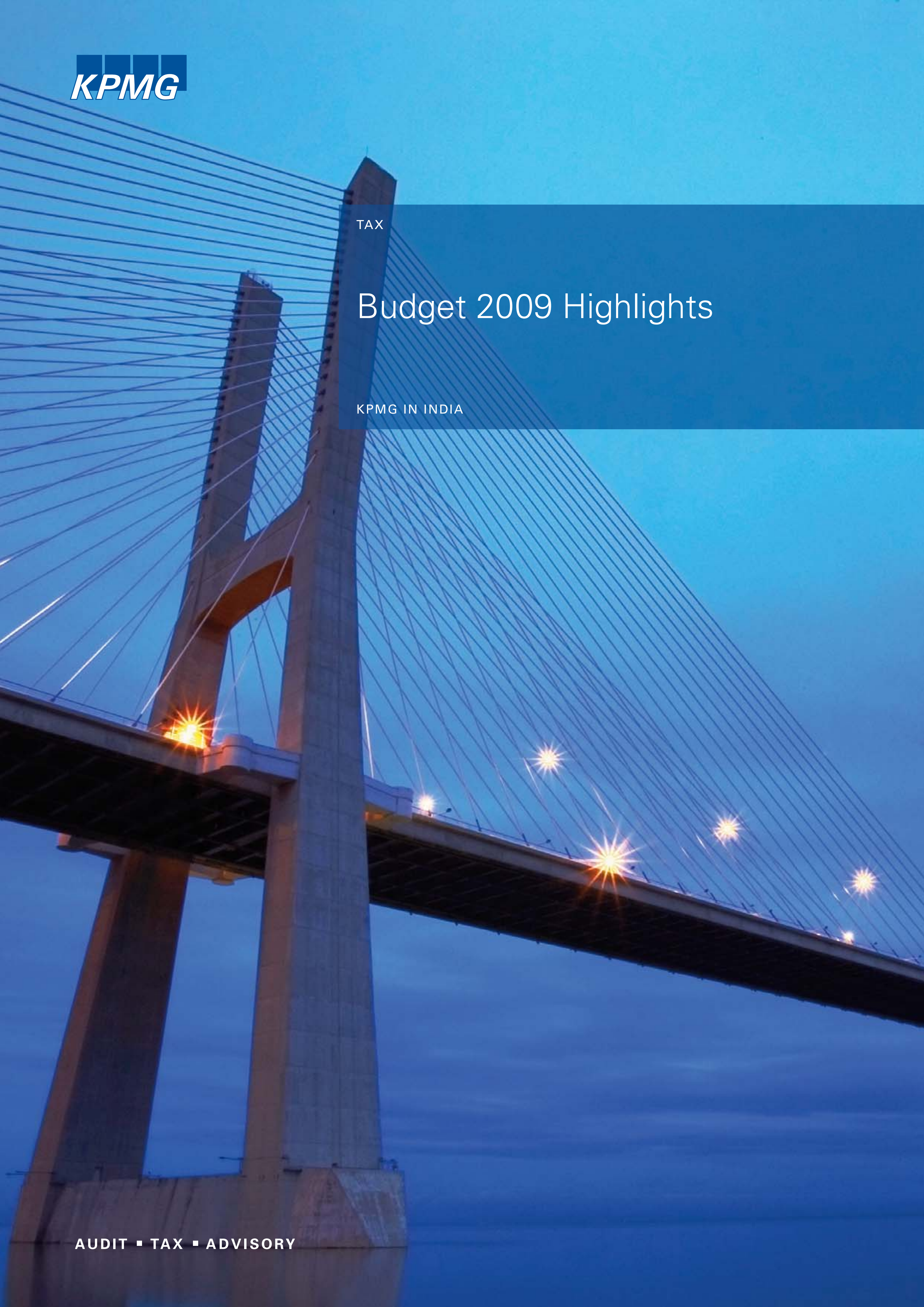

KPMG

TAX

# Budget 2009 Highlights

KPMG IN INDIA

AUDIT ▪ TAX ▪ ADVISORY

# Foreword

The Honorable Finance Minister presented the Union Budget, amidst great expectations that he would signal a progressive way forward, despite major challenges originating in India's external sector.

The Economic Survey 2008–09 identified the following challenges:

1. Surge in capital inflows in the last quarter of 2007-08
2. Inflationary explosion in global commodity prices
3. Global financial meltdown and collapse of international trade plunging the world into a financial crisis reminiscent of the 1930s' Great Depression.

These challenges adversely impacted the Indian economy whose growth rate decelerated in 2008–09 to 6.7 percent from its average growth rate of 8.8 percent over the last 5 years (2003–04 to 2007–08). The Economic Survey also highlighted the need to return to a fiscal deficit target of 3 percent of the GDP--as envisaged by the FRBM Act--at the earliest.

The clear mandate given to the United Progressive Alliance Government led by the Indian National Congress (INC) had also raised hopes that this Government would:

1. Maintain the path of high growth with fiscal prudence and low inflation
2. Raise Foreign Direct Investment limits in sectors such as insurance and defense
3. Usher in greater transparency in taxes, bring in a unified Goods and Services Tax by April 1, 2010; simplify and rationalize the tax structure by phasing out surcharges, cesses and transaction taxes and overhaul the regime of Dividend Distribution Tax to ensure full single taxation in the hands of the receiver
4. Accelerate the Government's Public Sector Units' disinvestment program to meet the goal of a minimum of INR 25,000 crores annually, to be raised through the disinvestment process
5. Create a secondary market in the proposed auctioning of the 3G Spectrum with capital gains arising from a freely-traded spectrum being separately taxed

6. Focus on inclusive growth measures to stimulate demand in the domestic economy and to ensure that there is more purchasing power in the hands of the people

7. Guarantee maximum possible security to citizens, ensure the highest level of defense preparedness possible, accelerate police reforms, build on National Rural Employment Guarantee Act, enact a national Food Security Act, guarantee health security for all, ensure energy security to the country and make quality education affordable for all.

The Finance Minister has tried to meet these expectations by expending huge amounts, such that the overall size of the Budget has exceeded INR 10 lakh crores – an increase of 36 percent over the Budget Estimates for 2008-09. Substantial increases in allocations have been made to various schemes providing welfare measures to the common man. The tax proposals have remained largely revenue neutral.

What is reassuring is the directional stance in re-iterating the Government's commitment to bringing in a uniform Goods and Services Tax regime by 1 April, 2010 and a new Direct Taxes Code, merging the Authorities for Advance Ruling on Direct and Indirect taxes, the promise to set up an Alternative Dispute Resolution Mechanism in the Income-tax Department for Transfer Pricing cases and empowerment of the Central Board of Direct Taxes to formulate safe harbor rules for Transfer Pricing in international transactions.

The removal of Fringe Benefits tax in the hands of corporates is a positive step and reduces the compliance burden but re-introducing ESOPs as a perquisite in the hands of the employee increases the tax burden on them. The Service Tax base too has been broadened by including most legal services and cosmetic and plastic surgery services.

Overall, if the immediate negative reaction from the stock markets is any indication, the corporate sector and investing community seem disappointed, this development could partly be a consequence of unrealistic expectations. The Budget seems to be well intended to address the constituency of the "common man", but does little to revert to the path to fiscal rectitude, which could have negative economic consequences for the economy in the long term. Corporates in general do not seem to have much to cheer about especially as the Minimum Alternate Tax would result in an immediate cash outflow.

The summary that follows highlights the salient features of the Finance (No.2) Bill 2009, in terms of direct and indirect taxes. Unless otherwise indicated, the proposed amendments relating to direct taxes will apply from the assessment year 2010-11 and unless otherwise indicated, the changes relating to Central Excise and Customs Duties come into effect immediately. Changes in Service tax will come into effect from a date to be notified, after the enactment of the Finance (No 2) Bill, 2009.

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# Direct Tax

## Corporate Tax

- The Corporate Tax rate remains unchanged
- The FBT is abolished
- The MAT rate is raised to 15 percent from 10 percent. The carry forward and set-off of credit for MAT is extended to 10 from seven years. Further, for the purpose of computing MAT, 'Book profit' is to be increased by provision for diminution in the value of any asset if debited to the profit and loss account. The latter amendment is proposed retrospectively from AY 1998-99
- Weighted deduction at the rate of 150 percent available to specific industries in respect of approved in-house scientific research and development facility is extended to all companies engaged in the business of manufacture or production of any article or thing falling outside the negative list
- Deduction is eligible in respect of entire capital expenditure (other than the acquisition of any land or goodwill or financial instrument) incurred by the taxpayer engaged in the following businesses:

  - setting up and operating cold chain facilities for specified products
  - warehousing facilities for storage of agricultural produce
  - laying / operating cross-country natural gas or crude or petroleum oil pipeline network for distribution / storage as specified.

Consequential changes have been made in provisions for computing capital gains on sale of such capital assets, carry forward of such losses, etc.

- In the case of non-life insurance companies, any amount credited on account of appreciation / gains on the realization of investments shall be taxed as income, and any amount written off or provided for diminution or loss on realization of investments shall be allowed as a deduction. This amendment will apply from AY 2011-12
- Deduction in respect of amount transferred to special reserve by specified entities now extended to entities engaged in the business of providing long term finance (including refinance) for the development of housing in India
- In computing the income of a composite business comprising partly from agriculture and partly from income chargeable to tax, the tax WDV of assets is to be computed by deducting the total depreciation attributable to the composite business, including that for an agricultural business as if it were a taxable business
- Cash payments as specified exceeding INR 35,000 in a day for plying, hiring or leasing goods carriages to be disallowed for transactions effected on or after October 1, 2009 as against the current ceiling of INR 20,000 in a day
- A 100 percent deduction for contributions to approved Electoral Trusts.

# Tax Holidays

- A 100 percent tax holiday is extended for 1 more year up to March 31, 2011 to undertakings located in a free trade zone under Section 10A and for EOU under Section 10B
- The start date of the specified activity is extended for 1 more year up to March 31, 2011 for those engaged in the following undertakings:
  - engaged in the generation of or generation and distribution of power
  - for the transmission and distribution of power by laying a network of new transmission or distribution lines
  - carrying out substantial renovation and modernization of the existing network of transmission or distribution lines.
- A 100 percent deduction of profits in case of units located in SEZ is to be computed with reference to the total turnover of the undertaking instead of the total turnover of the company
- In respect of a tax payer who is engaged in software development in an STP unit or export of an article / thing in an EOU or from a special economic zone or the enterprise which is eligible for deduction or claims deduction under its respective section, then no further deduction in respect of the same amount shall be allowed under any other provisions in the same assessment year

  Further, the aggregate of the deductions under the aforesaid provisions shall not exceed the profits or gains of the undertaking or unit or enterprise of the business. Deductions under the aforesaid provisions shall be allowed only if the deduction has been claimed in the return of income. These amendments are retrospective from the AY 2003-2004
- While computing profits and gains of the eligible undertaking or unit or enterprise, transfer price in respect of transactions entered into with any other undertaking or unit or enterprise of the taxpayer shall be considered at the market value as defined. This amendment is applicable from the AY 2009-2010
- The start date of the specified activity is extended for 3 more years up to March 31, 2011 for undertakings set-up for the reconstruction or revival of a power generating plant
- Start date of refining of mineral oil extended for 3 more years up to March 31, 2012 for private sector undertakings

- Tax holiday discontinued for undertakings carrying on the business of laying and operating a cross country natural gas distribution network. Instead, all capital expenditure (other than expenditure on land, goodwill and financial instruments) will be fully allowed as a deduction while computing business income

- Tax holiday in respect of specified infrastructure facility shall not be available to any undertaking or enterprise which has been awarded a works contract by any person (including Central / State Government) and executed by the undertaking or enterprise. This amendment is retrospective from the AY 2000-2001

- A 100 percent tax holiday for 7 years is allowed for undertakings engaged in the commercial production of natural gas on or after April 1, 2009 in blocks licensed under the NELP-VIII

- All blocks licensed under a single contract awarded under NELP-VIII or in pursuance of any law or by the Central or State Government in any manner, shall be treated as a 'single undertaking' for the purpose of a tax holiday available to an undertaking engaged in the business of commercial production or refining of mineral oil and natural gas. This amendment is retrospective from AY 2000-2001

- A developer will not be entitled to a tax holiday in respect of a housing project, if more than one residential unit is allotted to any person other than an individual and in case of an individual to his spouse or minor children or a karta of HUF or any person representing such specified persons

  Further, the tax holiday will not be available to any undertaking which executes housing projects as a works contract awarded to any entity (including the Central or State Government). This amendment is retrospective from AY 2001-2002

- Any new undertaking engaged in the production or manufacture of items in the paper industry located in Himachal Pradesh and Uttaranchal will not be eligible for a tax holiday

- Tax exemption has been extended to the mutual fund set-up by any other public sector bank specified by the RBI.

# Non-resident related provisions

- The Central Government has been empowered to enter into agreement with the Government of any specified territory outside India for the purpose of double tax relief and specified purposes in the same manner as with the Government of any country outside India
- In an international transaction, where more than one price is determined by the most appropriate method, the arm's length price is the arithmetical mean of such prices. In cases where the variation between the price so determined and price at which the transaction has been undertaken does not exceed 5 percent of the latter, the transaction price will be deemed to be the arm's length price
- The CBDT has been empowered to make Safe Harbor Rules to minimize disputes relating to transfer pricing matters
- An Alternate Dispute Resolution Mechanism will be formulated to facilitate the expeditious resolution of transfer pricing matters and other matters of foreign companies. Under this mechanism, the AO is required to forward the draft assessment order to the taxpayer for acceptance or lodging an objection within 30 days to the Dispute Resolution Panel (DRP) [a collegium comprising of three Commissioners of Income-tax]. After hearing from both sides, within nine months, the DRP will issue necessary directions which shall be binding on the AO but can be challenged by the taxpayer in an appeal to the Income Tax Appellate Tribunal.

# Capital Gains

- The value assessed or assessable by any Stamp Duty Authority deemed to be the full value of consideration for computing capital gains on transfer of land and / or buildings.

# Personal Taxation

- Basic Exemption Limits have been increased:

| Limits for: | To (INR): | From (INR): |
|---|---|---|
| Resident Women below 65 years | 190,000 | 180,000 |
| Resident Individuals of 65 years and above | 240,000 | 225,000 |
| Other Individuals | 160,000 | 150,000 |

- Surcharge of 10 percent abolished for all non-corporate tax payers
- Pursuant to abolition of FBT, Employee Stock Options (ESOPs) on exercise date, contribution to Superannuation Fund (in excess of INR 100,000) and other fringe benefits / amenities are taxable in the hands of employees as perquisites
- Deduction for medical treatment of a dependent suffering from severe prescribed disability increased to INR 100,000 from INR 75,000
- Deduction in respect of interest on loan taken for higher education extended to all fields of studies (including vocational studies) after passing the Senior Secondary Examination or its equivalent, from any recognized School, Board or University
- Any sum of money received in cash or kind exceeding INR 50,000 by an individual or HUF without any or inadequate consideration shall be taxable as other income. Property includes immovable property, land, buildings, shares & securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art. This amendment will apply from October 1, 2009
- Tax relief to be eligible on voluntary retirement compensation only if employee has not claimed tax exemption on the same
- Tax benefit in respect of investment in New Pension Scheme (NPS) is currently available to salaried employees only. The same is proposed to be extended to all individuals from AY 2009-10
- Time limit for compliance by private Provident Fund Trust to receive or retain recognition extended from March 31, 2009 to December 31, 2010.

# Other direct tax provisions

- Wealth tax exemption limit increased to INR 3 million from INR 1.5 million
- The meaning of 'partnership' and 'partner' expanded to include limited liability partnership and limited liability partners as defined in the Limited Liability Partnership Act 2008. Accordingly the income-tax treatment of partnership firms and partners is to extend to limited liability partnerships and their partners
- The CTT has been abolished
- The meaning of 'manufacture' has been introduced in the statute with the purpose of eliminating disputes and conflicts amongst judicial cases. Manufacture has been now defined to mean a change in any non-living physical object or article or thing resulting in its transformation or bringing into existence a new and distinct object or article or thing with different name / character / use or chemical composition or integral structure
- Zero Coupon Bond scheme / provisions extended to scheduled banks
- Interest received on compensation or enhanced compensation is deemed to be income under the head 'Income from Other Sources' of the year in which it is received, irrespective of the method of accounting regularly followed by the tax payer, and will qualify for a deduction of 50 percent thereon
- From October 1, 2009, the scope of the provision for tax withholding on payments to contractors has been expanded to include a contract for manufacturing or supplying a product to the requirement / specification of a customer by using material purchased from such customer. If the credits / payments are made to Individuals/HUF, the taxes are to be withheld at 1 percent and 2 percent for all other entities. Further, in case of specified a manufacturing / supply contract, if the material component has not been separately mentioned on the invoice, the tax shall be withheld on the full invoice value. Payments to transport contractor would be not be liable for withholding provided the transport contractor furnishes his PAN. The withholding tax obligations under this new section are extended even to foreign government / entities established outside India

- The rates for withholding tax on rental payments are proposed to be reduced with effect from 1 October 2009. The proposed rates are as follows:

| Particulars | Proposed rate (w. e. f. October 1, 2009) | Existing rate |
|---|---|---|
| Rent of plant, machinery or equipment | 2 percent | 10 percent |
| Rent of land, building or furniture to an individual and HUF | 10 percent | 15 percent |
| Rent of land, building or furniture to a person other than an individual or HUFservice | 10 percent | 20 percent |

- Surcharge and Education Cess not applicable for withholding tax on non-salary payments to resident taxpayers
- The threshold limit for payment of advance tax increased to INR 10,000 from INR 5,000
- Simple and user friendly Saral forms to be introduced
- Various amendments made to procedural aspects of furnishing of quarterly returns for withholding tax, issuing certificates for taxes withheld, time limits for assessment of withholding tax, etc
- In case the PAN is not quoted, tax would be withheld at whichever rate is highest from amongst the following:
  - a specified rate
  - the rates in force
  - a rate of 20 percent
- Scope of reassessment has been widened to include any income which may come to the attention of the AO during reassessment proceedings, irrespective of whether or not any reason has been recorded for the same while reopening the assessment. This amendment is effective retrospectively from April 1, 1989
- In concealment penalty proceedings, income pertaining to the period prior to search for which the return of income has been filed by the taxpayer but where such income has not been disclosed therein to be liable for levy of the penalty. The amendment is effective retrospectively from June 1, 2007
- Service of Notice by approved courier or electronic transmission to be considered as valid. Further, CBDT to make rules regarding addresses (including electronic mail or electronic mail messages) to which such communication may be delivered or transmitted

- Every document, notice, order, letter or any other correspondence issued or received by the Income Tax Authority on or after October 1, 2010 to bear a computer-generated Document Identification Number without which it will be treated as invalid
- The revised limits for allowing expenditure on account of salary, bonus, commission or remuneration to a working partner of all partnership firms are as under:

| Book-profit / Losses | Amount allowed as deduction |
|---|---|
| In the case of loss or book-profit upto INR 300,000 | Higher of INR 150,000 or 90 percent of the book-profit |
| Book-profit above INR 300,000 | 60 percent of book-profit |

- The scheme of presumptive taxation made applicable to all businesses (except for the business of plying, hiring or leasing goods carriages or those claiming specified tax benefits) having total turnover or gross receipt of less than INR 4 million. The scheme applies to individuals, Hindu Undivided Families and partnership firms (excluding Limited Liability Partnerships). Under this Scheme, 8 percent of total turnover / gross receipts will be deemed to be the taxable income of the taxpayer on which entire income-tax can be paid as self-assessment tax. This scheme will apply from AY 2011-12. In case the taxpayer claims lower taxable income then he will be required to maintain accounts and get them audited
- The meaning of 'Charitable purpose' for the purpose of tax registration and exemption is expanded to include the preservation of the environment (including watersheds, forests and wildlife) and preservation of monuments, or places or objects of artistic or historic interest
- Aggregate anonymous donations received by Registered Charitable Trusts / Entities not taxable to the extent they do not exceed INR 100,000 or 5 percent of their total income, whichever is higher
- Voluntary contributions received by Approved Electoral Trust functioning as per its rules is to be exempt if it distributes 95 percent thereof to specified political parties
- Income of the New Pension Scheme Trust is to be tax exempt. The provisions of the DDT will not apply to dividends received by such a Trust. No withholding tax would apply on any income paid to them. Securities sold / purchased by such a Trust will not attract STT.

# Indirect Tax

## Customs Duty

### General amendments

- The general rates of customs duty unchanged
- Retrospective amendment with effect from July 1, 2003 has been made empowering High Courts to condone a delay in filing of appeals beyond the prescribed period. Similar amendments have been made for applications / cross objections with effect from July 1, 1999. Similar amendment made in central excise law.
- The officers of Directorate General of Central Excise Intelligence (DGCEI) have been empowered as officers of Customs with all India jurisdiction with retrospective effect from May 9, 2000.

### New exemption notifications (effective from July 7, 2009)

- Exemption from CVD to such value of packaged software attributable to transfer of right to use for commercial exploitation
- Current notification exempting payment of customs duty on specified goods imported by manufacturer-exporters of sports goods and manufacturer-exporters of leather goods, textile products and footwear industry extended to cover certain other raw materials / inputs / equipment.

## Amendments (effective from July 7, 2009)

Illustrative Changes in BCD rates:

| Items | Prior to July 6, 2009 | With Effect From July 6, 2009 |
|---|---|---|
| Specified Life saving drugs / vaccine | 10% | 5% |
| Artificial heart devices (left ventricular assist device) | 7.5% | 5% |
| Gold bars, other than tola bars, bearing manufacturer's or refiner's engraved serial numbers and weight expressed in metric units, and gold coins (subject to specified conditions) | INR 100 per 10 gram | INR 200 per 10 gram |
| Gold in any form, other than those specified above, including liquid gold and tola bars (subject to specified conditions) | INR 250 per 10 gram | INR 500 per 10 gram |
| Silver in any form (subject to specified conditions) | INR 500 per Kg | INR 1000 per Kg |
| Permanent magnets for use in wind operated electricity generators | 7.5% | 5% |
| Set-top boxes | Nil | 5% |
| LCD panels for manufacture of LCD TV's | 10% | 5% |
| Parts, components and accessories of mobile handsets including cell phones (ADC) (subject to the procedure prescribed) | 4% (ADC) | Nil |

## Proposed amendments (effective from enactment of the Finance (No.2) Bill, 2009)

### Customs Act, 1962

- Refund of customs duty paid on unused, identifiable imported goods if they are found to be defective or not conforming to the specifications agreed upon between the importer and the seller, subject to certain conditions like:
  - Goods should be re-exported or
  - Importer relinquishes his title and abandons to the customs or
  - Goods are destroyed or rendered commercially valueless, within 30 days or extended period as may be permitted.

### Customs Tariff Act, 1975

- For the purpose of calculation of CVD, the Tariff value fixed under the central excise law should be adopted for similar imported articles.

# Central Excise

## General

- The general rate of excise duty of 8 percent is unchanged.

### Amendments (effective from July 7, 2009)

- The existing rate of 4 percent increased to 8 percent to align with the mean rate. Certain items like food, drugs, pharmaceuticals etc. have been spared
- Cenvat credit on cement, steel and other metal items etc. used for the construction of a factory shed, building or support structure of capital goods excluded from the definition of 'inputs' and hence Cenvat credit is not available
- Manufacturer of both dutiable and exempted goods opting not to maintain separate accounts of common inputs, to pay an amount equal to 5 percent of the value of exempted goods instead of 10 percent
- Exemption from excise duty to such value of packaged software attributable to transfer of right to use for commercial exploitation
- Process of adding or mixing cardamom, copra, menthol, spices, etc. other than lime, katha or tobacco to betel nut shall amount to manufacture
- SSI exemption benefit extended to printed laminated rolls bearing the brand name of another person
- Books of accounts or other documents seized by the Central excise officer and not relied for issue of notice, to be returned within 30 days of the issue of the notice.

## Reduction in excise duty (effective from July 7, 2009)

| Item | Upto July 6, 2009 | With effect from July 7, 2009 |
|---|---|---|
| Naphtha, special boiling point spirits | 14% + INR 15 per litre | 14% |
| Branded jewellery (brand name or trade name indelibly affixed or embossed) | 2% | NIL |
| Motor Vehicles – Engine capacity exceeding 1999cc | 20% + INR 20,000 per unit | 20% + INR 15,000 per unit |
| Petrol driven motor vehicles for transport of goods, except dumpers of specific categories | 20% | 8% |
| Motor chassis for petrol driven vehicles fitted with engines whether or not with cab | 20% + INR 10,000 per chassis | 8% + INR 10,000 per chassis |

## Increase in Excise Duty (effective from July 7, 2009)

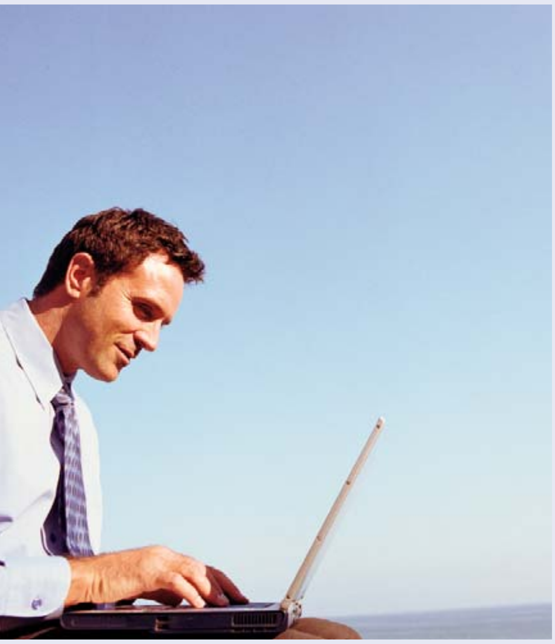
| Item | Upto July 6, 2009 | With effect from July 7, 2009 |
|---|---|---|
| Polyester Chips | 4% | 8% |
| Articles of wood | 4% | 8% |
| Manmade Filament Yarn / Fibres (tow and staple fibre) | 4% | 8% |

## MRP-based Rate Changes (effective from July 7, 2009)

| Item | Upto July 6, 2009 | | With effect from July 7, 2009 | |
|---|---|---|---|---|
| | Central Excise duty rate | Abatement | Central Excise duty rate | Abatement |
| Ceramic Tiles, manufactured in a factory not using electricity for firing the kiln | 4% | 43% | 8% | 45% |
| LPG Gas Stoves | 4% | 33% | 8% | 35% |
| MP3/ MP4 or MPEG4 Players with or without radio/ video reception facility | 4% | 33% | 8% | 35% |

## Proposed amendments (effective from enactment of Finance (No.2) Bill, 2009)

- Chartered Accountants can be nominated by Chief Commissioner of central excise for conducting special audits.



# Service Tax

- Rate of service tax remains unchanged
- Authority for Advance Rulings notified for ITA, to act as the Authority for the purposes of customs, central excise and service tax from a date to be notified.

## Introduction of new taxable services (effective from a date to be notified upon enactment of Finance (No.2) Bill, 2009):

- Legal consultancy services excluding services provided / received by individuals and services of appearance before any court, tribunal or authority
- Services provided in relation to transport of coastal goods, goods through national waterway or inland water
- Cosmetic and plastic surgery services excluding surgery undertaken due to specified reasons.

## Amendments (expansion / modification) in scope of existing taxable services (effective from a date to be notified upon enactment of Finance (No.2) Bill, 2009):

| Service category | Amendments |
|---|---|
| Transport of goods by rail service | To include services provided by government railways and transport of goods whether in containers or otherwise |
| Business auxiliary service | To exclude only those activities that result in manufacture of excisable goods. Earlier the condition of excisable goods was not prescribed |
| Stock-broker's service | To exclude services of sub-broker |
| Information technology software services | Retrospective amendment with effect from May 16, 2008 to substitute the term 'acquiring' with 'providing' in clauses (v) and (vi) which apply for right to use IT software for commercial exploitation / supplied electronically |

## Exemptions from service tax (effective from July 7, 2009):

- Tour operator's services: To exempt inter-state or intra-state transportation of passengers in vehicle with contract carriage permit excluding services provided in relation to tourism, conducted tours and charter or hire services.

- Banking and other financial services: To exempt inter-bank transactions of purchase and sale of foreign currency between scheduled banks.

- Club or association services: To exempt services provided by specified export promotion councils including Federation of Indian Export Organizations (FIEO), Gem and Jewellery Export Promotion Council (GJEPC), Export Promotion Council for Export Oriented Units and Special Economic Zones, etc. upto March 31, 2010.

## Amendment in Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 (effective from 7 July 2009)

The rules are modified to restrict benefit of optional composition scheme only to such works contracts where 'gross amount charged' for a works contract include:

- Value of all goods used in or in relation to execution of works contract whether supplied under any other contract for consideration or otherwise;
- Value of all services (including hire charges for machinery and tools) to be provided for the execution of a works contract.

The 'gross amount charged' excludes:

- Value added tax or sales tax on transfer of property in goods involved;
- Cost of machinery and tools used in execution of works contract.

The amendment is not applicable to those works contracts which have commenced or for which any payment has been made (other than credit or debit to any account) on or before 7 July 2009.

## Extension in territorial jurisdiction of service tax (effective from July 7, 2009)

- Levy of service tax extended to installations, structures and vessels in the continental shelf of India and the exclusive economic zones of India. The definition of 'India' has been similarly amended in the Import Rules.

## New scheme for refund of service tax to exporters of goods (effective from July 7, 2009)

- New scheme introduced for refund of service tax to exporters of goods. New scheme is in supersession of earlier scheme under Notification No. 41 / 2007 dated October 6, 2007.

- Key features of the new scheme include:

  - Exporters to file refund claim for each export shipment.

  - Self certification of documents by exporters where the total amount of refund claim does not exceed 0.25 percent of FOB value of exports.

  - Certification of documents by auditor under the Companies Act / ITA where the total amount of refund claim exceed 0.25 percent of FOB value of exports.

  - Time period for filing the refund claim extended to one year from the export of goods.

  - Exemption from service tax under reverse charge to exporters for 'transport of goods by road service' and commission paid to foreign agents (exemption restricted to service tax amount upto 1 percent of F.O.B. value for commission).

## Amendments under Cenvat Credit Rules, 2004 (effective from July 7, 2009)

- Service provider of both taxable and exempted services opting not to maintain separate accounts of common input services, to pay an amount equal to 6 percent of the value of exempted services instead of 8 percent.

- Requirement of credit reversal in case of inputs / capital goods fully written off in books of account, extended to service providers

## Other Proposals (effective date of enactment of Finance (No.2) Bill, 2009):

- Power to Central government to formulate rules to determine the relevant date for rate of service tax and place of provision of taxable service.

- Retrospective effect given from January 1, 2005 to the notification exempting certain taxable services provided to the 'goods transport agency'. Refund applications for the past period will be allowed within 6 months from the date when Finance (No.2) Bill, 2009 receives the assent of the President subject to unjust enrichment.

- Revisionary power of the Commissioner of Central Excise under Section 84 is replaced with the procedure of filing departmental appeals before the Commissioner of Central Excise (Appeal) to bring the procedure in line with the Central Excise law.

# Goods and Services Tax

- GST transition timeline of 2010 reaffirmed
- GST structure based on principles of fiscal federalism, comprising of a Central GST and a State GST
- The Centre and the States will each legislate, levy and administer the Central GST and State GST, respectively.

# Glossary of Contents

| | | |
|---|---|---|
| AO | - | Assessing Officer |
| BCD | - | Basic Custom Duty |
| CBDT | - | Central Board of Direct Taxes |
| CENVAT | - | Central Value Added Tax |
| CTT | - | Commodities Transaction Tax |
| CVD | - | Countervailing Duty |
| DDT | - | Dividend Distribution Tax |
| EOU | - | Export Oriented Unit |
| FBT | - | Fringe Benefit Tax |
| FDI | - | Foreign Direct Investment |
| FOB | - | Free on board |
| GST | - | Goods and Services Tax |
| HUF | - | Hindu Undivided Family |
| ITA | - | Income Tax Act |
| MAT | - | Minimum Alternate Tax |
| MRP | - | Maximum Retail Price |
| PAN | - | Permanent Account Number |
| RBI | - | Reserve Bank of India |
| SEZ | - | Special Economic Zone |
| SSI | - | Small Scale Industries |
| STP | - | Software Technology Park |
| STT | - | Securities Transaction Tax |
| WDV | - | Written Down Value |

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