



₹ BUDGET 2011

DBS Advisory Services

Agenda



1. Forward	3
2. Indian Economy – An Overview	4
3. Budget Highlights	8
4. Direct Tax Proposals	12
a) Corporate Taxation	17
b) Personal Taxation	19
c) Non Resident Taxation	20
5. Indirect Tax Proposals	23
a) Excise	24
b) Customs	30
c) Service Tax	33
6. Gujarat Budget	39





The honorable finance minister needs to be congratulated for presenting the growth oriented budget. He has focused on infrastructure, rural development as well as education which in my opinion are growth engines for resurgent economy. It is very heartening to know that contrary to everybody's fear the fiscal deficit is 5.4% which is intended to be brought down to 5.1% and the revenue deficit is only 4% which will be brought down to 3.4%. The budget appears to be very favorable for the economic growth.

The honorable finance minister has decided that the direct tax code bill will be introduced in the parliament in this year and the same will be operational from 1st of April 2012.

It is also declared that the constitutional amendment will be made to introduce GST bill and the same will be applicable as early as possible.

The companies amendment bill is now finalized and will be introduced in the parliament in this budget session.

The approval given to foreign investors to invest in Indian equity mutual funds is a very welcome decision and much needed step to give a boost and fillip to the equity markets. The government has moved a step forward by initiating reforms in the infrastructure space by introducing a comprehensive policy and an increased allocation for the PPP projects. Moreover to increase the inflow of funds from FII's limit of investment in corporate bonds issued in the infrastructure has been raised.

Government has also very clearly shown its interest in tracking the black money lying abroad by introducing some anti avoidance measures such as proposing to enter into tax information and exchange agreements.



Indian Economy – An Overview

Indian Economy – An Overview (1/3)



- Gross Domestic Product (GDP) estimated to have grown at 8.6 per cent in 2010-11 in real terms.
- Indian economy expected to grow at 9 per cent with an outside band of +/- 0.25 per cent in 2011-12.
- Fiscal Deficit brought down from 5.5 per cent in BE 2010-11 to 5.1 per cent of GDP in RE 2010-11.
- “Effective Revenue Deficit” estimated at 2.3 per cent of GDP in the Revised Estimates for 2010-11 and 1.8 per cent for 2011-12
- Exports have grown by 29.4 per cent, while imports have recorded a growth of 17.6 per cent during April to January 2010-11 over the corresponding period last year.
- Consumers denied the benefit of seasonal fall in prices despite improved availability of food items, revealing shortcomings in distribution and marketing systems.
- Continued disinvestment in PSUs. INR 40,000 Crore targeted to be raised through disinvestment in the financial year 2011 – 2012
- Tax free bonds of INR 30,000 Crore proposed to be issued by Government undertakings during the financial year 2011 – 12 to give a boost to infrastructure development in railways, ports, housing and highway development.
- Allocation to education sector increased to INR 52,057 Crore

Indian Economy – An Overview (2/3)

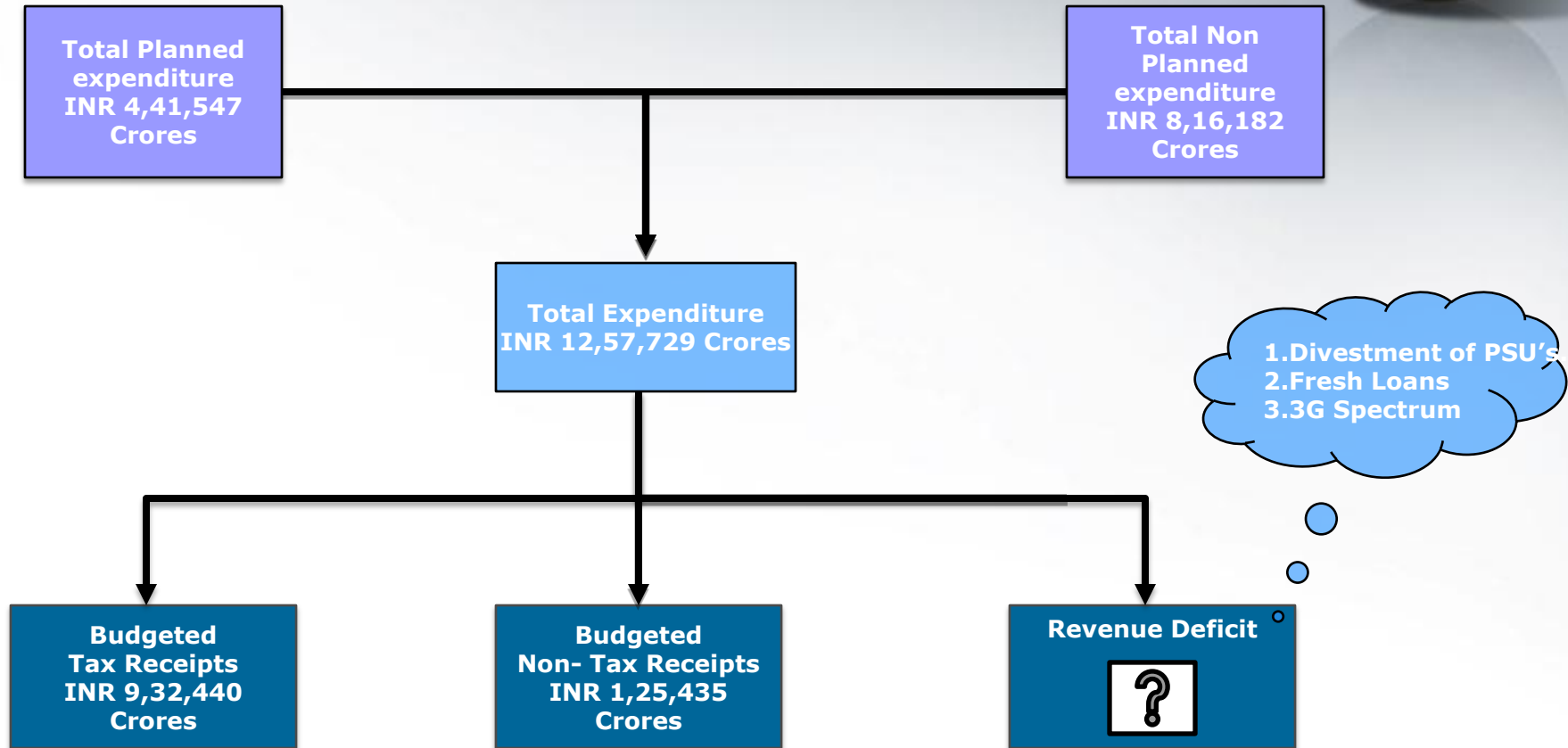


- India Micro finance fund of INR 100 Crore to be created with SIDBI
- Allocation of INR 2,14,000 Crore for the infrastructure sector
- Amendments proposed to the Banking Regulation Act in the context of additional banking licenses to private sector
- SEBI registered mutual funds permitted to accept direct subscriptions from foreign investors subject to conditions
- FII limit for investment in corporate bonds issued in the infrastructure sector raised to USD 25 Billion. Further, FIIs permitted to invest in unlisted bonds with a minimum lock in period of three years.
- Discussions have been concluded for 11 tax information exchange agreements and 13 new DTAA's
- To prevent fraud in loan cases involving multiple lending from different banks on the same immovable property, Central Electronic registry proposed to be set up under the SARFASESI Act, 2002
- National mission for Hybrid and Electric Vehicles to be launched.

Indian Economy – An Overview (3/3)



➤ Budget Deficit





Key Budget Highlights

Budget Highlights

Direct Taxes (1/2)



➤ Individuals

- Basic exemption limit marginally increased to benefit individual tax payers. i.e. INR 1,60,000 to INR 1,80,000
- New category of tax payer introduced i.e. Individuals above age of 80 years
- Additional deduction of INR 20,000 for investment in long term infrastructure bonds is extended for one more year.
- Employer contribution towards pension scheme shall be excluded from the limit of 1 lakh provided under section 80CCE.
- Exemption to a notified class or classes of persons (especially salaried tax payer where entire tax liability is discharged by the employer) from furnishing return of income.
- Specific deduction allowable to the employer on contributions towards the New Pension Scheme up to 10 percent of the salary of the employee.

➤ Non Resident

- Minor Changes in Transfer pricing provisions.
- New insertion of anti avoidance measures to cover transaction with persons in countries which do not effectively exchange information with India.
- Annual Reporting of activities by Liaison Offices established in India within 60 days from the end of the financial year.

Budget Highlights

Direct Taxes (2/2)



➤ Corporate

- No change in the corporate tax rate except for a reduction in the surcharge on tax from 7.5 percent to 5 percent in case of domestic companies and from 2.5 percent to 2 percent in case of foreign companies.
- Rate of MAT increased from 18 percent to 18.5 percent.
- Levy of MAT extended to Limited Liability Partnerships, SEZ Developers and Units operating in SEZ.
- Dividend Distribution Tax exemption withdrawn for SEZ Developers.
- Dividends received by Indian companies from their foreign subsidiaries during Financial Year 2011-12 to be taxed at a concessional rate of 15 percent on a gross basis.
- Benefit of investment-linked deduction extended to businesses engaged in the production of fertilisers and affordable housing projects.
- Tax holiday for undertakings engaged in the power sector – commencement date extended to 31 March 2012.
- Tax holiday for undertakings engaged in commercial production of mineral oil – not available for blocks licensed after 31 March 2011.
- Weighted deduction increased from 175 percent to 200 percent for contributions made to specified institutions for approved scientific research programmes.
- Due date of filing ROI extended to 30 November for cases involving transfer pricing provisions.

Budget Highlights

Indirect Taxes



- Peak rate for excise, customs and service tax retained at the existing levels.
- No new date announced for implementation of GST.
- Constitutional amendment bill for GST would be tabled before the Parliament in the current session.
- Four percent excise duty on a few products has been increased to 5 percent (such as prepared foodstuffs, paper and articles of paper, textile intermediaries and textile goods, medical equipment, medicaments, etc.).
- Duty of 5 percent levied on specified products which were earlier exempt. Option of payment of excise duty at 1 percent on around 130 specified items (without Cenvat credit) has been provided.
- All items attracting basic customs duty of 2 percent and 3 percent will now attract uniform rate of 2.5 percent duty.
- Changes proposed in Export and Import Rules for certain services as well as service tax refund scheme for SEZs.
- Definition of 'input services' has been amended to restrict its scope, credit of service tax paid on services such as construction services, works contract services, rent-a-cab services, outdoor catering, etc. would not be available. Further, the clause allowing full credit on 17 specified services in case of non-taxable operations has been deleted.
- Facility of self assessment introduced for import/ export clearances.
- Rate of interest in case of short/ delayed payment of customs/ excise duty and service tax to be increased from 13/15 percent to 18 percent.
- Point of Taxation Rules to be introduced from 1 April 2011, to define the point in time when services shall be deemed to have been provided.



Direct Tax Proposals

- a) Rate Card*
- b) Personal Taxation*
- c) Corporate Taxation*
- d) Non Resident Taxation*

Direct Taxes

Tax Rate Card (1/4)



For Individuals, Hindu Undivided Family, Association of Persons and Body of Individuals (Exemption limit raised from Rs.1.60 Lakhs to Rs.1.80 Lakhs)

Total Income	Tax Rates
Up to INR. 1,80,000	NIL
INR. 1,80,001 to INR. 5,00,000	10%
INR. 5,00,001 to INR. 8,00,000	20%
INR. 800,001 and above	30%

In case of a Women assessee below the age of 60 years (No change in the exemption limit)

Total Income	Tax Rates
Up to INR. 1,90,000	NIL
INR. 1,90,001 to INR. 5,00,000	10%
INR. 5,00,001 to INR. 8,00,000	20%
INR. 8,00,001 and above	30%

In case of a resident individual of the age of 60-80 years (Qualifying age has been reduced from 65 years to 60 years & exemption limit raised from Rs. 2.40 lakhs to Rs. 2.50 Lakhs)

Total Income	Tax Rates
Up to INR. 2,50,000	NIL
INR. 2,50,001 to INR. 500,000	10%
INR. 500,001 to INR. 800,000	20%
INR. 800,001 and above	30%

In case of a resident individual of the age above 80 (Newly inserted category - Very Senior citizen)

Total Income	Tax Rates
Up to INR. 5,00,000	NIL
INR. 5,00,001 to INR. 8,00,000	20%
INR. 8,00,001 and above	30%

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

Direct Taxes

Tax Rate Card (2/4)



For Partnership Firms, Local authorities and LLP's

Partnership Firms are taxable @ 30%.

No surcharge will be levied

Education cess will be applicable @ 3% on income tax

For Domestic Companies

Domestic companies are taxable @ 30%.

Surcharge is applicable @ 5% if total income is in excess of INR. 10,000,000. (Earlier 7.5%)

Education cess is applicable @ 3% on income tax (inclusive of surcharge, if any).

Marginal relief is available.

Dividends earned by an Indian company from its foreign subsidiary company shall be taxable at the rate of 15% (plus applicable surcharge and education cess) on the gross amount of such dividends.

For Foreign Companies

Foreign companies are taxable @ 40%.

Surcharge is applicable @ 2% if total income is in excess of INR. 10,000,000. (Earlier 2.5%)

EC/SHEC @ 3%

Marginal relief is available.

Dividend Distribution Tax (DDT)

Dividend distributed by an Indian Company (**including SEZ**) is exempt from income-tax in the hands of all shareholders. The Indian company is liable to pay DDT of 16.223% (i.e. inclusive of surcharge and education cess) on such dividends.

Minimum Alternate Tax (MAT)

MAT is levied @ 18.5% of the adjusted book profits in case of those companies/LLP's where income-tax payable on the taxable income according to the normal provisions of the Income-tax Act, 1961, is less than 18.5% of the adjusted book profits.

Surcharge is applicable @ 5% in case of domestic companies if adjusted book profits are in excess of INR 10,000,000.

Education cess is applicable @ 3% on income tax (inclusive of surcharge, if any).

MAT Credit available for 10 years

Direct Taxes

Tax Rate Card (3/4)



WITHHOLDING RATES FOR NON-RESIDENTS

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

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	20 % with indexation: 10% without indexation
Firms & LLP's	30%	
Companies	30%	
Foreign Companies	40%	
Local authority	30%	
Co-operative societies	As per the slab rates	
Overseas Financial Organizations specified in section 115AB	40%(corporate) 30%(Non-Corporate)	10%
FII's	30%	10%

1. The rates mentioned above are exclusive of surcharge and education cess
2. In case the foreign concern has a permanent establishment in India, income could be taxed at a rate of 40 % for royalty and also Fees for Technical Services related to such a permanent establishment.

Direct Taxes

Tax Rate Card (4/4)



Presumptive Tax Rate

FOR RESIDENT TAXPAYERS	
BUSINESS	Rate at which income is presumed
Small Scale Business	8% of Gross receipts/turnover
Plying, leasing or hiring of trucks (person should not have owned)	10% of Gross receipts

Conditions:

- (a) The gross receipts of the tax payer do not exceed INR 6,000,000
- (b) All deductions/expenses (including depreciation) shall be deemed to have been allowed.
- (c) The taxpayer can claim lower profit, if he keeps and maintains specified books of accounts and obtains a tax audit report.

Tax on Dividend from units of mutual fund

Liability of Income Distribution tax on the mutual fund	
Type of recipient and fund	Rate (inclusive of Surcharge and Education Cess)
Individual/ HUF(Money market fund or Liquid fund)	27.038%
Any other person(Money market fund or Liquid fund)	32.445%
Individual/ HUF(Any other Debt Fund)	13.519%
Any other person(Any other Debt Fund)	32.445%

FOR CO-OPERATIVE SOCIETIES	
Gross Total Income	Tax Rate
Upto INR 10,000	10%
INR 10,001-20,000	20%
INR 20,001 above	30%

Direct Taxes

Corporate Tax - Incentives (1/2)



➤ **Amendment in provisions of Dividend Distribution Tax**

DDT made applicable to developers of SEZ for dividends declared, distributed or paid on or after 1 June 2011. Such dividends continue to be tax exempt for the shareholders.

➤ **Section 35(2AA) - Weighted deduction on donation to specified institutes enhanced**

Any sum paid to a National Laboratory or a university or an Indian Institute of Technology or any other specified person for the purpose of an approved scientific research program, is enhanced to 200% of the sum paid from existing deduction - 175 %. This has been made effective from FY 2011-12.

➤ **Income from infrastructure Debt Fund Section 10(47)**

Income of notified infrastructure Debt Fund is exempt with effect from 1st June 2011 provided the fund is setup in accordance with prescribed Central Government guidelines



Direct Taxes

Corporate Tax - Incentives (2/2)



➤ **Section 35(AD) - Deduction in respect of expenditure on specified business**

Any expense of capital nature incurred for specified business, shall be allowed as a deduction in the hands of the assessee

- Now the scope of "specified business" is proposed to be widened by inclusion of two new businesses namely -
 1. Business in the nature of developing and building a housing project under a scheme of affordable housing framed by the Central Government,
 2. Operations in a new plant or in a newly installed capacity to an existing plant for production of fertilizer
(The date of commencement has been with effect from 01.04.2011)
- In case of hotels and hospitals, as per the existing provisions "specified businesses" would only include "new hotels" and "new hospitals". However the condition "new" has been dispensed away by way of amendment.

➤ **Amendments related to Section 80 – IA & 80 – IB**

- 80 – IA : Commencement date for tax deduction extended to 31 march 2012 from 31 march 2011 for undertaking which starts generation or power or undertakes substantial renovation of an existing network of transmission or distribution lines.
- 80 – IB : Tax deduction for an undertaking engaged in commercial production of mineral oil will not be available for blocks licensed under contracts awarded after 31 March 2011 under NELP or any other law.

Direct Taxes

Personal Tax



➤ **Section 80 CCD and 80 CCE : Deduction in respect of contribution to pension scheme**

- It is proposed that any sum paid by the assessee as an employer by way of contribution towards a pension scheme under section 80CCD to the credit of an employee to the extent of 10% of salary of the employee in the previous year shall be allowed as a deduction in the hands of employee with effect from Financial Year 2011-12.
- Section 80CCE provides that aggregate of deductions under 80C, 80CCC and 80 CCD shall not exceed INR 1 lakh. However, section 80CCE has been amended so as to provide that contribution to a pension scheme under section 80CCD shall not be included in the limit of deduction of INR 1 lakh.

➤ **Section 80 CCF : Deduction in respect of long-term infrastructure bond**

An additional deduction (exclusive to 80 CCE) of Rs.20,000/- for investment in long term infrastructure bonds shall continue to be available in the Financial year 2011-12 as well

➤ **Exemption from filing of return for certain class of persons**

Exemption to a notified class or classes of persons (especially salaried tax payer where entire tax liability is discharged by the employer) from furnishing return of income provided that employee does not earn income from other sources

➤ **Wealth Tax**

Wealth tax is imposed @ 1 percent on the value of specified assets held by the taxpayer on the valuation date in excess of the basic exemption of INR 3,000,000.



Direct Taxes

Non Resident provisions (1/2)



➤ **Amendment in Transfer Pricing provisions**

- For the purpose of computing the Arm's Length Price at which the international transaction has actually been undertaken, the allowable variation between the ALP and price at which transaction is undertaken will be at a percentage to be notified later.
- Jurisdiction of Transfer Pricing Officer has been widened so as to enable him to take in to account any other international transaction which comes to his notice subsequently during the course of the proceedings before him. Further, the transfer pricing officer can exercise power of survey as prescribed under section 133 A.

➤ **Section 94 A: Special measure in respect of transaction with persons located in a notified jurisdictional area: (Applicable w.e.f 01/06/2011)**

- Government can notify any country or territory outside India, having lack of effective exchange of information with India, as notified jurisdictional areas.
- If an assessee enters in to a transaction where one of the parties to the transaction is a person located in a notified jurisdictional area, then all the parties to the transaction shall be deemed to be associated enterprises and that transaction shall deemed to be an international transaction.
- Deduction in respect of payments to any financial institution located in notified jurisdictional area shall not be allowed unless the assessee furnishes the authorization to seek the relevant information in this regard and also no expenditure or allowance shall be allowed unless the assessee maintains the documents and furnishes the relevant information.
- Any payment made to a person located in the notified jurisdictional area shall be liable to withholding tax at the higher of the following:
 - a) Rates in force; or
 - b) Rates provided under the relevant provisions of the Act or
 - c) Thirty per cent.



Direct Taxes

Non Resident provisions (2/2)



➤ **Section 115 A: Amendments in provisions related to Non-residents**

- It is proposed to provide tax @ 5% on any interest income received by a non-resident from an infrastructure debt fund referred to in section 10(47).

Section 115BBD

- Under the current provisions dividends received from foreign companies is taxable in the hands of the recipient at his applicable marginal rate of tax.
- Now section 115 BBD is proposed to be introduced wherein it states that any dividends received, distributed or declared by a foreign subsidiary company then such dividends shall be taxed at a lower rate of 15 % in the hands of the Indian Company.
- However, no deduction shall be allowed whatsoever in respect of any expenditure incurred for the purpose of earning such income.

➤ **Section 139 : Due date for filing of Income Tax Returns in cases of international transactions**

It is proposed to provide that for filing a return of income in case of companies, which are required to furnish a report under section 92E, the due date shall be extended to 30th November of the assessment year. The current provisions stipulated that such companies file their return on or before 30th September.

➤ **Submission of statement by a non-resident having liaison office**

Every non-resident having liaison office in India, shall in respect of its activities in a financial year, has to deliver to A.O. having jurisdiction, within 60 days from the end of such financial year, a statement of particulars in the requisite form.

Direct Taxes

Other Provisions



➤ **Amendment in respect to Charitable institutions**

- As per the provisions of the Income tax act "advancement of any other object of general utility " shall not be for a charitable purpose, if the income from the activity in the nature of trade, commerce and industry or rendering any services results into consideration exceeding INR 10 lakhs.
- An amendment to this effect has been made wherein the limit of INR 10 lakhs has been increased to INR 25 lakhs. This amendment is effective from 1st April, 2011.

➤ **Time limit for obtaining approval by private provident fund trusts extended to 31 March 2012**

➤ **Minimum Alternate Tax (MAT) under section 115JB**

- MAT rate has been increased to 18.5% from the existing 18%. Hence if tax liability as per income tax provisions is less than 18.5 % of book profits then tax under MAT is payable.
- An Amendment under section 115 JB has been effected, wherein incomes arising to SEZ developers or any unit under a SEZ will be subject to MAT provisions.
- Newly inserted provisions under section 115 JC provides that MAT is applicable to LLP's as well. Further, as per section 115JD the credit shall be available for excess of MAT paid over regular income tax payable. Credit is available for 10 years and is available as a set off in the year in which regular income tax payable exceeds MAT





Indirect Tax Proposals

- a) Excise*
- b) Customs*
- c) Service Tax*



Indirect Taxes

Excise Duty (1/6)



- ✔ No change suggested in Excise rate regime - Central Excise Duty has been maintained at a standard rate of 10%.
- ✔ Minimum rate of Central Excise Duty has been enhanced from 4 % to 5%.
- ✔ In order to provide level playing field excise duty exemption has been given to the Domestic suppliers who produce capital goods required for mega or ultra mega power plants.
- ✔ Mandatory levy of excise duty at the rate of 10% on manufacture of all the branded garments.
- ✔ Sec 11 A of the Central Excise Act i.e. recovery of duties not-levied or not-paid or short-levied or short-paid or erroneously refunded has been substituted to make the provision more coherent and clear. Section has inserted new category of cases in respect of which issuance of notice can be issued within in a period of five years giving the officer the right to reduce the penalty(up to 1% per month), if the duty and interest is paid by the assessee before issuance of such notice.
- ✔ Section 11AC i.e. penalty for short levy or non levy of duty in certain cases has been amended *to provide the general penalty rate amounting to 50%*. It further restricts the remission of penalty only to such new cases of category covered u/s 11A as discussed above.



Indirect Taxes

Excise Duty (2/6)



- 🔴 New section 11E has been inserted in the Central Excise Act to create a first charge on the property of the defaulter for recovery of any amount due under this Act.
- 🟢 Rule 3 of the CENVAT Credit Rules, 2004 i.e. regarding condition for availment of Cenvat Credit has been amended and incorporated the provisions for CENVAT Credit of service tax paid on services received from outside India i.e. now onwards assessee can Claim CENVAT Credit of service tax paid on services received from outside India.
- 🟢 In case of manufacturer of articles of apparel and clothing accessories, liability to pay to excise duty has been transferred upon the principal manufacturer where such principal manufacturer engages job workers for manufacture of such goods. Alternatively, the principal manufacturer may authorise the job workers to obtain registration and comply with the all other formalities i.e. payment of excise duty etc on his behalf.
- 🟢 Time limit for making investment of excise duty as per sub sec (1) of Sec 5A i.e. investment of the excise duty in a plant and machinery of a manufacturing unit or infrastructure or civil works or social projects in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland and Tripura has been extended up to Six months from the date on which the Finance Bill 2011 achieves the assent of the president.
- 🔴 Full exemption from excise duty available to automatic looms and projectile looms is being withdrawn and it would be chargeable to a concessional rate of 5%.
- 🔴 Full exemption on micro-processors, other than motherboards; floppy disc drive; hard disc drive; CD-ROM drive; DVD drives/ writers; flash memory and combo drives meant for fitment inside a laptop/CPU is also being withdrawn. All these goods would be chargeable to a concessional rate of 5%
- 🔴 Full exemption was available to paper manufactured from non-conventional raw materials for the first clearances not exceeding Rs. 3500 per metric tonne per annum made from a unit has been withdrawn from now onwards..

Indirect Taxes

Excise Duty (3/6)



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

- Air-conditioning equipment, panels and refrigeration panels for installation of cold-chain infrastructure for preservation, storage or transport of agricultural produce and apiary, horticultural, dairy, poultry, aquatic & marine produce and meat as well as processing thereof.;
- Conveyor belt systems for use in cold storages and in mandis and warehouses for the storage of food grains and sugar
- Goods required for the expansion of an existing mega/ ultra mega power project subject to specified conditions
- Specified parts of sewing machines (other than those with inbuilt motors)
- Parts of power tillers when cleared to another factory of the same manufacturer for manufacture of power tillers
- Cotton stalk particle board
- Colour, unexposed cinematographic film in jumbo rolls of 400 feet and 1000 feet
- Pipe fittings required for a water supply project

🌱 Excise duty on serially numbered gold bars, other than tola bars, when manufactured from the ore/ concentrate stage is being reduced from Rs.280 per 10 grams to Rs.200 per 10 grams. The rates of excise duty on such gold and silver are also being rationalized at Rs.300 per 10 grams and Rs.1500 per kg respectively.

🌱 Motor vehicles which are registered for use solely as ambulance after clearance are eligible to a concessional rate of 10% by way of a refund mechanism.

Indirect Taxes

Excise Duty (4/6)



- 🌱 Motor vehicles with a capacity of 7 persons including the driver which are registered for use solely as taxis after clearance. Two changes are being carried out in this exemption: (i) the condition regarding capacity of the vehicle is being modified so that the concession is available to vehicles with capacity upto 13 persons including the driver; (ii) instead of a concessional rate of 10% ad valorem, the manufacturer of such vehicles would be entitled to a concessional rate equivalent to 80% of the excise duty paid on such vehicle at the time of clearance i.e. 2%
- 🌱 Concessional duty of 10% is being prescribed for hydrogen vehicles based on fuel cell technology. Similarly, a concessional rate of Central Excise duty of 5% has been extended to specified parts of hybrid vehicles and plug-in kits (and their parts) for conversion of normal fuel vehicles into hybrid vehicles.
- 🔴 Rate of interest on non – payment, short – payment, delayed payment of duties has been increased from 13 % p.a. to 18% p.a.

Definition of “input” has been amended w.e.f 1st day of April 2011,

- 🌱 ➤ Following has been included in such definition
 - goods used in the factory of the manufacturer of final product
 - accessories and goods used for providing free warranty for final products, the value which is included in the value of final product
 - goods used for generation of electricity/steam for captive consumption
- 🔴 ➤ Following has been excluded from the definition
 - goods used for construction of building or civil construction
 - goods used for laying of foundation or making structure for support of capital goods
 - capital goods other than those used as parts or components in the manufacture of the final products
 - goods which are used primarily for personnel use or consumption by employees
 - goods which have no relationship with the manufacture of the final products.

Indirect Taxes

Excise Duty (5/6)



- 📌 The rate of duty on bulk cement (i.e. other than packaged form), whether manufactured in a mini-cement plant or not, is being unified at 10% ad valorem. The details of changes are as under:

S.No.	Description of goods	Earlier rate	Revised rate
1	Packaged cement manufactured in a mini-cement plant -		
	(i) RSP not exceeding Rs.190 per 50 kg bag or of per tonne RSP not exceeding Rs.3800	Rs.185 PMT	10% ad valorem
	(ii) Of retail sale price not exceeding Rs.190 per 50 kg bag or of per tonne RSP exceeding Rs.3800	Rs.315 PMT	10% ad valorem + Rs.30 PMT
2	Packaged cement manufactured in a plant other than a mini-cement plant -		
	(i) Of retail sale price not exceeding Rs.190 per 50 kg bag or of per tonne RSP not exceeding Rs.3800	Rs.290 PMT	10% ad valorem + Rs.80 PMT
	(ii) Of retail sale price not exceeding Rs.190 per 50 kg bag or of per tonne RSP exceeding Rs.3800	10% of retail sale Price	10% ad valorem +Rs.160 PMT

Excise duty on cement clinker has been revised from Rs.375 per metric tonne to "10%+ Rs.200 per metric tonne".

Indirect Taxes

Excise Duty (6/6)



Product Name	Existing	Proposed
Silver (Including Silver Plated With Gold or Powder, UnwroughtPlatinum),	Nil	10%
Silver Semi – Manufactured Other	Nil	10%
Jute Yarn or Other Textile Yarn	Nil	10%
Animal or vegetable fats and oils and their cleavage products	Nil	1%
Cereals, flour, starch or milk; pastrycooks' products	Nil	1%
Mineral fuels, mineral oils and products of their distillation; bituminous substances	Nil	1%
Pharmaceutical products	Nil	1%
Plastic and articles thereof	Nil	1%
Rubber and articles thereof	Nil	1%
Paper and paperboard; articles of paper pulp of paper or of paperboard	Nil	1%
Printed books, newspapers, pictures and other products of the printing industry; manuscripts, typescripts and plans	Nil	1%
Wadding, felt and nonwovens; special yarns; twine, cordage, ropes and cables and articles thereof	Nil	1%
Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings; embroidery	Nil	1%
Ceramic products	Nil	1%
Glass and glassware	Nil	1%
Machinery	Nil	1%
Mechanical	Nil	1%
Vehicles	Nil	1%
Optical	Nil	1%
Photographic	Nil	1%
Cinematographic	Nil	1%
Medical or Surgical	Nil	1%
Miscellaneous manufactured articles	Nil	1%
Vegetable planting materials, vegetable products	Nil	1%
Beverages, spirits and vinegar	Nil	1%
Manufactures of straws basketware and wickerwork	Nil	1%

Indirect Taxes

Custom Duty (1/3)



Changes in Rate of Custom Duty

Name of the Item	Existing	Proposed
BCD on Drugs and Medicines intended for personal use	10%	5%
BCD on Other drugs	10%	5%
BCD on Raw Silk	30%	5%
Export duty on De-Oiled rice Brands	N/A	10%
Export duty on Iron Ore lumps Export duty on Iron Ore fines	15% 5%	20%
BCD on Pet Coke and gypsum	5%	2.5%
BCD on Lactose used in Homeopathic medicines	25%	10%
BCD on Specified agriculture medicines	5%	2.5%
BCD on Ferro Nickel	5%	2.5%



Indirect Taxes

Custom Duty (2/3)



SYNOPSIS

- ✔ Custom duty remains unchanged. However, the effective rate may vary depending upon change in excise and ADC rate. BCD rates of 2 percent, 2.5 percent & 3 percent aligned to an average rate of 3 percent
- ✔ An importer or an exporter shall self-assess the duty payable on goods which shall be verified by customs officials. However, if an importer or an exporter cannot perform self-assessment, he can go for Provisional Assessment. Further, in case importer or exporter is unable to make self assessment, he may request custom officer to assess the goods by following the procedure of provision assessment.
- ✔ The time-limit for claiming refund of duty or interest has been extended to 1 year uniformly for every importer and exporter in all cases as opposed to six months.
- ✔ Amended drawback provisions will restrict the claims of drawback in case of non realization of export proceeds.
- ✖ Provisions introduced for creation of first charge in favour of customs on the property of the defaulter subject to certain conditions
- ✖ Interest will be levied at a fixed rate on the person liable to pay duty. However it will not be applicable when the duty becomes payable consequent to the issue of an order by the board or when such amount is voluntarily paid in full within 45 days from the date of issue of such order.
- ✔ The time limit for the customs officer to serve the show cause notice on erroneous or short-levied duty is declared to be one year and the same time is enhanced to five years when the reason being collusion, willful misstatement or suppression of facts in addition to 25% penalty
- ✔ The importer and exporter of goods will be required to file an electronic statement for bill of entry for goods pertaining to home consumption or warehousing.

Indirect Taxes

Custom Duty (3/3)



Changes in Rate of Custom Duty

Exempt from BCD

- Toughened glass and silver paste
- Water projects (Pumping stations and storage facility)
- Value of gold and silver contained in copper concentrate
- Cotton waste
- Stainless steel scrap
- Gold bars (upto 80% purity) used in manufacture of serially numbered gold bars in India. Concessional CVD is charged at Rs. 140 per gram on such bars.
- Specified Capital goods and materials for manufacture of electrical hardware

Concessional Rate of BCD @ 5%

- Specified raw material required for manufacture of syringes, needles, catheters, cannulae
- Mailroom equipments compatible with printing machinery imported by registered newspaper establishments

Exempt from CVD

- Specified life saving drugs
- Spares and consumables required for repairs if ocean going vessels by owners of such vessels registered in India.

Concessional Rate of CVD @ 5%

- LED used for manufactures of LED lights
- Concessional CVD is charged at Rs. 140 per gram on gold bars used in manufacture of serially numbered gold bars in India.

Exempt from SAD

- Spares and consumables required for repairs if ocean going vessels by owners of such vessels registered in India.
- Light emitting diodes used for manufacture of LED lights exempt from SAD

Indirect Taxes

Service Tax (1/6)



Service Category	Modification / Amendment		
Air-conditioned restaurant	Services provided by air-conditioned restaurant with licence to serve alcoholic beverages in relation to serving of foods or beverage, including alcoholic beverages or both, in its premises.		
Short term accommodation by hotel	Services related to providing of short term accommodation by hotel, inn, guest house, club or composite for a period of less than three months if the published/declared tariff is Rs. 1,000 per day or higher.		
Authorized Service Station Services	<p>Services provided by any person i.e. whether authorized service station or otherwise;</p> <ul style="list-style-type: none"> • All motor vehicles, other than vehicles used for goods transport and three-wheeler auto-rickshaws; and • Repair, re-conditioning or restoration - which are already taxable - and services of decoration and any other related services. 		
Life Insurance Service	The scope of this service is proposed to be expanded to cover all services, including in relation to management of investments.		
Commercial Training or Coaching Service	The scope of the service is proposed to be expanded to include all coaching and training that is not recognized by law irrespective of whether the institute is providing any other course(s) recognized by law.		
Club or Association Service	The scope of the service is proposed to be expanded to include service provided to non-members as well.		
Business Support Service	The scope of the service is being expanded to include operational or administrative assistance of any kind under "support services of business or commerce".		
Services by legal professionals	<p>The scope of the existing service is being expanded to include:</p> <ul style="list-style-type: none"> • Services of advice, consultancy or assistance provided by a business entity to any person; • Representational services provided by any person to a business entity; and • Services provided by arbitrators to business entities. Services provided by individuals to other individual will remain outside the levy. 		
Services provided by clinical establishments	<p>The existing levy on health services is proposed to be replaced as follows:</p> <ul style="list-style-type: none"> • Any service provided by a clinical establishment having the facility of central air- conditioning in any part of the establishment and more than 25 beds for in-patient treatment at any time of the year; • Diagnostic services provided by a clinical establishment with the aid of laboratory or medical equipment; and • Health-related services provided by doctors, not being employees, providing health-related services from the premises of a clinical establishment. • An establishment, owned or controlled by government and local Authority not included. 		
Transport of passengers by air service	Type of Air Travel	Proposed Rate (Rs.)	Existing Rate (Rs.)
	Domestic (economy)	150	100
	International (economy)	750	500
	Domestic (other than economy)	10%	100

Indirect Taxes

Service Tax (2/6)



No change in the rate of service tax. Continue to tax at rate of 10 %

Exemption from service tax (effective from 01-03-2011)

- Services rendered to an exhibitor participating in an exhibition held outside India (Notification No. 5/ST-2011).
- Works contract service rendered within a port, or other port or airport in specified areas (Notifications No. 10&11/ST-2011).
- 25% from the taxable value is being provided in respect of services rendered in relation to "transport of coastal goods" and goods transported through "national waterways" or "inland water" (without claiming Cenvat Credit) (Notification No.16/ST-2011).

Interest rate on delayed payment of service tax has been increase from 13% to 18%. (applicable from 01-04-2011)

Concessional rate of interest for certain specified category of service providers whose value of taxable services provided in a financial year does not exceed sixty lakh rupees shall pay interest lower by three percentage per annum. i.e. 15%

New sub-section 4A introduced under Section 73

In situations where the true and complete account of transactions is available in the specified records, the assessee may pay the applicable Service Tax along with the interest payable and a reduced penalty of 1% of the tax for each month during which the default continues, up to a maximum of 25% of the tax amount, before service of notice.



Indirect Taxes

Service Tax (3/6)



➤ **Introduction of The Point of Taxation Rules (*effective 1 April 2011*)**

The Point of Taxation Rules have been introduced to determine the point of the service. It will be the earliest of the following dates:

- Date on which service is provided or to be provided
- Date of invoice
- Date of payment.

Thus, point of taxation has moved to accrual basis from cash basis. Consequently, provisions allowing adjustment of tax when the service is not finally provided have also been introduced.

➤ **Amendments in the Credit Rules (*effective 1 April 2011*)**

Following amendments have been made in the definition of "input services":

- a) Expression "activities relating to business" has been deleted from the definition.
- b) Certain services meant for personal consumption by employees have been specifically excluded.
- c) Certain services utilised in relation to, unless certain conditions are fulfilled.
 - i. Building construction
 - ii. Work Contract
 - iii. Motor vehicles in authorised service station
 - iv. General insurance services

➤ **Audit of Service tax**

No audit to take place for assesses having taxable turnover less than INR 60 Lacs

Indirect Taxes

Service Tax (4/6)



➤ **Amendments in Service Tax Rules (effective 1 April 2011)**

- A new rule, 5B, has been introduced to provide that the applicable rate of tax shall be the rate prevailing at the time when the services are deemed to have been provided.
- Limit of self adjustment of service tax has been raised from INR 1,00,000 to INR 2,00,000.

➤ **Amendment to Service Tax (Determination of Value) Rules, 2006**

New Rule 2B inserted and provides formula for arriving at taxable value of service in relation to Purchase or Sale of foreign currency including Money Changing

Taxable Value = (Buying/Selling rate) – (RBI's reference rate) x Total units of currency; or

In case where the reference rate for any currency is not available:

Taxable Value = 1% of gross amount of INR provided or received by the Money Changer

In case where two foreign currencies are exchanged:

Taxable Value = 1% of the lesser of the two amounts gross amount when converted into INR as per RBI reference rate

➤ **Amendment to Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007**

Works Contract Service under the composition scheme can avail CENVAT credit only to the extent of 40% of Service Tax paid on the following input services:

- i. Erection, Commissioning and Installation Service
- ii. Commercial or Industrial Construction Service
- iii. Construction of Complex Service

Indirect Taxes

Service Tax (5/6)



➤ Changes relating to SEZ (effective 1 March 2011)

Following changes has been introduced relating to SEZ refund.

- a) Criteria for the determination of “wholly consumed” services have been specifically prescribed. No service tax is required to be paid if the services are meant to be “wholly consumed” within SEZ.
- b) Refund for the remaining services (which are not wholly consumed) would be available on pro rata basis, i.e. ratio of SEZ turnover to total turnover.
- c) Time limit for filing the refund claim increased from six months to one year.
- d) Changes have been made in the Credit Rules to provide that no credit would need to be reversed if the services have been provided to SEZ unit for its authorised operations.

Maximum refund =

$$\frac{\text{ST paid on specified services used for SEZ Authorised Operations} \times \text{Export turnover of SEZ Unit shared with DTA Unit for the period for the period}}{\text{Total turnover for the period}}$$

Where —

- i. total turnover = value of (all output services and exempted services provided, including the value of services exported + all excisable and non-excisable goods cleared, including the value of the goods exported + bought out goods sold)
- ii. export turnover of SEZ Unit = value of (final products + output services exported) during the period of which the invoices pertain and the exporter claims the facility of refund under this Notification.

Indirect Taxes

Service Tax (6/6)



➤ Provisions for penalty and interest

Section	Particular	Proposed	Existing
70	Penalty for delay in filing of return	Rs. 20,000	Rs. 2,000
76	Penalty for failure of service tax	Rs. 100 or 1% of service tax w.e. higher p.m. Provided that the total amount of the penalty payable in terms of this section shall not exceed fifty per cent of the tax amount.	Rs. 200 or 2% of service tax w.e. Higher p.m.
77	Penalty for contravention of rules and provision of act for which no penalty is specified	Rs. 10,000	Rs. 5,000
78	Penalty for suppressing value of taxable service	<ul style="list-style-type: none"> - Not exceeding 100% of tax amount - When taxpayer has captured the true and complete information in the specified records Penalty shall be 50% of the tax amount - Reduced to 25% if the tax dues are paid within a period of one month together with interest and reduced penalty - For assesses with turnover up to Rs.60 lakh the period of one month increased to ninety days. 	Between 100% to 200% of tax amount

Contents



Gujarat Budget

Gujarat Budget



Tax on tobacco :-

The rate of VAT on tobacco and its products from the present level of 20% inclusive of additional tax to 25% inclusive of additional tax. "Unmanufactured tobacco" shall continue to remain exempted.

Tax on mobile phone

Increase in VAT on mobile phone from 5% inclusive of additional tax to 15% inclusive of additional tax.

Green Cess

It is proposed to levy Green Cess at a rate of 2 (two) paise per unit on generation of all kinds of electrical energy, including captive energy, but excluding solar energy, wind energy, bio-energy, geo-thermal energy, tidal energy and hydra energy.

Process of filling the VAT returns

The trade and industry is also disappointed that the state has not made any commitment in simplifying the process of filling the VAT returns.

Input Tax credit in case of inter-state sale

It is very shocking to note that the 2% deduction from the input TAX credit in case of inter- state sale of goods was one area where the traders were very unhappy and resentful. The deduction when it was proposed was a part of compensating the state government for the loss of revenue from Sales TAX however an amount of INR 7000 crores has already been allocated to Gujarat as part of Sales TAX.

Classification of charitable trust as dealers

The other areas where traders are disappointed are classification of charitable trust as dealers. This is a very negative step, as charitable trust in Gujarat have been doing wonderful social work

Non exemption of purchase Tax on goods produced by SEZ

The other area in which industry has expressed the disappointment is regarding non-exemption from levy of purchase TAX on goods procured by SEZ developers as well as SEZ units and the difficulty in filling in VAT return.

Road Map



- Roll out of Direct tax code effective April, 2012.
- Preparations for GST Roll out in final stage & will introduce GST Bill in current session.
- To bring Bill to enable RBI to grant more banking licenses.
- New Companies Bill to be introduced in current session.
- Food security Bill to be introduced this year.
- Propose 5-point strategy to fight with Black money.



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