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Analysis of The Finance Bill

SIGNIFICANT PROPOSALS IN BRIEF

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BUDGET HIGHLIGHTS

- GDP growth in 2012-13 expected to be 6.9 % against estimated GDP of 7.6% for 2011-12
- White Paper on BLACK MONEY to be introduced
- Direct Tax Code (DTC) to be enacted earliest
- GST Network to become operational by August 2012 as preparation for introduction of GST
- ₹ 30,000 Crores to be raised through disinvestment of PSU Shares
- Efforts for Broad based consensus for Foreign Direct Investment (FDI) in retail trade to be initiated.
- Initial Public Offer (IPO) procedures Simplified and Qualified Financial Institutions to be allowed to access Indian Bond Market
- SME Exchanges launched for easy access to equity markets to Small and Medium Sectors
- Know Your Customer (KYC) procedure to be Centralised to avoid multiplicity of Registrations and data upkeep
- First Infrastructure Debt Fund with ₹ 8000 Crores Corpus Launched
- Tax Free Bonds of ₹ 60,000 Crores to be launched for Infrastructure Sector in FY 2012-13
- National Manufacturing Policy announced to create 10 crores jobs
- External Commercial Borrowings (ECB) for working capital purpose allowed for Power Projects & Airline Industry
- External Commercial Borrowings (ECB) allowed for Low Cost Housing Projects
- India Opportunities Venture Fund to be set up by SIDBI
- Interest Subvention Scheme for Short Term Crop loan to continue and Additional Subvention of 3 % introduced for prompt paying farmers
- Kisan Credit Card (KCC) now can be used at ATMs
- Credit Guarantee Fund for education loans proposed for better flow of Credit to Students

DIRECT TAXES

- Basic Exemption limit increased from ₹ 180,000 to ₹ 200,000 and upper limit of 20% tax slab increased from ₹ 800,000 to ₹ 10,00,000
- Interest on Savings Bank Accounts upto ₹ 10,000 now deductible
- Additional deduction of ₹ 5000 to be allowed for Preventive Health Check up
- Advance Tax Provisions not Applicable to Senior Citizens not having business income.
- Weighted deductions increased to 200% for R & D Expenditure
- Weighted Deduction of 150% for Skill Development Expenditure for Manufacturing Sector
- Turnover limits for Tax Audit and Presumptive taxation raised from ₹ 60 lacs to ₹ 100 lacs. for business & ₹ 15 to ₹ 25 lacs for professionals. Presumptive taxation not to apply to professions.
- Capital gain on Sale of Residential Property to be Exempt if sale proceeds used to acquired Equity shares of Manufacturing SMEs to purchase Plant and Machineries
- Security Transactions Tax reduced to 0.10% from 0.125% to boost Share Market

- Alternate Minimum Tax extended to all persons, other than companies claiming profit linked deductions under Chapter VIA
- Investment in Rajiv Gandhi Equity Savings Scheme to qualify for 50% deductions subject to certain terms and Conditions
- Unexplained Credits/Investment to attract tax at the highest tax slab at 30%
- General Anti-Avoidance Rule to be introduced to counter tax avoidance Schemes
- 1% interest subsidy continued on Housing Loans upto ₹ 15 lacs
- Change in the TDS and TCS Provisions
- Rationalisation of International Taxation and Transfer Pricing Provisions
- No disallowance of exp. u/s 40(a)(ia) subject to fulfilment of conditions
- 80 (G) deduction not allowed if donation in excess of ₹ 10,000 in cash
- Extension of time for completion of assessments and reassessments
- Facility for claiming exemption u/s 54B to save Capital Gain Tax on sale of Agricultural Land now extended to HUFs also.
- Deduction u/s 80CCF for investment in Infrastructure Bonds upto ₹ 20,000 not extended beyond FY 2011-12

Indirect Taxes

SERVICE TAX

- Service Tax rate increased from 10% to 12%
- Input Tax Credit now extended to new services
- Common Tax Code for Central Excise and Service Tax proposed
- Service tax Law and Registration forms/Returns to be simplified
- New Simplified Scheme introduced for Service Tax Refund
- Point of Taxation Rules being rationalised.
- New structure for Service Tax to be introduced where all services to be taxed except those in negative list or those specifically exempted.

EXCISE DUTY

- Standard Rate of Excise Duty raised from 10% to 12% ,Merit rate raised from 5 to 6 % and Lower Merit rate increased from 1 to 2%
- Excise Duty on large cars enhanced
- Excise duty increased on cigarettes, bidis, pan masala gutakas etc.

CUSTOM DUTY

- No change in peak rate of Custom Duty i.e.10%
- Full Exemption in Custom Duty proposed for Imported Equipments for Fertilizer Plants, steam coal, fuels for power generations, coal mining project imports, road construction equipment
- Basic Custom duty increased for Imported Large cars/MUVs and SUVs
- Relief proposed to be extended to sectors such as steel, textiles, branded readymade garments, labour intensive sectors producing items of mass consumption

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DIRECT TAXES

RATES OF INCOME TAX (F.Y. 2012-13)

Individual, HUF, AOP, BOI, Artificial Judicial Persons

Net Taxable Income	Effective Rates		
	All other Resident Individual, HUF, AOP, BOI, AJP.	Resident Senior Citizens of the age of 60 to 79	Resident Senior Citizen of the Age of 80 & Above
Up to ₹ 2,00,000	NIL	NIL	NIL
₹ 2,00,001 to ₹ 2,50,000	10.30% on amount in excess of ₹ 2,00,000	NIL	NIL
₹ 2,50,001 to ₹ 5,00,000	₹ 5,150 plus 10.30% on amount in excess of ₹ 2,50,000	10.30% on Income Above ₹ 2,50,000	NIL
₹ 5,00,001 to ₹ 10,00,000	₹ 30,900 plus 20.60%on amount in excess of ₹ 5,00,000	₹ 25,750/- plus 20.60% on amount in excess of ₹ 5,00,000	20.60% on amount in excess of ₹ 5,00,000
₹ 10,00,001 & above	₹ 1,33,900 plus 30.90% on amount in excess of ₹ 10,00,000	₹ 1,28,750/- plus 30.90% on amount in excess of ₹ 10,00,000	₹ 1,03,000 plus 30.90% on amount in excess of ₹ 10,00,000

Co-operative Societies	Effective Rates
Up to ₹ 10,000	10.30%
₹ 10,001 to ₹ 20,000	₹ 1,030 plus 20.60% on amount in excess of ₹ 10,000
Above ₹ 20,001	₹ 3,090 plus 30.90% on amount in excess of ₹ 20,000

RATES OF INCOME TAX (F.Y. 2012-13)

Firms, Local Authorities, Companies & LLP	**Effective Rates**	
	Upto ₹ 1,00,00,000	**Above ₹ 1,00,00,000**
Firm, Local Authorities, LLP	30.90%	30.90%
Domestic Company	30.90%	32.45%
Foreign Company	41.20%	42.02%
Minimum Alternate Tax - Domestic Company	19.06%	20.00%

Alternate Minimum Tax	**Firm/LLP**	**Individual / HUF / AOP / BOI**
Persons claiming deduction in respect of certain incomes other than 80P or U/s. 10AA having adjusted total income less then ₹ 20,00,000	19.06%	NIL
Persons claiming deduction in respect of certain incomes other than 80P or U/s. 10AA having adjusted total income more then ₹ 20,00,000	19.06%	19.06%

Dividend Distribution tax			
Domestic Companies	16.22%		
	Mutual Fund	**Debt Fund**	**Liquid Fund**
Dividend to Individual & HUF	NIL	12.5%	25.0%
Dividend to Others	NIL	30.0%	30.0%

CAPITAL GAINS TAX RATES (F.Y. 2012-13)

Particulars	Effective Rates	
Individuals, HUFs and AOPs Firms & LLP		
Long Term Capital Gain		
On Listed Securities, where STT is paid	NIL	
On Assets other than Listed securities	20.60%	
Short Term Capital Gain		
On Listed securities where STT is paid	15.45%	
On Assets other than Listed securities	As per Slab	
Domestic Company	**Income Upto ₹ 1,00,00,000**	**Income Above ₹ 1,00,00,000**
Long Term Capital Gain		
On Listed Securities, where STT is paid	NIL	NIL
On Assets other than Listed securities	20.60%	21.63%
Short Term Capital Gain		
On Listed securities where STT is paid	15.45%	16.22%
On Assets other than Listed securities	30.90%	32.45%
Foreign Company		
Long Term Capital Gain		
On Listed Securities, where STT is paid	NIL	NIL
On Assets other than Listed securities	20.60%	21.01%
Short Term Capital Gain		
On Listed securities where STT is paid	15.45%	15.76%
On Assets other than Listed securities	41.20%	42.02%

Note :

Effective rate is worked out considering Basic Rate + Surcharge (Wherever applicable) + Education Cess + Higher Education Cess.

Personal Taxation

✓ **Amendment to exemption granted to receipts on maturity of Life Insurance Policies and deduction of policy premium from income: Section 10(10D) & 80C**

Currently, any proceeds received on account of maturity of any Life Insurance Policy including any bonus thereon is exempted from tax if the annual premium paid on such policy does not exceed 20% of the sum assured. This is now proposed to be amended to provide that in case of policies which are taken after 1st April, 2012, such exemption shall be available only if the annual premium paid on such policy does not exceed 10% of the sum assured. Exemption in case of old policies shall not be affected.

Consequentially, Section 80C is also amended to provide that deduction in respect of premium paid on Life Insurance Policies shall also be available only to policies where annual premium paid does not exceed 10% of the sum assured.

These amendments will take effect from FY 2012-13.

✓ **Deduction for expenditure on Preventive Health Check Up: Section 80D**

In addition to deduction in respect of mediclaim premium already available u/s 80D, it is now proposed to allow expenditure incurred on account of preventive health check up of self, spouse, children or parents subject to a maximum of Rs. 5,000/-. Till date, deduction under Section 80D was available only if the payment was made by modes other than cash. However, now for the purpose of preventive health check up, payment in cash is allowed.

This amendment will take effect from FY 2012-13.

✓ **Deduction in respect of interest on savings account: Section 80TTA**

A new provision is introduced in order to provide that individuals & HUF will be eligible for a deduction in respect of interest earned on savings accounts with banks, co-operative societies and post office subject to a ceiling of Rs. 10,000/-.

This amendment will take effect from FY 2012-13.

✓ **Reduction in eligible age for Senior Citizens for certain tax relief: Section 80D, 80DDB & 197**

The Finance Act,2011 had amended the effective age for senior citizen who are residents of India from 65 year to 60 years for the purpose of tax slabs. It is now proposed to apply this revised age limit to following provisions under Income Tax:

a) Section 80D : Deduction in respect of mediclaim premium

b) Section 80DDB : Deduction in respect of treatment for medical treatment of specified disease.

c) Section 197A : Issue of Form no. 15H for non-deduction of tax on Interest Income

These amendments will take effect from FY 2012-13.

✓ **Taxation of Non-resident entertainer & sports persons: Section 115BBA, 194E**

Currently, income of non-resident & non-citizen sports persons is taxable at a concessional rate of 10%. However, such concessional treatment is not available in case of non-resident & non-citizen entertainers. These provisions are now proposed to be amended to increase the concessional tax rate from 10% to 20% and to provide the concessional treatment to both non-resident non-citizen sports person and entertainers.

These amendments will take effect from FY 2012-13.

✓ **Exemption to Senior Citizens from payment of Advance Tax: Section 207**

Senior Citizens not having business income have now been exempted from the liability to pay advance tax.

This amendment will take effect from FY 2012-13.

Partnership Firms / Limited Liability Partnership

✓ **Introduction of Alternate Minimum Tax (AMT) for all persons other than Companies : (Section 115JC, 115JD, 115JE & 115JF)**

New provisions enabling levy of Alternate Minimum Tax @ 18.5% of Book Profit have been introduced on all persons other than Companies. The provisions now provide that if the Tax Payable as per normal provisions of the Act is less than the AMT payable, then such person would be liable to pay such AMT. AMT shall be computed @ 18.5% of the Adjusted Total Income, which shall be computed as the Total Income as increased by deductions claimed under Chapter VIA Part C, other than deduction u/s 80P (dealing with profit linked deductions) and Section 10AA. Further provisions for obtaining AMT Audit Report, Carry forward and Set-off Tax Credit etc similar to the provisions applicable in case of Companies have also been introduced.

In case of Individuals & HUF, these provisions shall apply only if the adjusted total income is above Rs. 20 lacs.

These amendments will take effect from FY 2012-13.

Charitable Trusts

✓ **Clarification in case of taxation of Charitable Trust where receipts from commercial activities exceed Rs. 25 lacs: Section 13, Section 10(23C) & Section 143**

With effect from 1/4/2009, Section 2(15) was amended to provide that where a Charitable Trust was carrying on activities in the nature of trade, commerce or business under the object of General Public Utility and where receipts from such commercial activities exceeded Rs. 25 lacs, such trust shall be liable to pay tax on the profits from such commercial activities. Sections 10(23C), 13 & 143 have now been amended with retrospective effect to clarify that a trust will be liable to pay tax in any year in which its receipts from commercial activities exceed Rs. 25 lacs irrespective whether the trust is registered u/s 12A or granted exemption u/s 10(23C). However, such taxability shall not affect its status under Section 12A & Section 80G and if in the next year, its receipts from commercial activities are below Rs. 25 lacs, the exemption shall stand restored for all its receipts.

These amendments will take retrospective effect from 01.04.2009.

Corporate Taxation

- ✓ **Taxation in case of Venture Capital Companies (VCC) / Funds (VCF) and its investors : Section 10(23FB) & Section 115U**

  With effect from 1/4/2001, income of VCC / VCF from investment in undertakings in the nature of unlisted domestic companies engaged in specific areas was exempted from tax. The intention was to ensure that the VCC/VCF were treated purely as a pass through entity and vide Section 115U, the investors in such VCC/VCF were taxed as if they were the recipient of the Income of the VCC/VCF. Further, the VCC/VCF was not required to deduct tax on payments made to its investors and such payments were exempted from Dividend Distribution Tax. Also, under the existing scheme, it was possible for the investors of the VCC / VCF to defer the taxation of their share of income from the VCC / VCF up to the date on which they actual receive such income. The said scheme has now been amended to cover income from investment in any undertaking which is a venture capital undertaking in terms of the Securities & Exchange Board of India (Venture Capital Funds) Regulations, 1996, thereby removing any sectoral restrictions for claiming the benefit of this scheme. The scheme has also been amended to provide that investors shall henceforth be taxable in respect of the income of the VCC / VCF under Section 115U on accrual basis and all such income shall be liable to deduction of tax at source.

  These amendments will take effect from FY 2012-13.

- ✓ **Extension of Time Limit for claim of weighted deduction for expenditure incurred on Scientific Research & Development: Section 35(2AB)**

  Under Section 35AB, weighted deduction @ 200% of the actual expenditure incurred for scientific research and development was available to Companies subject to fulfilment of specified conditions. The deduction was originally available only up to 31st March, 2012. The same has now been further extended by 5 years and the deduction shall now end on 31st March, 2017.

  This amendment will take effect from FY 2012-13.

- ✓ **Deduction in respect of expenditure on Skill Development Project: Section 35CCD**

  Companies incurring expenditure (other than expenditure in the nature of cost of any land or building) on any Skill Development Project in accordance with guidelines prescribed by the Central Government are eligible for 150% weighted deduction of such expenditure.

  This amendment will take effect from FY 2012-13.

- ✓ **Taxation of premium received on issue of shares by Companies in which public are not interested beyond fair value of such shares: Section 56(2)(viib)**

In case of Private Companies, which issues shares at a premium, and where the value at which such shares are issued are in excess of the fair market value of such shares, such excess shall be treated as income from other sources of the Company. For this purpose, fair market value shall be determined in accordance with a method which may be prescribed or as may be substantiated by the Company to the satisfaction of the Assessing Officer, whichever may be higher.

This amendment will take effect from FY 2012-13.

✓ **Extension of Concessional Tax Payable by Indian Companies on Dividend received from Foreign Subsidiaries : Section 115BBD**

Up to FY 2010-11, dividend received by Indian Companies from their Foreign Subsidiaries is subject to normal rates of tax applicable to such Companies. From FY 2011-12, Section 115BBD was introduced to provide that such dividend will be subject to a special rate of tax of 15% plus applicable surcharges and cess for FY 2011-12 only. This concessional treatment is now extended by a further period of 1 year.

This amendment will take effect from FY 2012-13.

✓ **Amendment to computation of Book Profit for Minimum Alternate Tax : Section 115JB**

Provisions of Section 115JB dealing with Minimum Alternate Tax have been amended to provide that henceforth amount standing in the revaluation reserve relating to a revalued asset, which is disposed off shall also form a part of the Book Profit if the same is not credited to the Profit & Loss Account.

Consequential amendments have also been made to change the reference to Schedule VI in the provisions to Revised Schedule VI consequent to the notification of Revised Schedule VI to all Companies with effect from 1/4/2012.

This amendment will take effect from FY 2012-13.

✓ **Removal of cascading effect of Dividend Distribution Tax : Section 115-O**

Section 115-O provides for levy of dividend distribution tax (DDT). The said provision also provides for removal of cascading effect of DDT between a holding company and subsidiary. The section is now further amended to remove such cascading effect of DDT in a multi-tier corporate structure.

This amendment will take effect from 1st July, 2012.

Amendments Applicable To All Assesses

✓ **Expansion of meaning of Capital Asset and transfer : Section 2(14) & Section 2(47), Section 9(1)(i), Section 195(1)**

Section 2(14) defines what is "capital assets" under this Act. The definition is especially relevant in case of determining capital gain on transfer of any property. By inserting Explanation to Section 2(14) with retrospective effect, a clarification is provided that capital property will include and has always included rights in or in relation to an Indian company, including rights of management or control or any other rights whatsoever.

Similarly, the definition of "transfer" under this Act is also sought to be expanded with retrospective effect by insertion of Explanation 2 to Section 2(47) which states that the term "transfer" shall include and shall be deemed to have always included disposing of or parting with an asset or any interest therein, or creating any interest in any asset in any manner, whether such agreement is entered in India or outside India, notwithstanding the fact that such transfer may be on account of transfer of shares of a company incorporated outside India.

Further, by inserting explanation 4 to Section 9(1)(I), the terms "through" has been clarified with retrospective effect to include "by means of", "in consequence of" and "by reason of". Explanation 5 to Section 9(1)(i) has also been inserted to clarify that an asset or capital asset in the nature of shares or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always have been deemed to be situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India.

Finally, Section 195(1) has also been amended to provide that requirement to deduct tax in case of payments to non-residents shall also apply to all persons even if the person making the payment is a non-resident.

The amendment seems to have been specifically brought in to over-rule the Hon. Supreme Court's judgment in the case of Vodafone International B. V. and ensure that all transaction involving transfer of shares of an entity located outside India between two non-residents, but where the entity whose shares are being transferred derives its value on account of assets located in India shall also be taxed in India.

These amendments will take retrospective effect from 1st April, 1962.

✓ **Expansion in the meaning of the term "Royalty": Section 9(1)(vi)**

By insertion of explanation 4, to Section 9(1)(vi), the term "Royalty" has been expanded with retrospective effect to include software or its license to use including shrink wrapped software. Further, explanation 5 & 6 to Section 9(1)(vi) have also been inserted to clarify certain aspects of taxation of consideration in respect of any right, property or information and of the term "process".

These explanations are inserted with retrospective amendment to over-rule certain judicial decisions in the past year.

This amendment will take retrospective effect from 1st June, 1976.

✓ **Additional Depreciation on New Assets bought by Power Generation / Distribution Undertakings : Section 32(1)(iia)**

Currently, where any assessee engaged in the manufacture or production of any article or thing acquires any plant or machinery, the same is eligible for additional depreciation @ 20% in the first year over and above the normal depreciation. This benefit is now extended to power generation and distribution entities also.

This amendment will take effect from FY 2012-13.

✓ **Deduction in respect of capital expenditure on specified businesses: Section 35AD**

Currently, assesses engaged in following businesses are eligible for 100% deduction in respect of whole of the capital expenditure incurred except for land, goodwill and financial instruments:

i) Cold Chain Facility

ii) Warehousing facility for storage of agricultural produce

iii) Operation of cross-country natural gas or crude or petroleum oil pipeline network and its related storage facilities

iv) Building and operation of a new hotel of two star or higher category

v) Building and operation of hospital with 100 bed or more

vi) Housing Project for slum development or rehabilitation

vii) Housing Project for affordable housing

viii) Production of Fertilizer

In case of businesses in (I), (ii), (v), (vi), (vii) & (viii), where the business is commencing operations after 1st April, 2012, the deduction shall now be a weighted deduction @ 150%.

Further, following businesses commencing operations after 1st April, 2012 shall also be eligible for deduction @ 100% of the capital expenditure incurred:

i) Inland container depot or a container freight station

ii) Bee-keeping and production of honey and beeswax

iii) Warehousing facility for storage of sugar.

This amendment will take effect from FY 2012-13.

There is also a retrospective amendment for clarification that in case of hotels, the term building and operating of hotel shall include cases where the operation of the hotel is outsourced to a third party.

This amendment will take retrospective effect from FY 2010-11.

✓ **Deduction in respect of expenditure on Agricultural Extension Project: Section 35CCC**

Assesses incurring expenditure on Agricultural Extension Project in accordance with guidelines prescribed by the Central Government are eligible for 150% weighted deduction of such expenditure.

This amendment will take effect from FY 2012-13.

✓ **Rationalization of provision for disallowance on account of non-deduction of tax: Section 40(a)(ia)**

Currently, in case of any interest, commission or brokerage, rent, royalty, fees for professional services or technical services, payments to contractors or sub-contractors, on which tax has not been deducted or where it is deducted but not paid on or before the due date of return u/s 139(1), the said expenditure is disallowed.

This provision is now proposed to be rationalized by providing that in case where the payee is a resident and the said payee has filed his return of income after taking into account such income and has paid due tax on such income, the payer shall not be subject to disallowance u/s 40(a)(ia) on account of non/ short deduction of tax, provided the payer furnishes a certificate from a Chartered Accountant in a form which shall be prescribed.

This amendment will take effect from FY 2012-13.

✓ **Increase in monetary limits for Tax Audits: Section 44AB**

Currently, in case of any business, where the turnover exceeds Rs. 60 lacs, the accounts of the tax payer are required to be audited. The said limit is now increased to Rs. 100 lacs. Similarly, the requirement of tax audit was applicable in case of professionals, whose turnover exceeded Rs. 15 lacs. The said limit is now increased to Rs. 25 lacs.

This amendment will take effect from FY 2012-13.

✓ **Exemption to certain category of taxpayers from presumptive taxation: Section 44AD**

Currently, Section 44AD provides that in case of any taxpayer other than companies engaged in business, whose taxable income is below 8%, shall be subject to tax audit. In such cases, such taxpayers had the option of either paying tax on a profit computed @ 8% on their turnover or have their accounts audited. Now, the section has been amended to exempt the following categories of taxpayers from said section:

a) Professionals referred to in Section 44AA

b) Commission or Brokerage Business

c) Agency Business

Consequent to change in limit for tax audit in Section 44AB limits of Rs. 60 lacs has also been raised to Rs. 1 crore for applicability of Section 44 AD

This amendment will take effect from FY 2012-13.

✓ **Computation of Capital Gains, where consideration is not determinable: Section 50D**

In certain situations of transfer, the consideration received on transfer is not ascertainable and Courts have held that in such a situation, capital gains cannot be levied. Section 50D is now introduced to provide that in such situations the fair market value of such asset shall be deemed to be the value of consideration for the purpose of computation of capital gains.

This amendment will take effect from FY 2012-13.

✓ **Extension of Exemption on Sale of Agricultural Land to HUF: Section 54B**

Till date, any individual who had sold agricultural land was eligible to claim exemption from capital gains on such sale provided the capital gain was reinvested in a new agricultural land and fulfillment of other conditions. This exemption is now available to HUFs also.

This amendment will take effect from FY 2012-13.

✓ **Exemption on Sale of Residential Property against specified investments: Section 54GA**

A new exemption provision is introduced in order to save capital gains on sale of long term residential property. The section provides that where the capital gains arises on sale of a residential property which is a long term capital asset, if such capital gains is invested in the equity shares of a small and medium enterprise company in the manufacturing sector. Such Company shall utilize such amount for investment in plant & machinery, failing which the exemption shall be withdrawn. The exemption shall be available subject to fulfillment of further conditions prescribed in the said provison.

This amendment will take effect from FY 2012-13.

✓ **Exemption on gift received by HUF from Members: Section 56(2)(vii)**

Till date, while gifts received by members from HUF were exempted from tax, the vice-versa was not true. Section 56 has now been retrospectively amended to provide that gifts received by HUF from members shall also be exempted from tax.

This amendment will take effect retrospective from 1st October, 2009.

✓ **Situation where Share Capital / Application Money received by a Company in which public are not substantially interested, may be treated as unexplained cash credit: Section 68**

Specific provisions have been introduced to provide that a Company in which public are not interested and which has received money towards share capital or share application money, shall be required to explain the source of the money in the hands of the shareholder who has contributed such money to the satisfaction of the Assessing Officer. These provisions shall not be applicable to registered Venture Capital Funds or Venture Capital Companies.

This amendment will take effect from FY 2012-13.

✓ **Taxation of Unexplained Cash Credit, money, investments etc: Section 68, 69, 69A, 69B, 69C, 69D & 115BBE**

In case of additions on account of unexplained cash credits, moneys, investments etc, till date such income was being taxed as normal income and advantage of tax slabs was available. However, now Section 115BBE is introduced to tax such income at a flat rate of 30%.

These provisions will take effect from FY 2012-13.

✓ **Prohibition on Donations in cash in excess of Rs. 10,000 : Section 80G & 80GGA**

Section 80G & 80GGA, which provides for deduction of donations made to specified Charitable Trusts & other institutions have been amended to provide that no deduction shall be available in case the donation are made in cash and are in excess of Rs. 10,000/-.

These amendments will take effect from FY 2012-13.

✓ **Extension of deduction for Power Projects: Section 80IA(4)**

Hitherto, the deduction was available in respect of profits derived from Specified

Power Projects subject to fulfillment of prescribed conditions, which was to expire on 31st March, 2012. The said deduction is now extended by one more year so as to expire on 31st March, 2013.

This amendment will take effect from FY 2012-13.

✓ **Amendments to Transfer Pricing Provisions & its extension to specific domestic transactions: Sections 40A(2)(b), 80A, 80IA, 92, 92B, 92BA, 92C, 92D, 92E, 92CA, 92CB, 92CD, 139(1), 147, 246A,271, 271AA, 271G**

The highlights of the various amendments in the Transfer Pricing Provisions are as under:

i) Advance Pricing Agreement mechanism is now introduced in respect of international transactions between associated enterprises. Some of the salient features of the scheme are as under:

   a. The Central Board of Direct Taxes is now empowered to enter into an Advance Pricing Agreement (APA) with any person who is entering into an International Transaction.

   b. Such APA shall include determining the arm's length price and a price once determined under the APA shall be valid for such years as may be specified in the APA, which shall not exceed 5 years and shall be binding on the assesses and the Income Tax Authorities (i.e. the AO).

   c. The APA shall not be valid if there are any changes in the law or facts having bearing on the APA or where the APA has been obtained by fraud or misrepresentation.

   d. Where the Person entering into an APA has already filed a Return of Income for a year covered by the APA, then irrespective of the time limit prescribed under Section 139, he shall file a modified Return of Income for such year so as to confirm to the prices agreed in the APA.

   e. The AO is also empowered to proceed with his assessment or reassessment based on such modified return of income. The period of completion of assessment or reassessment in such case shall be 1 year from the end of the financial year in which such modified return is filed.

These provisions will take effect from 1st July, 2012.

ii) Transfer Pricing Regulations shall now apply to following domestic transactions aggregating in excess of Rs. 5 crores between following parties:

   a. Between an Assessee and a related party as defined under Section 40A(2)(b). Further, Section 40A(2)(b) has also been amended to hold two companies having the same holding company as related parties.

   b) Between 2 undertakings of the same Tax Payer, where one undertaking is claiming a profit linked deduction under Chapter VI-A or as a SEZ under Section 10AA

Accordingly, all requirements of Transfer Pricing Regulations including maintenance of prescribed documentation, obtaining Transfer Pricing Audit Report u/s 92E, determination of Arms length Price etc. shall be applicable to the above situations.

These provisions will take effect from FY 2012-13.

iii) The Transfer Pricing Officer (TPO) is now empowered to determine Arm's Length Price of an international transaction noticed by him in the course of proceedings before him, even if such transaction was not referred to him by the AO, provided such international transaction was not reported by the Taxpayer. This amendment was necessary as there was a doubt on the powers of TPO to examine international transactions not reported by the Taxpayer as the same have not been referred to him the AO.

This amendment will take retrospective effect from 1st June, 2002.

iv) Section 92C provides that in cases where the actual price is in variance as against the arms length price determined within a band of 5%, no adjustment is required. However, there was a controversy whether such 5% variance was to be allowed as a standard deduction even in cases where the actual price is beyond the 5% variance against the ALP for computing the adjustment. In order to put to rest this controversy, the provision was amended with effect from 1/4/2009 to provide that the 5% permitted variance is not to be considered as a standard deduction. However, controversies for period prior to 1/4/2009 continued. Hence, the said provision is now being made effective with retrospect with effect from 01.04.2002.

This amendment will take retrospective effect from 01.04.2009.

Further, the Finance Act, 2011 had provided that with effect from FY 2011-12, such band of 5% would be replaced by such rate as may be notified by the Central Government. The Finance Act, 2012 now provides that with effect from FY 2012-13, the Central Government shall not notify a band, which exceeds 3%.

This amendment will take effect from FY 2012-13.

v) The Finance Act, 2011, Corporate Assessees who were required to furnish Transfer Pricing Audit Report u/s 92E were permitted an extended due date of 30th November for filing of their Return of Income. Such extended due date is now also available to Non-Corporate Assesees who are required to furnish Transfer Pricing Audit Report u/s 92E.

This amendment will take effect from FY 2012-13.

vi) The definition of International Transactions for the purpose of Transfer Pricing Regulations has been further clarified to specifically include the following:

a. Purchase, sale, transfer, lease or use of tangible & intangible property

b. Capital financing

c. Provision of services

d. Business restructuring or reorganization

Further, intangible properties has also provided an intangible definition to include various kinds of assets such as patents, documentation, technical know-how, copyrights, maps, designs, contracts and a variety of other intangible properties.

This amendment will take retrospective effect from 01.04.2002.

vii) Currently, there is no penalty in cases where a Taxpayer fails to report an international transaction in Transfer Pricing Audit Report u/s 92E or maintenance or furnishing of incorrect information or documents. Section 271AA, which provided for a penalty of 2% of the value of international transaction for non-maintenance of information and documents under Transfer Pricing provisions will also now cover situations where the taxpayer fails to report any international transaction which is required to be reported or furnishes any incorrect information or documents.

This amendment will take effect from 1st July, 2012.

viii) Section 147 of the Act has now been amended to provide that where an international transaction has not been reported either on account of non-filing of report or on account of its non-inclusion in such report, such non-reporting would be treated as escapement of income and such cases would liable to reassessment proceedings u/s 147.

This amendment will take effect from 1st July, 2012.

ix) In order to effectively settle transfer pricing issues, the concept of Dispute Resolution Panel (DRP) was introduced by Finance Act, 2009. Under the existing provisions, while the Assessee had a right to appeal against the order of the DRP, the Department had no right to appeal. The provisions are now amended to provide the Department the right to appeal against the order of the DRP. Amendments have also been made to clarify the powers of the DRP, which include the powers to enhance any variation as a result of any issue which comes to its notice.

This amendment will take effect from 1st July, 2012.

✓ **Introduction of General Anti-Avoidance Rules (GAAR) : Sections 95, 96, 97, 98, 99, 100, 101 & 102**

Historically and most recently in the case of Vodafone B.V. the issue of substance over form has consistently arisen while implementing tax laws. In order to codify the doctrine of substance over form, provisions of GAAR are being introduced to over-ride arrangements where the primary intention is to avail tax benefits. The intention here seems to be that availing tax benefit must not be the primary intention of any commercial transaction. These provisions are very wide and involve exercise of judgment and discretion on the part of tax authorities. However, in the context of the Indian Tax Administration one is really not sure whether such wide powers will be put to judicious use.

The main features of the GAAR regime are as under:

i) An arrangement whose one of the main purpose or is to obtain a tax benefit and which satisfies any of the following four tests will be declared "impermissible avoidance arrangements":

   a) The arrangement creates rights and obligations which are not normally created between parties dealing at arm's length

   b) It results in misuse or abuse of provisions of tax laws

   c) It lacks commercial substance or is deemed to lack commercial substance

   d) It is carried out in a manner, which is normally not employed for bona-fide purpose

ii) Specific provisions have been introduced to define circumstances where an arrangement will be deemed to lack commercial substance, most of which involve exercise of significant judgment.

iii) Once an arrangement is held to be impermissible avoidance agreement, the consequences may mean disregarding any step of the arrangement or combining any step of the arrangement or ignoring the arrangement altogether or reallocation of expenses, re-characterizing equity into debt, capital into revenue etc. by the tax authorities

iv) Detailed procedure for invoking GAAR provisions by the Assessing Officer are also provided, which include reference to the Commissioner of Income Tax, who in turn shall refer the matter to an Approving Panel consisting of three members of Commissioner rank or higher level authority.

v) The CBDT has been empowered to prescribe a scheme for regulating and application of the GAAR provisions.

These amendments will take effect from FY 2012-13.

✓ **Compulsory filing of Return of Income in specific case : Section 139**

Normally, a person is obligated to file a return of income only in case where he has taxable income. However, in case of persons who have assets outside India or are signatory in accounts located outside India, filing of return of income is compulsory.

This amendment will take effect from Financial Year 2012-13

✓ **No intimation u/s 143(1) required in case of cases selected for Scrutiny u/s 143(2): Section 143(1D)**

It is now provided, in case where a return is already selected for scrutiny u/s 143(2), processing of such return shall not be necessary under sub-section (1) i.e. summary assessment is not necessary.

These amendments will take effect from 1st July, 2012.

✓ **Increase in number of years which are subject to reassessment in case of income in relation to any asset located outside India: Section 147 & 149**

Provisions of Section 149 permit reopening of six year in case of income which has escaped assessment. Section 149 is now proposed to be amended in order to provide powers to re-open sixteen years in case of an assessee, where assets are found to be located outside India. Section 147 is also being amended to provide that where a person is found to have any asset located outside India. Similar powers are also being provided under the Wealth Tax Act.

These amendments will take effect from 1st July, 2012.

✓ **Notification of a class of search cases where compulsory reopening of past six years not required: Section 153A, 153C**

Normally, existing provisions of Search Cases, it is mandatory for reopening of 6 assessment years prior to the year of search. The Central Government is now empowered to exempt certain cases or classes of cases from reopening of 6 assessment years prior to the year of search. Hence, in such cases, assessment proceedings would be done only in the year of search.

These amendments will take effect from FY 2012-13

✓ **Extension of Time Limit for completion of assessments and reassessments: Section 92CA, 143(3), 148, 153A, 153C, 250, 254 &263**

Time limits for completion of assessments, reassessments, revisions etc under various provisions have now been extended as under:

Type of Proceeding	Current Time Allowed	Revised Time Allowed
Assessment u/s 143(3) or Assessment / Reassessment u/s 153	21 months from the end of the A.Y.	24 months from the end of the A.Y.
Assessment u/s 143(3) or Assessment / Reassessment u/s 153 where reference is made to TPO	33 months from the end of the A.Y.	36 months from the end of the A.Y.
Reassessment u/s 147	9 months from the end of the F.Y. in which notice issued	12 months from the end of the F.Y. in which notice issued
Reassessment u/s 147 where reference is made to TPO	21 months from the end of the F.Y. in which notice issued	24 months from the end of the F.Y. in which notice issued
Fresh assessment pursuant to order of CIT u/s 263, CIT(A) u/s 250 and ITAT u/s 254	9 months from the end of the F.Y. in which order received	12 months from the end of the F.Y. in which order received
Fresh assessment pursuant to order of CIT u/s 263, CIT(A) u/s 250 and ITAT u/s 254, where reference is made to TPO	21 months from the end of the F.Y. in which order received	24 months from the end of the F.Y. in which order received

These revised time limits will be applicable to assessment /reassessment initiated in AY 2010-11 and onwards.

✓ **Penalty in case of Search Cases: Section 271AAA & 271AAB**

In all search cases, penalty was levied as under:

a) In case the assessee admits to the undisclosed income during the course of search, specifies the manner in which such income was derived, substantiates the manner in which such income was derived and pays the tax due on the same with interest, no penalty was levied.

b) In case of any additions during the assessment / reassessment proceedings pursuant to the search, penalty was levied @ 10% of the undisclosed income assessed.

c) No other penalty u/s 271(1)(c) was levied.

The said section shall now be applicable only to search cases initiated before 1st July, 2012.

In case, where the search is initiated after 1st July, 2012, under a new provision Section 271AAB, penalty shall now be levied as under:

a) In case the assesses admits to the undisclosed income during the course of search, specifies the manner in which such income was derived, substantiates the manner in which such income was derived and pays the tax due on the same with interest and furnished the return of income before the specified due date, a penalty @ 10% of the undisclosed income will be levied.

b) In case the assesses does not admit to the undisclosed income during the course of search, but declares such income in the return of income furnished pursuant to Section 153A and pays the tax due on the same with interest, a penalty @ 20% of the undisclosed income will be levied.

c) If the undisclosed income assessed during the course of the assessment / reassessment proceedings does not fall in any of the above case, a penalty ranging from 30% to 90% of the undisclosed income will be levied.

These provisions will take effect from 1st July, 2012.

✓ **Revised Provisions for expeditious prosecution under the Act: Section 276C, 276CCC, 277, 277A, 278, 280A, 280B, 280C and 280D**

In order to strengthen the prosecution mechanism under the Act, fresh provisions have been introduced for constitution of special courts for trial of offences under the Act etc and maximum imprisonment and fines possible have also been enhanced.

These provisions will take effect from 1st July, 2012.

Amendments to Provisions for Tax Deduction / Collection at Source

✓ **Increase in Threshold Limit for deduction of Tax in case of interest on debentures: Section 193.**

Section 193 provided for deduction of tax at source on payment of interest on debentures, where the interest is in excess of Rs. 2,500. This limit of Rs. 2,500 is now raised to Rs. 5,000.

This provision will take effect from 1st July, 2012.

- ✓ **Tax Deduction at Source on Remuneration / Fees / Commission to Directors: Section 194J**

  In case of payments to a director in the nature of remuneration, fees or commission or any other payment where such payment is not subject to tax under Section 192 (i.e. Salary), tax shall be deducted @ 10% under Section 194J. This amendment is more of clarificatory in nature.

  This amendment will take effect from 1st July, 2012.

- ✓ **Increase in Threshold Limit for deduction of Tax in case of compensation on compulsory acquisition of property: Section 194LA**

  Section 194LA provided for deduction of tax at source @ 10% on payment of compensation on compulsory acquisition of immovable property (other than agricultural land), where the compensation is in excess of Rs. 1 lac. This limit of Rs. 1 lac is now raised to Rs. 2 lacs.

  This amendment will take effect from 1st July, 2012.

- ✓ **TDS on transfer of certain immovable properties (other than agricultural land): Section 194LAA**

  Every person, who is purchasing any immovable property (other than agricultural land) from a resident person, shall at the time of credit of such consideration to the account of the seller or at the time of payment of such consideration, whichever is earlier, shall deduct tax at source at the rate of 1% if the consideration is in excess of following limits:

  a) In case of immovable property situated in specified urban areas, Rs. 50 lacs.

  b) In case of immovable property situated in any other areas, Rs. 20 lacs.

  It is also provided that where the consideration payable is lower than the value adopted by the Stamp Authorities, the tax shall be deducted at such value adopted by the Stamp Authorities. It is also provided that the Registering Authority shall not register any transfer unless proof of payment of tax deducted at source is produced before him. It is further provided that for such transaction, deductors shall not be required to obtain a Tax Deduction Account Number and in such situations PAN of both parties shall be sufficient.

  This provision will take effect from 1st October, 2012.

- ✓ **Amendments of provisions for deduction of tax for payments to Non-Resident: Section 195**

  An Explanation to Section 195 has been inserted with retrospective effect to clarify that the provisions of Section 195 shall apply and shall always have deemed to have applied and shall extend and shall always have deemed to have extended to all persons, whether such a person is resident or non-resident and whether such person has a business connection or any presence in India or not. The clarification implies that even in case of payment by a non-resident to another non-resident, if the transaction is liable to tax in India, such non-resident payer shall have the liability to deduct tax at source in India.

This amendment will take effect from 1st April, 1962.

A new sub-section to Section 195 has also been inserted to empower the CBDT to notify through the Official Gazette, such cases or classes of persons, a person who is responsible for making any payment to a non-resident (other than a company) or to a foreign company, shall make an application to AO to determine by general or special order, the amount of tax that shall be deducted on such payment.

This amendment will take effect from 1st July, 2012.

✓ **Deemed Date of payment of tax deducted at Source : Section 201(1A) & 206C**

Section 191 provides that in case where a person has not deducted or short deducted tax at source, if the payee has paid full tax on such income, he shall not be considered as an Assessee in Default. Section 201 provides for levy on interest on amount of tax short deducted or not deducted. However, there was a confusion of how interest should be levied in view of Section 191. The same is now sought to be resolved by providing that in case where the Payee has paid full tax on the income received and has filed his return of income u/s 139, the date of filing of return of income by the payee shall be date on which the Payer shall be deemed to have paid the TDS and from that date his default shall cease. The Payer in order to take benefit of this section shall also be required to furnish a certificate from an accountant to ensure compliance to above provisions. In such cases, interest shall be levied only for the period of default from the date on which such tax was deductible till the date on which the payee has filed his return of income.

Similar amendments have also been carried out to provisions relating to Tax Collection at Source.

This amendment will take effect from 1st July, 2012.

✓ **Tax Collection at Source on cash sale of bullion and jewellery: Section 206C(1D)**

It is now provided that in case of sale of bullion and jeweler, where the transaction value is above Rs. 2 lacs and the payment mode is in cash, the Seller shall collect tax at source @ 1% of sale consideration from every such buyer. This is irrespective of whether the buyer is a manufacturer, trader or is a purchaser for personal use.

This provision will take effect from 1st July, 2012.

✓ **Tax Collection at Source on sale of certain minerals: Section 206C(1C)**

It is now provided that in case of sale of coal, lignite and iron ore, tax shall be collected @ 1% on sale consideration. However, tax shall not be collected where the buyer purchases the same for personal use or where buyer declares that these minerals are to be utilized for the purposes of manufacturing, processing or producing articles or things.

This provision will take effect from 1st July, 2012.

✓ **Levy for additional fees for delay in filing of TDS / TCS Returns: Section 234E, 272A & 273B**

A new provision, Section 234E is introduced to provide that in case there is a delay in filing of TDS or TCS returns, a fee @ Rs. 200 per day of delay shall be levied till date of filing of such return. It is further provided that the maximum fee that can be levied shall be the amount of TDS / TCS due. It is also provided that such fee shall be paid before the filing of the delayed TDS / TCS returns, thus making the payment of such fees in case of every delay mandatory.

Consequently, Section 272A has been amended to provide that no penalty levied under the said section for delay in filing of return, where fee is already paid under Section 234E.

These provisions will take effect from 1st July, 2012.

✓ **Levy for Penalty for delay in filing of TDS / TCS Returns or furnishing incorrect information in the TDS / TCS Return: Section 234E**

A new provision, Section 271H is introduced to provide that in case there is a delay in filing of TDS or TCS returns beyond 1 year from its due date, a penalty that may range from Rs. 10,000 to Rs. 1,00,000/- may be levied. The provision also provides for levy of similar penalty in case incorrect information is furnished in the TDS / TCS Return.

These provisions will take effect from 1st July, 2012.

✓ **Intimation on processing of TDS Statement now rectifiable & appealable: Section 154, 156 & 246A**

The Income Tax Department on processing of TDS Returns was issuing an intimation specifying the amount payable or refundable. However such intimation was not technically rectifiable under section 154 or appealable u/s 246A nor was it treated as a notice of demand u/s 156. The provisions have now been amended to provide that an intimation on processing of TDS return will be deemed to be a notice of demand u/s 156, where tax is payable, shall be subject to rectification and appeal provisions u/s 154 & 246A respectively.

These amendments will take effect from 1st July, 2012.

Amendments to Wealth Tax

✓ **Exemption of residential house allotted to employee of a Company: Section 2**

Section 2 provided for levy of wealth tax on residential houses owned by a Company. It further provides that a residential house allotted by a Company to an employee or an officer or whole time director if the gross annual salary of such employee or officer is less than Rs. 5 lacs. This limit is now enhanced to Rs. 10 lacs.

This amendment will take effect from FY 2012-13.

✓ **Power to reopen Wealth Tax Return of up to 16 years: Section 17 & 17A**

Provisions of Section 17 permit reopening of six year in case of wealth which has escaped assessment. Section 17 is now proposed to be amended in order to provide powers to re-open sixteen years in case of an assessee, where assets are found to be located outside India. Section 17A is also being amended to provide that where a person is found to have any asset located outside India. Similar powers are also being provided under the Wealth Tax Act.

These amendment will take effect from FY 2012-13.

INDIRECT TAXES

SERVICE TAX

Amendments affecting current scheme of Service Tax (effective from 01.04.2012)

✓ **Change in Effective Rates**

- There is no change in the Threshold limit of Service Tax; the current threshold exemption limit of Rs. 10.00 Lacs is continued.
- Service Tax rate has been raised from 10.30 % to 12.36 % with effect from 01.04.2012.
- Effective rate of service tax will increase in following services:
  1. Services in relation to sale and purchase of foreign currency including money changing by raising the existing rates proportionately by 20%;
  2. Service of promotion, marketing, organizing and assisting in organizing lottery by raising the specified amounts proportionately to Rs 7,000 and 11,000;
  3. Rate for service of works contract raised from 4% to 4.8%.
  4. The rate for Cenvat reversal for exempt services has been revised from 5% to 6% in Rule 6(3) of Cenvat Credit Rules (CCR), 2004.
  5. Life Insurance service where in the entire premium is not towards risk cover, the first year's premium will attract service tax of 3%, while the subsequent year premium shall attract @ 1.5%. Full credit of cenvat will be allowed.
  6. Domestic and International Journey by air, the dual rate of structure of maximum service tax of Rs. 150 and Rs. 750 in case of economy class travel is being replaced by regular rate of Service Tax along with abatement of 60% with additional provision of permission to avail credit on input service.

✓ **Following services are exempted with retrospective effect :**

- Service tax on repairs of roads from 16.06.2005.
- Management, maintenance or repair service to non-commercial government buildings from 16.06.2005 till new charging section.

✓ **Following rules inserted with retrospective effect :**

- Sub-rule 6A inserted under rule 6 of the Cenvat Credit Rules, 2004 to protect the service providers located in the Domestic Tariff Area from the reversal of Cenvat credit from w.e.f. 10.02.2006.
- The scope of exemption for service provided by an association of dyeing units in relation to common effluent treatment plants from w.e.f. 16.06.2005.

✓ **Amendment in Cenvat Credit Rules, 2004 :**

- Cenvat Credit on motor vehicles now available
- Credit of tax paid on the supply of motor vehicles on rent , insurance and repair shall be allowed

- Credit of insurance and service station service is allowed to insurance companies in respect of motor vehicles insured and re-insured by them, and manufacturers in respect of motor vehicles manufactured by them.
- Service provider can take credit of inputs or capital goods whenever the goods are delivered to him; previously it was taken only after they are brought to the premises of the service provider.
- Credit of service tax attributable to service used in more than one unit shall be distributed on pro-rata basis on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.
- Service tax payment by the service receiver can be taken as credit on reverse charge basis.
- Specified deduction now allowed on Cenvat Credit reversal when capital goods removed.
- No interest now payable on Cenvat Credit wrongly taken provided the same is not utilized.

✓ **Amendment in Service Tax Rules, 1994.**

- Time period for issue of invoices is increased to thirty days and for banks and financial institutions providing banking and other financial services has been increased to forty five days.
- Excess payment of Service Tax can now be adjusted
- In case of exporters, the extended period by the RBI on specific request is also being included in the period for deferring tax liability.
- The facility of payment of service tax on receipt basis is now allowed to all individuals and partnership firms (including LLP) subject to the condition that their turnover of taxable services in previous year was below Rs. 50.00 lakhs.
- Following eight services which were earlier eligible to pay tax on receipt basis have now been shifted to the deferred payment facility mentioned above :

  1. Architect
  2. Interior Decorators
  3. Chartered Accountants
  4. Cost Accountants
  5. Company Secretary
  6. Scientist or technocrats
  7. Consultancy or assistance in any bench of law in any manner.
  8. Export of Services

  This also means that in case of Individuals & Firms in above categories having turnover above Rs. 50 lacs will have to pay service tax on accrual basis. Further, Companies in any of the above categories will also have to pay service tax on accrual basis irrespective of turnover.

✓ **Amendment to Point of Taxation Rules,2011:**

- Change in the definition of continuous supply of services to include the recurrent nature of services
- Rule 6 in respect of continuous supply of service has been omitted and merged with rule 3.

✓ **Major Amendments :**

- A new section 67 A has been inserted to prescribe that the value of taxable services and the rate of tax be determined in terms of Point of Taxation Rules,2011.
- A new section 72A has been inserted to introduce provisions relating to special audit in the service tax law on the lines of section 14A and section 14AA of the Central Excise Act. Under this newly introduced section, special audit can be ordered under specified circumstances.
- The one year time limit for issuance of notice for specified category of offences prescribed under section 73(1) of the Finance Act,1994 is being increased to eighteen months.
- Following section are amended to make the sections contained in Finance Act, 1994 in line with the similar respective provisions contained in Central Excise Act, 1994 :
  1) Section 83 is amended to make Settlement Commission provisions and Revision mechanism.
  2) Section 85 and section 86 are amended so as to harmonize the limitation for filing appeal.
  3) Section 94(2) is amended to obtain powers to provide the manner of compounding and amount of compounding and to provide for rules for settlement of cases.
- Renting of immovable property – New section 80A is inserted to waive the penalty for those who pay the service tax due on renting of immovable property service(as on 06.03.2012). This scheme is applicable only for a period of Six Months from the enactment of Finance bill, 2012.

✓ **New Reverse Charge Mechanism:**

Section 68(2) of the Finance Act,1994 is amended to put the onus of payment of service tax on reverse charge basis partly on service provider and partly on service receiver for three specific sectors

✓ Hiring of means of transport
✓ Construction
✓ Man Power Supply

Consequent to above change the concept of 'Person Liable to pay' as per Rule 2(1)(d) of Service Tax Rules,1994 has been amended.

Proposed Structure (Effective from a date to be notified)

✓ All services other than those specified in Negative list to be taxed @12%.

✓ A new wider and inclusive definition of "Service" to be introduced.

✓ Negative List of Services shall include following services :

(a) Certain services by Government or a local authority
(b) Services by the Reserve Bank of India;
(c) Services by a foreign diplomatic mission located in India;
(d) Certain services relating to agriculture
(e) Trading of goods;
(f) Any process amounting to manufacture or production of goods;
(g) Selling of space or time slots for advertisements other than advertisements broadcast by radio or television;
(h) Service by way of access to a road or a bridge on payment of toll charges;
(i) Betting, gambling or lottery;
(j) Admission to entertainment events or access to amusement facilities;
(k) Transmission or distribution of electricity by an electricity transmission or distribution utility;
(l) Services by way of
    (i) Pre-school education and education up to higher secondary school or equivalent;
    (ii) Education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
    (iii) Education as a part of an approved vocational education course;
(m) Renting of Residential Dwelling for use as Residence.
(n) Deposits, Loans / Advances (consideration by way of interest or discount) and inter-se Sale / Puchase of Foreign Currency
(o) Transportation of passengers by stage carrage, railways (except tourisum), 1st / AC Class, Metro, Inland waterways, Public Transport (except tourisum), cabs / auto.
(p) Transporation of goods by road (except GTA/Courier) aircraft/vessel from outside India to India, Indland waterways
(q) Funeral / Burial

✓ Following Services to be specifically taxed as "Declared Services" :

1. Renting of Immovable Property
2. Construction – except entire consideration received after Completion Certificate
3. I.P.R - Temporary transfer or use
4. Information Technology Software
5. Obligation to Refrain / Tolerate / Do an act

6. Transfer of Goods by way of hire/ lease/license
7. Hire Purchase
8. Works Contract
9. Restaurant

✓ Following Services to be exempted:

1. Services to UNO and specified International Organizations
2. Health Services i.e. Services by Clinical Establishments, authorized medical professional, Veterinary clinics
3. Charitable Activities by entities registered under Section 12AA of I.T. Act
4. Religious Services in the nature of ceremonies or renting of precincts of a religious place
5. Legal Services by an Individual Advocate or Arbitration Services (other than to Business entity)
6. Technical Testing or Analysis of newly developed drugs
7. Training or Coaching in Recreational Activities - arts, culture, sports
8. Education Services i.e. Catering under Govt. sponsored mid – day meals and Transportation in exempt Educational Institutions
9. Sports Services such as Individual Players, Referee etc to recognized sports body and Sponsorship to sports persons
10. Services to Govt. or Local Authority in the nature of Erection / Construction / Maintenance
11. Infrastructure and Public Utility Services
12. Copyright Services related to literary / musical / artistic fields.
13. News & Journalism Services
14. Restaurant other than restaurants which are Air conditioned and have license to serve liquor
15. Hotel with declared tariff less than Rs.1,000
16. Transportation by Rail for specified goods
17. GTA Services for specified goods
18. General Insurance for specified Schemes
19. Job Work Services for specified activities
20. Specified Agency Services
21. Business Exhibition outside India
22. Slaughter -Bovine animals
23. In case of services under reverse charges mechanism where the services receiver uses the services for non – commercial Purpose or charitable activities

Central Excise

All changes to be effective immediately unless otherwise specified

CHANGE IN EXCISE DUTY RATES:

Description	Existing Rate of Duty %	Revised Rate of Duty %
Excise Duty on Non-Petroleum Products	10	12
Concession Rate of Excise Duty on Non-Petroleum Product	5	6
Lower rate of Excise duty on Non-petroleum products	1	2
Precious Metal Jewellery, Coal and Fertilizer	1	1

SPECIFIC PROPOSALS OF INCREASE/REDUCTION IN EXCISE DUTY RATES

Item Description	Existing Rate of Duty %	Revised Rate of Duty %
Unbranded Jewellery	Nil	1% on 30% of Transaction Value declared in the Invoice
Gold Jewellery Sold by EOUs to DTAs	5	10
Refined Gold	1.5	3
Gold Produced from Copper Smelting	2	3
Silver Produced from Copper Smelting	6	4
Battery packs supplied to Manufactures of Electric Vehicles for use as spares and OEMs for end use	10	6
Specific Parts of Hybrid Vehicles supplied to Manufactures of Hybrid Vehicles	10	6
LED Lamps	-	6
Iodine	10	6
Parts of Mobile Phones, other than those given to manufacturer of Mobile phones	10	2% provided no Cen vat Credit is taken
Matches manufactured by Semi-Mechanized units	10	6
Processed food products of Soya	10	6
Hand rolled Bidis	Rs. 8 Per Thousand	Rs. 10 Per Thousand
Machine rolled Bidis	Rs.19 Per Thousand	Rs.21 Per Thousand

ITEMS FULLY EXEMPTED

Item Description	Excise Duty
Branded Silver Jewellery	Fully Exempt
Gold Coin with 99.5% Purity	Fully Exempt
Silver Coin with 99.9%	Fully Exempt
Food Preparation containing fruits and vegetables prepared in hotel whether or not used by such hotel	Fully Exempt
Unbranded articles of Gold/Silver Smith wares of precious metal or of metals coated with Precious metals	Fully Exempt
Footwear upto Value of Rs.500	Fully Exempt
Refills and inks used for Manufacturing of writing Instruments not Exceeding Rs.200 per piece	Fully Exempt subject to actual user conditions
Incra Ocular Lens	Exemption Restored
OTHER CHANGES	
Cement Manufactured and cleared in Packaged form from:	
a) From Mini Cement Plants	6% ad valorem + Rs.120 per tonne
b) Others	12% ad valorem+Rs.120 per tonne
Cement Cleared other than in packaged form	12% ad valorem
Cement Clinker	12% ad valorem
Cement	Now covered for Retail Sale Price (RSP) based assessment with an abatement of 30% from RSP.
Footwear Above Value of Rs.500	12%
Readymade garments bearing a brand name or sold under a brand name	Abatement from the Retail Sale Price(RSP) in increased from 55% to 70%
Cigarettes	Now covered for Retail Sale Price (RSP) based assessment with abatement of 50% from RSP

Custom Duty

GENERAL

- The Duty free allowance under baggage rules has been increased to Rs.35000 from Rs.25000 for adult Indian passenger and Rs.15000 from Rs.10000 for children up to 10 years of age.
- The method of computation of educational cess and secondary and higher education cess on imported goods is being simplified. The Portion of cesses is leviable on the CVD portion of custom duty is being exempted so as to avoid computation of such cess twice.
- Project import status granted to Green House set up for protected cultivation of horticulture and floriculture produce would attract concessional rate of basic custom duty of 5%

EXEMPTIONS WITHDRAWN

- Full exemption available to copper ,brass and phosphor bronze strips and similar items imported for the manufacture of connectors is withdrawn
- Full exemption from Basic custom duty currently available to Poly laminated aluminium tape and poly laminated steel tape, if imported for the manufacture of Cables and conductors for Telecom use is also being withdrawn.

CHANGES IN THE RATES OF CUSTOM DUTY

Item Descriptions	Existing Duty %	Revised Duty %
AGRICULTURE SECTOR		
Sugarcane planter, root or tuber crop harvesting machine and rotary tiller and weeder, parts and components for their manufacture.	7.5	2.5
Specified Coffee Plantation and processing machinery-up to 31.3.2014.	10 & 7.5	5
Coffee brewing and vending machine-Commercial type	10	5
Parts required to manufacture coffee and brewing machines	10	2.5
Specified soluble fertilizer and liquid fertilizer other than urea.	7.5 & 5	5 & 2.5
Concessional Rate of basic custom duty ,additional duty and special additional duty is extended to installation of mechanised handling system for horticultural produce		
AUTOMOBILE		
Completely Build Unit (CBUs) of large cars/MUVs/SUVs	60	75
METAL		
Coating material for manufacture of Electrical Steel	10	5
Ammonium meta-vanadate used in ferrovanadium	7.5	2.5

Item Descriptions	Existing Duty %	Revised Duty %
Flat roll products (HR and CR) of non-alloy steel	5	7
Standard Gold and Platinum Bars	2	4
Non-Standard Gold	5	10
Gold ore/concentrate and doer bars for refining	1	2
Cut and Polished coloured Gems Stones	0	2
CAPITAL GOODS AND INFRASTRUCTURE		
Capital goods. Plant and equipment imported for setting up or substantial expansion of iron ore pallet plants or iron ore beneficiation plants	7.5	2.5
Machinery and instruments for Surveying and prospecting of mines	10 & 7.5	2.5
Railway Safety Equipments (Train Protection and Warning system and railway track laying machines	10	7.5
HEALTH		
Iodine	5	2.5
Isolated soya protein and soya protein concentrate	15 & 13	10
Probiotics	10	5
Life Savings drugs and their bulk drugs	10	5
Concessional import duty with 6% CVD and NIL SAD is extended to specified Raw Materials for the manufacture of Syringes ,needles ,catheters, cannulae subject to actual user conditions and is also extended to parts and components for the manufacture of Blood pressure monitors and Gluco Meters		
TEXTILE		
Shuttle less Looms along with parts and components for their manufacture for New Machineries Only	5	NIL
Automatic Silk Reeling and Processing Machineries and Raw silk testing equipments for New Machineries	5	NIL
Wool waste and Wool Tops	10 & 15	5
Second hand textile machinery	5	7.5
Titanium Dioxide	10	7.5
EXPORT PROMOTIONS		
Marine Sea Water Pumps with fibre Impellers and automatic fish/prawn feeders for aquaculture	10	5
Artemia	30	5

Item Descriptions	Existing Duty %	Revised Duty %
MISCELLANEOUS		
Digital Steel Camera	0	10
Boric Acid	5	7.5
Boiler Quality Tubes and Pipes for Manufacturing of Boilers	10	7.5

Concessional import duty with 5% Basic +6% CVD and NIL SAD is prescribed for imports of hydrophilic and hydrophobic non-woven and Super absorbent polymers for manufacture of Adult diapers

FULLY EXEMPT ITEMS

Capital Goods / Infrastructure

- Initial Setting up and substantial expansion of fertilizer projects exemption valid up to 31.03.2015.
- Steam coal is being fully exempted .CVD is reduced from 5% to 1%
- Natural Gas /LNG imported by Power Generation by a Power Generation Company
- Uranium Concentrate ,sintered nature uranium dioxide sintered uranium dioxide palates for generation of new Clear power
- Equipment imported for Road Constructions project awarded Metropolitant Development Authority
- Coal Mining Projects
- Tunnel Excavation and specified lying equipments
- All infrastructure projects

Aircraft and Ships

- New and retreaded aircraft tyres
- Parts of Aircraft and Testing Equipment for maintenance and repairs of Aircraft imported by third party maintenance repair and overhaul units.

Environment Protection

- Equipment for setting up of Solar Thermal Projects
- Tri band phosphor for use in the manufacturing of the compact florescent lamps
- Full Exemption from Basic Custom Duty and SAD along with 6% CVD is extended to Additional parts for the manufacture of hybrid vehicles and lithium ion batteries for the manufacture of battery packs for supply to such vehicles

Textiles

- Aramid yarn and Fabric when used in manufacture of bullet proof helmets for supply to defence and Police

Electronic and Hardware

- LCD and LED Panels of 20" and above
- LEDs required for manufacture of LED Lamps are also exempted from SAD

Paper

- Waste paper

Special Additional Duty of Customs

- Brass Scrap ,timber locks and dredgers

BASICS OF REVISED SCHEDULE VI

APPLICABILITY:

The Ministry of Corporate Affairs (MCA) has issued revised Schedule VI which lays down a new format for preparation and presentation of financial statements by Indian companies for financial year commencing on or after 1 April 2011.

MAJOR CHANGES RELATED TO THE PROFIT AND LOSS ACCOUNT:

- Unlike the Old Schedule VI, the Revised Schedule VI lays down a format for the presentation of Statement of Profit and Loss. This format of Statement of Profit and Loss does not mention any appropriation item on its face. Further, the Revised Schedule VI format prescribes such 'below the line' adjustments to be presented under "Reserves and Surplus" in the Balance Sheet.
- In addition to specific disclosures prescribed in the Statement of Profit and Loss, any item of income or expense which exceeds one percent of the revenue from operations or Rs. 100,000 (earlier 1 % of total revenue or Rs.5,000), whichever is higher, needs to be disclosed separately.
- In respect of companies other than finance companies, revenue from operations need to be disclosed separately as revenue from (a) sale of products, (b) sale of services and (c) other operating revenues.
- Net exchange gain/loss on foreign currency borrowings to the extent considered as an adjustment to interest cost needs to be disclosed separately as finance cost.
- Break-up in terms of quantitative disclosures for significant items of Statement of Profit and Loss, such as raw material consumption, stocks, purchases and sales have been simplified and replaced with the disclosure of "broad heads" only.

MAJOR CHANGES RELATED TO THE BALANCE SHEET

- The Revised Schedule VI prescribes only the vertical format for presentation of Financial Statements.
- Current and non-current classification has been introduced for presentation of assets and liabilities in the Balance Sheet. The application of this classification will require assets and liabilities to be segregated into their current and non-current portions. For e.g. Loans repayable on demand Portion of Long term loan which becomes due in 12months will be treated as Current Liability. This means that unless there is a written contract specifying a repayment period, all loans will be treated as current liabilities.
- Number of shares held by each shareholder holding more than 5 percent shares in the company now needs to be disclosed.
- Details pertaining to aggregate number and class of shares allotted for consideration other than cash, bonus shares and shares bought back will need to be disclosed only for a period of five years immediately preceding the Balance Sheet date including the current year.
- Any debit balance in the Statement of Profit and Loss will be disclosed under the head

"Reserves and surplus."

- Specific disclosures are prescribed for Share Application money. The application money not exceeding the capital offered for issuance and to the extent not refundable will be shown separately on the face of the Balance Sheet. The amount in excess of subscription or if the requirements of minimum subscription are not met will be shown under "Other current liabilities."
- The Old Schedule VI required separate presentation of debtors outstanding for a period exceeding six months based on date on which the bill/invoice was raised whereas, the Revised Schedule VI requires separate disclosure of trade receivables outstanding for a period exceeding six months from the date the bill/invoice is due for payment.
- "Capital advances" are specifically required to be presented separately under the head "Loans & advances" rather than including elsewhere.
- Tangible assets under lease are required to be separately specified under each class of asset.
- In the Old Schedule VI, details of only capital commitments were required to be disclosed. Under the Revised Schedule VI, other commitments also need to be disclosed.
- The Revised Schedule VI requires disclosure of all defaults in repayment of loans and interest to be specified in each case.

DISCLOSURES NO LONGER REQUIRED

The Revised Schedule VI has removed a number of disclosure requirements that were not considered relevant in the present day context. Examples include:

- Disclosures relating to managerial remuneration and computation of net profits for calculation of commission;
- Information relating to licensed capacity, installed capacity and actual production;
- Information on investments purchased and sold during the year;
- Investments, sundry debtors and loans & advances pertaining to companies under the same management;
- Maximum amounts due on account of loans and advances from directors or officers of the company

MATTERS THAT AFFECT US

✓ Re-casting of previous year figures

✓ Classification of All assets and liability in to Current or Non Current (based on 12 Month Criteria)

✓ Schedules to B/s and P&L are gone. Now Notes will replace Schedules.

✓ Accounting Standards will prevail over Revised Schedule VI

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