R N Marwah & Company

CHARTERED ACCOUNTANTS

Established 1946

March 2012

INDIAN UNION BUDGET

HIGHLIGHT 2012-13

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THE PARADIGM OF UNION BUDGET 2012

The presentation of the Union Budget is much more than an annual exercise of presentation of Nations' accounts before its people. Preceded by the Economic Survey, it is the most authoritative statement of Governments' intent for its priorities in the coming year, and a vision document on how it intends to take on the challenges before the country. It is a thermometer of the health of the economy, and through the allocation of resources amoung the diverse sectors, lays out the path that the economy will take on its journey of development.

The Twelfth Five Year Plan 2012-17 has identified an aim of "faster, sustainable and more inclusive growth". For its first year, the Finance Minister identified five objectives:

a)focus on domestic demand driven growth recovery;
b)create conditions for rapid revival of high growth in private investment;
c)address supply bottlenecks in agriculture, energy and transport sectors …
d)intervene decisively to address the problem of malnutrition …, and
e)expedite coordinated implementation of decisions being taken to improve delivery systems, governance, and transparency, and address the problem of black money and corruption in public life. *(Source: Budget Speech,2012).*

No one can question the validity of the above five objectives. The issue is, do the measures outlined in the Budget proposals address these issues sufficiently?

One of the primary impediments to recovery of domestic demand is inflation. The most significant factor in this regard, in the current scenario, is international oil prices, that are expected to maintain an average rate of US$ 120 in the year, as against US$ 90 last year. Government has little control over these. However, it has tremendous control over the domestic prices of petroleum products, which suffer from very high rates of indirect taxes, but effect the core of the economy. If these taxes are reduced, the resultant fall in prices will have a cascading effect on inflationary forces, leading to considerably higher purchasing power in the hands of consumers at all levels, that will give a tremendous boost to production, leading to higher turnover, higher incomes and higher taxes, not to talk of higher employment and an overall feel good feel. The call of the hour was decontrol of all petroleum product prices and reduction of taxes. On the contrary, the budget proposals propose an extensive increase in indirect taxes, that will sadly take the proposed path away from the laudable objectives a) & b) above, laid out by FM.

Bottlenecks in agriculture, energy and transport sectors relate to policy as well as management. Thus, agriculture and malnutrition in the country witness the contradictory phenomenon of record agricultural production, overflowing silos of Food Corporation etc, and yet their non-delivery to the poor, that leads to malnutrition and starvation. The solutions stare us in the face. We need to decongest the accumulated grain and develop markets where these can be directly delivered to the poor. FM has outlined the pilot projects based on Aadhar scheme, but the implementation of the scheme is slow. Indeed, for its full implementation, it would take a minimum of 8-10 years, a time interval that the poor can not afford.

Last, but not the least, in objective e) outlined above, ie improve delivery systems, governance, and transparency, and address the problem of black money and corruption in public life, there are no proposals at all. Indeed, to end corruption, one needs to reduce the discretion in the hands of official, but the tax proposals see an increase in the same. Apart from increasing the time available with officials to reopen the assessments of taxpayers who are found to have assets overseas, from six years to sixteen years, there is no discussion on any incentive or disincentive for a person who has defrauded the state by indulging in corrupt practices and accumulating his unaccounted assets abroad. Similarly, apart from announcing the establishment of Directorate for Criminal Investigation & Fraud, the proposals about combating tax evasion are establishment of Special Courts to try offences under Income Tax Act and stipulating the following rates of penalty on undisclosed income unearthed during a search:

i)10% if disclosed during the search;
ii)20% if disclosed in subsequent proceedings; and
iii)30% but extending to 90% if established subsequestly.

These are some of the reasons why the economists and financial analysts would award only 4/10 to the Union Budget of 2012.

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HIGHLIGHTS OF THE UNION BUDGET

Few of the important amendments, proposed to be effected by the Finance Bill, 2012 introduced on the floor of the Parliament on March 16, 2012 effective from Assessment Year 2013-2014 or Financial Year 2012-13 are as under:

DIRECT TAXES

Personal Taxation

INCOME TAX SLAB RATES AMENDED

■ For every individual {other than resident senior citizens} & HUF/ AOP/ BOI/ AJP (both resident & non-resident) basic exemption limit is proposed to be increased to Rs. 2,00,000 from existing limit of Rs. 1,80,000. Further, the slab falling under 20% tax rate is increased to Rs. 10,00,000 from existing limit of Rs. 8,00,000

Tax Rate	Existing	Proposed
NIL	0-1,80,000	0-2,00,000
	For senior and very senior citizens Rs. 2,50,000 and Rs. 5,00,000 respectively. (No change)	
10%	1,80,001 – 5,00,000	2,00,001 – 5,00,000
20%	5,00,001 – 8,00,000	5,00,001 – 10,00,000
30%	Above 8,00,000	Above 10,00,000

REDUCTION OF THE ELIGIBLE AGE FOR SENIOR CITIZENS

■ For the purpose of sections 80D, 80DB and 197A, the age of senior citizen is proposed to be reduced from 65 to 60 years.

SEC. 80D - PREVENTIVE HEALTH CHECK-UP

■ Also proposed to be eligible for deduction under section 80D subject to a limit of Rs. 5,000 as part of overall limit of Rs. 15,000.

NEW SEC. 80TTA – INTEREST ON SAVING ACCOUNTS EXEMPT UPTO RS. 10,000

■ Under the proposed new section 80TTA of the Income-tax Act, a deduction up to Rs. 10,000/- shall be allowed to an individual or a HUF, in respect of any income by way of interest on deposits (not being time deposits) in a savings account with –

(i)A banking company to which the Banking regulation Act,1949

(ii)A co-operative society engaged in carrying on the business of banking (including a co-operative land mortgage bank or a co-operative land development bank)

(iii)A post office

ALTERNATE MINIMUM TAX (AMT) @ 18.5% ON ALL PERSONS BY AMENDING CHAPTER XII-BA

■ For In order to widen tax base Alternate Minimum Tax @ 18.5% is proposed on all persons which earlier was limited to companies and LLPs.

■ However, AMT is applicable on an individual, HUF, APO, BOI or artificial juridical person only if there adjusted total income exceeds Rs. 20,00,000.

■ Tax credit (AMT - Normal tax) for excess of AMT paid over and above tax as per normal provisions of the Act will be allowed for ten Assessment Years. However, it is allowed only in that year when tax payer pays tax under normal provisions of the Act in any of succeeding 10 Assessment years.

■ Adjusted total income is income before application of chapter XII-BA but after adding back deductions under chapter-VIA or under section 10AA.

EXEMPTION U/S 80CCF NOT EXTENDED

■ Deduction u/s 80CCF on Infrastructure bonds not extended to assessment year 2013-14.

EXEMPTION FOR SENIOR CITIZEN FROM PAYMENT OF ADVANCE TAX

■ It is proposed that a resident Senior Citizen, not having any income chargeable under the Head "Profits and Gains of Business or Profession" shall not be liable to pay advance tax and such a Senior Citizen shall be allowed to discharge his tax liability by payment of self assessment tax.

EXEMPTION OF ANY SUM OR PROPERTY RECEIVED BY AN HUF FROM ITS MEMBERS (W.R.E.F. 01-10-2009)

■ It is proposed to provide that any sum or property received without consideration or inadequate consideration by an HUF from its members would also be excluded from taxation.

RELIEF FROM LONG TERM CAPITAL GAINS ON TRANSFER OF RESIDENTIAL PROPERTY IF INVESTED IN MANUFACTURING SMALL OR MEDIUM ENTERPRISES

■ It is proposed to insert a new section 54GB to provide rollover relief from long term capital gain to an individual or an HUF on sale of a residential property in case of re-investment of sale consideration in the equity of a new start-up SME company in the manufacturing sector which is utilized by the company subject to fulfillment of certain conditions.

RAJIV GANDHI EQUITY SAVINGS SCHEME

■ To encourage flow of savings in financial instruments and improve the depth of domestic capital market, it is proposed to introduce a new scheme called Rajiv Gandhi Equity Savings Scheme.

■ Deduction of 50% to new retail investors, who invest up to Rs. 50,000 directly in equities and whose annual income is below Rs. 10 lakh. The scheme will have a lock-in period of 3 years. The details will be announced in due course.

TDS (TAX DEDUCTION AT SOURCE) / TCS (TAX COLLECTION AT SOURCE

■ TDS @ 1% on transfer of certain Immovable properties (other than agricultural land) w.e.f. 01-10-2012

It is proposed that every transferee shall at the time of making payment deduct TDS @ 1% of such sum if the consideration for the transfer exceeds

(a)Rs. 50,00,000/- in case such property is situated in a specified urban agglomeration; or

(b)Rs. 20,00,000/- in case such property is situated in any other area.

•Further, no registration of any said property will be allowed under Indian Registration Act, 1908 unless proof of deduction and payment of such TDS is furnished.

•A simple one page challan would be prescribed for payment of such TDS.

•No TAN number will be required to be obtained for deducting such TDS.

TCS ON CASH SALE OF BULLION AND JEWELLERY (W.E.F. 01-07-2012)

■ It is proposed to provide that purchaser of jewellery and bullions in cash in excess of Rs. 2,00,000, will pay have to TCS @ 1%.

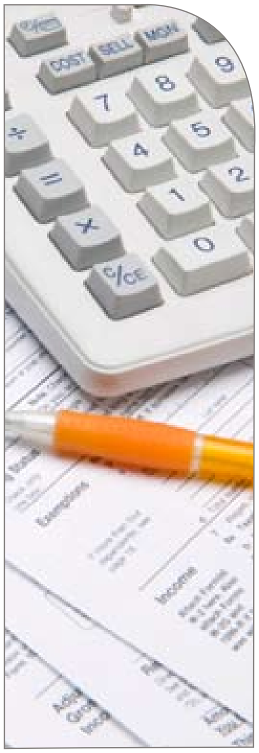
FEE AND PENALTY FOR DELAY IN FURNISHING OF TDS/TCS STATEMENT AND PENALTY FOR INCORRECT INFORMATION IN TDS/TCS STATEMENT

■ In order to provide effective deterrence against delay in furnishing of TDS statement, it is proposed-

•To provide for levy of fee of Rs. 200 per day for late furnishing of TDS statement from the due date of furnishing of TDS statement to the actual date of furnishing of TDS statement. However, the total amount of fee shall not exceed the total amount of tax deductible during the period for which the TDS statement is delayed, and

• To provide that in addition to said fee, a penalty ranging from Rs. 10,000 to Rs 1,00,000 shall also be levied for not furnishing TDS statement within the prescribed time.

■ In view of the levy of fee for late furnishing of TDS statement, it is also proposed to provide that no penalty shall be levied foe delay in furnishing of TDS statement if the TDS statement is furnished within one year of the prescribed due date after payment of tax deduction along with applicable interest



■ In order to discourage the deductors to furnish incorrect information in TDS statement, it is proposed to provide that a penalty ranging from Rs. 10,000 to Rs 1,00,000 shall be levied for furnishing incorrect information in the TDS statement.

INTIMATION GENERATED AFTER PROCESSING OF TDS STATEMENT BY THE DEPARTMENT

■ It is proposed the intimation after processing of TDS statement under section 200A specifying the amount payable shall be subject to rectification under section 154 / appealable under 246A of the Act.

EXTENSION OF TIME FOR PASSING AN ORDER UNDER SECTION 201 IN CERTAIN CASES

■ It is proposed to amend the provision of section 201 to extend the existing time limit from 4 years to 6 years.

INCREASE IN THRESHOLD LIMIT FOR TDS UNDER SECTION 194LA AND 193(W.E.F 01-07-2012)

■ It is proposed to increase the Threshold limit of deduction of tax at source at the rate of 10% from existing limit from 1 lakh rupees to 2 lakhs rupees under section 194LA .Similarly, under section 193 interest paid to resident individual on listed debentures of a company from existing limit of Rs 2,500 to Rs 5,000.

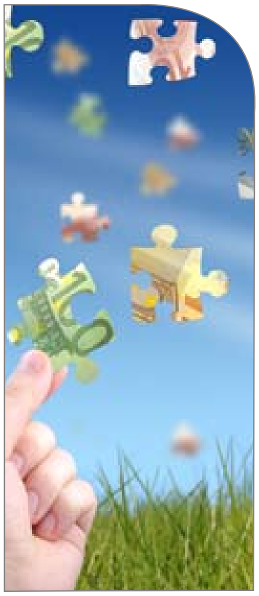
TDS @ 10% ON REMUNERATION TO A DIRECTOR (W.E.F. 01-07-2012)

■ 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, @ 10% of such remuneration.

TCS ON SALE OF CERTAIN MINERALS (W.E.F. 01-07-2012)

■ It is proposed to provide that TCS @ 1% shall be collected by the seller from the buyer of the following minerals:

(a) Coal;



(b) Lignite; and

(c) Iron ore except when

(i)the same are purchased by the buyer for personal consumption.

(ii)the buyer declares that these minerals are to be utilized for the purposes of manufacturing, processing or producing articles or things.

DEEMED DATE OF PAYMENT OF TAX BY THE RESIDENT PAYEE (W.E.F. 01-07-12)

■ It is proposed to provide that where the payer fails to deduct TDS from payments made to residents, the tax payer shall not be considered to be assessee in default if –

(i) has furnished his return of income under section 139;

(ii) has taken into account such sum for computing income in such return of income; and

(iii) has paid the tax due on the income declared by him in such return of income, and

(iv) the payer furnishes a certificate to this effect from an accountant in such form as may be prescribed.

•However, the payer shall still be liable to pay interest u/s 201(1A) from the date on which tax was deductible till the date of furnishing of retrun of income by the payee.

•Similar provisions have also been introduced in relation to TCS.

•Further, it is proposed to amend section 40(a)(ia) to provide that where an assessee makes payment of the nature specified in the said section to a resident payee without deduction of tax and is not deemed to be an assessee in default under section 201(1) on account of payment of taxes by the payee, then, for the purpose of allowing deduction of such sum, it shall be deemed that the assessee has deducted and paid the tax on such sum on the date of furnishing of return of income by the resident payee.

Corporate Taxation

NO CHANGE IN TAX RATES FOR CORPORATE ASSESSEES

INTERNATIONAL TAXATION

- Retrospective amendment is proposed to be introduced as regards taxability of cross border transactions involving indirect transfer of interest in an Indian company.

(a) Share or controlling interest in a foreign company is considered capital asset situated in India if such foreign company derives its value from Indian assets; and

(b) Indirect transfer of Indian assets resulting from transfer of shares in the foreign company is subject to capital gains in India; and

(c) Share transfer between two non-residents attracts tax withholdings if it results in taxable income in India.

- Retrospective amendment to clarify that income derived from use of or right to use computer software is royalty.
- Non-resident, non citizen entertainers and sportsmen as well as non-resident sports associations treated at par and taxed at 20 per cent on gross receipts from India.
- Tax residency certificate necessary to establish residence in order to claim benefits under a tax treaty.
- Time limit for completion of assessment or re-assessment where information is sought under DTAA is extended from 6 months to 1 year.

TRANSFER PRICING

In transfer pricing it is proposed to provide the following:

- Reporting of cross-border transactions mandatory, even if not affecting profitability or assets of the taxpayers.
- Non- reporting of international transactions can result in re-assessment at a later
- Domestic transactions between related parties exceeding Rs 50 million treated at par with cross-border transactions and would require taxpayers to substantiate arm's length price.
- 3 per cent radian for price variation prescribed.
- Incomplete or Incorrect reporting to attract penalty at 2 per cent of the international transaction.
- Tax officer, having finalized an assessment under directions from the Dispute Resolution Panel (DRP), can challenge these directions before a tribunal.
- DRP can examine any transaction arising from an assessment under review, even if not specifically raised by the tax payer.

ADVANCE PRICING AGREEMENT ('APA')

It is proposed to provide the following:

- APA mechanism introduced to provide tax certainty on international transactions viz

(i)CBDT can negotiate APAs and agree to an arm's length price

(ii)APA validity upto 5 years

(iii)Taxpayer to submit modified tax return within 3 months of concluding the APA

(iv)Equally binding on taxpayer and tax authority for covered transactions.

GENERAL ANTI- AVOIDANCE RULE ('GAAR')

- It is proposed to introduce GAAR provisions to counter aggressive tax avoidance arrangements.
- Commissioner can invoke GAAR in respect of a seemingly 'impermissible avoidance arrangement' i.e. which

(a.)Creates rights and obligations which do not reflect arm's length prices, or

(b.)Results in misuse or abuse of tax provision, or

(c.)Lacks commercial substance, or

(d.)Has no bonafide purpose.

- Upon confirmation by an Approving Panel, the tax officer may disregard the arrangement or any part or party to the arrangement and re- characterize the transaction in any manner.

REMOVAL OF THE CASCADING AFFECT OF DIVIDEND DISTRIBUTION TAX ('DDT') (W.E.F 01-07-2012)

- It is proposed that holding company will have to pay 'net' dividend distribution tax i.e. on dividend declared less dividend received from any step down subsidiary.

CASH CREDIT UNDER SECTION 68

- It is proposed to place additional onus on closely held companies to approve the source of money on such shareholders or persons making payment towards issue of shares before such sum is accepted as genuine credit. If the company fails to discharge the additional onus, the sum shall be treated as income of the company and added to its income.
- Taxation of cash credits, unexplained money, investments etc. It is proposed to tax the unexplained credits, money, investment, expenditure, etc., which has been deemed as income under section 68, section 69, section 69A, section 69B, section 69C or section 69D, at the rate of 30% (plus surcharge and cess as applicable). However, no deduction shall be allowed in computing deemed income under the said sections.

SHARE PREMIUM IN FAIR MARKET VALUE UNDER SECTION 56(2)

- It is proposed to provide that where a company(other than a company in which public is substantially interested) recieves consideration for issue of shares, then that part of the consideration which exceeds the fair market value shall be chargeable to income tax under the head "Income From Other Sources" except consideration received for issue of share by Venture Capital Undertaking from Venture Capital Company or Venture Capital Fund.

EXTENSION OF LOWER RATE OF TAX ON DIVIDEND RECEIVED FROM FOREIGN COMPANIES

- The provision of lower rate of tax on dividend received from foreign company u/s 115BBD is proposed to be extended by 1 more year and shall apply for the assessment year 2013-14 also.

PROVISION RELATING TO VENTURE CAPITAL FUND AND VENTURE CAPITAL COMPANY

- In order to rationalize and to align it with true intent of a pass-through status it is proposed to amend section 10(23FB) and section 115U to provide that-

1.The venture capital undertaking shall have same meaning as provided in relevant SEBI regulations and there would be no sectoral restriction.

2.Income accruing to VCF/VCC shall be taxable in the hands of investor on accrual basis with no deferral.

3.The exemption from applicability of TDS provisions on income credit or paid by VCF/VCC to investors shall be withdrawn.

EXEMPTION IN RESPECT OF ANY INCOME OF A FOREIGN COMPANY ON ACCOUNT OF SALE OF CRUDE OIL(W.R.E.F. 01-04-2012 i.e. AY 2012-2013)

- It is proposed to insert new clause (48) in section 10 of the Income Tax Act to provide exemption in respect of any income of a foreign company received in India in Indian currency on account of sale of crude oil to India subject to certain conditions.

EXTENDING BENEFIT OF INITIAL DEPRECIATION TO THE POWER SECTOR

- It is proposed u/s32(1)(iia) to allow initial depreciation at the rate of 20% of the actual cost of machinery or plants engaged in the business of generation or generation and distribution of power.

REBATES AND DEDUCTIONS

- ENHANCED

a)Weighted deduction proposed to be enhanced from 1.75 to 2 times of contributions made to approved entities engaged in scientific research.

b)It is proposed to provide weighted deduction at 1.5 times of capital expenditure to cold chain facilities, warehousing facilities for storage of agricultural produce, hospitals with 100 or more beds, notified affordable housing schemes and fertilizer production commencing operations from April 1, 2012.

- EXTENDED

a)U/S 35(2AB) It is proposed to extend the limit by five years to claim weighted deduction at 2 times of expenditure incurred on approved in – house R&D facility.

b)Investment- linked benefit u/s 35 AD is proposed tobe made available to businesses engaged in notified inland container depot or freight stations, bee- keeping and production of honey beeswax and sugar warehousing facilities commencing operations from April1, 2012.

Tax Administration

EXTENSION OF COMPULSORY FILLING OF INCOME TAX RETURN IN RELATION TO ASSETS LOCATED OUTSIDE INDIA (W.R.E.F. 01-04-2012 i.e. AY 2012-2013)

■ It is proposed to amend section 139 for furnishing return of income by making it mandatory for every resident having any asset located outside India or person having signing authority in any account located outside India. Such furnishing of return would be mandatory irrespective of the fact whether the resident tax payer has taxable income or not.

■ Due date for furnishing the tax audit report in case of international transaction is proposed to be extended to 30th November(w.r.e.f.01-04-2012 i.e. AY 2012-2013)

■ Time limit for completion of key assessments is proposed to be extended by 3 months as mentioned below:-

Proceedings u/s	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	21 months 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 order received	12 months
250 or 254 or 263, and 92CA	21 months from the end of the F.Y. in which order received	24 months

■ It is proposed to increase the existing time limit for reopening an assessment from 6 year to 16 years where the income in relation to any asset located outside India has escaped assesment. It is proposed that such a reopening shall also be applicable for any assessment year beginning or before 1st day of April, 2012. Corresponding amendments are also proposed in section 17 of the Wealth-tax Act.

TAX AUDIT LIMIT INCREASED

■ In order to reduce the compliance burden for audit of accounts and Presumptive taxation under section 44AB for getting accounts audited it is proposed to increase the limit;-

(a)In the case of persons carrying on business from 60 lakhs to 1 crore,

(b)In the case of persons carrying on profession from 15 to 25 lakhs.

Similarly, for the purpose of presumptive taxation under section 44AD, the limit of turnover or gross receipts is proposed to be increased from 60 Lakh to 1crore.

PENALTY

■ Undisclosed income found during search proceedings will attract penalty ranging between 10 to 90 per cent depending upon the circumstances of the case.

EXPEDITING PROSECUTION PROCEEDINGS UNDER THE ACT(W.E.F. 01-07-2012)

■ Proposed to insert new sections 280A, 280B, 280C and 280D) under the Income-tax Act for –

(i) Providing for constitution of Special Courts for trial of offences.

(ii) Application of summons trial for offences under the Act to expedite prosecution proceedings as the procedures in a summons trial are simpler and less time consuming.

(iii) Providing for appointment of public prosecutors.

Further, the threshold of Rs. 1 lakh in sections 276C, 276CC, 277, 277A & 278 proposed to be increased to Rs. 25 lakhs.

Wealth Tax

EXEMPTION OF RESIDENTIAL HOUSE ALLOTTED TO EMPLOYEE ETC. OF A COMPANY (FROM AY 2013-14)

■ Considering general increase in salary and inflation since revision of this limit, it is proposed to increase the existing threshold of gross salary from Rs. 5 lakhs to Rs. 10 lakhs for the purpose of levying wealth-tax on residential house allotted by a company to an employee or an officer or a whole time director.

INDIRECT TAXES

Service Tax

- The rate of service tax is being increased from Ten per cent to Twelve per cent.
- Consequent to change in the rate of service tax, changes are also being made in specific and compounding rates of tax for the following:

a) Service in relation to purchase and sale of foreign currency including money changing;
b) Service of promotion, marketing, organizing or in any manner assisting in organizing lottery;
c)Works contract service;
d) Reversal of cenvat credit under rule 6(3)(i).

- Life Insurance service: Where the entire premium is not towards risk cover, the first year's premium shall be taxed at the rate of three per cent while subsequent premia shall attract tax at the rate of 1.5 per cent. Availment of full cenvat credit is being allowed.

- Transport of passengers embarking in India for domestic and international journey by air : The dual rate structure of maximum service tax of Rupees 150 and Rupees 750 in case of economy class travel is being replaced by an ad valorem rate of twelve per cent with abatement of sixty per cent subject to the condition that no credit on inputs and capital goods is taken;

[The above changes will be applicable from 01.04.2012]

INTRODUCTION OF NEGATIVE LIST APPROACH

- Negative List approach to taxation of services is being introduced vide new sections, namely, 65B, 66B, 66C, 66D, 66E and 66F proposed in Chapter V of the Finance Act, 1994 (please refer clause 143 of the Finance Bill, 2012). The services specified in the 'Negative List' (section 66D) shall remain outside the tax net. All other services, except those specifically exempted by the exercise of powers under section 93(1) of the Finance Act, 1994, would thus be chargeable to service tax. Negative list approach to taxation of services shall come into effect from a date to be notified, after the Finance Bill, 2012 receives the assent of the President. For operationalizing the Negative List approach, a number of changes have been proposed in Chapter V of the Finance Act, 1994.

To support the negative list approach to taxation of services, draft Place of Provision of Services Rules, 2012 is being proposed. The draft Place of Provision of Services Rules contains principles on the basis of which taxing jurisdiction of a service can be determined. The Place of Provision of Services Rules, 2012 will be notified after (section 66C) the Finance Bill, 2012 receives the assent of the President. When the Place of Provision of Services Rules comes into effect, existing 'Export of Services Rules, 2005' and 'Taxation of Services (Provided from outside India and received in India) Rules, 2006' will be rescinded.

NEW EXEMPTION AND ABATEMENT

■ Chapter V of the Finance Act, 1994 is being amended:

•A new section 67A is being inserted to prescribe that the value of taxable service (particularly in the case of import and export of taxable services) and the rate of tax shall be determined in terms of Point of Taxation Rules, 2011.

•A new section 72A is being inserted to introduce provisions relating to special audit in the service tax law on the lines of section 14A and section 14AA of the Central Excise Act, 1944. Under this newly introduced section, special audit can be ordered under specified circumstances. Consequently, section 14AA is being omitted from section 83.

•The one-year time limit for issuance of notice for specified category of offences prescribed under section 73(1) of the Finance Act, 1994, is being increased to eighteen months. A new sub-section (1A) is being inserted in section 73 of the Finance Act, 1994 to prescribe that follow-on notices issued on the same grounds need not repeat the grounds but only state the amount of service tax chargeable for the subsequent period. Statement of tax due for the subsequent period, served on the assessee with reference to the earlier demand notice, will be deemed as a notice under section 73(1) of the Finance Act, 1994.

•Section 83 is being amended to make Settlement Commission provisions applicable to service tax in line with the similar provisions contained in sections 31, 32, 32A to 32P of the Central Excise Act, 1944.

•Section 83 is being amended to make the revision mechanism prescribed in section 35EE of the Central Excise Act, 1944, applicable to service tax, to the extent possible.

•Section 85 and section 86 are being amended on the lines of section 35 and 35E of the Central Excise Act so as to harmonize the limitation for filing assessee appeal before Commissioner (Appeals) and revenue appeal before the Tribunal.

•Section 94(2) is being amended to obtain powers (a) to provide for the manner of compounding and to specify the amount of compounding of offences along the lines of Central Excise (Compounding of Offences) Rules, 2005; (b) to provide for rules for settlement of cases, along the lines of central excise.

[The above changes will come into effect from the date of enactment of the Finance Bill, 2012]

NEW REVERSE CHARGE MECHANISM

■ Section 68(2) of the Finance Act, 1994 is being amended to put the onus of payment of service tax on reverse charge basis 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. A notification will be issued after the Finance Bill, 2012 receives the assent of the President, in which the manner and extent of service tax payable by service provider and service receiver in the case of the three services will be specified.

■ Consequent to the above change, suitable amendment is also being made in the concept of 'person liable to pay' provided in Rule 2(1)(d) of Service Tax Rules, 1994.

RENTING OF IMMOVABLE PROPERTY SERVICE:

- Constitutional validity of the levy of service tax on renting of immovable property has been the subject matter of litigation leading to pronouncement of court judgments favorable to revenue, including those of Honourable Delhi High Court and Honourable
- Supreme Court. Taking an overall view, the Government has decided to waive the penalty for those taxpayers who pay the service tax due on the renting of immovable property service (as on 06.03.2012), in full along with interest. For this purpose, a new section 80A is being inserted in the Finance Act, 1994. This scheme of penalty waiver will be open only for a period of six months from the date of enactment of the Finance Bill, 2012.

RETROSPECTIVE EXEMPTIONS

- Vide Notification No.24/2009-ST dated 27.07.2009 service tax on repair of roads is already exempted. Vide section 97 of the Finance Act, 1994, the exemption granted to repair of roads is being extended for the earlier period from 16.06.2005 to 26.07.2009.
- Management, maintenance or repair service undertaken in relation to non-commercial Government buildings is being exempted from service tax vide section 98, with effect from 16.06.2005 till the new charging section, namely section 66B, comes into force.
- In the last budget, sub-rule 6A was inserted under rule 6 of the Cenvat Credit Rules, 2004 to protect the service providers located in the Domestic Tariff Area from the reversal of Cenvat credit, when they supply taxable services under exemption, to the authorized operations of SEZ. The application of sub-rule 6A is being given retrospective effect from 10.02.2006[clause 144 of the Finance Bill, 2012].
- Service provided by an association of dyeing units in relation to common effluent treatment plants was exempted from service tax vide Notification No.42/2011-ST dated 25.07.2011. The scope of the exemption is being expanded and the amended notification is being given retrospective effect from 16.06.2005[clause 145 of the Finance Bill, 2012].

[The above retrospective exemptions will come into effect on the date of enactment of the Finance Bill, 2012]

AMENDMENTS IN RULES:

- Cenvat Credit Rules, 2004 is being amended:

(a)Existing rule 5 to be replaced with a new rule to simplify the procedure for refund of unutilized credit on the ac-

count of exports;

(b)Credit is being allowed on motor vehicles (except those of heading nos. 8702, 8703, 8704, 8711 and their chassis). The credit of tax paid on the supply of such vehicles on rent, insurance and repair shall also be allowed;

(c)Credit of insurance and service station service is being allowed to—

- insurance companies in respect of motor vehicles insured and re-insured by them; and
- manufacturers in respect of motor vehicles manufactured by them.

(d)At present, credit on goods can be taken only after they are brought to the premises of the service provider. Rule 4(1) and 4(2) are being amended to allow a service provider to take credit of inputs or capital goods whenever the goods are delivered to him, subject to specified conditions.

(e)Rule 7 for input service distributors is being amended to provide that 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 prorata on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.

(f) 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.

SERVICE TAX RULES, 1994 IS BEING AMENDED AS FOLLOWS:

- The time period provided in rule 4A for issuance of invoice is being increased to thirty days. For banks and financial institutions providing banking and other financial services, the period shall be forty five days;
- Rule 6(4A) is being amended to allow unlimited amount of permissible adjustments.
- At present, in the case of export and, individuals and firms rendering eight specified services, the point of taxation is the date of payment subject to certain conditions. This special dispensation is being shifted from the Point of Taxation Rules to the Service Tax Rules.
- In case of exporters, the period extended by the Reserve Bank of India on specific requests is also being included in the period for which the tax liability is allowed to be deferred.
- The option of deferred payment is being allowed for all service providers rather than for specific services. The facility will be available only to individuals and partnership firms (including limited liability partnership) upto a turnover of taxable services of Rupees Fifty lakhs subject to the condition that their turnover of taxable services in previous year was below Rupees Fifty lakhs. For computing the above limits, the turnover of the whole entity is required to be summed up and not any single registration.

POINT OF TAXATION RULES, 2011 IS BEING AMENDED TO—

- Change the definition of continuous supply of service to capture the entire dimension of the concept, namely, the recurrent nature of services and the obligation for payment periodically or from time-to-time;
- Omit rule 6 in respect of continuous supply of service and merge it with rule 3. Rules 4 and 5, which deal with situations covering change in effective rate of tax and taxation of new services, shall now be applicable to continuous supply of services also;
- Define the date of payment;
- To give an option to determine the point of taxation in respect of advances upto Rupees one thousand received in excess of the amount indicated in the invoice, on the basis of invoice or completion of service rather than payment; and
- Incorporate a new residual rule to ascertain point of taxation in cases where the same cannot be ascertained by the rules prescribed.

CUSTOMS

Exemption

■ The portion of cesses(Education Cess and Secondary & Higher Education Cess on imported goods) leviable on the CVD portion of customs duty is being exempted so as to avoid computation of such cesses twice.

■ Duty free-allowance under the Baggage Rules increased from Rs. 25000/- to 35000/- for adult passengers of Indian origin and from Rs. 10,000 to Rs. 15,000/- for children upto 10 years of age.

■ Nickel oxide/hydroxide ore/concentrate are being fully exempted from basic customs duty.

■ Exemption from SAD currently available to CRGO steel is being restricted to prime quality of such steel.

■ Exemption from basic customs duty to initial setting up and substantial expansion of fertilizer projects.

■ Steam coal is being exumpted from basic customs duty.

■ Natural gas/Liquified Natural Gas imported for power generation by a power generation company is being fully exempted from basic customs duty.

■ Exemption from basic customs duty, CVD and SAD to equipment imported for road construction projects awarded by Metropolitan Development Authorities.

■ Exemption from basic customs duty and CVD at present available to tunnel boring machines for hydel and road projects extended to all infrastructure projects.

■ Exemption from basic customs duty and CVD to tunnel excavation and specified lining equipment.

■ Full exemption from basic customs duty to coal mining projects.

■ Exemption from basic customs duty and CVD to new and retreaded aircraft tyres.

■ Exemption from basic customs duty and CVD to parts of aircraft and testing equipment for maintenance and repair of aircraft imported by third-party Maintenance, Repair and Overhaul (MRO) units.

■ Exemption from SAD to equipment for setting up of solar thermal projects .

■ Exemption from basic customs duty to tri band phosphor for use in the manufacture of Compact Fluorescent Lamps.

■ Exemption from basic customs to aramid yarn and fabric when used in the manufacture of bullet proof helmets for supply to defence and police.

■ Exemption from basic customs duty to LCD and LED TV panels of 20 inches and above.

■ Exemption from SAD to LEDs required for the manufacture of LED lamps.

■ Exemption from basic customs duty, CVD and SAD to memory cards.

■ Waste paper is fully exempted from basic customs duty.

■ Brass scrap, timber logs and dredgers are being fully exempted from SAD.

Withdrawal of Exemption

- Exemption from basic customs duty currently available to copper, brass and phosphor bronze strips and similar items imported for the manufacture of connectors is being withdrawn.
- Exemption from basic customs duty currently available to poly-laminated aluminium tape and poly-laminated steel tape presently exempt if imported from the manufacture of cables and conductors for telecom use is being withdrawn.

PROPOSAL FOR CHANGE IN RATE OF DUTY

SECTOR: AGRICULTURE/AGRO PROCESSING/PLANTATION

Particular	New Rate	Old Rate
Basic Customs duty on sugarcane-planter, root or tuber crop harvesting machine and rotary tiller & weeder, parts & components for their manufacture	2.5%	7.5%
Basic Customs duty on specified Coffee plantation and processing machinery	5%	10%
Basic customs duty on coffee brewing and vending machines (commercial type)	5%	10%
Basic customs duty on specified (i) soluble fertilizers and (ii) liquid fertilizers, other than urea	(i) 5% (ii) 2.5%	(i) 7.5% (ii) 5%

AUTOMOBILES

Particular	New Rate	Old Rate
Basic Customs duty on Completely Built Units (CUBs) of large cars/ MUVs/SUVs permitted for import without type approval (value excess-ding US$ 40,000 and engine capacity exceeding 3000cc for petrol and 2500cc for diesel)	75%	60%

METALS

Particular	New Rate	Old Rate
Basic Customs duty on coating material for manufacture of electrical steel	5%	10%
Basic Customs duty on ammonium meta-vanadate used in the manufacture of ferro-vanadium	2.5%	7.5%
Basic customs duty on flat rolled products (HR and CR) of non-alloy steel	7.5%	5%

PRECIOUS METALS

Particular	New Rate	Old Rate
Basic Customs duty on standard gold bars and platinum bars	4%	2%
Basic Customs duty on non-standard gold bars	10%	5%
Basic customs duty on gold ore/con-centrate and dore bars for refining	2%	1%
Basic customs duty on cut and polished coloured gemstones	2%	NIL

CAPITAL GOODS/INFRASTRUCTURE

Particular	New Rate	Old Rate
Basic Customs duty on capital goods, plant and equipment imported for setting up or substantial expansion of iron ore pellet plant or iron ore beneficiation plants	2.5%	7.5%
CVD on Steam coal	1%	5%
Basic customs duty on machinery and instruments for (i)surveying and (ii) prospecting of mines	2.5%	(i) 10% (ii) 7.5%
Basic customs duty on Railway safety (Train Protection and Warning System) equipment and railway track laying machine	7.5%	10%

HEALTH

Particular	New Rate	Old Rate
Basic Customs duty on iodine	2.5%	5%
Basic Customs Duty on (i) isolated soya protein and (ii) soya protein concentrate	(i) 15% (ii) 30%	10%
Basic customs duty on probiotics	5%	10%

MISCELLANEOUS

Particular	New Rate	Old Rate
Basic Customs duty on Digital Still Cameras of certain specifications	10%	NIL
Basic Customs Duty on boric acid	5%	7.5%
Basic customs duty on boiler quality tubes and pipes for the manufacture of boilers	7.5%	10%

TEXTILES

Particular	New Rate	Old Rate
Basic Customs duty on shuttleless looms, alongwith parts and components for their manufacture	NIL	5%
Basic Customs Duty on automatic silk-reeling and processing machinery and raw silk testing equipments	NIL	5%
Basic customs duty on (i)wool waste and (ii) wool tops	(i) 10% (ii) 15%	5%
Basic customs duty on Titanium dioxide	10%	7.5%

EXPORT PROMOTION

Particular	New Rate	Old Rate
Basic Customs duty on Marine seawater pumps with fiber impellers and Automatic fish/prawn feeders for aquaculture.	5%	10%
Basic Customs Duty on artemia	5%	30%

CENTRAL EXCISE

Exemption

- Unbranded silver jewellery is already exempted, Branded silver jewellery is being exempted from excise duty.
- Exemption from excise duty to articles of goldsmith and silversmith wares of precious metal or of metals coated with precious metals, not bearing a brand name.
- Exemption from excise duty to gold coins of purity 99.5% and above and silver coins of purity 99.9% and above.
- Refills and inks used for the manufacture of writing instruments of value not exceeding Rs. 200 per piece are fully exempted from excise duty.
- Exemption limit on footwear is being enhanced from Rs. 250 per pair to Rs. 500 per pair.
- Exemption from excise duty to food preparations containing fruits and vegetable falling under Chapter 20, which are prepared in a hotel, restaurant or a retail outlet, whether or not such food is consumed in such hotels/restaurants/retail outlets.
- Exemption from excise duty is being restored on intra ocular lens.

PROPOSALS INVOLVING CHANGES IN RATES OF DUTY

Particular	New Rate	Old Rate
Excise duty on non-petroleum products	12%	10%
Concessional rate of excise duty	6%	5%
Lower rate on non-petroleum products	2%	1%

SECTOR SPECIFIC PROPOSAL

CEMENT

- The excise duty structure on cement manufactured and cleared in packaged form is being rationalized. The graded RSP slabs for the purpose of charging of duty on cement manufactured and cleared in packaged form are being done away with. The rates on cement and cement clinkers are also being revised as under:

Description	Revised rate of duty
Cement manufactured and cleared in packaged form (a) from mini cement plants (b) from other than mini cement plants	 6% ad valorem + Rs.120 per tonne 12% ad valorem + Rs.120 per tonne
Cement cleared other than in packaged form.	12% ad valorem
Cement Clinker	12% ad valorem

PRECIOUS METALS

Particular	New Rate	Old Rate
Excise duty on gold jewellery sold from EOUs into domestic tariff area (DTA)	10%	5%
Excise duty on refined gold	3%	1.5%
Excise duty on gold produced from copper smelting	3%	2%
Excise duty on silver produced from copper smelting	4%	6%

ENVIRONMENT FRIENDLY GOODS

Particular	New Rate	Old Rate
Excise duty on battery packs supplied to manufacturers of electric vehicles for use as spares and OEMs	6%	10%
Excise duty on Specific parts of Hybrid vehicles supplied to manufacturers of hybrid vehicles	6%	10%
Excise duty on LED lamps	6%	

MISCELLANEOUS

Particular	New Rate	Old Rate
Excise duty on parts of mobile phones, other than those cleared to a manufacturer of mobile phones, (provided no Cenvat credit is taken)	2%	10%
Excise duty on (a) matches manufactured by semi-mechanized units and (b) Processed food products of soya	6%	10%

OTHER MATTERS

GST Network

■ The structure of GST Network (GSTN) has been approved by the Empowered Committee of State Finance Ministers. GSTN will be set up as a National Information Utility and will become operational by August, 2012. The GSTN will implement common PAN-based registration, returns filing and payments processing for all states on a shared platform.

Capital market Reforms

■ It has been proposed to allow Qualified Foreign Investors (QFIs) to access Indian Corporate Bond Market;

■ It has been proposed to make it mandatory for companies to issue IPOs of Rs. 10 crore and above in electronic form through nationwide broker of stock exchanges.

■ It has been proposed to provide opportunities for wider shareholder participation in important decisions of the companies through electronic voting facilities, besides existing process for shareholder voting, which would be made mandatory initially for top listed companies; and

■ Permitting two-way fungibility in Indian Depository Receipts (IDRs) subject to a ceiling with the objective of encouraging greater foreign participation in Indian capital market.

India Opportunities Fund

■ In order to enhance availability of equity to MSME sector, it has been proposed to set up a Rs. 5,000 crore India Opportunities Venture Fund with SIDBI.

Public Procurement of atleast 20% from MSEs

■ With the objective of promoting market access of Micro and Small Enterprises, Government has approved a policy which requires Ministries and CPSEs to make a minimum of 20 per cent of their annual purchases from MSEs out of which 4% will be from MSEs owned by SC/ST enterprises.

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