

# Budget 2010 Highlights

*This is a summary of the significant proposals on direct and indirect taxes announced in the Union Budget 2010. The direct tax proposals of the Finance Bill ("Bill") are effective from the financial year commencing on 01 April 2010 unless otherwise specifically stated. Most indirect tax proposals are effective 27 February 2010 unless otherwise stated. Further, these are **only proposals**, which need to be approved by the Parliament and the President before they take effect as Law.*

## DIRECT TAXES:

### Rates of Tax:

- The basic rates of corporate tax remain unchanged for both domestic and foreign companies. However, surcharge on corporate tax for domestic companies will be reduced from 10% to 7.5%. For foreign companies, the surcharge remains unaltered at 2.5%.
- Education cess of 3% (includes 1% "secondary & higher education cess") **across the board** (including on income tax and service tax) continues.
- The Minimum Alternate Tax basic rate will be increased from 15% to 18%.

Company / Tax	Tax rate (inclusive of applicable surcharge and cess)
<b><u>Domestic Company</u></b>	
<b><u>(i) Regular Income-tax</u></b>	
(a) Where total income is more than Rs.10 million	33.2175%
(b) Where the total	30.90%

income is equal to or less than Rs.10 million.	
<b><u>(ii) Minimum Alternate Tax</u></b>	
(a) Where total income is more than Rs.10 million	19.9305% of book profits
(b) Where the total income is equal to or less than Rs.10 million.	18.54% of book profits
<b><u>(iii) Dividend Distribution Tax</u></b>	16.60875%
<b><u>(iv) Fringe Benefit Tax not applicable on or after 01 April 2009</u></b>	Nil
<b><u>Foreign Company</u></b>	
<b><u>(i) Regular Income-tax</u></b>	
(a) Where total income is more than Rs.10 million	42.23%
(b) Where the total income is equal to or less than Rs.10 million.	41.20%
<b><u>(ii) Minimum Alternate Tax</u></b>	
(a) Where total income is more than Rs.10 million	19.0035% of book profits
(b) Where the total income is equal to or less than Rs.10 million.	18.54% of book profits
<b><u>(iii) Fringe Benefit</u></b>	Nil

<u>Tax not applicable on or after 01 April 2009</u>	
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- No change in rates of Securities Transaction Tax ("STT").
- Consequent to the reduction in surcharge, the effective rate of Dividend Distribution Tax will get reduced on dividend distributed by domestic companies and mutual funds.
- The threshold limit of basic exemption has not been raised. However, there is substantial scaling up of the slabs of income for determining rate of tax in case of individuals, HUF's, AOP's and BOI's. The new slabs are as under :

Taxable income (Rs.)	Tax rate (%)
Up to Rs. 1,60,000*	Nil
1,60,001* to 5,00,000	10
5,00,001 to 8,00,000	20
8,00,001 and above	30

\* Threshold exemption for resident women is Rs.190,000 and for any resident individual aged 65 years or more at any time during the financial year (i.e. senior citizens) is Rs.2,40,000.

Notes: (i) No surcharge on the total income-tax liability  
(ii) Education cess of 2% and an additional secondary & higher education cess of 1% is to be levied on the amount of income tax.

### Deduction for investment in infrastructure :

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- A new section 80CCF has been inserted to provide for deduction to an individual or a HUF upto Rs.20,000 for investment made in long-term infrastructure bonds to be notified by the Central Government. This deduction is in addition to the deduction of Rs.1,00,000 under section 80C.

### Contribution to Central Government Health Scheme :

- The deduction under section 80D available to an individual or a HUF in respect of premia for health insurance (mediclaim) for self, spouse, dependent children and parents has been extended to contribution made to the Central Government Health Scheme.

### Tax on interest, royalty and fees for technical services of non-residents :

- Currently, where income in the nature of interest, royalty and fees for technical services is deemed to accrue or arise in India, it is liable to tax in the hands of the non-resident, whether or not the non-resident has a residence or place of business or business connection in India. A clarificatory amendment is proposed to provide that, besides the above, the said income will also be taxable whether or not the non-resident has rendered services in India. The proposed amendment will take effect retrospectively from 01 June 1976.

### Income from other sources – Taxation of transactions without consideration or for an inadequate consideration by individuals and Hindu Undivided Families :

- Presently, immovable property received by an individual or HUF for an inadequate or nil consideration (in excess of INR 50,000) is taxable. Now, transfer of immovable property received by an individual for an inadequate consideration will not be taxable. The above amendment will take effect retrospectively from 1 October 2009.

- The definition of “property” has been restricted to include property which is in the nature of capital asset in the hands of the recipient individual. The above amendment will take effect retrospectively from 1 October 2009.

- In the case of an individual, the definition of property has been widened to include “bullion”. The above amendment will take effect from 1 June 2010.

- Transfer of shares (other than specifically exempted) to a firm or a company (in which public are not substantially interested) for an inadequate or nil consideration, will now be taxable if the difference between the fair market value and the consideration exceeds Rs. 50,000. The consideration or fair market value, as the case may be, would be considered as cost of acquisition for computing capital gains. The above amendment will take effect from 1 June 2010. This is done in order to prevent the practice of transferring unlisted shares at prices much below their fair market value.

- In case of transfer of a property (being a capital asset) or share, the assessing officer may refer to the valuation officer for determining

fair market value. The above amendment will take effect from 1 July 2010.

### Tax Audit :

- The turnover limits for the purpose of tax audit are proposed to be increased as under :

Particulars	Existing limits (Rs.)	Proposed limits (Rs.)
Person carrying on business	40 lakhs	60 lakhs
Person carrying on profession	10 lakhs	15 lakhs

### Presumptive Taxation :

- Presently, in the case of non-residents engaged in the business of providing services or facilities, or supplying plant and machinery on hire, used in prospecting, extraction or production of mineral oils, 10% of the specified amounts can be treated as income taxable in India on a presumptive basis. The specified amount includes amounts in connection with the provision of services and facilities. Further royalty and fees for technical services arising to non-residents having a permanent establishment in India, to which the right, property or contracts giving rise to such royalty or fees are effectively connected, are taxed as business income. Now, royalty and fees for technical services are excluded from presumptive taxation for non-residents engaged in providing services or facilities or supplying plant and machinery on hire, used

in prospecting, extraction or production of mineral oils.

- Currently, the limit of turnover for presumptive taxation of small business is Rs.4 mn. The threshold limit is proposed to be increased to Rs. 6mn.

### Document Identification Number (DIN) :

- Revenue authorities will be required to allot and quote a DIN in respect of every notice, order, letter or any correspondence issued to any person including any other Revenue authority, on or after 1 July 2011.
- Any notice, order, letter or any correspondence received on or after 1 July 2011 by the Revenue authorities or on their behalf, will be accepted and valid only after allotting and quoting a DIN.

### Limited Liability Partnerships :

- Conversion of private company or unlisted public company into an LLP will not be regarded as transfer where following conditions are satisfied:
  - ▶ All assets and liabilities of the company become assets and liabilities of the LLP;
  - ▶ Shareholders of the company become partners of the LLP in the same proportion as their shareholding in the company;
  - ▶ No consideration other than share in profit and capital contribution in the LLP arises to the partners;
  - ▶ Erstwhile shareholders of the company continue to be entitled to

receive at least 50% of profits of the LLP for a period of five years from the date of conversion;

- ▶ Total sales, turnover or gross receipts in the business of the company do not exceed INR 6 million in any of the three preceding years; and

- ▶ No amount is paid, either directly or indirectly, to any partner out of the accumulated profit of the company for a period of three years from the date of conversion.

- If the stipulated conditions are not complied with:

- ▶ The amount of profits or gains arising from transfer of capital assets by the private company or unlisted public company to the LLP on conversion will be deemed to be the profits and gains chargeable to tax of the LLP in the financial year in which the conditions are not complied with;

- ▶ The set-off of loss or allowance of depreciation which had been allowed will be deemed to be income of the LLP in the financial year in which the conditions are not complied with.

- The accumulated loss and unabsorbed depreciation of the private company or unlisted public company will be deemed to be loss or allowance for depreciation of the LLP for the financial year in which the business reorganization was effected.

- Actual cost of the block of assets in case of LLP will be the written down value of the block of assets as in the case of the company on the date of conversion.

- The cost of acquisition of capital assets for the LLP will be deemed to be the cost for which the company acquired it.

- MAT credit of the company will not be available to the LLP.

- Like in the case of amalgamation and demerger of companies, in case of succession of a private company or unlisted public company into LLP, the total depreciation allowable to the predecessor company and successor LLP will not exceed the total depreciation that would have been allowed if no succession had taken place.

- Presently, in case of transfer of an undertaking of a company or reorganization of business of a partnership firm or a proprietary concern, the deduction for expenditure incurred on the VRS is available to the amalgamated or the resultant or the successor company. Now, the above benefit will be extended to reorganization of business, where a private company or an unlisted company is succeeded by an LLP, as if the reorganization had not taken place.

- No deduction will be available to the company during the year in which the company is being succeeded by an LLP.

### Other Deductions :

- Weighted deduction of 125% allowable in respect of sums paid to a specified scientific research association, or to a university, college, or other institution, which is notified and approved, to be used for scientific research, has been increased to 175% of the sums paid.

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- Similarly, payments to a National Laboratory, university or Indian Institute of Technology in respect of approved programmes of scientific research will also be eligible for weighted deduction of 175% of the sums paid as against 125% available presently available.
- Weighted deduction of 150% allowable to companies engaged in the business of biotechnology or in any business of manufacturing articles or things, not being items mentioned in the Eleventh Schedule, in respect of scientific research expenditure (excluding cost of land or building) on an approved in-house research and development facility has now been increased to 200%.
- Weighted deduction of 125% in respect of contribution for research in social science or statistical research which was hitherto available only in respect of sums paid to approved university, college or institution, will now also be available in respect of sums paid to approved research associations carrying on research in social science or statistical research.
- Presently a deduction is available for donations made to approved scientific research associations. The deduction is now extended in respect of donations to approved research associations which have as their objects undertaking of research in social science or statistical research.
- Any income of an approved scientific research association is presently exempt from tax. The exemption is now also extended to associations engaged in research in

social science or statistical research as specified.

### Tax Deduction at source :

- Surcharge will continue to be applicable in determining tax to be deducted at source only from payments to foreign companies. Though domestic companies (having total income above Rs. 1 crore) are liable to surcharge, the same is not to be considered in computing tax to be deducted at source from payments to them. Cess will continue to be considered in computing tax to be deducted at source only in respect of payments to (i) foreign companies; (ii) non-residents; and (iii) salaried employees. In all other cases, cess will not be considered (though applicable in computing tax on total income) in determining tax to be deducted at source.
- The threshold limit of payments for withholding taxes has been raised as given in the chart below. This amendment will take effect from 01 July 2010 :

Taxable income (Rs.)	Existing threshold limit (Rs.)	Proposed threshold limit (Rs.)
Payment to contractors (sec. 194C)		
▶ For single transaction	20,000	30,000
▶ For aggregate transactions during a financial year	50,000	75,000

Winnings from lottery or crossword puzzle.	5,000	10,000
Winnings from horse races	2,500	5,000
Insurance Commission	5,000	20,000
Commission or Brokerage	2,500	5,000
Rent	120,000	1,80,000
Fees for Professional or Technical Services	20,000	30,000

- Presently, where tax has not been deducted or deposited, simple interest at the rate of 1% for every month or part of the month is levied on the amount of tax from the date on which such tax was deductible to the date on which such tax is actually paid. Now, simple interest on the amount of tax shall be levied as follows:
  - ▶ at the rate of 1% for every month or part of the month from the date on which such tax was deductible to the date on which such tax is actually deducted; and
  - ▶ at the rate of 1.5% for every month or part of the month from the date on which such tax was deducted to the date on which such tax is actually paid.
- This amendment will take effect from 1 July 2010.
- Presently, there is a requirement to issue tax withholding certificates for taxes withheld only up to 31 March 2010. Now, tax withholding certificates will have to be issued

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for taxes withheld even on or after 1 April 2010.

- Presently, amounts payable to residents, on which tax is deductible and deducted in March is allowed as a deduction in the financial year provided the taxes are deposited by the due date of filing the tax return. In all other cases, it is allowed as a deduction provided the taxes are deducted and deposited by the last day of the financial year. Now, such amounts will be allowed as a deduction provided taxes are deducted and deposited by the due date of filing the tax return irrespective of whether it is deducted in March or any other month of the year. Also, the amount on which taxes have been deducted in the subsequent year or deducted during the financial year but deposited after the due date of filing the tax return, will be allowed as a deduction in the year in which the taxes have been paid. This amendment will take effect retrospectively from 1 April 2009.

### Appeals :

- The High Court is now empowered to admit an appeal after the expiry of 120 days, if satisfied that there was sufficient cause for not filing the appeal within such period. A similar amendment has also been proposed in the Wealth-tax Act. The above amendment will take effect retrospectively from 1 October 1998.
- For ITAT orders passed before 1 October 1998, the taxpayer/ Revenue authorities can file an application before the High Court

within six months, requiring the ITAT to refer the case to the High Court. The High Court is now empowered to admit the above application beyond a period of six months, if satisfied that there was sufficient cause for not filing the statement of case within such period. A similar amendment has been proposed in the Wealth-tax Act. This provision will take effect retrospectively from 1 June 1981.

### Settlement Commission :

- Presently, the Settlement Commission provisions exclude assessment/ reassessment proceedings resulting from a search or from requisition of books, assets, etc. Now, the scope of Settlement Commission provisions is extended to such proceedings. The date of issue of notice initiating such proceedings will be considered as date of commencement of the assessment/ reassessment proceedings. Similar provisions will also be incorporated in the Wealth-tax Act.
- Presently, an application to the Settlement Commission can be made only in cases where the additional tax payable on income disclosed in the application exceeds Rs. 300,000. Now, the application can be made only if the said tax payable exceeds INR 1 million. Further, in cases of assessment/ reassessment proceedings resulting from a search or from requisition of books, assets, etc, application can be made if the additional tax payable exceeds Rs. 5 million.
- Presently, the Settlement Commission has to pass an order

within 12 months from the end of the month in which the application is filed. Now, for applications filed on or after 1 June 2010, the order should be passed within 18 months from the end of the month in which the application is filed. Similar provisions will also be incorporated in the Wealth-tax Act.

The above amendments pertaining to Settlement Commission will take effect from 1 June 2010.

### Penalty :

- Presently, any person, who fails to get accounts audited or to furnish a Tax Audit Report, is liable to pay penalty of 0.5 % of the total sales, turnover or gross receipts subject to a maximum penalty of Rs.1,00,000. Maximum penalty leviable is now enhanced to Rs.1,50,000.

### Customs Duty :

- No change in the peak rate of BCD.
- Relaxation granted in relation to Settlement Commission procedures.
- Retrospective withdrawal of exemption with effect from 26 June 2009 leading to levy of customs duty of 16% on supply of electrical energy from SEZ to DTA and to non processing areas of SEZ.

### Excise Duty :

- Partial rollback of fiscal stimulus. Peak excise duty rate of most non petroleum products increased from 8% to 10%.
- Relaxation with respect to Settlement Commission procedures.

- Provisions and procedures related to claiming refund of unutilized Cenvat credits used in relation to exported goods rationalized. Rationalisation to be effective from 14 March 2006.

## Central Sales Tax (CST) :

- No change in CST rate of 2%.

## Service Tax :

- No change in the effective service tax rate of 10.30%.
- Service tax extended to various services including permitting use of copyrights relating to cinematographic films and sound recording, promotion of brands, health services undertaken for employees of business entities and services provided by Electricity Exchanges.
- Renting of immovable property, any service in relation to renting and use of vacant land for future construction to attract service tax from 1 June 2007.
- Amounts received from buyer prior to grant of completion certificate deemed to be construction service rendered by builder to buyer.
- Ambit of taxable IT services extended to include IT services provided for non commercial purposes.
- Sponsorship of sports to attract service tax.
- Definition of "India" for service tax to cover construction and operation of installations, structures and vessels for the purpose of

prospecting, extracting or production of mineral oils and natural gas in the Continental Shelf and Exclusive Economic Zone of India.

- Condition of "service provided from India and used outside India" to qualify as export deleted. Performance based criteria for determining export of services by chartered accountant, cost accountant changed to "location of service recipient".
- Exemption from service tax to packaged or canned software intended for single use, where excise duty or customs duty has been paid on entire amount received from buyer.
- Procedures outlined and provisions amended to simplify refund of service tax for exporters.
- No penalty imposed where service tax along with interest has been paid before issuance of notice.

## Some Policy Announcements :

- The **Direct Tax Code** is attempted to be implemented from April 1, 2011 as discussions with all stakeholders have been concluded. Questions on its form and shape remain unanswered to the taxpayers.
- The Finance Minister, in his budget speech expressed his earnest desire to introduce **Goods and Services Tax (GST)** by April 2011. Questions on its form and shape remain unanswered to the taxpayers.
- Introduction of **Apex level and Financial Stability and**

**Development Council** with a view to strengthen and monitor macro prudential supervision of the economy including the functioning of large financial conglomerates and to address inter-regulatory co-ordination issues without prejudice to the autonomy of the present regulators.

- The Government will set up a **Technology Advisory Group for Unique IT Projects** such as Tax Information Network, Goods and Service Tax, National Treasury Management Agency, Expenditure Information Network etc. for effective tax administration and financial governance.
- The Government will set up the **National Mission for Delivery of Justice and Legal Reforms** to help in reducing the legal backlog in the courts from an average of 15 years at present to 3 years by 2012.
- RBI would be considering giving few more **banking licenses to private sector players and also Non-Bank Financial Companies (NBFCs)** if they fulfill the eligibility criteria.
- To extend the benefits of banking services to the common man, it has been decided to provide appropriate **banking facilities to habitations having population in excess of 2,000** by March 2012. It is also proposed to extend **insurance and other services to the targeted beneficiaries**. These services would be extended to targeted beneficiaries by business correspondent model and appropriate technology back up for financial inclusions.

- A sum of Rs. 16,500 crores has been allocated towards **capital infusion in Public Sector Banks** to attain a minimum Capital Adequacy ratio of 8% by 31 March, 2011. It is also proposed to lend further capital to Regional Rural Banks so that they have adequate capital base to support increased lending to the rural economy.
- Consolidation of all prior regulations and guidelines on **FDI** into one comprehensive document in order to enhance clarity and predictability of FDI policy to foreign investors.
- The Government has introduced the **Companies Bill, 2009** in the Parliament which will replace the existing Companies Act, 1956.
- Last year, amendments to the statute enabled Indian Government to enter into tax treaties with specified territories besides sovereign states. India has commenced **bi-lateral discussions to enhance the exchange of bank related and other information** to effectively track tax evasion and identify undisclosed assets of resident Indians lying abroad.
- The first set of **Unique Identification Numbers** will be issued in the coming year which would provide an effective platform for financial inclusion and targeted subsidy payments.
- A **symbol for the Indian Rupee** would be formalized which reflects and captures the Indian ethos and culture.
- To continue on the path of computerization in core areas of service delivery in the administration of direct taxes, **two more Centralised Processing Centres** will be set up for processing of tax returns.
- The single window system for registration of all applications including those for redressal of grievances as well as paper returns i.e. **“Sevottam”** which was a pilot project at Pune, Kochi and Chandigarh, will now be extended to four more cities.
- Project **ACES i.e. Automation of Central Excise & Service Tax** has already been rolled out by the Government throughout the country this year. This will impart greater transparency in tax administration and improve the delivery of taxpayer services. Similarly, a Mission Mode Project for **computerization of Commercial Taxes in States** has been approved recently.
- New **Saral-II Form** of 2 pages for individual salaried tax payers will be notified

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