax (GST) also expected to be introduced by April 2011.

Direct Taxes :

2. Major proposals under the Direct Tax, Cover the following:-

   (i) In case of individual tax payers, although there is no change in exemption limit but their slab rates have been revised to give some relief in their tax liability. Proposed change in tax rate, applicable to individuals are as under:-

Proposals	Proposed Tax Rate	Present Tax Rate
Annual Income upto to Rs. 160,000	NIL	NIL
Income above Rs.160,000 and upto Rs.500,000.	10%	10% Above Rs. 160,000 and upto Rs.300,000
Income above Rs. 500,000 and upto Rs.800,000.	20%	20% above Rs.300,00 and upto Rs.500,000
Income above Rs. 8 Lakhs	30%	30% above Rs.500,000

   (ii) Reduction in surcharge, as applicable to domestic companies, from 10% to 7.5%. [Surcharge on foreign companies would continue to be levied at 2.5% as at present)

   (iii) Applicable rate of Minimum Alternate Tax (MAT) applicable to companies to be increased from 15% to 18%.

(iv) Weighted deduction for in-house research and development to be increased from 150% to 200%.

(v) Weighted deduction for contributions to National Laboratories, specified institutions, associations to be increased from 125% to 175%.

(vi) In the area of taxation on Non-Residents, there are no major changes except the following:

(a) The only change relates to rewording of the Explanation as was introduced last year in Section 9 to clarify that ‘Fees for Technical Services’, ‘Royalties’ shall be taxable in India irrespective of the fact that the services are rendered outside India.

(b) It has been clarified that income in the nature of “Fees for Technical Services” relating to exploitation of mineral oils would not be taxable on deemed profit basis, but as per general provision relating to taxation of ‘Fees for Technical Services”.

(vii) Computation of profits derived by SEZ Units for the purpose of grant of exemption to be made on the basis of total turnover of the Undertaking and not total turnover of the company. This change would apply from financial year 2005-06.

(viii) Threshold limit to be increased in respect of following:

(i) Tax Audit requirement for Business from present level of Rs. 4 million to Rs. 6 million..

(ii) Tax Audit for Professionals from present level of Rs. 1 million to Rs. 1.5 million.

(ix) On conversion of private limited company or unlisted public company to Limited Liability Partnership (LLP), subject to conditions, not to be liable to capital gains tax.

Further accumulated losses and depreciation will also be allowed to be carried forward.

(x) (a) Threshold limits for deduction of tax at source increased for certain specified payments

(b) Interest leviable on tax deducted but not deposited by the due date to be increased from 1% to 1.5% per month. However, interest rate shall remain at 1% for the period of default from the date on which the tax was deductible till the date of actual deduction of tax.

(xi) Previous proposal to dispense with requirement of issue / obtaining of Tax Withholding Certificates with effect from 1st April 2010 has been withdrawn. It would as such be necessary to continue to issue / obtain TDS Certificates for tax withholding.

(xii) Transfer of shares of unlisted companies/firms without consideration (where the fair market value exceeds Rs.50,000/-) would become taxable as “income from other sources.”

(xiii) As a counter evasion mechanism to prevent laundering of unaccounted income, immovable properties received without consideration (earlier even without adequate consideration) is assessed as income under sec56(2). The words “without adequate consideration,” are removed retrospectively from 1st October, 2009.

Indirect Taxes :

1. In the area relating to Indirect taxes, Hon’ble Finance Minister has proposed partial roll back of CENVAT rates, as were reduced to provide stimulus last year. In general CENVAT (Excise Duty) has been increased from 8% to 10%..

2. There is no change in applicable rate of Service Tax. Eight new taxable services to be to come into tax net with effect from date to be notified. However, certain changes have been proposed in the scope of certain existing taxable services, which will have significant impact. **These are highlighted below.**

3. No change in peak duty rate of 10% of customs duty.

Highlights of changes in Service Tax

1. Enlargement of scope of existing services:

1.1 Service provided by aircraft operator to any passenger

According to the existing provision, the tax is leviable only on international journeys and in classes other than economy class.
The proposal is to extend it to cover domestic journeys and in any class including economy class.
However, the value for levy of the tax shall not include any taxes levied by any Government, if shown separately on the ticket or the invoice.
The effect of the above proposal is that every passenger traveling by air, either on domestic journey or international journey will be liable to tax. The cost of air travel will increase.

The above proposal shall take effect after the enactment of the Finance Bill, 2010.

1.2 Information Technology Software Service

At present, the tax is applicable where the software is used for furtherance of business or commerce.
The proposal is to cover all cases irrespective of its use whether for business or commerce or otherwise.

The proposal significantly enlarges the scope for levy of the tax.

The proposal is to take effect from a date to be notified after the enactment of the Finance Bill, 2010.

2. Service tax on renting of immovable property:

The existing tax is levied on service `in relation to renting of immovable property'. This expression came for adjudication by the Delhi High Court in Home Solution's case and accordingly the High Court struck down the levy on rental income.
In order to overcome this judicial restriction, it is now proposed that the tax will be levied on service –

"by renting of immovable property or any other service in relation to such renting".

The proposal treats "renting" itself as service.

The above amendment will be with retrospective effect from 1st June, 2007 (i.e. the date when tax on this service was introduced)

The proposed amendment will take effect after the enactment of the Finance Bill 2010 but with effect from 1st June, 2007.

The consequences of the above amendment is that those who have not paid the tax based on the Delhi High Court decision will have to pay it along with interest. However, no penalty will be leviable.

3. Commercial construction service is now expanded to include sale of units by the builder to the buyer before the completion of the project, as though the construction is carried out by the builder for and on behalf of the buyer unless full amount of consideration is paid by the buyer to the builder only after completion certificate from the competent authority is received by the builder.

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