

## HIGHLIGHT POINTS OF FINANCE (NO.2) BILL, 2009 PROVISIONS RELATING TO DIRECT TAXES:

### INCOME-TAX

#### ✚ Rates of income-tax in respect of income liable to tax for the assessment year 2010-2011 :

The salient features of the rates specified in the said Part III are indicated in the following paragraphs—

#### A. Individual, Hindu undivided family, association of persons, body of individuals, Artificial Judicial person

The rates of income-tax in the case of every individual or Hindu undivided family or every association of persons or body of individuals, whether incorporated or not, or every artificial juridical person referred to in sub-clause (vii) of clause (31) of section 2 of the Income-tax Act (not being a case to which any other Paragraph of Part III applies) have been specified in Paragraph A of Part III of the First Schedule.

The basic exemption is proposed to be increased from Rs. 1,50,000/- to Rs. 1,60,000/-. The new rates of income-tax on total income in such cases shall be as under—

Upto Rs. 1,60,000/-	Nil.
Rs. 1,60,001/- to Rs. 3,00,000/-	10 per cent
Rs. 3,00,001/- to Rs. 5,00,000/-	20 per cent.
Above Rs. 5,00,000/-	30 per cent.

In the case of every **individual, being a woman resident in India, and below the age of sixty-five years** at any time during the previous year, the exemption limit is proposed to be raised from Rs. 1,80,000/- to Rs. 1,90,000/-. The new rates of income-tax on total income in such cases will be as under—

Upto Rs. 1,90,000/-	Nil.
Rs. 1,90,001/- to Rs. 3,00,000/-	10 per cent
Rs. 3,00,001/- to Rs. 5,00,000/-	20 per cent.
Above Rs. 5,00,000/-	30 per cent.

In the case of every **individual, being a resident in India, who is of the age of sixty-five years or more** at any time during the previous year, the exemption limit is proposed to be raised from Rs. 2,25,000/- to Rs. 2,40,000/-. The new rates of income-tax on total income in such cases will be as under—

Upto Rs. 2,40,000/-	Nil.
Rs. 2,40,001/- to Rs. 3,00,000/-	10 per cent
Rs. 3,00,001/- to Rs. 5,00,000/-	20 per cent.
Above Rs. 5,00,000/-	30 per cent.

**No surcharge shall be levied in the cases of persons covered under Paragraph A of Part-III of the First Schedule.**

## **B. Co-operative Societies**

In the case of co-operative societies, the rates of income-tax have been specified in Paragraph B of Part III of the First Schedule to the Bill. These rates will continue to be the same as those specified for assessment year 2009-10. **No surcharge will be levied.**

## **C. Firms**

In the case of firms, the rate of income-tax has been specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for assessment year 2009-10.

**However, now no surcharge shall be levied in the case of a firm.**


## **D. Local authorities**

The rate of income-tax in the case of every local authority is specified in Paragraph C of Part III of the First Schedule to the Bill. This rate will continue to be the same as that specified for the assessment year 2009-10. **No surcharge will be levied.**

## **E. Companies**

The rates of income-tax in the case of companies are specified in Paragraph E of Part III of the First Schedule to the Bill. These rates are the same as those specified for the assessment year 2009-10.

In the case of every company, other than a domestic company **having total income exceeding one crore rupees, be increased by a surcharge for purposes of the Union calculated at the rate of two and one-half per cent. of such income tax.**

 **Deduction in respect of Interest on loan taken for higher education**  
**Section 80E of the Income-tax Act** provides for a deduction to an assessee, being an individual, on account of any amount paid by him in the previous year by way of interest on loan taken from any financial institution or any approved charitable institution for the purpose of pursuing higher education in specified fields of study.

It is proposed to amend the provisions of section 80E of the Income Tax Act so as to extend its scope to cover all fields of studies (including vocational studies) pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognised by the Central Government or State Government or local authority or by any other authority authorized by the Central Government or State Government or local authority to do so.

This amendment will take effect from 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010- 11 and subsequent years. [Clause 32]

**+** **Deduction for medical treatment of a dependent suffering from disability**  
**Section 80-DD of the Income Tax Act** provides for a deduction to an individual or HUF, who is a resident in India, in respect of the following:—

(a) Expenditure for the medical treatment (including nursing), training and rehabilitation of a dependant, being a person with disability; and

(b) Amount paid to LIC or other insurance in respect of a scheme for the maintenance of a disabled dependant.

The present limit for deduction is Rs.50,000 if the dependant is suffering from disability and Rs.75,000 if the dependant is suffering from severe disability.

**It is proposed to increase the limit for severe disability to Rs.1 lakh. However, the limit for ordinary disability is proposed to be retained at the existing level of Rs.50,000.**

The above amendment shall be made effective from the 1st day of April, 2010 and will accordingly apply in respect of assessment year 2010-11 and subsequent years. [Clause 31]

**+** **Enhancement of the limit for payment of advance tax**

Under the existing provisions of section 208 the Income-tax Act, liability for payment of advance tax during a financial year arises when the amount of such tax payable during that year is five thousand rupees or more. This limit was fixed in 1996.

**With a view to providing for inflation adjustment, it is proposed to raise the threshold limit for payment of advance tax from the present five thousand rupees to ten thousand rupees.**

The proposed amendment will take effect from the 1st April, 2009. Accordingly, advance-tax for the financial year 2009-2010 would be payable only if the advance tax liability is Rs. 10,000/- or more. [Clause 70]

## **Enhancement of the limit for payment of wealth tax**

Under the existing provisions of section 3 of the Wealth-tax Act, wealth tax is charged every year in respect of net wealth, on the valuation date, of every individual, Hindu undivided family and company at the rate of one per cent. of the amount by which the net wealth exceeds fifteen lakh rupees. This limit was fixed in 1992.

With a view to providing for inflation-adjustment, **it is proposed to raise the threshold limit for payment of wealth tax from fifteen lakh rupees to thirty lakh rupees.**

The proposed amendment will apply for the valuation of net wealth as on 31st March, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 82]

## **Enhancement of limit for disallowance of expenditure made in the case of transporters**

Under the existing provisions of the Income-tax Act, where an assessee incurs any expenditure, in respect of which payment in excess of Rs 20,000 is made otherwise than by an account payee cheque or account payee bank draft, such expenditure is not allowed as a deduction.

**Given the special circumstances of transport operators for incurring expenditure on long haul journeys, it is proposed to raise the limit of payment to such transport operators otherwise than by an account payee cheque or account payee bank draft to Rs 35,000/- from the existing limit of Rs 20,000/-.** For this purpose a new proviso is proposed to be inserted after the proviso in sub-section (3A) of section 40A of the Income-tax Act.

The existing limit for other categories of payments will remain at Rs 20,000/- subject to the exceptions declared in Rule 6DD of the Income-tax Rules.

**The proposed amendment will apply to transactions effected on or after the 1st October, 2009.** [Clause 16]

## **Extension of time limit for filing applications for tax exemption under section 10(23C)**

Under the existing provisions, any institution (having receipts of more than rupees one crore) has to make an application for seeking exemption at any time during the financial year for which the exemption is sought.

In practice, an eligible institution has to anticipate its annual receipts to decide

whether the application for exemption is required to be filed or not. This has often led to avoidable hardship.

In order to mitigate this hardship it is proposed to extend the time limit for filing such application to the 30th day of September in the succeeding financial year. It is proposed to provide this relaxation for the financial year 2008-2009 and subsequent years. In other words, where the gross receipts of a trust or institution exceeds rupees one crore in the financial year 2008-2009, it can file the application for exemption uptill 30th September, 2009. [Clause 4]

## **Amendment to include certain activities within the ambit of provisions relating to `charitable purpose' in the Income Tax Act**

It is now proposed to amend clause 15 of section 2 so as to separately list the preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest so that they would be excluded from the applicability of the aforesaid conditions which are applicable to the "advancement of any other object of general public utility".

The proposed amendment shall be applicable with retrospective effect from 1st April, 2009 and will accordingly apply in respect of assessment year 2009-2010 and subsequent years. [Clause 3]

## **Tax relief on anonymous donations in certain cases**

Under the current provisions of section 115BBC, wholly religious entities are outside the purview of taxation of anonymous donations. Partly religious and partly charitable entities have also been exempted from the taxation of anonymous donations, except where the anonymous donation is made to an educational or medical institution run by such entity in which case such donations are taxed at the rate of 30 per cent. In the case of wholly charitable entities, all anonymous donations are taxed at the rate of 30 per cent.

In order to mitigate the compliance burden, it is proposed to provide relief to such organizations by exempting a part of the anonymous donations from being taxed. The proposed amendment will result in the following:—

1. Anonymous donations received by wholly religious institutions shall remain exempt from tax.
2. In the case of partly religious and partly charitable institutions, anonymous donations directed towards a medical or educational institutions run by such entities shall be taxable only to the extent such donations exceed 5 per cent. of total income of such trust or institution or a sum of Rs.1 lakh, whichever is more.

3. In the case of wholly charitable institutions, anonymous donations shall be taxable to the extent such donations exceed 5 per cent. of total income of such trusts/institution or a sum of Rs.1 lakh, whichever is more.

The proposed amendments will be applicable with effect from the 1st day of April, 2010 and will accordingly apply in relation to assessment year 2010-11 and subsequent years. [Clause 42]

## **Remuneration to partners in a firm**

Under the existing provisions of the Income-tax Act, the payment of salary, bonus, commission or remuneration (hereinafter referred to as "remuneration") to a working partner of a partnership firm is allowed as deduction if it is authorised by the partnership deed and subject to the overall ceiling of monetary limits prescribed under sub-clause (v) of clause (b) of section 40.

(1) In case of a firm carrying on a profession—

It is proposed to make upward revision of the existing limits of the remuneration. It is also proposed to prescribe uniform limits for both professional and non professional firms for simplicity and administrative ease. The revised limits are proposed to be as under:

(a) On the first Rs. 3,00,000 of the book-profit or in case of a loss Rs. 1,50,000 or at the rate of 90 per cent of the book-profit, whichever is more;

(b) On the balance of the book-profit at the rate of 60 per cent;

The proposed amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 15]

## **Recognition to Provident funds – Extension of time limit for obtaining Exemption from EPFO**

The proviso to sub-rule (1) of the said rule 3, inter alia, specifies that in a case where recognition has been accorded to any provident fund on or before the 31st day of March, 2006, and such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 on or before the 31st day of March, 2009, the recognition to such fund shall be withdrawn. One of the requirements of this clause (ea) of rule 4 is that the establishment shall obtain exemption under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act).

**With a view to provide further time to Employees' Provident Fund Organization (EPFO) to decide on the pending applications seeking exemption under section 17 of the EPF & MP Act, it is proposed to amend the said proviso so as to extend**

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**the time limit from the 31st day of March, 2009 to the 31st day of December, 2010.**

This amendment will take effect from 1st April, 2009. [Clause 80]

## **Weighted deduction for in-house research and development**

Under the existing provisions of the Income-tax Act, under sub-section (2AB) of section 35, weighted deduction of 150 per cent. is allowed to a company engaged in the business of biotechnology or in the business of manufacture or production of drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or any other article or thing notified by the Board and which has incurred expenditure (excepting on land and building) on in-house scientific research and development facility approved by the prescribed authority.

**With a view to promoting research and development in all sectors of the economy, it is proposed to extend the benefit of weighted deduction to companies engaged in the business of manufacture or production of an article or thing except those specified in the Eleventh Schedule of the Income-tax Act.**

The proposed amendment will take effect from 1st April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. In other words, expenditure on research and development incurred by the company during the financial year 2009-2010, will be eligible for aforesaid weighted deduction under section 35(2AB) of the Income-tax Act.  
[Clause 12].

## **Donations to Certain Funds, Charitable Institutions, etc.**

Section 80G of the Income-tax Act, 1961 provides for a deduction in respect of donations to certain funds, charitable institutions, etc. subject to, inter alia, the condition that such institutions and trusts are established for 'charitable purpose'.

Consequent to the amendment of sub-section (15) of section 2 by the Finance Act 2008 a number of organizations have ceased to be charitable for the purposes of the Income-tax Act. However, such institutions and trusts continued to collect donation during the financial year 2008-2009 for funding relief work for floods in Bihar and other public purposes. The donors made these donations under a bonafide belief that they would be entitled to benefit under section 80-G. With a view to mitigate hardship to the donors, it is proposed to give a onetime relaxation and amend sub-section (5) of section 80G of the Income-tax Act so as to provide that where an institution or fund has been approved under clause (vi) of sub-section 5 of section 80G for the previous year beginning on the 1st day of April 2007 and ending on the 31st day of March, 2008, such institution or fund shall, notwithstanding anything contained in the proviso to clause (15) of section 2, be deemed to have been,-

(a) established for charitable purposes for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009;

(b) Approved under the said clause (vi) for the previous year beginning on the 1st day of April, 2008 and ending on the 31st day of March, 2009.

This amendment will take effect from 1st day of April, 2009 and shall accordingly, apply in relation to assessment year 2009-10 only.

Further as per clause (vi) of sub-section (5) of section 80G of the Income-tax Act, 1961, the institutions or funds to which the donations are made have to be approved by the Commissioner of Income-tax in accordance with the rules prescribed in rule 11AA of the Income-tax Rule, 1962. The proviso to this clause provides that any approval granted under this clause shall have effect for such assessment year or years, not exceeding five assessment years, as may be specified in the approval.

Due to this limitation imposed on the validity of such approvals, the approved institutions or funds have to bear the hardship of getting their approvals renewed from time to time. This is unduly burdensome for the bonafide institutions or funds and also leads to wastage of time and resources of the tax administration in renewing such approvals in a routine manner.

Therefore, it is proposed to omit the proviso to clause (vi) of sub-section (5) of section 80G to provide that the approval once granted shall continue to be valid in perpetuity. Further, the Commissioner will also have the power of withdraw the approval if the Commissioner is satisfied that the activities of such institution or fund are not genuine or are not being carried out in accordance with the objects of the institution or fund.

**This amendment will take effect from 1st day of October, 2009. Accordingly, existing approvals expiring on or after 1st October, 2009 shall be deemed to have been extended in perpetuity unless specifically withdrawn. However, in case of approvals expiring before 1st October, 2009, these will have to be renewed and once renewed these shall continue to be valid in perpetuity, unless specifically withdrawn. [Clause 33]**

### **Power to withdraw approvals**

Under the existing provisions of Income-tax Act, an approval is required to be granted by income-tax authority for availing of various incentives by the assessee. While some provisions of Income-tax Act specifically contain provisions for withdrawal of approval but in many cases there is no such specific provisions containing power of withdrawal.

In order to provide explicit provisions for power to withdraw of approval, it is proposed to insert a new section 293C to provide that an approval granting authority shall also have the powers to withdraw the approval at any time. However, such withdrawal can be made only after giving a reasonable opportunity of showing cause against the proposed withdrawal to the concerned assessee.

This amendment will take effect from 1st October, 2009. [Clause 78]

## **Deduction in respect of contributions to political parties**

Section 80GGB and section 80GGC of the Income-tax Act, 1961 provide for deduction in respect of contributions given to political parties by companies and any person respectively.

**With a view to reforming the system of funding of political parties it is proposed to amend section 80GGB and section 80GGC of the Income-tax Act, 1961 to provide that donations to electoral trusts shall be allowed as a 100 percent deduction in the computation of the income of the donor.** It is also proposed to consequently amend sub-clause (iia) of clause (24) of section 2 of the Income-tax Act to provide that donations to such electoral trusts shall be treated as income of the trusts which will be specifically exempt as per the newly inserted section 13B and not included in the total income of the previous year if:-

(a) the electoral trust distributes to any political party, registered under section 29A of the Representation of the People Act, 1951, during previous year 95 percent of the aggregate donations received by it during the said previous year along with the surplus, if any, brought forward from any earlier previous years

(b) The electoral trust functions in accordance with the rules made in this regard by the Central Government.

Further, "electoral trust" has been defined in the new clause (22AAA) of section 2 as a trust so approved by the Board in accordance with the scheme made in this regard by the Central Government.

These amendments will take effect from 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years.[Clauses 3,4,8,34,35]

## **Investment-linked tax incentive for specified business**

The Income-tax Act provides for a number of profit-linked exemptions/deductions. Such benefits are inefficient, inequitable, impose higher compliance and administrative burden, result in revenue loss, increase litigations and lead to competitive demand for similar tax benefits. Further, these benefits also encourage diversion of profits from the taxed sector to the exempt/ untaxed sector. However,

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investment-linked incentives are relatively less distortionary in their impact.

**With a view to creating rural infrastructure and environment friendly alternate means of transportation for bulk goods, it is proposed to provide investment-linked tax incentive by inserting a new section 35AD in the Income-tax Act for the following businesses:—**

- (a) setting up and operating cold chain facilities for specified products;
- (b) setting up and operating warehousing facilities for storage of agricultural produce;
- (c) 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.

**The salient features of the new regime of investment-linked tax incentives are the following:—**

- (i) 100 per cent. deduction would be allowed in respect of the whole of any expenditure of capital nature incurred, wholly and exclusively, for the purposes of the specified business during the previous year in which such expenditure is incurred.
- (ii) The expenditure of capital nature shall not include any expenditure incurred on acquisition of any land or goodwill or financial instrument.
- (iii) The benefit will be available—
  - (a) in a case where the business relates to laying and operating a cross country natural gas pipeline network for distribution, if such business commences its operations on or after the 1st day of April, 2007 and
  - (b) in any other case, if such business commences its operation on or after the 1st day of April, 2009.
- (iv) The assessee shall not be allowed any deduction in respect of the specified business under the provisions of Chapter VIA;
- (v) No deduction in respect of the expenditure in respect of which deduction has been claimed shall be allowed to the assessee under any other provisions of the Income-tax Act.
- (vi) Any sum received or receivable on account of any capital asset, in respect of which deduction has been allowed under section 35AD, being demolished, destroyed, discarded or transferred shall be treated as income of the assessee and chargeable to income tax under the head "Profits and gains of business or profession".

(vii) Any loss computed in respect of the specified business shall not be set off except against profits and gains, if any, of any other specified business. To the extent the loss is unabsorbed the same will be carried forward for set off against profits and gains from any specified business in the following assessment year and so on.

Further, profit-linked deduction provided under section 80-IA to the business of laying and operating a cross country natural gas distribution network will be discontinued. As a result, any person availing of this incentive can avail of the benefit under the proposed section 35AD. All capital expenditure (other than on land, goodwill and financial instrument), to the extent capitalized in the books as on 1st April, 2009 will be fully allowed as a deduction in the computation of total income of the said business for the previous year 2009-2010. This will be available in addition to any other capital expenditure (excluding land, goodwill and financial instrument) incurred during such previous year.

It is also proposed to amend the provisions of section 43 and section 50B of the Income-tax Act to make consequential changes.

These amendments are proposed to be made effective from the 1st day of April, 2010 and will accordingly apply in respect of assessment year 2010-11 and subsequent assessment years. [Clauses 10, 13, 17, 24, 28]

## **Extension of sunset clause for tax holiday under section 80-IA**

Under the existing provisions of clause (v) of sub-section (4) of section 80-IA, an undertaking owned by an Indian company and set up for reconstruction or revival of a power generating plant is eligible for 10 year tax benefit if it fulfils the following conditions:-

(i) such company is formed before 30.11.2005 with majority equity participation by public sector companies for enforcing the security interest of the lenders to the company owning the power generating plant;

(ii) Such Indian company is notified by the Central Government before 31.12.2005; and

(iii) the undertaking begins to generate or transmit or distribute power before 31st March, 2008.

It is proposed to amend sub-clause (b) of clause (v) of sub-section (4) of section 80-IA to extend the terminal date for commencing the activity of generation, transmission or distribution of power in case of such undertaking from 31.3.2008 to 31.3.2011.

This amendment will take effect retrospectively from 1st day of April, 2008 and shall

accordingly, apply in relation to assessment year 2008-09 and subsequent years.

Further, under section 80-IA, the provisions of clause (iv) of sub-section (4) provides for a deduction of profits and gains of an undertaking,—

(a) which is set up for the generation and distribution of power if it begins to generate power at any time during the period beginning on 1-4-1993 and ending on 31-03-2010;

(b) which starts transmission or distribution by laying a network of new transmission or distribution lines at any time during the period beginning on 1-4-1999 and ending on 31-03-2010;

(c) which undertakes substantial renovation and modernization of existing network of transmission or distribution lines at any time during the period beginning on 1-4-2004 and ending on 31-03-2010.

**It is proposed to amend clause (iv) of sub-section (4) of section 80-IA to extend the terminal date for a further period of one year upto 31-03-2011.**

This amendment will take effect retrospectively from 1st day of April, 2009 and shall accordingly apply in relation to assessment year 2009-10 and subsequent assessment years. [Clause36]

#### **Amendment in Chapter VIA to prevent abuse of tax incentives**

It is proposed to amend the provisions of section 80A of the Income-tax Act to provide the following, namely:-(i) deduction in respect of profits and gains shall not be allowed under any provisions of section 10A or section 10AA or section 10B or section 10BA or under any provisions of Chapter VIA under the heading "C.-Deductions in respect of certain incomes" in any assessment year, if a deduction in respect of same amount under any of the aforesaid has been allowed in the same assessment year;

(ii) the aggregate of the deductions under the various provisions referred to in (i) above, shall not exceed the profits and gains of the undertaking or unit or enterprise or eligible business, as the case may be;

(iii) no deductions under the various provisions referred to in (i) above, shall be allowed if the deduction has not been claimed in the return of income;

These amendments will take effect retrospectively from the 1st April, 2003, and will accordingly apply in relation to assessment year 2003-2004 and subsequent years.

Further it is also proposed to amend section 80A to provide that the transfer price of

goods and services between the undertaking or unit or enterprise or eligible business and any other undertaking or unit or enterprise or business of the assessee shall be determined at the market value of such goods or services as on the date of transfer. Further, the expression "market value" has been defined to mean, -

(a) in relation to any goods or services sold or supplied, means the price that such goods or services would fetch if these were sold by the undertaking or unit or enterprise or eligible business in the open market, subject to statutory or regulatory restrictions, if any;

(b) in relation to any goods or services acquired, means the price that such goods or services would cost if these were acquired by the undertaking or unit or enterprise or eligible business from the open market, subject to statutory or regulatory restrictions, if any.

This amendment will take effect from 1st April, 2009 and will accordingly apply to all cases where the proceedings are pending before any authority on or after such date.

Further, with a view to preventing the misuse of the tax holiday under section 80-IA of the Income-tax Act, **it is proposed to amend the Explanation to the said section to clarify that nothing contained in the said section shall apply in relation to a business referred to in sub-section (4) of the said section which is in the nature of a works contract awarded by any person (including the Central or State Government) and executed by an undertaking or enterprise referred to in sub-section (1) thereof.**

This amendment will take effect retrospectively from 1st April, 2000 and will, accordingly, apply in relation to assessment year 2000-2001 and subsequent years. [Clauses 29,36]

## **Rationalising the provisions of deduction under sub-section (10) of section 80-IB**

The objective of this tax concession is to provide tax benefit to the person undertaking the investment risk i.e. the actual developer. However, any person undertaking pure contract risk is not entitled to the tax benefits.

**With a view to clarify accordingly, it is proposed to insert an Explanation after sub-section (10) of section 80-IB so as to provide that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any other person (including Central or State Government).**

This amendment will take effect retrospectively from the 1st day of April, 2001 and shall accordingly, apply in relation to assessment year 2001-02 and subsequent assessment years.

**Further, the objective of the tax benefit for housing projects is to build housing stock for low and middle income households. This has been ensured by limiting the size of the residential unit. However, this is being circumvented by the developer by entering into agreement to sell multiple adjacent units to a single buyer. Accordingly, it is proposed to insert new clauses in the said subsection to provide that the undertaking which develops and builds the housing project shall not be allowed to allot more than one residential unit in the housing project to the same person, not being an individual, and where the person is an individual, no other residential unit in such housing project is allotted to any of the following person:-**(i) Spouse or minor children of such individual;

(ii) the Hindu undivided family in which such individual is the karta;

(iii) any person representing such individual, the spouse or minor children of such individual or the Hindu undivided family in which such individual is the karta.

This amendment will take effect from the 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 37]

Extension of sunset clause for units in free trade zone under section 10A and for export oriented Undertakings under section 10B

Under the existing provisions, the deductions under section 10A and section 10B of the Income Tax Act are available only upto the assessment year 2010-11.

It is proposed to amend sections 10A and 10B to extend the tax benefit under both these sections by one year i.e., the deduction will be available upto assessment year 2011-12. [Clauses 5,7]

## **Definition of the term "manufacture"**

A number of tax concessions under the Income-tax Act are provided for encouraging manufacture of articles or things. However, the term "manufacture" has not been defined in the statute. Therefore, it has been the subject matter of dispute and resultant judicial review in a number of cases. In order to remove any kind of ambiguity which may still persist in this regard, it is proposed to insert a new clause (29BA) in section 2 so as to provide that 'manufacture', with all its grammatical variations, shall mean a change in a non-living physical object or article or thing,—

(a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or

(b) bringing into existence of a new object or article or thing with a different chemical composition or integral structure.

This amendment will take retrospective effect from the 1st day of April, 2009 and will, accordingly, apply in relation to assessment year 2009-2010 and subsequent years. [Clause 3]

## **Clarification regarding computation of exempted profits in the case of units in Special Economic Zones (SEZs)**

Under sub-section (7) of section 10AA of the Income-tax Act, the exempted profit of a SEZ unit is the profit derived from the export of articles or things or services and same is required to be calculated as under:

"the profit derived from the export of articles or things or services (including computer software) shall be the amount which bears to the profits of the business of the undertaking, being the Unit, the same proportion as the export turnover in respect of such articles or things or services bears to the total turnover of the business carried on by the assessee."

Simply stated, it means that the exempted profit of the SEZ unit is equal to  $\frac{\text{Profits of the business of the unit} \times \text{export turnover of the unit}}{\text{Total turnover of the business carried on by the assessee}}$ .

This method of computation of the profits of business with reference to the total turnover of the assessee is perceived to be discriminatory in so far as those assessees are concerned who were having multiple units in both the SEZ and the domestic tariff area (DTA) vis-a-vis those assessees who were having units in only the SEZ. With a view to removing the anomaly, it is proposed to amend the provisions of sub-section (7) of section 10AA of the Income Tax Act so as to provide that the deduction under section 10AA shall be computed with reference to the total turnover of the undertaking.

This amendment will take effect from the 1st day of April, 2010 and will accordingly, apply to assessment year 2010-11 and subsequent assessment years. [Clause 6].

## **Fringe Benefit Tax**

The Finance Act, 2005 introduced a new levy, namely, Fringe Benefit Tax (FBT) on the value of certain fringe benefits. The provisions relating to levy of this tax are contained in Chapter XII-H (sections 115W to 115WL) of the Income Tax Act, 1961.

It is proposed to insert a new section 115WM to abolish the fringe benefit tax.

Consequently, it is also proposed to restore the taxation of the fringe benefits as perquisites in the hands of the employees. Therefore, it is also proposed to amend clause (2) of section 17.

This amendment will take effect from the 1st April, 2010 and will accordingly apply to assessment year 2010-11 and subsequent assessment years. [Clauses 9,23,48]

## **✚ Taxation of certain transactions without consideration or for an inadequate consideration as income from other sources**

Sub clause (vi) of section 56 provide that any `sum of money' (in excess of the prescribed limit of Rupees fifty thousand) received without consideration by an individual or HUF will be chargeable to income tax in the hands of the 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 the provisions of clause (vi) of sub-section (2) of section 56 of the Income-tax Act.** Similarly, anything which is received in kind having `money's worth' i.e. property is also outside the purview of the existing provisions.

**It is, therefore proposed to amend section 56 of the Income-tax Act to provide that the value of any property received without consideration or for inadequate consideration will also be included in the computation of total income of the recipient. Such properties will include immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art.**

In a case where an immovable property is received without consideration and the stamp duty value of such property exceeds fifty thousand rupees, the whole of the stamp duty value of such property shall be taxed as the income of the recipient. If an immovable property is received for a consideration which is less than the stamp duty value of the property and the difference between the two exceeds fifty thousand rupees (inadequate consideration), the difference between the stamp duty value of such property and such consideration shall be taxed as the income of the recipient.

If the stamp duty value of immovable property is disputed by the assessee, the Assessing Officer may refer the valuation of such property to a Valuation Officer. In such cases, the provisions of existing section 50C and sub-section (15) of section 155 of the Income Tax Act shall, as far as may be, apply for determining the value of such property.

In a case where movable property is received without consideration and the aggregate fair market value of such property exceeds fifty thousand rupees, the whole of the aggregate fair market value of such property shall be taxed as the income of the recipient. If a movable property is received for a consideration which is less than the aggregate fair market value of the property and the difference between the two exceeds fifty thousand rupees, the difference between the fair market value of such property and such consideration shall be taxed as the income of the recipient.

It is also proposed to provide that,—

(i) the value of moveable property shall be the fair market value as on the date of receipt in accordance with the method prescribed; and

(ii) in the case of immovable property, the value of the property shall be the 'stamp duty value' of the property.

This amendment will take effect from 1st October, 2009 and will accordingly apply for transactions undertaken on or after such date. [Clause 26]

## **Minimum Alternate Tax**

The Income-tax Act is riddled with a plethora of tax incentives which has the effect of considerable eroding the tax base. Since tax incentives are generally sticky in nature, their distortionary impact can be reduced / eliminated only by imposing a cap thereon. The Minimum Alternate Tax (MAT) is designed to achieve this objective.

Under the existing provisions of section 115JB of the Income Tax Act, a company is required to pay a minimum tax on its book profits, 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, 2007, is less than such minimum. The rate of the minimum tax is ten per cent of the book profit. **It is proposed to amend sub-section (1) of section 115JB to increase the MAT rate to fifteen per cent. from the existing level of ten per cent.**

However, with a view to provide relief to the assesseees, being companies, who pay Minimum Alternate Tax under section 115JB for any assessment year beginning on or after the 1st day of April, 2006, **it is also proposed to amend the provisions of sub-section (3A) of section 115JAA so as to provide that the amount of tax credit determined under sub-section (2A) of section 115JAA shall be allowed to be carried forward and set off upto the tenth assessment year immediately succeeding the assessment year in which the tax credit becomes allowable under sub-section (1A) of the said section.**

These amendments will take effect from 1st day of April, 2010 and shall accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clauses 44,45]

## **Clarification regarding add back of 'provision for diminution in the value of asset', while computing book profits**

Section 115JB of the Income-tax Act provides for levy of minimum alternate tax (MAT) on the basis of book profits of a company.

**It is proposed to insert a new clause (i) in Explanation 1 after sub-section (2) of the said section so as to provide that if any provision for diminution in the value of any asset has been debited to the profit and loss account, it shall be added to**

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**the net profit as shown in the profit and loss account for the purpose of computation of book profit.**

Similar amendment is also proposed in section 115JA of the Income-tax Act by way insertion of a new clause (g) in the Explanation after sub-section (2) of the said section.

The amendment to section 115JA is proposed to be made effective retrospectively from 1st day of April, 1998 and will, accordingly, apply in relation to assessment year 1998-99 and subsequent years.

The amendment to section 115JB is proposed to be made effective retrospectively from 1st day of April, 2001 and will, accordingly, apply in relation to assessment year 2001-02 and subsequent assessment years. [Clauses 43,45]

## **Compensation received on voluntary retirement or termination of service under a scheme of voluntary separation**

It is proposed to insert a proviso to section 89 to provide that no relief shall be granted in respect of any amount received or receivable by an assessee on his voluntary retirement or termination of his service, in accordance with any scheme or schemes of voluntary retirement or in case of a public sector company referred to in sub-clause (i) of clause (10C) of section 10, a scheme of voluntary separation, if an exemption in respect of such voluntary retirement or termination of his service or voluntary separation has been claimed by the assessee under clause (10C) of section 10 in respect of such, or any other, assessment year.

Correspondingly, it is also proposed to insert a third proviso to clause (10C) of section 10 to provide that where any relief has been allowed to any assessee under section 89 for any assessment year in respect of any amount received or receivable on his voluntary retirement or termination of service or voluntary separation, no exemption under clause (10C) of section 10 shall be allowed to him in relation to such, or any other, assessment year.

These amendments will take effect from 1st day of April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clauses 4,38]

## **Special provision for computing profits and gains of business on presumptive basis**

The existing provisions of the Income-tax Act, provide for taxation of income on presumptive basis in the case of construction business, income from goods carriages and business of retail trade.

In view of the above, it is proposed to expand the scope of presumptive taxation to all

businesses by substituting a new section 44AD. The salient features of the proposed presumptive taxation scheme are as under:

(a) The scheme shall be applicable to individuals, HUFs and partnership firms excluding Limited liability partnership firms. It shall also not be applicable to an assessee who is availing deductions under sections 10A, 10AA, 10B, 10BA or deduction under any provisions of Chapter VIA under the heading "C.—Deductions in respect of certain incomes" in the relevant assessment year.

(b) The scheme is applicable for any business (excluding a business already covered under Sec. 44AE) which has a maximum gross turnover /gross receipts of 40 lakhs.

(c) The presumptive rate of income is prescribed at 8% of gross turnover /gross receipts.

(d) An assessee opting for the above scheme shall be exempted from payment of advance tax related to such business under the current provisions of the Income-tax Act.

(e) An assessee opting for the above scheme shall be exempted from maintenance of books of accounts related to such business as required under section 44AA of the Income-tax Act.

(g) An assessee with turnover below Rs 40 lakhs, who shows an income below the presumptive rate prescribed under these provisions, will, in case his total income exceeds the taxable limit, be required to maintain books of accounts and also get them audited.

(h) The existing section 44AF is proposed to be made inoperative for the assessment year beginning on or after 1st day of April, 2011.

The proposed amendment will take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years. [Clauses 18,19,20,21,22]

## **Presumptive income for truck owners under section 44AE**

It is proposed to enhance the presumed income per vehicle for the owners of— (i) heavy goods vehicle to Rs.5,000/- per month; and (ii) other than heavy goods vehicles to Rs.4,500/- per month.

The proposed amendment will take effect from the 1st April, 2011 and will, accordingly, apply in relation to assessment year 2011-12 and subsequent years. [Clause 21]

## **Taxation of Limited Liability Partnership (LLP)**

As an LLP and a general partnership is being treated as equivalent (except for recovery purposes) in the Act, the conversion from a general partnership firm to an LLP will have no tax implications if the rights and obligations of the partners remain the same after conversion and if there is no transfer of any asset or liability after conversion. If there is a violation of these conditions, the provisions of section 45 shall apply.

It is further proposed to make the amendments effective from the 1st day of April 2010 i.e. assessment year 2010-11.

[Clause 3,53,58]

### Rationalisation of provisions relating to tax deduction at source (TDS)

#### a. Rationalisation of TDS rates:

A. Nature of Payment (194-I)	Existing rate	Proposed rate* (w.e.f. 1-10-2009)
a. rent of plant, machinery or equipment	10%	2%
b. rent of land, building or furniture to an individual and Hindu undivided family	15%	10%
c. rent of land, building or furniture to a person other than an individual or Hindu undivided family	20%	10%
B. Nature of Payment (194C)		
a. Individual/HUF contractor	2%	1%
b. Other than individual/HUF contractor	2%	2%
c. Individual/HUF sub-contractor	2%	2%
d. Other than individual/HUF Sub-Contractor	1%	2%
e. Individual/HUF contractor/sub-contractor for advertising	1%	1%
f. Other than individual/HUF contractor/sub-contractor for advertising	1%	2%
g. Sub-contractor in transport business	1%	NIL*
h. Contractor in transport business	2%	NIL*

\* The nil rate will be applicable if the transporter quotes his PAN. If PAN is not quoted the rate will be 1% for an individual/ HUF transporter and 2% for other transporters upto 31.3.2010.

\*\* The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1.04.2010.

C. Further some of the rates of TDS specified for resident taxpayers have been reduced and converged to 10 per cent.

D. In order to ease the computation of TDS, **it is proposed to remove surcharge and cess on tax deducted on non-salary payments made to resident taxpayers.**

**b. Provisions for payments and tax deducted at source to transporters:**

Under Section 194C, tax is required to be deducted on payments to transport contractors engaged in the business of plying, hiring or leasing goods carriages. However if they furnish a statement that they do not own more than two goods carriages, tax is not to be deducted at source. Transport operators report problem in obtaining TDS certificates as these are not issued immediately by clients and they are not able to approach the client again as they may have to move across the country for their business. **It is, therefore, proposed to exempt payments to transport operators (as defined in section 44AE) from the purview of TDS. However, this would only apply in cases where the operator furnishes his Permanent Account Number (PAN) to the deductor. Deductors who make payments to transporters without deducting TDS (as they have quoted PAN) will be required to intimate these PAN details to the Income Tax Department in the prescribed format.**

Further under the existing provisions of sections 40A(3) the Income-tax Act, if an assessee incurs any expenditure in respect of which payment in excess of Rs 20,000 is made otherwise than by an account payee cheque or account payee bank draft, such expenditure is not allowed as a deduction. As a large number of small truck owners/drivers have little working capital and do not have bank accounts outside their home cities, they insist on payment in cash for undertaking long haul journeys, as they need cash for incurring en-route expenses on diesel, food and repairs etc and such expenses generally exceed Rs 20,000/-. This causes operational problems to those who have to pay for their services.

To address this problem, **it is proposed to raise the limit of cash payment to such transport operators to Rs 35,000/- from the existing limit of Rs 20,000/-.**

These amendments will take effect from the 1st day of October, 2009 and will accordingly apply to transaction on or after such date.

**c. Clarification regarding "work" under section 194C.**

There is ongoing litigation as to whether TDS is deductible under section 194C on outsourcing contracts and whether outsourcing constitutes work or not. To bring clarity on this issue, it is proposed to provide that "work" shall not include manufacturing or supplying a product according to the requirement or specification of a customer by using raw material purchased from a person other than such customer as such a contract is a contract for `sale'. This will however not apply to a contract which does not entail manufacture or supply of an article or thing (e.g. a construction contract). **It is also proposed to include manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer, within the definition of `work'. It is further proposed to provide that in such a case TDS shall be deducted on the invoice value excluding the value of material purchased from such customer if such value is mentioned separately in the invoice. Where the material component has not been separately mentioned in the invoice, TDS shall be deducted on the whole of the invoice value.**

It is further proposed to make the amendments effective from the 1st day of October, 2009. Accordingly, the proposed amendments will apply to credits or payment effected on or after 1st October, 2009.

**d. Improving compliance with provisions of quoting PAN through the TDS regime**

Statutory provisions mandating quoting of Permanent Account Number (PAN) of deductees in Tax Deduction at Source (TDS) statements exist since 2001 duly backed by penal provisions. The process of allotment of PAN has been streamlined so that over 75 lakh PANs are being allotted every year. Publicity campaigns for quoting of PAN are being run since the last three years. The average time of allotment of PAN has come down to 10 calendar days. Therefore, non-availability of PAN has ceased to be an impediment. In a number of cases, the non-quoting of PANs by deductees is creating problems in the processing of returns of income and in granting credit for tax at deducted at source, leading to delays in issue of refunds.

**In order to strengthen the PAN mechanism, it is proposed to make amendments in the Income Tax Act to provide that any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates**

- (i) the rate prescribed in the Act;**
- (ii) at the rate in force i.e., the rate mentioned in the Finance Act; or**
- (iii) at the rate of 20 per cent.**

TDS would be deductible at the above-mentioned rates will also apply in cases where the taxpayer files a declaration in form 15G or 15H (under section 197A) but does not provide his PAN. Further, no certificate under section 197 will be granted by the Assessing Officer unless the application contains the PAN of the applicant.

These provisions will also apply to non-residents where TDS is deductible on payments or credits made to them. **To ensure that the deductor knows about the correct PAN of the deductee it is also proposed to provide for mandatory quoting of PAN of the deductee by both the deductor and the deductee in all correspondence, bills and vouchers exchanged between them.**

This amendment will take effect from 1st April, 2010. [Clauses 16,60,61]

## **e. Processing of statements of tax deducted at source**

Currently almost all statements of tax deducted at source are filed in an electronic mode. The processing of these statements should, therefore, be done only in a computerized environment. It is therefore proposed to provide for processing of statements of tax deducted at source on computer so that liabilities on account of interest and other defaults in TDS payment are promptly calculated and intimated to the deductor. In order to process TDS statements on computer, it is proposed to provide for electronic processing on the same lines as processing of Income-tax returns.

**It is proposed that the following adjustments can be made during the computerized processing of statements of tax deducted at source:**

- (i) any arithmetical error in the statement; or
- (ii) an incorrect claim, if such incorrect claim is apparent from any information in the statement, for example, in respect of rate of deduction of tax at source where such rate is not in accordance with the provisions of the Act.

It is proposed to provide that after making adjustments, tax and interest [e.g. u/s 201(1A)] would be calculated and sum payable by the deductor or refund due to the deductor will be determined. An intimation will be sent to the deductor informing him of his tax liability or granting him the refund due within one year from the end of the financial year in which the statement is filed. It is also proposed that the processing of these statements can be undertaken in a centralized processing centre.

This amendment will take effect from 1st April, 2010 [Clauses 64,65]

## **f. Providing time limits for passing of orders u/s 201(1) holding a person to be an assessee in default**

Currently, the Income Tax Act does not provide for any limitation of time for passing an order u/s 201(1) holding a person to be an assessee in default. In the absence of such a time limit, disputes arise when these proceedings are taken up or completed after substantial time has elapsed.

In order to bring certainty on this issue, it is proposed to provide for express time limits in the Act within which specified order u/s 201(1) will be passed.

It is proposed that an order u/s 201(1) for failure to deduct the whole or any part of the tax as required under this Act, if the deductee is a resident taxpayer shall be passed within two years from the end of the financial year in which the statement of tax deduction at source is filed by the deductor. Where no such statement is filed, such order can be passed up till four years from the end of the financial year in which the payment is made or credit is given. To provide sufficient time for pending cases, it is proposed to provide that such proceedings for a financial year beginning from 1st April, 2007 and earlier years can be completed by the 31st March, 2011.

However, no time-limits have been prescribed for order under sub-section(1) of section 201 where—

- (a) the deductor has deducted but not deposited the tax deducted at source, as this would be a case of defalcation of government dues,
- (b) the employer has failed to pay the tax wholly or partly, under sub-section (1A) of section 192, as the employee would not have paid tax on such perquisites,
- (c) the deductee is a non-resident as it may not be administratively possible to recover the tax from the non-resident.

It is proposed to make these amendments effective from 1st April, 2010. Accordingly it will apply to such orders passed on or after the 1st April, 2010. [Clause 65]

## **g. Filing of TDS and TCS statements**

Sub-section (3) of section 200 of Income-tax Act provides that any person deducting tax in accordance with the provisions of Chapter XVIIB has to furnish, within the prescribed time, quarterly statements for the period ending on the 30th June, 30th September, 31st December and 31st March in each financial year. Similarly, filing of quarterly returns for tax collection at source (TCS) have been provided in sub-section (3) of section 206C of the Act. Further section 206A provides furnishing of quarterly return in respect of payment of interest to residents without deduction of tax.

In order to provide administrative flexibility in deciding the periodicity of such TDS related statements, it is proposed to modify the existing provisions so as to allow the

Government to prescribe periodicity of such TDS statements besides prescribing their form and manner.

These provision will be applicable from 1st October, 2009. [Clauses 52,63,66,67,68,69,74]

## **Commodities Transaction Tax**

The provisions for levy of Commodities Transaction Tax were introduced by Chapter VII of Finance Act, 2008. However the levy has not yet been operationalised. In view of the recommendations of the Prime Minister's Economic Advisory Council, It is proposed to insert a new section 121A in Chapter VII of Finance Act, 2008 to provide that the Chapter relating to levy of Commodities Transaction Tax shall not apply on or after 1st April, 2009.

It is also proposed to make a consequential amendment in clause (xvi) in sub-section (1) of section 36 of the Income-tax Act by omitting the said clause.

These amendments will take effect from 1st April, 2009. [Clause 115]

## **Aligning the definition of "block of asset"**

The term "block of assets" has been defined in clause (11) of section 2 and in Explanation 3 to sub-section (1) of section 32 of the Income-tax Act. However, these definition are not identical and therefore they are subject to misuse. **Accordingly, it is proposed to amend Explanation 3 of sub-section (1) of Section 32 of the Income-tax Act so as to delete the definition of "block of assets" provided therein.** Consequently, "block of assets" will derive its meaning only from clause (11) of section 2.

It is proposed to make the amendments effective from the 1st day of April, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years. [Clause 11]

## **I. CUSTOMS**

<b>A. HEALTH CARE</b>		
On 10 specified life saving drugs/vaccine and their bulk drugs	<b>10%</b>	<b>5%</b> with Nil CVD
On specified heart devices, namely artificial heart and PDA/ASD occlusion device	<b>7.5%</b>	<b>5%</b> with Nil CVD
<b>B. ELECTRONICS</b>		

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<b>HARDWARE</b>		
on LCD Panels for manufacture of LCD televisions	<b>10%</b>	<b>5%</b>
on Set Top Box for television broadcasting	<b>0%</b>	<b>5%</b>
on parts for manufacture of mobile phones and accessories	<b>4% special CVD</b>	<b>0% upto 6.7.2010</b>
<b>C. RENEWABLE ENERGY SECTOR</b>		
on permanent magnets for PM synchronous generator above 500 KW used in wind operated electricity generator	<b>7.5%</b>	<b>5%</b>
on bio-diesel	<b>7.5%</b>	<b>2.5%</b>
<b>D. CAPITAL GOODS</b>		
on specified machinery for tea, coffee and rubber plantations	<b>5%</b>	<b>To continue upto 6.7.10</b>
on 'mechanical harvester' for coffee	<b>7.5% with 8% CVD</b>	<b>5% with Nil CVD</b>
<b>E. EXPORT SECTOR</b>		
On unworked corals	<b>5%</b>	<b>Nil</b>
<b>F. PRECIOUS METALS</b>		
on serially numbered gold bars (other than tola bars) and gold coins	Rs.100 per 10 gram	Rs.200 per 10 gram
on other forms of gold	Rs.250 per 10 gram	Rs.500 per 10 gram
on silver	Rs.500 per Kg	Rs.1000 per Kg
The above increase in rates is also applicable when gold and silver (including ornaments) are imported as personal baggage.		
<b>G. TEXTILES</b>		
on cotton waste	15%	10%
on wool waste	15%	10%
<b>H. MISCELLANEOUS</b>		
on rock phosphate	5%	2%
on Aerial Passenger Ropeway Projects	No CVD	CVD Applicable
on concrete batching plants of capacity 50 cum per hour	7.5%	NIL

On packaged or canned software, on the portion of the value which represents the consideration for transfer of the right to use such software, subject to specified conditions.	No CVD Exemption	CVD Exemption extended
on inflatable rafts, snow-skis, water skis, surf-boats, sail-boards and other water sports equipment		Fully exempted

## II. CENTRAL EXCISE

### I. RATE STRUCTURE

**The excise duty rate on items currently attracting 4% duty has been increased to 8% with the following major exceptions:**

- Specified food items including biscuits, sherbats, cakes and pastries
- Drugs and pharmaceutical products falling under Chapter 30
- Medical equipment
- Certain varieties of paper, paperboard and articles thereof
- Paraxylene
- Power driven pumps for handling water
- Footwear of RSP exceeding Rs.250 but not exceeding Rs.750 per pair
- Pressure cookers
- Vacuum and gas filled bulbs of RSP not exceeding Rs.20 per bulb
- Compact Fluorescent Lamps
- Cars for physically handicapped persons

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	Existing	Proposed
<b>B. AUTOMOBILE SECTOR</b>		
Specific component of excise duty applicable to large cars/utility vehicles of engine capacity 2000cc and above	Rs.20,000/- per vehicle	Rs.15,000 per vehicle
Excise duty on petrol driven trucks/lorries	20%	8%
Excise duty on chassis of such trucks/lorries	`20% + Rs.10000'	`8% + Rs.10000'
<b>C. PETROLEUM SECTOR</b>		
Excise duty on Special Boiling Point spirits	Reduced to 14%	
Excise duty on naphtha	Reduced to 14%	
Duty paid High Speed Diesel blended with upto 20% bio-diesel	has been fully exempted from excise duties.	
on petrol intended for sale with a brand name	Rs.14.50 per litre instead of `6% + Rs.13 per litre'.	
on diesel intended for sale with a brand name	Rs.4.75 per litre instead of `6% + Rs.3.25 per litre'.	
<b>D. TEXTILES</b>		
on manmade fibre and yarn	4%	8%
on PTA and DMT	4%	8%
on polyester chips	4%	8%
on acrylonitrile	4%	8%
pure cotton		The scheme of optional excise duty of 4% has been restored.
for man-made and natural fibres other than pure cotton, beyond the fibre and yarn stage,	4%	8%
tops of manmade fibre manufactured from duty paid tow using 'tow-to-top' process at par with tops manufactured from duty paid staple fibre.		An optional excise duty exemption has been provided
branded articles of	2%	NIL

jewellery		
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## E. MISCELLANEOUS

- 1) Full exemption from excise duty has been provided on goods of Chapter 68 manufactured at the site of construction for use in construction work at such site.
- 2) Excise duty exemption on 'recorded smart cards' and 'recorded proximity cards and tags' has been made optional. Manufacturers have the option to pay the applicable excise duty and avail the credit of duty paid on inputs.
- 3) EVA compound manufactured on job work for further use in manufacture of footwear has been exempted from excise duty.
- 4) Benefit of SSI exemption scheme has been extended to printed laminated rolls bearing the brand name of another person by excluding this item from the purview of the brand name restriction.
- 5) On packaged or canned software, excise duty exemption has been provided on the portion of the value which represents the consideration for transfer of the right to use such software, subject to specified conditions.

## F. AMENDMENTS IN FIRST SCHEDULE TO THE CENTRAL EXCISE TARIFF ACT, 1985.

[These changes to come into effect immediately]

- 1) Note 1 to Chapter 8 in the First Schedule to the Central Excise Tariff Act, 1985 has been substituted so as to exclude 'betel nut product known as supari' of tariff item 2106 9030 from its purview.
- 2) A Note (No. 6) has been inserted in Chapter 21 so as to provide that in relation to product of tariff item 2106 90 30 the process of adding or mixing cardamom, copra, menthol, spices, sweetening agents or any such ingredients, other than lime, katha (catechu) or tobacco to betel nut in any form shall amount to 'manufacture'.
- 3) In Chapter 58, against tariff item 5801 22 10, in column (3) and (4), the entries 'm2' and '8%' respectively are being inserted.

## III. SERVICE TAX

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

- 1) Service provided in relation to transport of goods by rail

2) Service provided in relation to transport of (i) coastal goods; and (ii) goods through Inland Water including National Waterways

3) Legal consultancy service

4) Cosmetic and plastic surgery service

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

## **SCOPE OF CERTAIN EXISTING SERVICES IS BEING EXTENDED OR ALTERED AS FOLLOWS:**

1) The definition of Business Auxiliary Service (BAS) is being amended so as to provide that only those processes, which result in the manufacture of 'excisable goods' (as defined in the Central Excise Act) are excluded from the purview of BAS.

2) The definition of 'Information Technology Software Service' is being amended to replace the word 'acquiring' with the word 'providing' [appearing in Sl. No. (iv) and (v) of the definition]. The amendment is being given retrospective effect from 16.05.2008.

3) The definition of stock-broker (in stock-broker service) is being amended to exclude sub-broker from its ambit. As a consequence, sub-brokers will be outside the purview of service tax.

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

## **AMENDMENTS IN ACT**

1) Finance Act, 1994 is being amended to:-(a) abolish revision procedure prescribed under section 84 and to prescribe the procedure of filing departmental appeals before the Commissioner (Appeal) in service tax cases similar to the central excise procedure. Accordingly, section 84 pertaining to revision by Commissioner is being modified and consequential changes are being made in section 86. A saving clause is being provided to protect the pending cases.

(b) empower the Central Government to frame rules with respect to the place of

provision of taxable services; and with respect to the relevant date for determination of the rate of service tax.

The above changes would come into effect from the date of the enactment of the Finance (No. 2) Bill, 2009.

## EXEMPTIONS

1) Exemption from service tax is being provided to inter-state or intra-state transportation of passengers in a vehicle bearing 'Contract Carriage Permit' with specified conditions.

2) Exemption from service tax (leviable under Club or Association Service) is being provided to the Federation of Indian Export Organizations (FIEO) and specified Export Promotions Councils. The exemption is valid till 31.03.2010.

3) Exemption from service tax (leviable under banking and other financial services or under foreign exchange broking service) is being provided to inter-bank purchase and sale of foreign currency between scheduled banks.

The above changes will come into effect immediately.

## REFUND SCHEME FOR EXPORTERS

Notification No. 41/2007-ST dated 06.10.2007 provides for refund of service tax paid on services, which though not in the nature of input services, are relatable to export of goods. The scheme is being revamped to ensure speedier grant of refunds to the exporters. The salient features of the new scheme, being notified under two notifications, both dated 07.07.2009, are as follows:

(a) Two taxable services, namely, 'Transport of goods by road' and 'Commission paid to foreign agents' have been exempted from the levy of service tax, if the exporter is liable to pay service tax on reverse charge basis. However, as the present cap of 10% on commission agency charges has been retained, the exporter will have to pay service tax on the amount of commission which is in excess of 10%.

(b) Following are some of the salient features of the revamped refund scheme, notified in supersession of notification No.41/ 2007-ST dated 06.10.2007:

· 'Terminal Handling Charges' is being added to the list of eligible services.

· The time period for filing a refund claim is being increased to one year from the date of export. The condition for filing refund claims once in a quarter is being dispensed with. Now the exporter can file a refund claim anytime after each export shipment.

- A simplified format is being prescribed for filing refund claims.
- Self-certification is being introduced to ensure faster sanction and disbursement of refunds. In a case, where total amount of refund claim does not exceed 0.25% of the total f.o.b. value of exports under a claim, a self-certification by the exporter on the relevant documents to the effect that: (a) the eligible services have been received by him; (ii) the service tax payable thereon has been reimbursed; and (iii) such services have been used for the export, would be sufficient. The refunds shall be granted within one month without any pre-audit.
- In a case, where amount of refund claim exceeds 0.25% of the f.o.b. value of exports, the documents submitted by the exporter should be certified by the chartered accountant, who audits his annual accounts. On the basis of such certification, the refund claim shall be sanctioned within one month without any pre-audit.

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