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Our Analysis On Union Budget 2012 – 2013

Agenda

Budget Impression (1/2)

Disappointing Budget

The Union Budget 2012 in my opinion is a disappointing budget. It appears that the Union Budget 2012 has tried to achieve an inclusive growth with prioritizing the 80 percent Indian population who we believe and know, have difficult times to make two ends meet. It's an extremely welcome step and I keep my fingers crossed that this move will only help in raising the standard of living of these beneficiaries rather than making India a poorer nation. I say this with the example of NREGA in front of everyone of us. We have huge funds allocated to the NREGA and everyone knows the extent of corruption going across this scheme with the intended beneficiaries being the biggest losers.

This budget seems to have completely disregarded the 20% population who are children of greater gods. In my opinion disregarding their interest completely, does not auger very well for putting India across the global map. We also need to realize that this 20 % population will be the same class that will raise the employment opportunities across India which will eventually play a very important role in the inclusive growth of India. The honorable FM has given boost to the sectors like Power, Aviation and Infrastructure – what needs to be understood is when? – these sectors have their walls against their backs and only time can say that whether these measure are enough to bring them back on their feet. There are other sectors also which need urgent attention like textiles, ceramic tiles and other industries that require huge capital / manpower investments – is the government waiting for these industries also to die a natural death before they announce incentive schemes for them?

The FM in my opinion has done a wonderful job in plucking almost all kinds of malafide tax planning schemes (Converting black income into white) which is a big deterrent to dishonest tax payers. It gives a clear signal to the industry at large that this decade belongs only to white income. With every passing day it will be difficult to manage the black income as their use is being limited to a great extent. The FM has agreed to come out with a white paper that will read out the provisions in greater detail. There are atleast 25 provisions in this finance act which will help unearth the large amount of black money in the country

Budget Impression (2/2)

Further in my opinion these are the important provisions which everyone of us should carefully understand as they might have an impact of

1) Applicability of AMT to all assessees in addition to companies e.g. proprietorship, partnership etc

2) Introduction of measures to boost the capital markets with the reduction of STT and introduction of Rajiv Gandhi equity investment scheme

3) Real estate sector may find impetus as proceeds for sale of residential complexes can now be invested in the equity of an infrastructure company. Further, allowing ECB's in this sector will result into cheaper funds which thereby will boost the sector.

4) A very important amendment regarding prosecution needs to be carefully noted. Some penal provisions (like default in TDS) in finance act attract prosecution. What needs to be known is that new courts are being appointed to handle such cases. Hence, this essentially means that there will be no backlog of cases – a situation which we all are akin to, because earlier these cases were sent to the trial court where judgments used to take years to come which gave the assesses a license to break the law. Now as per this amendment it seems all cases will get justice within a period as short as 3 months. This is a very dreadful position and I would definitely be a very brave person to flaunt with any provisions that attract penal provisions.

5) Transactions which are tax avoiding in nature will be resorted to great litigation because of discretionary powers given to the tax officers in this budget Some of the measures introduced that would help the tax officers are as below:

    - Introduction of TCS in selling of gold

    - Introduction of TDS in selling of immovable property

    - Issuing shares at premium over and above FMV will be deemed as income

Indian Economy
An Overview

Economic Overview

- Gross Domestic Product (GDP) is estimated to grow by 6.9 per cent in 2011-12, after having grown at 8.4 per cent in preceding two years.
- Indian economy expected to grow at 7.6 per cent +/- 0.25 per cent in 2012-13.
- Development in external trade – exports grew by 23%, imports grew by 29%.
- Fiscal deficit seen at 5.1 percent of GDP in 2012-13 as against deficit of 5.9 percent of GDP in 2011-12.
- Current account deficit at 3.6 per cent of GDP for 2011-12 and reduced net capital inflow in the 2nd and 3rd quarters put pressure on exchange rate.
- Defense services get Rs. 193407 crore including capital expenditure of Rs. 79,579
- Inflation is expected to moderate further in next few months and remain stable thereafter.

Key Economic Indicators	Financial Year 2012 - 2013		Financial Year 2011 - 2012	
	Expected	Actual	Expected	Actual
Gross Domestic Product (%)	6.90%	?	9%	8.40%
Fiscal Deficit (Rs.)	5.1%	?	4.6%	5.90%
Disinvestment Target (Rs.)	30,000	?	40,000	22,400

Key Sectoral Changes (1/2)

BUDGET 2012

Economic Changes

- Boost to **Financial/Securities** sectors by way of:

  - Reduction in securities transaction tax
  - Public Sector undertakings to be capitalized
  - Introduction of Rajiv Gandhi Equity Savings Scheme
  - Qualified Foreign Investors now allowed direct access to Indian stock market
  - Centralization of 'Know Your Customer' depositary to be developed in order to avoid duplication

- Incentives to **Infrastructure/Real Estate** sector by way of:

  - Capital Boost to infrastructure companies by way of insertion of Section 54 GB
  - Infrastructure bonds to be doubled
  - Boost to Housing sector by way of allowance of external commercial borrowings and credit guarantee trust funds. Ehhanced limit upto 750 mn usd
  - Rural infrastructure development fund increased to Rs. 20,000 Crore
  - Allocation of road infrastructure to be enhanced by 14% to Rs. 25,360 Crore Rupees

- Changes to **Pharmaceuticals** sector:

  - Increase in excise duty to 6 per cent from 5 per cent on formulations and to 12 per cent from 10 per cent on bulk drugs.
  - Definition of industrial activity enlarged to include Research and Development in biotechnology, pharmaceuticals and life sciences
  - FDI in brownfield projects (i.e. investment in existing companies) would now fall under the Government Approval Route. FDI up to 100 percent under the automatic route would continue to be permitted for greenfield investments.
  - 200% weighted deduction on in-house research and development expenditure is extended by 5 years

Key Sectoral *Changes(2/2)*

- Changes to **textile** industry

  - Removal of customs duty on shuttle less looms
  - Reduction in excise duty on branded apparels and made ups has been reduced from 4.5% to 3.6%
  - Abatement level in excise (retail sale price) on branded readymade garments has been increased from 55% to 70%

- Effects to the **Hotels** sector:

  - Reduction in abatement in service tax from 50% to 40%.
  - Enhanced limit of ECB's upto 200 mn USD

- Change to **Steel** industry

  - Increase in excise duty and custom duty from Rs. 500 to Rs. 1000 per tonne to affect the industry adversely

- Other changes in **various** industries:

  - Provision of new subsidies for farmers
  - Provision of subsidies related to Food Security Act
  - National Manufacturing policy to target creation of 10 crore jobs and increase share of industries to 25%.
  - Waiver of loans for handloom sector
  - Creation of two mega handloom clusters and three weaver service center
  - Multi sector employment programs for creation of 6.2 crore jobs

Budget Proposals (Road Map)

- GST to be operational by August 2012.
- Direct tax code implementation deferred.
- Thrust on removing bottlenecks in agriculture, energy, transport, coal, power & national highway.
- Government to include advance pricing in Finance Bill, 2012.
- Changes in IPO norms to increase participation in small towns.
- Find ways to expedite implementation of decision, prompt delivery & good governance with transparency, while curbing black money & corruption.
- To allow qualified FII in to domestic corporate bonds.
- To become self-sufficient in urea production in next 5 years.
- To allow ECB funding to finance working capital needs of airlines for 1 year.
- FDI in aviation is under active consideration.
- Telecom towers made eligible for viability gap funding.
- Budget commits to multi-brand FDI in retail.
- To introduce new law for micro finance institutions.
- To introduce white money paper scheme to plug sources of black income.

Rate Card (1/2)

For Individuals, HUF, AOP & BOI

Gross Total Income	Tax Rate
Upto INR 2,00,000 : Refer Note 1	Nil
INR 2,00,001 to INR 5,00,000	10%
INR 5,00,001 to INR 10,00,000	20%
Above INR 10,00,000	30%

In case of Residential Individual of the age 60-80 years

Gross Total Income	Tax Rate
Upto INR 2,50,000 : Refer Note 1	Nil
INR 2,50,001 to INR 5,00,000	10%
INR 5,00,001 to INR 10,00,000	20%
Above INR 10,00,000	30%

Incase of Residential Individual of the age 80 years and above

Gross Total Income	Tax Rate
Upto INR 5,00,000 : Refer Note 1	Nil
INR 5,00,001 to INR 10,00,000	20%
Above INR 10,00,000	30%

a) Surcharge is not applicable in case of Individuals, HUF, and AOP & BOI
b) Education cess is applicable @ 3% on income tax.

Corporate Tax Rate Card

Particulars	Tax Rate
Tax Rate for Domestic Companies	30%
Tax Rate for Foreign Companies	40%
Tax Rate for Partnership Firms, LLP's, AOP and BOI	30%
Societies Other Than Co-operative Socieities	*30.00%*

In case of Partnership firm no surcharge will be levied and education cess will be applicable @ 3% on income tax

In case od domestic companies surcharge is applicable @ 5% if total income is in excess of INR. 10,000,000.

For Co-operative Socieities and Non Profit Organistions

Gross Total Income	Tax Rate
Upto INR 10,000	10%
INR 10,001 to INR 20,000	20%
Above 20,001	30%

Rate Card (2/2)

TAX RATES FOR RESIDENTS

Gross Total Income	Short Term	Long term
Purchase sale of equity shares on which STT has been paid	15%	Nil
Sale of any other asset other than as mentioned above		
Individuals	As per the slab rates	
Firms & LLP's	30%	20 % with indexation: 10% without indexation
Companies	30%	
Foreign Companies	40%	
Local authority	30%	
Co-operative societies	As per the slab rates	
Overseas FinancialOrganizations specified in section 115AB	40%(corporate) 30%(Non-Corporate)	10%
FII"s	30%	10%

Rates for STT

Security Transaction Tax (Reduction of STT in cash delivery segment from 0.125% to 0.1% effective from 1st July 2012)	Rates	Payable by whom
Delivery Based purchase of equity shares in acompany / units of an equity oriented fund entered into through a recognised stock exchange in India	0.100%	Purchaser
Delivery Based Sale of equity shares in acompany / units of an equity oriented fund entered into through a recognised stock exchange in India	0.100%	Seller

WITHHOLDING RATES FOR NON-RESIDENTS

Nature of Income	Tax Rates
Dividend	20%
Interest received on loans given in foreign currency	20%
Income receivedin respect of units purchased in foreign currency of specified mutual funds/ UTI	20%
Sports persons and entertainers	20%
Interest received from an infrastructure debt fund	5%
Interest on FCCB, FCEB/ Dividendon GDR"s	10%
Royalty / Fees for technical fees	10%

Direct Taxes
Individuals & HUF (1/2)

- Slight increase in basic threshold limit from Rs. 1.80 Lacs to Rs. 2 Lacs with a income slab coming in to the tax rate of 20% extended from Rs. 8 Lacs to Rs. 10 Lacs (in consonance with DTC).

- Reduction in the eligible age for senior citizens from 65 years to 60 years for the purposes of application of various tax slabs and rates of tax and for availing of deduction based benefits by a senior citizen.

- Senior citizens who do not have any income from business are exempted from payment of advance tax.

- Interest from savings bank accounts is exempt up to Rs.10,000/-.

- Deduction (within the existing limit for deduction) up to Rs. 5,000/- is allowed for preventive health check-up.

- Additional deduction for infra bonds of Rs. 20,000/- removed.

- Salaried class people with income up to Rs. 5 Lacs are not required to file their income tax returns.

- A residential house allotted by a company to an employee is exempt from wealth tax if the gross annual salary of such employee is less than Rs. 10 Lacs (previously the limit was Rs. 5 Lacs).

- Payments to a director which is not in the nature of salary are subjected to 10% withholding tax

- Donations in excess of Rs. 10,000/- in cash are not eligible for tax deduction.

Direct Taxes
Individuals & HUF(2/2)

- Relief from capital gains tax liability on transfer of residential property subject to following conditions: (applies to an individual as well as HUF)
  - Sale consideration is required to be invested in a manufacturing small or medium enterprise
  - Individual or HUF is required to hold 50% share capital
  - That enterprise is supposed to purchase a new plant and machinery from within 1 year from the date of subscription of equity shares.

- Exemption benefit has been granted to HUF (previously available to individual only) from capital gains from sale of agricultural land if the reinvestment has been made in the purchase of agricultural land within 2 years from the date of sale.

- Exemption of any sum or property received by an HUF without consideration or consideration less than FMV from its members or relatives (previously available to individuals only).

- Residents having any asset (including financial interest in any entity) located outside India or having signing authority in any account located outside India mandatorily required to file return of income whether or not they earn taxable income

- No tax sops for new life insurance policies with annual premium over 10% of sum assured (earlier 20%) excluding loyalty bonus.

- Deduction of 50% of investment for equity investment under Rajiv Gandhi Equity Saving Scheme not exceeding Rs. 50,000/- with a lock in period of 3 years for individuals who are having income below Rs. 10 Lacs.

Direct Taxes
Corporates (1/2)

- No changes suggested in Corporate rate taxes
- The rates of daily tonnage income under Tonnage Tax Scheme prescribed for shipping companies have been increased significantly as the same had not undergone any changes since the inception of the scheme.
- Share premium received as consideration for issue of shares from any resident persons in excess of fair value is taxable - "Income from other sources" in the hands of closely held recipient companies – except where shareholders are Venture Capital funds or companies that are well regulated. For this purpose Fair Value will be the higher of the value as determined as per method that may be prescribed or the value as may be substantiated by the company based on the value of its assets including intangible assets on the date of issue of shares
- Relief in the requirement of issuing proportionate shares in the scheme of demerger where resulting company itself is a shareholder of the demerged company.
- Onus has been shifted to those companies which are in receipt of share capital / premium / application money are required to provide necessary explanation on the nature and source of money received by them
- Certain important changes concerning provisions relating to Venture Capital Company:
  - Income accruing to VCF shall be taxable in the hands of investor on accrual basis with no deferral.
  - Exemption from TDS provisions has been withdrawn.

Direct Taxes
Corporates (2/2)

- MAT is applicable on revaluation reserves even if it is taken directly to general reserve on disposal of a revalued asset and not credited to the Profit & Loss account.

- As a measure to augment long-term low cost funds from abroad for the infrastructure sector, TDS on interest payment made to a non-resident shall be reduced from 20% to 5%.

- Extension of scheme up to 31st March, 2013 - Taxation of gross dividends received by an Indian company from specified foreign subsidiary companies at 15%.

- Cascading effect of Dividend Distribution Tax eliminated for multi-tier corporate structures from 1st July, 2012. – to the extent of DDT paid by a subsidiary company, the holding company distributing the dividend shall not be subjected to DDT

- The levy of AMT hitherto applicable only to LLP extended to persons other than a Company (Sole proprietor, AOP, Partnership firm, etc) who are claiming profit linked tax deductions (e.g. undertaking engaged in infrastructure projects or unit in SEZ). AMT is a levy at 18.5 percent on adjusted total income i.e. total income as increased by specified deductions in case the same is higher than regular income-tax payable. ***AMT will not apply to an Individual, AOP, BOI or an Artificial Judicial Person if the adjusted total income of such person does not exceed INR 20 lacs***

- The nature and source of any sum credited, as share application money, share capital, share premium etc., in the books of a closely held company shall be treated as unexplained unless the source of shareholders fund is fully explained.

Direct Taxes Incentives & Relief

- Extension of sunset date for tax holiday for power sector to 31st March, 2013. Enhanced depreciation advantage of 20% even allowed to Power Companies.

- Weighted deduction of 150% on expenditure incurred for agri-extension projects and expenditure incurred on skill development in manufacturing sector.

- Further extension period of 5 years up to A.Y. 2017-18 for deduction of 200% on in-house R & D expenditure.

- 150 % weighted deduction of capital expenditure for certain specified businesses (like cold chain facility, warehouse, hospitals, etc.)

- Investment linked deductions are further proposed for new sectors like Container freight station and inland container depots, warehousing for storage of sugar,

- In the case of exempt transfers on conversion of a sole proprietorship or firm into a company, the cost of acquisition of assets in the hands of the company would be the same as that in the hands of the sole proprietary concern or the firm. This amendment is applicable with retrospective effect from AY 1999-2000

- Taxpayer building hotel of two-star or above category to remain eligible for the investment-linked deduction even if they transfers the operation of such hotel to another person.

- In the case of amalgamation, to the extent where the amalgamated company itself is the shareholder in the amalgamating company, it shall not be necessary for the amalgamated company to issue shares.

Direct Taxes
Other Proposals (1/2)

- Ceiling limit for Tax Audit increased:
    - For businesses – from Rs. 60 Lacs to Rs. 1 Crore
    - For Professionals – from Rs. 15 Lacs to Rs. 25 Lacs
- Amendment in definition of **"property" –** property to now include shares of a company that substantially holds the value of the property. Hence any private/public company which holds property as a major asset can be classified as property.
- Time limit for re-assessment has been extended to 16 years for companies who have income from asset base located outside India. – Retrospective amendment.
- Payer assesse is not to be construed as 'assessee in default' where the resident payee pays the tax liability, files the return and submits the certificate from the accountant. On this analogy, no disallowance can be made on failure to deduct tax by payer in the circumstances when payer is not considered as an s 'assessee in default' as enumerated over here.
- 1% tax to be collected at source by seller for any sale in cash valued at over Rs. 2 Lacs of jewellery, bullion, etc.
- TDS mandatory for sale of immovable property of over Rs. 50 Lacs in urban areas and Rs. 20 Lacs in rural areas (other than agricultural land).
- Tax collection at source on trading in coal, lignite and iron ore.

Direct Taxes
Other Proposals(2/2)

- Time limit for TDS assessment extended from 4 years to 6 years – for resident assesses with retrospective effect from 1st April, 2010.

- Taxation of unexplained money, credits, investments, expenditures, etc., at the highest rate of 30% irrespective of the slab of income.

Assessment Procedural provisions:

- Powers have been given to Dispute Resolution Panel (DRP) to consider variations / any matter arising out of assessment proceedings.
- Assessing Officer can appeal before ITAT against the order of DRP.
- Time limits for assessment / reassessment extended: (amendment effective from 1st July, 2012)

Proceeding under section	Current time allowed	Proposed Period
143	21 months from the end of the A.Y.	24 months
143 and 92CA	33 months from the end of the A.Y.	36 months
148	9 months from the end of the F.Y. in which notice issued	12 months
148 and 92CA	21months from the end of the F.Y. in which notice issued	24 months
250 or 254 or 263	9 months from the end of the F.Y. in which notice issued	12 months
250 or 254 or 263, and 92CA	21months from the end of the F.Y. in which notice issued	24 months

- Waiver of exemption (which was not the case earlier) for charitable organizations in case commercial receipts does not exceed specified threshold limit of INR 25 lakhs

Direct Taxes
TP, GAAR and other International Tax Provisions (1/2)

- Scope and applicability of transfer pricing provisions widened w.e.f. 01.04.2012. Intention is to cover certain prescribed domestic transactions above INR 50 mn during the year
- Expenses or payments made to domestic related persons as specified in Section 40A(2)(b) of the Act. Scope of Section 40A(2)(b) of the Act expanded to include companies having a common parent
- Coverage of International transactions expanded to include:
  - Guarantees
  - Restructuring of business or reorganization
  - Any debt arising out of normal course of business transactions
  - Inclusive definition of intangible properties in so far as marketing related intangible assets and Human capital related intangible assets
- Variation in arm's length transactions restricted to 3% compared to 5% earlier
- Treaty benefits in prescribed form made mandatory for claiming such benefits.
- Supreme Court decision in Vodafone overturned – Scope of income deemed to accrue or arise in India to non-residents directly ***or indirectly*** through the transfer of a capital asset situated in India expanded retrospectively from 1 April 1962 to tax indirect transfer of shares in an Indian Company. The share or interest in an overseas company or entity clarified to be situated in India if they directly or indirectly derive value substantially from assets located in India

Direct Taxes TP, GAAR and other International Tax Provisions (2/2)

- Definition of Royalty expanded to cover transponder payments and software licenses fees.

- TDS provisions now extended to non-residents irrespective of their presence in India – retrospective amendment w.e.f. 01.04.1962.

- Penalty equal to 2 percent of the value of international transactions expanded to include non-reporting of international transaction or furnishing of incorrect information or documents. This is in addition to the existing penalty of INR 1 lac for non-filing of an Accountant's report

- Due date for filing Return of Income extended to 30 November even for non-corporate taxpayers, who are required to furnish transfer pricing report.

GAAR

A) If the main purpose of the arrangement is to obtain tax benefit and it satisfies prescribed conditions such as any misuse or abuse of domestic tax provisions, lack of commercial substance or effected for non-legitimate business purposes then GAAR will declare such arrangement as untenable – " Impermissible avoidance arrangement"

B) An arrangement will be deemed to lack commercial substance if its substance is inconsistent with its form. Factors like period of holding, payment of taxes (directly or indirectly) and exit route are not relevant to determine commercial substance.

C) Wide powers granted to Tax Authorities when GAAR is invoked for an "impermissible avoidance arrangement" which include denial of tax treaty benefits, revising the place of residence of any party or situs of an asset in any transactions, looking through corporate structure, re-classifying accrual of receipts or expenditure, etc.

Direct Taxes
Our Views on certain Important Provisions(1/3)

Tax Deduction at Source (TDS) on transfer of certain immovable properties (other than agricultural land)

In order to collect tax at the earliest point of time and also to have a reporting mechanism of transactions in the real estate sector, it is proposed to insert a new provision to provide that every transferee, at the time of making payment or crediting any sum by way of consideration for transfer of immovable property (other than agricultural land), shall deduct tax, at the rate of 1% of such sum, if the consideration paid or payable for the transfer of such property exceeds –

(a) Fifty lakh rupees in case such property is situated in a specified urban agglomeration; or
(b) Twenty lakh rupees in case such property is situated in any other area.

It is further proposed to provide that where the consideration paid or payable for the transfer of such property is less than the value adopted or assessed or assessable by any authority of a State Government for the purposes of payment of stamp duty, the value so adopted or assessed or assessable shall be deemed as consideration paid or payable for the transfer of such immovable property.

For better compliance, it is also proposed to provide that a registering officer appointed under the Indian Registration Act, 1908 (Registrar) shall not register the transfer of any immovable property where taxes are required to be deducted under this provision unless the transferee furnishes proof of deduction and payment of TDS.

Direct Taxes Our Views on certain Important Provisions (2/3)

TDS on remuneration to a director

Under the existing provisions of the Income-tax Act, a company, being an employer, is required to deduct tax at the time of payment of salary to its employees including managing director/whole time director. However, there is no specific provision for deduction of tax on the remuneration paid to a director which is not in the nature of salary.

It is proposed to amend section 194J to provide that tax is required to be deducted on the remuneration paid to a director, which is not in the nature of salary, at the rate of 10% of such remuneration.

The proposed amendment provides for TDS to be made on remuneration paid to a Director. However question arises whether sitting fees paid to director will also be covered. In our opinion though there is slight confusion, sitting fees paid is also one kind of remuneration paid to a director.

UNACCOUNTED MONEY

Taxation of Cash Credit, Unexplained money, investment, etc.

It is proposed to amend section 68 of the Act to provide that the nature and source of any sum credited, as share capital, share premium etc., in the books of a closely held company shall be treated as explained only if the source of funds is also explained by the assessee company in the hands of the resident shareholder. However, even in the case of closely held companies, it is proposed that this additional onus of satisfactorily explaining the source in the hands of the shareholder, would not apply if the shareholder is a well regulated entity, i.e. a Venture Capital Fund, Venture Capital Company registered with the Securities Exchange Board of India (SEBI).

The amendment casts very heavy burden on the closely held companies to prove the nature and the source of the cash credit.

It is very surprising that the flat rate of 30% is proposed on the amount of unexplained cash credit, unexplained investment, etc. What happens if the assessee does not have taxable income or files a loss return? It appears that even then the flat rate of 30% of tax will be imposed.

Direct Taxes
Our Views on certain Important Provisions(3/3)

Prosecution Proceedings under the Act

The Government felt that the prosecution proceedings do take very long time and hence it loses the objective. It is now proposed to constitute special codes for trial of offences, summons trial for offences and appointment of public prosecutors. However the limit for prosecutors for tax evasion has been increased from Rs. 1 lacs to Rs. 2.50 lacs.

Turnover or Gross Receipts for audit of accounts and presumptive taxation

Very interesting amendment has been made in section 44AB on tax audit. The limit for tax audit in case of business is raised to Rs 1 crore while for profession it is increased to Rs 25 lacs.

The Government ought to have realized that the tax audit brings about discipline in the business and profession and hence there was no need to increase the limits. The tax audit also reduces lot of work burden of Income tax department. However it appears that the increase in the limit of tax audit is not going to serve any useful purpose. As u/s 44AD on presumptive taxation if the taxable income is not disclosed at minimum 8% of gross receipts then tax audit provision will apply and it appears that most of the tax payers do not earn 8% of the turnover and hence they will have to get their books of accounts tax audited.

Indirect Taxes
Service Tax (1/4)

- Hike in Service Tax rate from 10% to 12%
- To harmonize between Central Excise and Service Tax, common form for registration and common return of 1 pager named "EST 1" is being introduced.
- Introduction of ad-valorem rate of 12% along with 60% abatement instead of dual rate structure of maximum service tax of Rs. 150 and Rs. 750 in case of economy class for passengers service by air subject to non availment of cenvat credit along with capital goods.
- Widening the ambit of taxable service by introducing a negative list approach, covers all services except the services mentioned in the negative list approach.
- Introduction of Special Audit in the Service Tax law which can be ordered under special circumstances by Commissioner of Central Excise (Sec. 72A)
- Permission of utilization of input tax credit in services of catering, restaurant, hotel accommodation, pandal, shamiana and transport sectors to avoid cascading effects.
- Enhancement of time limit from 12 months to 18 month for issuance of notice for specified category of offences prescribed under section 73(1).
- Service tax law is being amended to make Settlement Commission provisions applicable to service tax in line with the similar provisions contained in the Central Excise Act, 1944.
- Amendment in Section 68(2) by putting the onus of payment of service tax on reverse charge basis i.e. partly on service provider and partly on service receiver. The scheme is proposed to be made applicable on three specific services i.e. Hiring of means of transport; Construction and Man power supply.
- Waiver of penalty for taxpayers who pay the service tax due along with interest on renting of immovable property service. The scheme is open for a period of six months. (Sec. 80A)

Indirect Taxes
Service Tax (2/4)

Services under Negative List

Serial No.	List of Services listed in the Negative list in Budget 2012 - 2013
1	Services by Govt. or Local Authorities.
2	Services by Reserve bank of India
3	Services by Foreign diplomatic mission located in India
4	Service relating to agriculture
5	Trading of goods
6	Any process amounting to manufacture or production of goods
7	Selling of space or time slots for advertisements
8	Service by way of access to a road or a bridge on payment of toll charges
9	Betting, gambling or lottery services
10	Admission to entertainment events or access to amusement facilities
11	Transmission or distribution of electricity
12	Services by way of pre-school and higher secondary school or education as a part of an approved vocational education course.
13	Services by way of renting of residential dwelling for use as residence.
14	Services by way of extending deposits, loans and advances or inter se sale or purchase of foreign currency
15	Service of transportation of passengers
16	Services by way of transportation of goods
17	Funeral, burial, crematorium or mortuary services including transportation of the deceased.

Indirect Taxes
Service Tax (3/4)

List of exempted Service

Serial No.	Services exempted in budget 2012-13
1	Services of repair of roads
2	Management, maintenance or repair services undertaken in relation to non commercial building
3	Service provided by a person in Domestic Tariff Area to a person in SEZ
4	Services of an associate of dyeing unit in relation to common effluent treatment plan
5	Services of copyright relating to cinematographic films
6	Service provided by business facilitators and correspondents to bank and insurance companies
7	Construction services under the scheme of Affordable Housing in Partnership
8	Services provided to the member of a housing society
9	Services of Health Care and Animal Care
10	Services provided by charities, religious persons, sports persons, performing artists in folk and classic artist
11	Services of individual advocates to non business entities
12	Services of independent journalists and car parking

SPECIFIC ABATEMENTS PROPOSED:

Sr. NO.	Services	Existing taxable portion (in %)	Proposed taxable portion (in %)	Cenvat Credit
1	Convention centre or Mandap with catering	60	70	All credit, except on inputs, of chapter 1 to 22, will now be available
2	Pandal or Shamiana with catering	70	70	
3	Accomodation in hotel etc.	50	60	Credit on input services allowed
4	Railway: goods	30	30	All credit will be allowed

AMENDMENT IN RULES: **Effective from 1st April, 2012**

1. Amendments in Cenvat Credit Rules, 2004:-

- Procedure for refund of unutilized credit on account of export
- The credit of tax paid on the supply of motor vehicles on rent, insurance and repair is now allowed.
- Credit of insurance and service station service is allowed to insurance companies and manufacturers in respect of motor vehicles.
- Rules are amended to allow a service provider to take credit of inputs or capital goods whenever the goods are delivered to him. Earlier, credit of goods can be taken only after they are brought to the premises of the service provider.
- As per the amended rule, credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit and that the credit of service tax attributable to service used in more than one unit shall be distributed pro-rata on the basis of turnover.
- Rule 9(1) (e) is being amended to allow availment of credit on the tax payment challan in case of payment of service tax by the service receiver on reverse charge basis.

2. Amendments in Service Tax Rules, 1994:-

- Time period for issuance of invoices is being increased from 14 to 30 days and for banks and financial institutions, the period shall be 45 days.
- Rule 6(4A) amended to allow permissible adjustments, without any limit.
- Option of discharging Service tax liability on a payment basis allowed for all individuals and partnership firms (including LLP) up to a taxable turnover of INR 50 lakhs, subject to specified conditions

3. Amendments in Point of Taxation Rules, 2011:-

- Continuous supply of service amended to include any service provided or to be provided on a recurrent basis, for a period exceeding three months with the obligation for payment periodically or from time to time

Indirect Taxes
Excise Duty(1/4)

Synopsis:

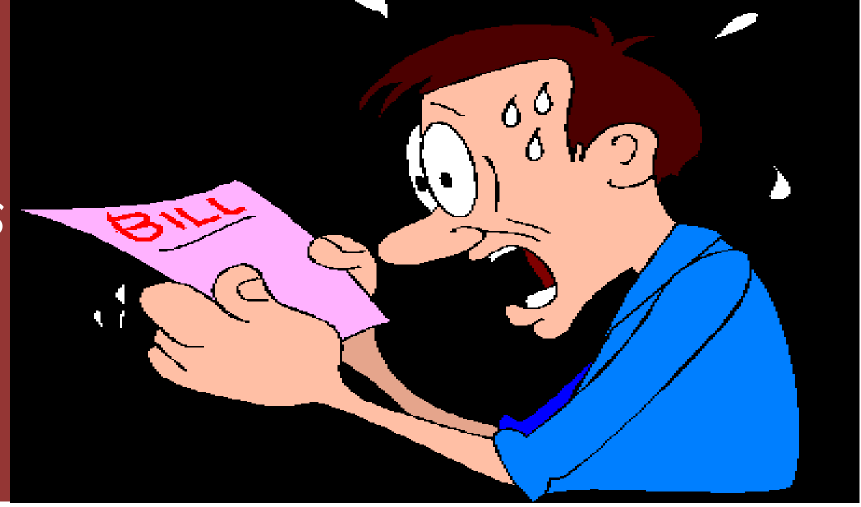
- The effective rate of Excise Duty on non-petroleum products is being increased to 12% from 10%.
- The effective applicable date of excise rates will be from 17th March 2012
- The concessional rate of 5% is increased to 6%.
- As per section 9 whoever commits any specific offences shall be punishable with imprisonment for term which may extend to seven years and with fine in the case of an offence relating to any excisable goods, the duty leviable thereon exceeds one lakh rupees.
- Offences under section 9 shall be deemed to be non-cognizable within the meaning of Code if Criminal Procedure, 1898, is being amended to provide that all offences under the act, except an offence punishable with imprisonment of three years or more under section 9, shall be non-cognizable.
- Petrol and diesel driven vehicles having length exceeding four meters and engine capacity of over 1,200 cc and 1,500 cc respectively will now be charged with an ad valorem duty of 27 per cent instead of the earlier 22 per cent and a fixed duty of Rs 15,000
- Moreover, excise duties for petrol cars with engines under 1,200 cc and diesel cars with engine capacity under 1,500 cc but the length exceeding four meters have been increased to 24% from 22% and a fixed duty of Rs 15,000.

Indirect Taxes
Excise Duty (2/4)

Changes in rates of excise duty in following cases:-

Product Name	Existing	Proposed
Branded Retail Garments	10%	12%
Large Cars*	22%	27%
Cigarettes		10%
Refined Gold	1.5%	3%
Gold produced from copper smelting	2%	3%
Silver produced from copper smelting	6%	4%
Iodine	10%	5%
Battery packs of electric vehicles	10%	6%
Specific parts of hybrid vehicles	10%	6%
LED lamps	10%	6%
Parts of Mobile Phones	10%	2%
Semi-Mechanized matches	10%	6%
Processed Food products of soya	10%	6%
Gold jewellery sold from EOUs into domestic tariff area	5%	10%
Hand-rolled bidis	Rs.8 per thousand	Rs.10 per thousand
Machine-rolled bidis	Rs.19 per thousand	Rs.21 per thousand

Indirect Taxes Excise Duty (3/4)



- The rate of cess leviable on indigenous petroleum crude oil under the Oil Industry (Development) Act, 1974 is being increased from Rs. 2500 per metric tonne to Rs. 4500 per metric tonne.

- All goods of cotton, not containing any other textile material will be having excise duty at a rate of 6%.

- Now onwards unbranded jewellery of precious metals attracts excise duty at the rate of 1% on 30% of transaction value declared in the invoice.

- The rates of duty per machine applicable to pan masala, guthka, chewing tobacco and unmanufactured tobacco under the compounded levy scheme are being increased.

- Exemption limit on footwear is being enhanced from Rs. 250 per pair to Rs. 500 per pair. Footwear above Rs.500 per pair would attract excise duty of 12%.

Full exemption from excise duty has been provided in the following cases:-

Serial No.	Particulars
1.	Branded Silver Jewellery
2.	No excise duty on specified life savings medicines.
3.	Articles of goldsmith and silversmith wares of precious metals not bearing a brand name.
4.	Gold coins of purity 99.5% and above and silver coins of purity 99.9% and above.
5.	Refills and inks used for the manufacture of writing instruments of value not exceeding Rs.200 per piece.
6.	Intra ocular lens.
7.	Food preparation containing fruits and vegetables which are prepared in a hotel,

Indirect Taxes
Excise Duty (4/4)

Changes in RSP base assessment:-

- Cement is also being notified under retail sale price (RSP) based assessment with an abatement of 30% from RSP.
- Cigarettes are being notified under section 4A for RSP based assessment with abatement of 50% from RSP.
- The level of abatement from the retail sale price (RSP) on ready-made garments bearing a brand name is being increased from 55% to 70%

Serial No.	Description	Revised Rate
1.	Cement manufactured & cleared in packaged form:-	
	(a)from mini cement plants	6% ad valorem + Rs.120 per tonne
	(b)from other than in packaged form	12% ad valorem + Rs.120 per tonne
2.	Cement cleared other than in packaged form	12% ad valorem
3.	Cement Clinker	12% ad valorem

List of Exemptions for Customs Duty in the Budget 2012 – 2013 (Effective from 17th March, 2012)

Serial No.	Name of the Exempt Item	Exempt From:
1	Coal and LNG, Natural Gas, Uranium for generation of electricity	Basic Custom Duty
2	Import of equipment for fertilizer Plants	Basic Custom Duty
3	Equipment for road and highway construction & tunnel excavation & specified lining Equipment	Basic Custom Duty
4	Import of parts of aircraft, aircraft tyres and testing Equipment	Basic Custom Duty
5	LCD, LED TV panels	Basic Custom Duty
6	News Papers , Waste Papers	Basic Custom Duty
7	Nickel oxide/ concentrate	Basic Custom Duty
8	Band phosphor in the manufacture of Fluorescent Lamps	Basic Custom Duty
9	Steel tube & wire , cobalt chromium tube	Basic Custom Duty
10	Parts of memory card for mobile phones	Basic Custom Duty
11	Lithium ion batteries imported for the manufacture of battery packs for supply to electric or hybrid vehicle manufacturers	Basic Custom Duty
12	Solar Energy Plant, Steam coal	Countervailing duty
13	Road construction, tunnel excavation & specified lining Equipment, aircraft tyres	Countervailing duty
14	Life saving drug used for HIV-AIDS, renal cancer, etc.	Countervailing duty
15	Parts of memory card for mobile phones	Countervailing duty
16	Ships and vessels including dredgers	Countervailing duty
17	Road construction, Equipment for solar projects	Special additional duty
18	LED Lamps,	Special additional duty
19	Brass scrap, timber logs & dredgers	Special additional duty
20	Parts of memory card for mobile phones	Special additional duty

Indirect Taxes
Custom Duty (2/3)

Change in Customs Duty Rates

Name of the Item	Existing	Proposed
Sugarcane planter, root or tuber crop harvesting machine& rotary tiller & weeder and parts thereof	7.5%	2.5%
Coffee plantation & processing ,coffee brewing machine,	10%/7.5%	5%
Parts of Coffee plantation machine	10%	2.5%
Soluble fertilizer	7.5%	5%
Liquid fertilizer	5%	2.5%
Import Duty on Large cars, MUVs, SUVs	60%	75%
Coating material for manufacture of electrical steel	10%	5%
Ammonium meta-vanadate used in the manufacture of ferro-vanadium	7.5%	2.5%
Flat rolled products	5%	7.5%
Standard Gold bar & Coins Exceeding 99.55 purity, Platinum	2%	4%
Non Standard Gold	5%	10%
Iron ore machinery	7.5%	2.5%
Machinery for prospecting of mines	7.5%	2.5%
Railway safety Equipments	10%	7.5%
Iodine	5%	2.5%
Isolated soya Protein	15%	10%
soya Protein	30%	10%
Probiotics	10%	5%
Life saving Drugs	10%	5%
Shuttle less looms & its parts & components& automatic silk-reeling machinery (only to new machinery)	5%	0%
Marine seawater pumps with fiber & automatic fish feeders	10%	5%
Artemia	30%	5%
Digital Camera	0%	10%
Boric acid	5%	7.5%
Gold ore	1%	2%
Bicycle	10%	30%
Parts of Bicycle	10%	20%
Cut and polished, coloured gem stones	0%	2%

Indirect Taxes
Custom Duty (3/3)

General Points

1. The method of computation of Education Cess and Secondary & Higher Education cess on imported goods is beings simplified. Currently, these cesses are first charged on the CVD portion of customs duty and thereafter on the aggregate of customs duties (excluding special CVD). The portion of cesses leviable on the CVD portion of customs duty is being exempted so as to avoid computation of such cesses twice.

2. Amendment to provisions for claiming exemption from addition custom duty on imported mobile phones, patented medicines, readymade garments and watches pre packaged foods subject to declaration of destination state and VAT number (effective from 1st May, 2012).

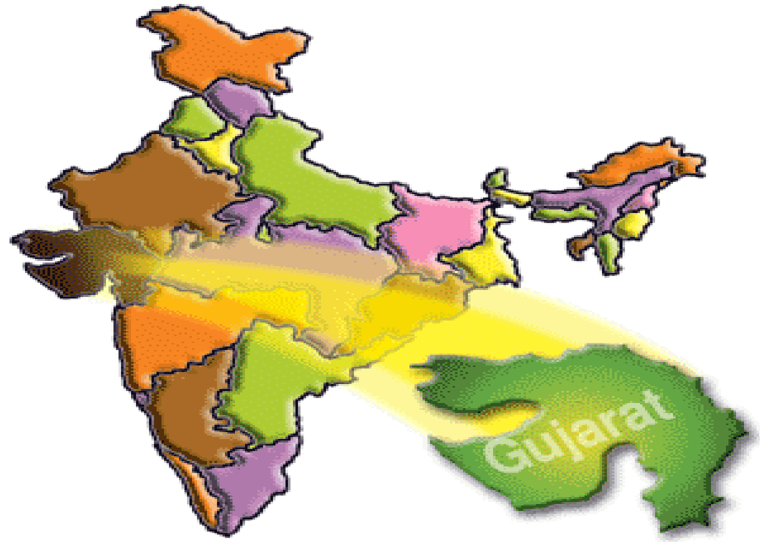
3. The duty-free allowance under the Baggage Rules is being increased from Rs.25000 to Rs.35000 for adult passengers of Indian origin and from Rs.10000 to Rs.15000 for children upto10 years of age.

4. Only offence punishable with imprisonment of three year or more have become cognizable and non-bailable.

5. Provisions introduced for recovery of duties from a person who has fraudulently obtained instruments under Foreign Trade Policy, including provisional attachment of property.

6. Monetary limits for adjudication of cases at specified levels involving confiscation of goods and imposition of penalty increased.

Gujarat Budget



Value Added Tax in Gujarat

1. Amendment in rate of vat on existing item

Nature of Items	Proposed Rate (%)	Existing Rate (%)
Hardware	5	15
e-Bike	5	15
Helmet	5	15
Yogurt, butter, cheese and paneer	5	15
Sanitary Napkins and diapers	5	15
Tools meant for tailor and barber (Except shaving blade)	5	15

2. Following items are now fully exempted from Vat

A. Medical implants (For heart disease) and Blood bag
B. Mangalori Nalia
C. Aquatic feed
D. Toys (except electronic and battery operated)
E. Pooja Items (divo, ghantadi, poojathali, agarbatti stand) and Incense stick
F. Prasad-Bhog being distributed in religious place and Loban and googal
G. Thread used to fly kites, firkin
H. Dalia, chikki, revdi and Sabudana (Tapioca)
I. Boria, buckle, ribbon, sari pin, broach, kajal for women
J. Glass bead

3. Stamp Duty

Overall limit for stamp duty exemption on the instruments executed by the Self Help Groups/ Sakhi Mandals for securing loan/borrowings increased up to two lakh rupees.

4. Electricity Duty

Reduction in the applicable rate of electricity duty in respect of residence and education categories by 25%.

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