



# The Indian Budget 2010

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## BUDGET 2010 : REFORMIST BUT NOT REVOLUTIONARY

While the world was struggling to come out of the global recession, it was certainly not India's key concern— there were other daunting tasks such as managing the fiscal deficit, reining in inflation and spiraling price rise without adversely affecting the growth rate. The debate on roll back of stimulus package had set the expectations straight and low— it is in this background that the Budget seems to have delivered on most counts.

On the macro-economic picture, the GDP growth for the FY 2009-10 is expected to be 7.20% - up 50 basis points from the earlier year which is great in view of global recession. The growth rate in manufacturing sector in December 2009 was 18.5% — the highest in the past two decades. This growth rate continues to attract foreign direct investments (FDI) in India which were at the same level as in the earlier period despite the global slowdown. FDI investment in India was US\$ 20.9 billion for the period April – Dec 2009 as against US \$ 21.1 billion for the same period in 2008. The surprise package in the Budget was, however, on managing the fiscal deficit which is proposed to be capped at 5.50% of the GDP for 2010-11 down from 6.90% of 2009-10 and 7.8% in 2008-09. The budget also announced a rolling target for the fiscal deficit at 4.8% for 2011-2012 and 4.1% 2012-2013. The FM seems to be banking on hugely buoyant tax revenues - of almost Rs 7.5 lakh crores (up from 6.33 lakh crores for 09-10) which is based on the prediction of 8.5% growth. To achieve this, the FM seems to be betting on a robust economic performance in a year when the world economy is yet to signal definitive steps of revival. This bet on growth could go wrong. However, the most laudable thing on the subject of fiscal deficit is full disclosure of contingent liabilities and the inclusion of off-budget debt-raising activities such as government-issued oil bonds or fertilizer bonds – this transparency is most welcome.

The Finance Minister (FM) appears to have chosen to focus on the root cause of the price rise and highlighted the importance of the agricultural sector in providing food security. The rollout of the nutrient-based subsidy augurs well for agricultural productivity. Seeking private participation in food grain storage capacity and allowing

foreign currency loans (External Commercial Borrowings) to be raised for food processing is a step forward in creating a robust food supply chain that benefits producers though more concrete measures such as tax holidays may have acted as additional stimulants. Also, a mere moratorium for payment of farm loans as opposed to a waiver signals that the onus of performance lies with the farmers.

Like in the previous Budget, infrastructure has again taken centre stage in the Union Budget 2010-11, with a sum of Rs 1,735.52 billion being provided for infrastructure development. This works out to a little more than 46 per cent of the total Plan allocation. Allocation to major infrastructure sectors, including power, road transport, shipping, urban infrastructure and railways, has been raised by 22.6 per cent in 2010-11 as compared to 2009-10. Similarly, a huge sum of Rs. 1,37,674 crore, representing 37% of the total outlay, will be spent on social sector programmes.

More licenses to set up Banks would be given to Non Banking Financial Companies and private players, something they have been eagerly waiting for and which comes to them in small numbers. However, it was disappointing to not hear of any increased Foreign Direct Investment limits in banks/insurance companies/stock exchanges which would help develop the financial sector further. On the foreign direct investment front, the FM has promised a friendly policy with a single comprehensive document containing all regulatory requirements. The idea, it appears, is to ensure a sense of continuity by offering clarity and help investors from across the country.

In terms of new fiscal initiatives, the Finance Minister has done very little in this budget and it is not difficult to understand why. The Government's seems to have firm resolve to introduce the new Direct Tax Code (DTC) and Goods and Service Tax (GST) by 1<sup>st</sup> April 2011. Nevertheless, the FM did tinker with direct taxes, offering some concessions to personal income tax payers and increasing the rate of Minimum Alternate Tax (MAT) for the corporate sector from 15% to 18%. The surcharge for domestic companies is proposed to be reduced from 10% to 7.50%. However there are no changes for foreign companies and neither is there any extension of tax benefits to software/ITES companies.

In the case of indirect taxes, the excise duty reductions resorted to in the previous budget for stimulating demand have been partially rolled back by 2% to 10%. Similarly, excise and customs duties have been increased on petroleum products. There are no changes in service tax rate. At the same time, the FM has brought more services under the service tax net. This appears to be a step towards rolling out of GST which revolves around the concept of unified rate.

More than triggering two extreme reactions, the Budget 2010-11 is significant for the way it sets out to remove a number of roadblocks and clear the way for a trouble-free ride up the growth curve in the long-run. The Budget can be said to be an honest attempt at consolidation and correcting the fiscal deviation of the past, but faulty or non-implementation of it could spell trouble for the economy. Thus it can definitely be labeled as reformist budget but has a long way to go for being called revolutionary.

## SNAPSHOTS OF DIRECT TAX PROPOSALS

### Direct Tax



- Change in the Income-tax slabs resulting in substantial savings to Individuals & HUF
- No change in TDS Rates
- Rate of surcharge in case of domestic company reduced from 10% to 7.5%
- The threshold limit for applicability of TDS rationalized
- Providing marginal relief to trade bodies/association formed for promoting business by proposing that receipt upto Rs. 1 million arising from business/rendering services in connection with business would still be regarded as 'Charitable purpose'
- Scope of deeming fiction as per section 9 widened to provide that income will be deemed to accrue or arise in India, even if non resident has not rendered services in India so long as the services are utilized in India
- Anomaly u/s 10AA with regard to 'total turnover of the assessee/of the undertaking' removed retrospectively from A.Y. 2006-07
- Weighted deduction for expenditure incurred in-house on scientific research enhanced from 150% to 200%
- Weighted deduction for contribution to an approved scientific research association or to an approved university, college or other institution or to a National Laboratory or an IIT or a specific person for the purpose of approved scientific research enhanced from 125% to 175%
- Contribution to association engaged in undertaking research in social science or statistical research would qualify for weighted deduction of 125%. In case, an assessee is not carrying on the business, the contribution made would qualify for 100% deduction u/s 80GGA. Further income of such association would be exempt from tax u/s 10(21)

- Benefit of deduction u/s 35AD providing for 100 per cent deduction in respect of the whole of any capital expenditure (excluding land, goodwill and financial instrument) extended to a new hotel of two star or above category anywhere in India
- No expenditure would be disallowed if the TDS thereon is deducted during the previous year and deposited before the due date of filing of Return Of Income. This will take effect from A.Y. 2010-2011 onwards
- Rate of interest for delay in deposit of TDS has gone up from 1% to 1.5% p.m.
- Limit of turnover/gross receipt for the purpose of Tax Audit of business and profession enhanced to Rs. 60 lacs & Rs. 15 lacs respectively
- Maximum penalty for not carrying out tax audit will go up from Rs. 1 lac to 1.5 lacs
- The turnover limit of eligible business for computing profits and gains on presumptive basis of 8% of turnover enhanced to Rs. 60 lacs from existing Rs. 40 lacs
- No capital gains on conversion of certain smaller companies into LLP subject to various conditions
- Shares of unlisted companies received by firm or unlisted company for inadequate consideration or without consideration would be regarded as 'income' of such firm or unlisted company
- New section 80CCF providing for deduction of Rs. 20,000 in respect of investment made in long term infrastructure bonds
- Relaxation of conditions for claiming deduction u/s 80IB for developing and building housing projects – Project can now be completed within 5 years from the year in which project is approved by local authority and area for commercial establishment increased from 2000 sq. ft. to 5000 sq. ft.
- MAT on Book Profit increased from 15% to 18%
- TDS certificates will be required to be issued even after 1st April, 2010
- Settlement commission can be approached even in search cases provided the tax liability is in excess of fifty lacs
- Powers given to High Court to condone the delay in filing appeal, if there is a sufficient cause

## DIRECT TAX PROPOSALS

### Rates of Taxes

- Rates for Individuals, HUFs, AOPs and BOIs**

Major relief has been granted by changing the income slabs as under:

Income Slab	Tax rates for Resident senior citizens	Tax rates for Resident women assesseees below 65 years of age	Tax Rate for others
Upto Rs. 160,000	Nil	Nil	Nil
Rs. 160,000 to Rs. 190,000	Nil	Nil	10%
Rs. 190,000 to Rs. 240,000	Nil	10%	10%
Rs. 240,001 to Rs. 500,000	10%	10%	10%
Rs. 500,001 to Rs. 800,000	20%	20%	20%
Above Rs. 800,000	30%	30%	30%

No surcharge is payable by Individuals, HUFs, AOPs and BOIs. However, education cess aggregating to 3% on tax continues to be payable.

- Firms, Local Authorities, and Co-operative Societies:** No changes proposed in the rates. No surcharge is payable by such tax payers. However, education cess aggregating to 3% on tax continues to be payable.
- Companies:** For domestic companies, no changes in tax rates. However, the rate of surcharge where income exceeds Rs. 10,000,000 is reduced from 10% to 7.5%.
- Dividend Distribution Tax:** Due to reduction in the rate of surcharge, the effective rate has reduced from 16.995% to 16.609%.
- Minimum Alternative Tax:** The rate has been increased from 15% to 18%. Following the increase in the rate and reduction in the surcharge, the effective tax rate now works out to 19.931%.
- Capital Gains Tax:** No changes proposed in the rates.

- **Rate of deduction of Tax at Source:** No changes have been proposed in the rates of deduction of tax at source under various sections.

## Definitions

### Charitable Purpose

- “Charitable purpose” defined in Section 2(15) provides that “the advancement of any other object of general public utility” will not be regarded as “charitable purpose” if it is engaged in any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business. To provide some relief, it is now proposed that if the gross receipts from the aforesaid activities do not exceed Rs.10 lakhs in the previous year, the ‘advancement of any other object of general public utility’ shall continue to be “Charitable Purpose”.
- This amendment is to take effect **retrospectively from 1st April, 2009**.

## Income when deemed to accrue or arise in India

- There is a legal fiction created by Section 9 of the Income tax Act whereby interest, royalty and fees for technical services are taxed in India if the services are utilized in India even if provided outside India. However, the Supreme court in the case of **Ishikawajima-Harima Heavy Industries Ltd., Vs DIT (2007)[288 ITR 408]** has held that despite the deeming fiction in section 9, for any such income to be taxable in India, there must be sufficient territorial nexus between such income and the territory of India. It further held that for establishing such territorial nexus, the services have to be rendered in India as well as utilized in India.
- To overcome the decision of the Supreme Court, an amendment was made by the Finance Act 2007 providing an Explanation that where the aforesaid income is deemed to accrue or arise in India under section 9 of the Income tax Act, such income shall be included in the total income of the non resident regardless of the fact whether the non resident has a residence or a place of business or business

connection in India. In spite of the above amendment made, the courts in India were still following the aforesaid decision of the Supreme Court.

- To clear the air and make the legislative intent absolutely clear, it is now proposed that aforesaid income by way of interest, royalty or fees for technical services of a non-resident shall continue to be deemed to accrue or arise in India under Section 9 so long as the services are utilized in India even if the non-resident has not rendered services in India.
- This amendment is to take effect **retrospectively from 1st June, 1976**.

### Exemption in respect of SEZ Unit

- In the Finance Act, 2009, the anomaly in respect of exemption in case of an SEZ unit was removed and it was provided that while computing the exemption, the total turnover of the SEZ unit is to be considered instead of total turnover of the entire business of the tax payer. The amendment was made effective from assessment year 2010-11. It has now been clarified that the above benefit would be available retrospectively from assessment year 2006-07 and onwards.

### Income from Business

#### Scientific Research and Development

- Weighted deduction in respect of the expenditure (not being expenditure in the nature of cost of any land or building) incurred on scientific research in an approved in-house R & D facility is proposed to be increased from 150% to 200%.
- Weighted deduction in respect of any contribution to approved scientific research associations is proposed to be increased from 125% to 175%.
- Weighted deduction at 125% is now proposed to be allowed in respect of any contribution to an approved research association which has as its object of undertaking research in social science or statistical research. It is also proposed that income of such approved research association be exempt u/s. 10(21) of the Income Tax Act.

### **Investment Linked deduction for “Specified Business”**

- It is now proposed to allow deduction u/s. 35AD in respect of any capital expenditure incurred for the business of building and operating a new hotel of two star or above category, anywhere in India, which starts functioning after 1<sup>st</sup> April 2010.
- It is proposed that where a deduction under this section is claimed and allowed for any assessment year, no deduction shall be allowed under the provisions of Chapter VI-A for the same or any other assessment years.
- It is proposed to insert a new sub section stating that in the case of conversion of private company or an unlisted public company into a limited liability partnership (LLP), the actual cost of the capital assets on which deduction has been allowed u/s. 35AD to the predecessor company, shall be taken as nil in the case of the successor LLP.

### **Amortization of Expenditure incurred under Voluntary Retirement Scheme (Section 35DDA)**

- It is proposed to insert a new sub section stating that the benefit of amortization of expenses incurred under Voluntary Retirement Scheme would be applicable to the successor LLP just as they would have applied to the predecessor company.
- It is to be provided that in the year of conversion, the deduction under this provision would be available to the successor LLP.

### **Disallowance u/s. 40(a)(ia)**

- No disallowance is to be made in respect of expenditure if the tax is deducted anytime during the previous year and paid on or before the due date of filing of the return of income. ***This amendment is to take effect from 1<sup>st</sup> April 2010.*** However, the current position whereby if tax deducted after the year end and paid thereafter (even if before the due date for filing the return of income), the deduction in respect of the expenditure would be allowed only in that subsequent year in which the tax is paid continues.

### **Limit of Turnover/Gross Receipts for the purpose of Tax Audit of Accounts**

- The threshold limit of Turnover/Gross Receipts for the purpose of Tax Audit u/s. 44AB of the Act is proposed to be increased as under:
  - i) Business : From Rs. 4 million to Rs. 6 million
  - ii) Profession : From Rs. 1 million to Rs. 1.5 million

### **Presumptive Taxation**

- The threshold limit of total turnover or gross receipts of the eligible business u/s. 44AD (8% of receipt treated as income under presumptive basis) is proposed to be enhance from 4 million to 6 million.
- In order to remove doubts and clarify the distinct scheme of taxation of Income by way of Fees for Technical Services, it is proposed that Income of a non resident from exploration/extraction/prospecting/production of mineral oil would be taxed under section 44BB whereas Royalties & Fees for Technical Services connected to a Permanent Establishment in India would be taxed under section 44DA.

## **Income From Other Sources**

- Provisions of Section 56(2)(vii) – Gifts received by an Individual or HUF which are regarded as income in the hands of recipient barring certain exception would be applicable only in respect of 'capital assets' and would not apply to stock in trade, raw material and consumable stores of any business of such recipient.
- The definition of the expression 'property' in Sec 56(2)(vii) is enlarged to include gift of 'bullion'. Therefore, gift of bullion by a non relative will now be taxed as income in the hands of the recipient. This amendment is proposed to be made effective 1<sup>st</sup> June, 2010
- In case of gift of immovable property, the tax is to be levied only if there is no consideration. Thus, if immovable property is gifted for inadequate consideration the same would not be taxable as income from other sources. This amendment is proposed to be made effective 1<sup>st</sup> October, 2009.

- It is proposed that in case of transfer of shares of a company (in which public is not substantially interested) by any person to a firm or a company (in which public is not substantially interested) without any consideration or for inadequate consideration, such receipt of shares by the firm or company would be chargeable to tax under the head income from other sources. However, while computing the capital gain at the time of transfer of such shares in the hands of the firm or the company, the value adopted for taxing the said income would be considered as the cost of acquisition of the shares.

### **Tax Implications on Conversion of a Private Limited Company or an Unlisted Public Company into an LLP**

The tax implications on conversion of a limited company into an LLP were unclear and as a result, most people were hesitant to convert their companies into LLPs. In the budget, clarity has been brought in this regard.

- Transfer of any assets on conversion of a private limited company or an unlisted public company into an LLP would not be considered as transfer and would not attract capital gains tax subject to fulfillment of the following conditions:
  - 1) During the preceding three years, the Total Sales, Turnover or the Gross Receipts of the business of the company does not exceed Rs. 60 lakhs;
  - 2) All the shareholders of the company become partners of the LLP in the same proportion as their shareholding in the company;
  - 3) No consideration other than share in profit and capital contribution in the LLP arises to partners;
  - 4) The erstwhile shareholders of the company continue to be entitled to receive at least 50 per cent of the profits of the LLP for a period of 5 years from the date of conversion;
  - 5) All assets and liabilities of the company become the assets and liabilities of the LLP;
  - 6) No amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company for a period of 3 years from the date of conversion.

It is also proposed that if the conditions stipulated above are not complied with, the benefit availed by the company shall be deemed to be the profits and gains of the successor LLP chargeable to tax in the previous year in which any of the condition is violated.

It is further provided that the cost of acquisition of the capital asset for the successor LLP shall be deemed to be the cost for which the predecessor company acquired it.

It is also proposed that the aggregate depreciation allowable to the predecessor company and the successor LLP shall not exceed in any previous year the depreciation calculated at the prescribed rate as if the conversion had not taken place.

It is further proposed that the actual cost of the block of assets in the case of successor LLP shall be the WDV of block of assets as in the case of predecessor company on the date of conversion.

It is also proposed that credit in respect of tax paid by a company u/s 115JB would not be available to the successor LLP.

These amendments are proposed to take effect from 1st April, 2011 and will, accordingly, apply in relation to the assessment year 2011-12 and subsequent years.

## Deduction under Chapter VI- A

- **Sec 80CCF:** This is a new incentive provision allowing a deduction to Individuals & HUF of an amount contributed upto Rs. 20,000/- towards subscription to long term infrastructure bonds as may be notified by the Central Government. The said benefit is over and above the existing benefit of Rs. 1 lac u/s. 80C.
- **Sec 80GGA:** Contribution made to research association conducting research in social science or statistical research is proposed to be allowed as deduction.

- **Sec 80-IB:** The time limit to complete the housing project in order to avail 100% deduction from the income of housing project is now proposed to be extended from 4 to 5 years for a project approved on or after 1<sup>st</sup> April 2005. Also, the existing limit of built-up area is proposed to be revised to 3% of the aggregate built up area of the housing project or 5,000 sq. feet, whichever is higher.
- **Sec 80- ID:** The time limit for completion of construction of hotel or conventional centre located in NCR and the district of Faridabad, Gurgaon, Gautam Budh Nagar and Ghaziabad is proposed to be extended from 31<sup>st</sup> March 2010 to 31<sup>st</sup> July 2010.

### Rationalisation of provisions relating to Tax Deduction at Dource (TDS)

Threshold limits for various payments are proposed to be increased from 1<sup>st</sup> July, 2010 as under:

Section	Nature of Payment	Existing threshold limit	Proposed threshold limit
194B	Winnings from lottery or crossword puzzle	5,000	10,000
194BB	Winning from horse race	2,500	5,000
194C	Payment to contractor	20,000 (for a single transaction)	30,000 (for a single transaction)
		50,000 (for aggregate of transaction during the year)	75,000 (for aggregate of transaction during the year)
194D	Insurance Commission	5,000	20,000
194H	Commission or brokerage	2,500	5,000
194I	Rent	1,20,000	1,80,000
194J	Fees for professional & technical services	20,000	30,000

## Interest on TDS

- Interest for delay in deduction/payment of tax is proposed to be enhanced from 1% to 1.5% per month.

## Issuance of TDS Certificates

- The provision for issuance of TDS certificate was to be dispensed with from 1<sup>st</sup> April, 2010. This is proposed to be deleted and the requirement of issuance of TDS certificate would continue.

## Settlement Commission

- Application can now be filed before the settlement commission in cases where the assessment or reassessment proceedings are initiated from search or as a result of requisition of books of account or other documents or any asset.
- The limit of the additional amount of income tax payable on the income disclosed in the application to the settlement commission is proposed to be revised as under:

Particulars	Existing Limit	Revised Limit
In cases where assessment is initiated as a result of search or as a result of requisition of books of accounts etc	NA	Exceeds Rs.5 million
In any other case	Exceeds Rs.300,000	Exceeds Rs.1 million

- Time limits for passing of order by the Settlement Commission are proposed to be as under:

In respect of application made after 1 <sup>st</sup> July 2007 but before 1 <sup>st</sup> June 2010	In respect of application made after 1 <sup>st</sup> June 2010
Within a period of 12 months from the end of the month in which the application is made.	Within a period of 18 months from the end of the month in which the application is made.

Similar provisions are proposed to be made applicable under the Wealth Tax Act.

The above amendments are proposed to be made effective from 1<sup>st</sup> June 2010.

### Power of High Court to Condone delay in filing of appeals

It is proposed to give power to the High Court to condone the delay, if any, in filing of appeal against the order of the Tribunal even after the expiry of the statutory time limit of 120 days if it is satisfied that there was a sufficient cause for not filing the appeal in time. This amendment is proposed to take retrospective effect from 1<sup>st</sup> October, 1998. This amendment seeks to overrule the decision of Allahabad High Court where it was ruled that the Court does not have power to condone the delay on the part of the Income-tax department in filing of appeals.

This power is also proposed to be given in case the ITAT refuses to refer a case to High Court and the appeal by the appellant is not made within the statutory time limit of six months if it is satisfied that there was a sufficient cause for not filing the appeal in time. This amendment is proposed to take effect retrospectively from 1<sup>st</sup> June, 1981.

Similar amendments for granting powers of condoning the delay to the High Court are also made under Wealth Tax Act.

## Penalty for failure to get accounts audited

- It is proposed to increase the maximum penalty for failure to get the accounts audited u/s 44AB (Tax Audit) from Rs.1,00,000 to Rs.1,50,000.

## Miscellaneous/Others

### Computation of profits and gains of insurance companies other than life insurance companies

- Section 44 read with the First Schedule provides the scheme of computation of income of insurance companies based on the profit and loss account of the company prepared in accordance with the regulations made by the Insurance Regulatory Development Authority (IRDA).
- Rule 5 of the said Schedule dealing with non life insurance companies, presently provides that any credit taken in the accounts for the appreciation of investments be regarded as income and deduction for amounts written off or provided in the accounts to meet diminution in investments is to be reduced from the computation of the total income. Thus, notional gain and loss are taken in to consideration while computing the income.
- It is now proposed that the unrealized gains due to appreciation in the value of investments will not be included in the total income. Similarly, deduction will not be allowed for provision for losses due to diminution in the value of investments as this is not a realized loss.
- It has also been provided that any gain or loss on realization of investments shall be added or deducted for the purpose of computation of the total income, if the same are not already credited or debited in the profit and loss account.
- This amendment is proposed to take effect from **1st April, 2011**.

## INDIRECT TAX PROPOSAL

### Amendments In Customs Duty Provisions

Project import status is granted to the following projects wherein customs duty shall be charged @ 5%.

Sr. No.	Products
1	Initial setting up or substantial expansion of, a cold storage, cold room (including farm pre-coolers) for preservation or storage of or an industrial unit for processing of, agricultural, horticultural, dairy products
2	Mechanized Handling Systems & Pallet Racking Systems, for food grains and sugar.
3	Mono Rail Projects for urban transport
4	Machinery items, instruments, appliances required for initial setting up of solar power generation projects or facilities.

Custom duty has been increased on following products:

Sr. No.	Particular	From	To
1	Crude Petroleum	Nil	5%
2	Motor Spirit (petrol) and HSD (diesel)	2.5%	7.5%
3	Some other specified petroleum products	5%	10%
4	Gold	Rs. 200 to Rs. 500 per 10 gms	Rs. 300 to Rs. 750 per 10 gms
5	Silver in any form	Rs. 1000 per kg	Rs. 1500 per kg

The following have been exempted from Customs Duty:

Sr. No.	Particulars
1.	Goods imported in pre-packaged form and intended for retail sale and certain specified goods namely, ready-made garments, mobile phones and watches Carbon Black Feedstock, waste paper and paper scrap.
2	Truck Refrigeration units for the manufactures of refrigerated vans/trucks.
3	Tunnel Boring machine for hydro-electric power projects.
4	Batteries including battery chargers, electric motors and AC or DC motor controllers imported for manufacturing of electrical vehicles including cars, two wheelers and three wheelers (like Soleckshaw). These parts will attract CVD of 4%.  This concession will be available till 31.03.2013.
5	Ground source heat pump (for geo-thermal energy applications).
6	Cobalt-chrome alloys, special grade stainless steel etc. for the manufacture of orthopaedic implants.
7	Parts for the manufacture of battery chargers and hands-free headphones
8	Specified capital goods and raw materials for the manufacture of electronic hardware
9	Gold ore and concentrate They will, however, be chargeable to CVD @ Rs.140 per 10 gram of gold content.

**Custom duty has been reduced on the following products:**

Particular	From	To
Specified agricultural machinery	7.5%	5%
Long Pepper	70%	30%
Asafoetida	30%	20%
All medical equipments (with some exceptions)	Varying Rates	5%
Magnetrons of upto 1,000 kw for the manufacture of microwave ovens.	10%	5%
Rhodium	10%	2%

**Others Provisions:**

- The current limit of Rs. 1 lakh per annum for duty free import of samples is being enhanced to Rs. 3 lakh per annum.

**Amendments In Service Tax Provisions****New Services introduced (date to be notified after the enactment of Finance Bill, 2010):**

- 1) Promotion, marketing or organizing of games of chance including lottery etc.
- 2) Health check up services and health service provided by insurance co.
- 3) Maintenance of medical records of employees of a business entity.
- 4) Promoting of brand of goods, services, events, business entity.
- 5) Permitting commercial use or exploitation of any event organize by person or entity
- 6) Electricity exchange services
- 7) Copyright services in relation to cinematography films, sound recording.
- 8) Special service provided by builder in relation to preferential location or development of complex.

**Scope of following existing services has been expanded (date to be notified after enactment of the Finance Bill, 2010):****1) Construction of complex services and Commercial & Industrial construction services:**

The activity of construction would be deemed to be a taxable service unless entire consideration pertaining to the property is paid after the completion of construction. This amendment is expected to hit most people intending to buy immovable property since in most cases, the possibility of payment of consideration after receipt of completion certificate is very remote.

- 2) Air passenger transport services:**

Earlier this category included only international journey in a class other than economy class. Now it will include international journey as well as domestic journey in any class.
- 3) Information technology software services:**

These services shall also cover services used for purposes other than business or commerce.
- 4) Commercial coaching or training**

It will include services provided even without a profit motive. This amendment is made retrospective in effect from 1<sup>st</sup> July, 2003.
- 5) Sponsorship services:**

This category would also include services pertaining to sports event.
- 6) Renting of immovable property (Retrospective effect from 01.06.2007):**

To overcome the Delhi High Court's judgment in the case of Home solution Retail India Ltd. Vs. UOI, 2009 (14) S.T.R. 433, Delhi, it has been proposed to amend the definition of renting services to provide that the activity of "Renting" itself is a taxable services. Moreover, renting of vacant land where the agreement of contract between lessor & lessee provided for undertaking construction of building/structure on such land for furtherance of business or commerce during the lease period will also be subjected to service tax.
- 7) Airport/Port services:**

All the services provided entirely within Airport/Port premises shall be subjected to service tax even if there is no authorization from Airport/Port Authorities.

#### **Exemptions:**

The following services will be exempt from service tax w.e.f. 27<sup>th</sup> February, 2010:

- 1) Air passenger transport services:

Statutory taxes charged by Govt. on air passenger transport services would be excluded from the taxable value.

- 2) **Erection, Commissioning & Installation services:**  
Services in relation to certain specific equipments/systems pertaining to food grains, cold storage, agricultural & dairy products etc.
- 3) **Packaged IT software:**  
Sale of packaged software in retail package for single use subject to certain conditions.
- 4) **Transportation of foodgrains & pulses by road by a Goods Transport Agency.**
- 5) **Online information & Database Retrieval services and Business Auxiliary services provided by Indian News Agency**
- 6) **Technical testing & Inspection service in relation to seeds**
- 7) **Transmission of electricity**

**Other Amendment (effective from the date of enactment of Finance Bill, 2010)**

- 1) **No penalty shall be imposed where service tax alongwith interest has been paid before issuance of notice by the Service Tax department.**
- 2) **Export of Service Rules have been amended to do away with the conditions of usage of services outside India. Thus, now, as long as the services are exported and the consideration is received in convertible foreign exchange, the same would be considered as Export of Services.**

## Amendments In Central Excise Provisions

### **Central Excise Duty has been increased/ introduced on the following products:**

- Rate of Excise duty on all products except petroleum products and some exempted products is increased from 8% to 10%
- Rate of Cement raised ranging between Rs. 40 to Rs. 75 per tonne depending upon manufacturing capacity of cement plant
- Duty on Large Cars, Multi Utility Vehicles and Sports Utility Vehicles increased from 20% to 22%
- Duty on Petrol, Diesel increased by Re. 1 per litre
- Duty on cigarettes increased ranging between Rs. 140 to Rs. 200 per 1000 cigarettes
- Duty on serially numbered gold bars to be fixed at Rs. 280 per 10 gms. instead of 8% ad- volarem
- DTA clearances of plain gold and silver jewellery manufactured by a 100% EOU increased from
  - Rs.500 to Rs.750 per 10 gram for gold jewellery
  - Rs.1000 to Rs.1500 per kg. for silver jewellery

### **Central Excise duty introduced @ 4% on following products:**

Sr. No.	Product
1	Umbrella cloth panels
2	Maize starch and tapioca starch
3	Mosquito nets impregnated with insecticides
4	AV gas;
5	Microprocessor for computers, Floppy disk drive, Hard disk drive, flash drive, CD/DVD and Combo Drive meant for external use.

Central Excise duty introduced @ 10% on following products:

Sr. No.	Product
1	Baby & Clinical diapers and sanitary napkins
2	Open Tin Sanitary
3	Goggles except for correcting vision

**Central Excise Duty has been reduced on the following products:**

Sr. No.	Product	From	To
1	Electrical vehicles and parts like battery, engine thereof used in production of such vehicles	8%	4%
2	LED lights/lighting fixtures	8%	4%
3	Replaceable kits for all household type water filters	8%	4%
4	Corrugated boxes manufactured by stand- alone manufacturers	8%	4%
5	Latex rubber thread	8%	4%
6	Potato starch	8%	4%
7	Alcoholic products covered by Medicinal and Toilet Preparations Act	16%	10%

**Central Excise Duty has been fully exempted on the following products:**

- Raw materials used for the manufacture of rotor blades for wind operated electricity generators
- Goods supplied to mega power projects through tariff-based competitive bidding
- Specified equipments for agriculture extended to horticultural, dairy, poultry, aquatic & marine produce and meat as well as processing thereof
- Trailers/ Semi- Trailers used for agricultural purposes
- Toy balloons made of natural rubber

- Supari
- Dementholised oil and by-products of Menthol
- Articles of bedding wholly made of quilted textile materials

**Other Amendments:**

- Compounded levy scheme to be introduced for Chewing Tobacco and branded unmanufactured Tobacco packed in pouches w.e.f. 8th March 2010
- Clean Energy Cess to be imposed on coal, lignite and peat produced in India, date of enforcement to be notified later
- Penalty not to be imposed where duty along with interest has been paid before the issuance of a show cause notice by the Department
- Powers of Settlement commission increased and pertaining rules relaxed
- Requirement of pre-authentication of the invoice is removed
- Facility is introduced to avail exemption for cases pending on disallowance of exemption due to improper utilization of CENVAT credit on input goods. The goods were exempted by virtue of notification allowing exemption subject to condition of non availment of CENVAT credit. Facility to avail such exemption on payment of interest @ 24% p.a. from the date of clearance till date of reversal of the said credit or payment of equivalent amount
- Accelerated depreciation upto 100% in the case of computers and computer peripherals cleared after use in manufacture
- Permission for utilizing credit on jigs, fixtures, moulds and dies sent to other manufacturer premises is being allowed to principal manufacturer
- Harmonization of the penal provisions for incorrect availment of inputs or capital goods or input services
- Abatement on Alcoholic Products covered by Medicinal and Toilet Preparations Act reduced from 40% to 35%

- Scope of notification for grant of refund to exporters is widened by allowing refund of goods/ services “used in relation” to manufacture of goods and “used for” providing output services
- Pan masala products to get relief of pro rata computation of duty and facility to sell products for first two days in case of suspension of production for more than 15 days
- Small Scale Industries eligible for availing benefit under Notification No. 8/2003 can
  - Avail full Cenvat credit on capital goods in the year of receipt of such goods
  - Payment of excise duty on quarterly basis
  - Changes come into effect from 1st April, 2010 filing quarterly returns by 10th of the month following the quarter
  - Relaxation from brand name restriction to plastic bottles and plastic containers used as packing material

### Amendments In Central Sales Tax Provisions

- Reassessment by the assessing authority on the basis of new facts discovered by a higher authority shall be permissible
- Filing of appeals to Central Sales tax appellate tribunal for issues involving stock transfer or inter state sale including incidental issues relating to rate of tax, computation of assessable turnover, penalty and procedure
- Filing of appeal against any order passed by the highest appellate authority of a State on disputes relating to stock transfer or consignments of goods to the CST Appellate Authority

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## **Disclaimer**

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