

*Proposed Amendments in
Direct Taxes
&
Service Tax*

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Chartered Accountants

Budget Proposals 2011-12

Proposed Amendments in Direct Taxes

RATES OF TAX

Assesseees other than Women and Senior Citizens

Existing		Proposed	
Income	Rate (%)	Income	Rate (%)
0-160000	Nil	0-160000	Nil
160001-300,000	10	160001-500,000	10
300001-500000	20	500001-800000	20
500001 & Above	30	800001 & Above	30



Net Saving of Tax

Income	Tax Liability (A.Y. 2010-2011)	Tax Liability (A.Y. 2011-2012)	Net Savings (in Rs.)
4 Lacs	35020	24720	10300
5 Lacs	55620	35020	20600
7 Lacs	117420	76220	41200
11 Lacs	241020	189520	51500

Assesseees other than above and Senior Citizens

Existing		Proposed	
Income	Rate (%)	Income	Rate (%)
0-190000	Nil	0-190000	Nil
190001-300,000	10	190001-500,000	10
300001-500000	20	500001-800000	20
500001 & Above	30	800001 & Above	30



Net Saving of Tax

Income	Tax Liability (A.Y. 2010-2011)	Tax Liability (A.Y. 2011-2012)	Net Savings (in Rs.)
4 Lacs	31930	21630	10300
5 Lacs	52530	31930	20600
7 Lacs	114330	73130	41200
11 Lacs	237930	186430	51500



Assessee's Senior Citizens

Existing		Proposed	
Income	Rate (%)	Income	Rate (%)
0-240000	Nil	0-240000	Nil
240000-300000	10	240001-500,000	10
300001-500000	20	500001-800000	20
500001 & above	30	800001 & Above	30

Net saving of Tax

Income	Tax Liability (A.Y. 2010-2011)	Tax Liability (A.Y. 2011-2012)	Net Savings (in Rs.)
4 Lacs	26780	16480	10300
5 Lacs	47380	26780	20600
7 Lacs	109180	67980	41200
11 Lacs	232780	181280	51500

- Education Cess @ 2% and Secondary & Higher Education Cess @ 1% shall be applicable as earlier.

Assessee's other than individuals

Income	Upto Rs.1 Crore	Above Rs.1 Crore
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Firms

(a) Tax Rate	30.00%	30.00%
(b) Surcharge	Nil	7.50%
(c) Education Cess	2.00%	2.00%
(d) Secondary & Higher Education Cess	1.00%	1.00%

Effective Rates (including surcharge) 30.90% 33.2175%

Domestic Companies

(a) Tax Rate	30.00%	30.00%
(b) Surcharge	Nil	7.50%
(c) Education Cess	2.00%	2.00%
(d) Secondary & Higher Education Cess	1.00%	1.00%

Effective Rates (including surcharge) 30.90% 33.2175%

Foreign Companies

(a) Tax Rate	40.00%	40.00%
(b) Surcharge	Nil	2.50%



(c) Education Cess	2.00%	2.00%
(d) Secondary & Higher Education Cess	1.00%	1.00%
Effective Rates (including surcharge)	41.20%	42.23%

Dividend Distribution Tax (DDT)

	Rate
(a) Tax Rate	15.00%
(b) Surcharge	7.50%
(c) Education Cess	2.00%
(d) Secondary & Higher Education Cess	1%
Effective Rates (including surcharge)	16.60875%

Minimum Alternate Tax (MAT) Increased :



Income	Existing Rate	Proposed Rate
Income upto 1 crore		
Rate	15%	18%
Cess (1)	3%	3%
<i>Effective Rate</i>	<i>15.45%</i>	<i>18.54%</i>
Income more than 1 crore		
Rate	15%	18%
Surcharge	10%	7.5%
Cess (1)	3%	3%
<i>Effective Rate</i>	<i>16.995%</i>	<i>19.93%</i>

(1) Cess Includes Education Cess @ 2% and Secondary and Higher Education Cess @ 1%

Weighted Deduction of expense increased :



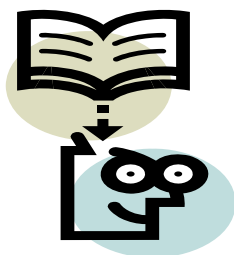
Weighted deduction of expense increased if:

- Payment to Approved scientific research association or scientific research or to an approved university, college or other institution to be used for scientific research [**Sec.35(1)(ii) substituted**]
- Expenditure incurred on scientific research on an approved in-house research and development facility [**Sec.35(2AB)(1) substituted**]
- Payment to National Laboratory, University, IIT or specified person for approved scientific research program. [**Sec.35(2AA)(a) substituted**]
- Payment made to an association engaged in research in social science or statistical research [**Section 35(10)(iii) substituted**]

Section	Existing Rate	Proposed Rate
Sec. 35(1)(ii)	125%	175%
Sec. 35(2AA)	125%	175%
Sec. 35(2AB)	150%	200%
Sec. 35(1)(iii) (payment to research association)	-	125%

Effective Date: Assessment Year 2011-12

Disallowance of expense for non-deduction of tax at source:



- No disallowance of expense if
- Tax deducted at source during the previous year
- Paid on or before the due date of filing the return

Sec. 40(a)(ia) substituted

Proviso to Sec. 40(a)(ia) substituted

- Interest on delay of deposit of TDS increased from:

Section	Existing Rate	Proposed Rate
Interest on delay in deposit of TDS [Sec. 201(1A)(ii) substituted]	1.0% p.m.	1.5% p.m.

Effective Date: Assessment Year 2010-11

Conversion of a Private Company or closely held company to a limited liability partnership (LLP):



No Capital Gains on conversion of private limited company/unlisted public limited company into a limited liability partnership (LLP) if:

- The turnover of the company in any of the last three preceding years does not exceed Rs.60 lacs.
- Shareholders become partners of the LLP in the same ratio of their shareholding in the company.
- No consideration other than share in profit and capital contribution in the LLP arises to partner;
- The shareholders continue to be entitled to receive at least 50% of the profits of the LLP for a period of 5 years from the date of conversion;
- All assets and liabilities of the company become the assets and liabilities of the LLP;
- No amount is paid, either directly or indirectly, to any partner out of the accumulated profits of the company for a period of three years from the date of conversion.

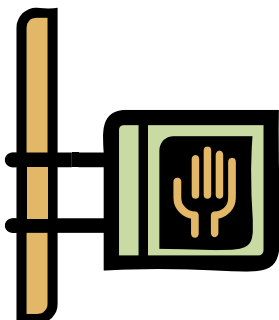
[Sec. 47(xiiib) inserted]

Other considerations:

- Carry forward and set-off of business loss and unabsorbed depreciation to the successor LLP if above conditions fulfilled **[Sec. 72A(6A) inserted]**
- If conditions not complied, the tax benefit availed by LLP on conversion shall be chargeable to tax in the year of non-compliance **[Sec. 47A(4) inserted]**
- WDV of assets in the book of the company to be the Cost of acquisition of assets by LLP **[Explanation 2c to Section 43(6)]**
- Depreciation will be calculated on the value of assets taken over by the LLP **[5th Proviso to Sec. 32(1) substituted]**
- LLP will not be eligible for the benefit of MAT credit **[Sec. 115JAA(7) inserted]**
- Amortization of balance of VRS expenses in the hands of LLP **[Sec. 35DDA(4a) inserted]**

Effective Date: Assessment Year 20011-12

Transactions without or for inadequate consideration:



At present, transfer of specified property or asset in favour of individual or HUF without consideration or for inadequate consideration is to be treated as income in the hands of individual or HUF.

The scope of the said section being enlarged to cover the following:

- Transfer of shares of un-listed company either for inadequate consideration or without consideration where the recipient is a firm or closely held company. [Sec. 56(via) inserted]

Effective Date: 1st June, 2010

Property not to include:

- stock-in-trade, raw material, consumable stores.
 - Bullion (raw-gold, silver bars, gold biscuits/ coins etc.)
- The provisions *shall not apply* to transfer of immovable property for inadequate consideration and shall apply only if property is transferred without consideration. [Sec. 56(vii)(b) substituted]

Effective Date: Retrospectively from 1st October, 2009

- The AO can refer the matter to valuation cell u/s 142A for determining the *fair market value* for the purpose of this section. [Sec. 142A(1) substituted]

Effective Date: 1st June, 2010

Deduction for Subscription to Infrastructure Bonds and Contribution to CGHS scheme :



- Deduction upto Rs.20,000/- for subscription to Long-Term Infrastructure Bonds.
- Such deduction is in addition to Rs. 1,00,000/- allowed U/s Sec. 80C, 80CCC and 80CCD. [Sec. 80CCF inserted]
- Deduction U/s 80D allowed for contribution to CGHS scheme.

Effective Date: Assessment Year 2011-2012

Deduction for developing and building Housing Projects :



At present Deduction of 100% profits derived by an undertaking, from developing and building housing projects in respect of projects approved before 31.3.2008.

Benefits granted during the year:

- The completion of such approved projects is extended from 4 years to 5 years [Sec. 80IB(a)(iii) substituted]
- The limit of shop and other commercial establishment in such projects increased to 3% of the total built-up area or 5,000 sq.ft. whichever is higher. [Sec. 80IB(d) substituted]

Effective Date: Assessment Year 2010-11

Rationalization of provisions of TDS :



Threshold limit for payments attracting TDS increased as under:

Sec.	Nature of Payment	Amount in Rs.	
		Existing threshold	Proposed threshold
194B	Winnings for lottery or crossword puzzle	5,000	10,000
194BB	Winnings from horse race	2,500	5,000
194 C	Payment to contractors	20,000* 50,000**	30,000* 75,000**
194D	Insurance commission	5,000	20,000
194H	Commission or brokerage	2,500	50,000
194-I	Rent	1,20,000	1,80,000
194J	Fees for professional or technical services	20,000	30,000

* for a single transaction

** aggregate of transactions during financial year

Deduction for Building and Operating Hotels :



- Business of Building and Operating Hotels
- 100% deduction of capital expenditure
- .Capital Expense to exclude cost of Land, Goodwill and Financial Instruments
- Hotel to be of a Two star category or above
- Hotel can be anywhere in India
- The hotel starts functioning on or after 1st April, 2010.

Sec. 35AD(8)(c)(iv) substituted

Effective Date: Assessment Year 2011-12

Tax Audit Limits revised :



- Upward revision in the limits for getting a Tax Audit U/s 44AB.

Section	Existing Limit	Proposed Limit
Business [Sec. 44AB(a)]	40 Lacs	60 Lacs
Profession [Sec. 44AB(b)]	10 Lacs	15 Lacs
Business taxed on presumptive basis [Sec. 44AD]	40 Lacs	60 Lacs

- Maximum limit of Penalty for failure to get tax audit done increased.

Section	Existing Limit	Proposed Limit
Penalty [Sec. 271B amended]	1.0 Lacs	1.5 Lacs

Effective Date: Assessment Year 2011-12

Definition of Charitable Purpose amended :



- *Advancement of business of general public utility* to be charitable even if the total receipts from any activity in the nature of trade, commerce or business or any activity of rendering any service in relation to trade, commerce or business does not exceed Rs. 10 lacs during the year.

Second Proviso to Section 2(15) inserted

Effective Date: Assessment Year 2009-10

Income deemed to accrue or arise in India to a non-resident :



- Income of a non-resident
- Being Interest, Royalty, Fee for Technical Services
- Deemed to accrue or arise in India, if:
 - (i) the non-resident has residence or place of business or business connection in India; or
 - (ii) the non-resident has rendered services in India.

Explanation to Section 9(2) substituted

Effective Date: 1st June, 1976

Profit from running Hotels :



- Business of owning and operating hotels
- 100% deduction of profit for 5 years
- Hotel to be situated in NCR only
- The hotel starts functioning on or before 31st July, 2010.

Sec. 80ID amended

Broad Highlights of Amendments in Service Tax

I. Service tax shall be imposed on the following additional services:

- (1) Service of granting the right or permitting the commercial use or exploitation of any event organized by a person or organization. Event to include the event relating to act, entertainment, business, sports or marriage organized by the person granting the right.
- (2) Temporary transfer pertaining to the use or enjoyment of any Copyrights in the nature of (a) cinematographic films and (b) sound recording. However, copyright on original literary, dramatic, musical and artistic work would continue to remain outside the scope of service tax.
- (3) Service tax on services provided by any hospital, nursing home or a multi specialty clinic in the nature of:
 - (a) health check-up undertaken by hospitals or medical establishments for the employees of business entities; and
 - (b) health services provided under health insurance schemes offered by insurance companies.

(The tax on these health services would be payable only if the payment for such health check up or preventive care or treatment etc. is made directly by the business entity or the insurance company to the hospital or medical establishment)
- (4) Service provided by a person in relation to storing, keeping or maintenance of medical records of employees of a business entity.
- (5) Service provided by Electricity Exchanges in relation to trading, processing, clearing or settlement of spot contracts, term ahead contracts, seasonal contracts, derivatives or any other electricity relates contract. However, the service provider should be an electricity authority approved by the CERC.
- (6) Charges collected by a builder from the prospective buyers towards providing preferential location or for development of residential or commercial coimplex. However, service of providing vehicle-parking space would not be subjected to tax.
- (7) Service of promoting of a 'brand' of goods, services, events, business entity etc.
- (8) Service in relation to promotion, marketing or organizing of games of chance, including lottery.

The above changes will come into effect from a date to be notified, after the enactment of Finance Bill, 2010.

II. Scope of Certain Existing services is being expended or altered as follows:

- (1) **Air passenger transport service-** to include domestic journeys, and international journeys in any class.

- (2) **Information Technology Software Service-** all kinds of IT software now brought under the pervue of Service Tax, irrespective of its use.

- (3) **Commercial training or coaching service-** Service provided by Non Commercial/ Non-Profitable organizations to attract Service Tax. This change is being given retrospective effect from 01.07.2003

- (4) **Sponsorship Service-** Sponsorship of sports brought under the preview of the Act.

- (5) **Construction of complex-** which is intended for sale, wholly or partly by builder/promoter/developer to the prospective buyer before, during or after construction shall be deemed to be service. However, no tax will be charged if the sum received by the builder after the grant of the completion certificate.

- (6) **Renting Of Immovable Property Services** to include—
 - (i) Renting itself to be treated as a taxable service. The change has been given retrospective effect from 01.06.2007; and
 - (ii) levy service tax on rent of vacant land where there is an agreement or contract between the lessor and lessee for undertaking construction of buildings or structures on such land for furtherance of business or commerce during the tenure of the lease.

- (7) **Airport Service, Port services and Other port services-** Definition amended to provide:-

- (a) all services provided entirely within the airport/port premises would be classified under these services; and
 - (b) an authorization from the airport/port authority would not be a precondition for taxing these services.
- (8) An explanation is being added in **Auctioneer's service** to clarify that the phrase auction by government means an auction involving sale of government property and not when the government acts as an auctioneer for sale of the private property.
- (9) **Asset Management Service-** Service tax on ULIP Service to be levied only on the actual amount charges by the insurer for management of the fund under ULIP or the maximum amount of fund management charges fixed by IRDA, whichever is higher.

The above changes will come into effect from a date to be notified after the enactment of Finance Bill, 2010.