

Budget – 2011-2012
(Direct Taxation)

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**Measures taken for Efficient Tax
Administration**

Source – Budget Speech.

Measures

- **Opening of More CPC** : Alike Central Processing Centre (CPC) at Bengaluru Two more CPCs will become operational in Manesar and Pune by May 2011 and a fourth CPC will come up in Kolkata in 2011-12.
- **More Aaykar Seva Kendras are under commissioning**
The three pilot projects of Aaykar Seva Kendras (ASKs) under CBDT have come of age. CBDT will commission eight more such centres this year. In 2011-12, another fifty ASKs will be set up across the country.
- **No requirement to file income tax return for Salaried Class.** The Board shall soon notify a category of salaried taxpayers who will not be required to file a return of income as their tax liability has been discharged by their employer through deduction at source.

Measures

- **Provision of separate web-based facility**: To enable a direct, stand-alone interface for taxpayers with the Income Tax Department so that they can report and track the resolution of their refunds and credit for prepaid taxes.
- **Provision of simplified return form 'Sugam'** to reduce the compliance burden of small taxpayers who fall within the scope of presumptive taxation.
- Instructions have been issued raising limit of tax effects below which, tax disputes will not be pursued by Government in higher Courts of Appeal. These measures would enhance productivity of resources employed in raising revenue.



Budget Highlights

Highlights

- For individual tax payers exemption limit enhanced from Rs. 1,60,000/- to Rs. 1,80,000/-.
- For senior citizen exemption limit extended from Rs. 2,40,000/- to Rs. 2,50,000/-.
- Qualifying Age limit of senior citizen reduced from 65Yrs. to 60Yrs.
- New category is introduced for senior citizen for the age limit 80 Yrs. and above. The **exemption limit** for the same is up to Rs. 5,00,000/-.
- Surcharge for domestic company reduced from 7.5% to 5 %, for other than domestic Co. from 2.5% to 2%.
- Rate of MAT increased from 18% to 18.5% of book profit (**effective rate being 20.008%** with surcharge & cess).

Highlights

- Levy of MAT & DDT on SEZ developers & units operating in them.
- Additional **deduction of Rs. 20,000** for investment in long-term infrastructure bonds proposed to be **extended for one more year**.
- Concessional tax on dividend received by Indian companies from its foreign subsidiaries reduced to **15% from 30%**.
- Weighted deduction on payments made to National Laboratories, Universities and Institutes of Technology to be enhanced to 200 per cent.
- New infrastructure debt fund introduced to encourage Foreign investments
- No change in rates of TDS/TCS and Div. distribution tax.
- Scope of Application before Settlement Commission extended.
- Settlement Commission granted power of rectification.
- **DTC proposed to be introduced w.e.f 1-4-2012**

Tax Slabs at a glance

- *Basic Tax Exemption Limit (in INR- Lacs) (AY 2012-2013)*

Rate % age	Very Sr Citizen resident (80 yrs & above)	Sr. Citizen resident (60 yrs & above)	Women resident	Others
exemption	5L	2.5L	1.9L	1.8L
10%	-	2.5L to 5L	1.9L to 5L	1.8L to 5L
20%	5L to 8L	5L to 8L	5L to 8L	5L to 8L
30%	above 8L	Above 8L	Above 8L	above 8L

- Limit for general extended by 20000/-,
- Two categories of Senior Citizen formed.
- NO change in the existing slabs for women.

Taxability under new provisions on total income of Rs. 10Lacs

ASSESSEE	OLD	NEW	SAVING
MALE	158620	152000	6620
FEMALE	155530	155530	0
SENIOR CITIZEN (65 Years & above)	150380	145000	5380
SENIOR CITIZEN- MALE(60 Years to 65 Years)	158620	145000	13620
SENIOR CITIZEN- FEMALE (60 Years to 65 Years)	155530	145000	10530
VERY SENIOR CITIZEN (new category 80 years & above)	150380	120000	30380



Proposed Amendments



Change in limitation applicable to Charitable Institution

Clause – 3 of Finance Bill,2011

Amendment proposed to be made to second proviso to S. 2(15)

w.e.f. – 01/04/2012

*First proviso to section 2(15) explains “the advancement of any other object of general public utility” is not a charitable purpose, if it involves the carrying on of any activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business, for a cess or fee or any other consideration, irrespective of the nature of use or application, or retention, of the income from such activity and receipts from such activities is **ten lakh rupees or more in the previous year**. Now it is proposed to amend second proviso to section 2(15) to enhance the current monetary limit in respect of receipts from such activities from ten lakhs rupees to twenty-five lakhs rupees.*

Particulars	Old Provisions	Amended Provisions
Extent of commercial activity for charity	Upto Rs. 10Lacs for “receipts” from Commercial activities- no loosing of charitable status	Upto <u>Rs. 25Lacs</u> for “receipts” from Commercial activities- no loosing of charitable status

Sunset of clauses extending tax benefit to SEZ.

Clause of F.B - 2011	Section	W.e.f
17(ii)	New Proviso to 115JB(6)	01.04.2012
19	New Proviso to 115O(6)	01.06.2011
4(a)	10(34)	01.06.2011

New Proviso inserted to 115JB(6).

The provisions of this section shall not apply to the income accrued or arising on or after the 1st day of April, 2005 from any business carried on, or services rendered, by an entrepreneur or a Developer, in a Unit or Special Economic Zone, as the case may be.

Proviso inserted to 115JB(6)

“Provided that the provisions of this sub section shall cease to have effect in respect of any previous year relevant to Assessment Year Commencing on or after the 1st day of April 2012.”

- Through this insertion MAT provisions made applicable to entrepreneur or a Developer, in a Unit or Special Economic Zone w.e.f. 01/04/2012.

New Proviso inserted to 1150(6)

Notwithstanding anything contained in this section, no tax on distributed profits shall be chargeable in respect of the total income of an undertaking or enterprise engaged in developing or developing and operating or developing, operating and maintaining a Special Economic Zone for any assessment year on any amount declared, distributed or paid by such Developer or enterprise, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2005 out of its current income either in the hands of the Developer or enterprise or the person receiving such dividend.

Proviso inserted to 1150(6)

“ Provided that provisions of this sub section shall ceased to have effect from 1st day of June, 2011.”

Through this insertion Dividend Distribution tax is made applicable to entrepreneur or a Developer, in a Unit or Special Economic Zone w.e.f. 01/06/2011.

Explanation to section 10(34) Withdrawn

S. 10(34)

any income by way of dividends referred to in section 115-O.

[Explanation.—For the removal of doubts, it is hereby declared that the dividend referred to in section 115-O shall not be included in the total income of the assessee, being a Developer or entrepreneur;]

Analysis

In view of amendment made in S. 115JB(6) and 115O(6) consequent change has been made to S.10(34) by withdrawing the explanation to it.

SEZ were enjoying dual tax benefit as they were neither required to pay tax on income generated or distributed nor any tax can be deducted on income in the form of dividend to SEZ.

Tax exemption to members of the UPSC

Clause – 4(b) of Finance Bill, 2011

*New clause (45) proposed to be inserted to section 10
w.r.e.f. 01/04/2008*

Insertion of new clause (45) to sec. 10

“Any, allowance or perquisite, as may be notified by the central Government in the official Gazette in this behalf, paid to the chairman or a retired Chairman or any other member or retired member of the Union Public Service Commision.”

Analysis

- Currently, specified perquisites of the Chief Election Commissioner or Election Commissioner and the judges of the Supreme Court are exempt from taxation consequent to the enabling provisions in the respective Acts governing their service conditions.
- Now **similar benefit of exemption in respect of specific perquisites and allowances (to be notified by the CG), extended to both *serving as well as retired Chairmen and Members of the Union Public***

Specified income of notified entities - Exempted

Clause – 4(c), 23(c) of Finance Bill, 2011

New clause (46) proposed to be inserted to section 10 & New clause (g) to S.139(4C) w.e.f. 01/06/2011

Insertion of clause 46 to Section 10

any specified income arising to a body or authority or Board or Trust or Commission (by whatever name called) which—

(a) has been established or constituted by or under a Central, State or Provincial Act, or constituted by the Central Government or a State Government, with the object of regulating or administering any activity for the benefit of the general public;

(b) is not engaged in any commercial activity; and

(c) is notified by the Central Government in the Official Gazette for the purposes of this clause.

Explanation.— For the purposes of this clause, "specified income" means the income, of the nature and to the extent arising to a body or authority or Board or Trust or Commission (by whatever name called) referred to in this clause, which the Central Government may, by notification in the Official Gazette, specify in this behalf;

Analysis of S.10(46)

- provide exemption to any specified income of *a body, authority, board, trust or commission which is set up or constituted by a Central, State or Provincial Act or constituted by the CG or a State Government* with the **object of regulating or administering an activity for the benefit of the general public**,
provided.....
 - (i) it is not engaged in any commercial activity, **and**
 - (ii) is notified by the CG in this behalf.

- *The nature and extent of income to be exempted will also be specified by the Central Government while notifying such entity.*

- *New clause (g) inserted in s. (4C) of sec. 139 of the IT Act to provide for filing of the return of income **by such notified entity.***

Introduction of Infrastructure Debt Fund to Attract Foreign Investments.

Clause of Finance Bill - 2011	Relevant Section (where in changes proposed)	Applicability
4(c)	10(47)	w.e.f. 01/06/2011
15(b)	115A(1)(iia)	w.e.f. 01/06/2011
27	194 LB	w.e.f. 01/06/2011
23(c)	139(4C)(h)	w.e.f. 01/06/2011

Insertion of clause (47) to sec.10

“ any income of an infrastructure debt fund, set up in accordance with the guidelines as may be prescribed, which is notified by the Central Government in the Official Gazette for the purposes of this clause.’.

In order to boost long-term, low cost funds from abroad for the infrastructure sector, it is proposed to facilitate setting up of dedicated debt funds. It is proposed to empower the Central Government to notify any infrastructure debt fund which is set up in accordance with the prescribed guidelines. Once notified, the income of such debt fund would be exempt from tax under proposed section 10(47).

Consequential Amendments - Effects

- *New clause (h) inserted in s.(4C) of sec. 139 of the IT Act to provide for filing of the return of income **by such notified fund.***
- *Amendment in sec. 115A to provide that **any interest recd. by a non-resident** from such notified infrastructure debt fund shall be taxable @ 5% on **gross amount** of such interest income.*
- *TDS on interest payable to a non-resident, not being a company, or to a foreign company, by an infrastructure debt fund will be deductible u/s194LB.*

Quantum of deduction U/s 35(2AA)
increased

Clause – 5 of Finance Bill, 2011

Amendment proposed to S.35(2AA) w.e.f. 01/04/2012.

Amendment in sec. 35(2AA)

Quantum of Weighted deduction increased

Particular	Earlier deduction	Amended provision
Sum paid to <i>National Lab or a University or IIT</i> or <i>specified persons</i> for approved scientific research programme.	175% of sum paid	200% of sum paid



**Scope of Investment Linked Tax
deduction extended.**

Clause – 6 of Finance Bill, 2011

Amendment proposed to S.35 AD w.e.f. 01/04/2012.

Amendments in Section – 35AD

Scope of sec. 35AD(8)(c) widened by insertion of two new specified businesses under sub-clauses (vii) & (viii):

(vii) developing and building a **housing project** under a scheme for **affordable housing** framed by the CG or a State Govt, as the case may be and notified by the Board in this behalf in accordance with the guidelines as may be prescribed; **and**

(viii) Production of fertilizer in India

Note : Date of commencement of operation for these specified business is 1-4-2011 [newly inserted clauses- 35AD(5)(ad)/(ae).

Amendment in sec. 35AD(8)(c)(iv)/(v): specified businesses eligible for availing investment-linked deduction under the section.

Section	Old Provision	Amended Provision	Remarks
35AD(8)(c)(iv)	building and operating, anywhere in India, a new hotel of two-star or above category as classified by CG	building and operating, anywhere in India, a hotel of two-star or above category as classified by CG	Word new deleted- scope widened
35AD(8)(c)(v)	building and operating, anywhere in India, a new hospital with at least one hundred beds for patients	building and operating, anywhere in India, a hospital with at least one hundred beds for patients	Word new deleted- scope widened

Effect of amendment in section 35AD vis a vis sec. 73A

- U/S 73A, any loss of a “specified business” (u/s 35AD) is allowed set off against profit and gains of any other “specified business.”
- With the removal of word ‘**new**’, the loss of an assessee on account of a “specified business” claiming deduction u/s 35AD would be allowed to be set off against the profit of another “specified business”. Therefore, ***an assessee who currently operates a hospital or a hotel would be able to set off the profits of such business against the losses, if any, of a new hospital or new hotel which begins to operate after 1st April, 2010 and which is eligible for deduction of expenditure under section 35AD.***

Scope of Deduction Extended – Cont. *to NPS*

Clause of Finance Bill, 2011	Relevant Section where in changes proposed	w.e.f.
7	36(1)(iva)	01/04/2012
8	80CCE	01/04/2012

New Clause inserted 36(1)(iva)

Sec. 36(1)(iva)

“(iva) any sum paid by the assessee as an employer by way of contribution towards a pension scheme, as referred to in section 80CCD, on account of an employee to the extent it does not exceed ten per cent. of the salary of the employee in the previous year.

Explanation.—For the purposes of this clause, "salary" includes dearness allowance, if the terms of employment so provide, but excludes all other allowances and perquisites;'

Analysis.

- Contribution by Central Government or any other Employer towards NPS, (referred in sec. 80CCD(2)), on account of an employee (to the extent of 10% of employee's salary in the previous year), would now be allowed as deduction under the head PGBP.
- **Consequential Change to 80CCE** - Contribution to NPS made by CG or other **employer** not to fall under umbrella deduction of Rs. 100000/-, deduction would be allowed over Rs. 100000/-

Scope of Sunset clause extended –
Deduction to Infrastructure Bond &
Power Sector.

Clause - 9 & 10 of Finance Bill -2011

*Amendment proposed to be made to section 80CCF
& 80IA(4)(iv) w.e.f. 01/04/2012*

Amendment made to section 80CCF & 80IA(4).

Effect of Amendment to Section 80CCF.

Deduction u/s 80CCF in respect of subscription to long term infrastructure bonds extended to A.Y 2012-2013.

Effect of Amendment to Section 80-IA(4)(iv).

Extension of sunset clause for tax holiday for power sector: section 80-IA(4)(iv) extend the terminal date for a further period of one year, i.e., upto 31st March, 2012.

w.e.f 1-4-2012

**Sunset of tax holiday for certain
undertakings engaged in commercial
production of mineral oil**

Clause - 11 of Finance Bill -2011

*Proviso proposed to be inserted to section
80IB(9)(ii) w.e.f. 01/04/2012*

New proviso inserted to 80IB(9)(ii)

“Provided that the provisions of this clause shall not apply to blocks licensed under a contract awarded after the 31st day of March, 2011 under the New Exploration Licensing Policy announced by the Government of India vide Resolution No. O-19018/22/95-ONG.DO.VL, dated the 10th February, 1999 or in pursuance of any law for the time being in force or by the Central or a State Government in any other manner”.

Amendments to Provisions of Transfer Pricing

Clause of Finance Bill, 2011	Relevant Section where in changes proposed.	w.e.f.
12	92C	01/04/2012
13(i)	New insertion of sub section (2A) to 92CA	01/06/2011
13(ii)	92CA(7)	01/06/2011
14	New Insertion 94A	01/06/2011

Effects of Amendments to 92C

- Section 92C of the Income-tax Act provides the procedure for computation of the Arm's Length Price (ALP).
- It provides that if more than one price is determined by the most appropriate method so chosen, the ALP shall be taken to be the arithmetical mean of such prices.
- The second proviso to section 92C(2) provides that if the variation between the actual price of the transaction and the ALP, as determined above, does not exceed 5% of the actual price, then, no adjustment will be made and the actual price shall be treated as the ALP.
- **It is, therefore, proposed to amend section 92C of the Act to provide that instead of a variation of 5%, the allowable variation will be such percentage as may be notified by Central Government in this behalf as the existing fixed margin has outlived its utility.**

Effects of New insertion of sub section (2A) to 92CA

Powers of TPO widened

TPO shall have powers to determine ALP of international transaction which were not even subject matter of reference to him by AO.

Effects of Amendments to 92CA(7)

Additional power to TPO of survey u/s 133A besides power of section 131 and 133(6) which were being enjoyed by him

Effects of Insertion of clause (aa) in Expl. 2 to s.139(1).

Due date of return of Income for corporate assesses who are required file a transfer pricing report in Form 3CEB, extended to 30th November

Corporate assessee face practical difficulties in accessing contemporary comparable data before 30th September in order to furnish a report in respect of their international transactions. It is, therefore, proposed to amend section 139 to extend the due date for filing of return of income by such corporate assessee to 30th November of the assessment year.

Effect of New Section Inserted – 94A

Object behind insertion:

To **discourage transactions** *by a resident assessee with persons located in any country or jurisdiction* which does **not effectively exchange information** with India.

Effect of New Section Inserted – 94A

Proposed section provides

1. Power to CG to notify any country or territory outside India, having regard to the lack of effective exchange of information by it with India, as a **notified jurisdictional area**;
2. If an assessee enters into a transaction with a party located in a **notified jurisdictional area**, then **all the parties** to the transaction shall be deemed to be **associated enterprises** and the **transaction** shall be deemed to be an **international transaction** and accordingly, **transfer pricing regulations** shall **apply** to such transactions;

Contd....

3. No deduction in respect of any payment to any financial institution be allowed unless that the assessee furnishes an **authorization**, in the **prescribed form**, authorizing the Board or any other income-tax authority acting on its behalf, to seek relevant information from the said financial institution;

4. No deduction In respect of any other expenditure or allowance (including depreciation) arising from the transaction with a person located in a **notified jurisdictional area** shall be allowed **unless the assessee maintains** such other documents **and furnishes** the information as may be prescribed;

Contd....

5. That if any sum is received from a person located in the notified jurisdictional area, then, the **onus is on the assessee to satisfactorily explain the source of such money** in the hands of such person or in the hands of the beneficial owner, and **in case of his failure to do so, the amount shall be deemed to be the income of the assessee.**

6. That **any payment** made to a person located in the notified jurisdictional area shall be **liable to deduction of tax at the higher of the rates specified** in the relevant provision of the Act or rate or rates in force **or a rate of 30 per cent.**

w.e.f 1-06-2011

**Tax rate reduced on dividend
received from Foreign Subsidiaries**

Clause - 16 of Finance Bill -2011

New Section proposed to be inserted 115BBD w.e.f.

01/04/2012

Effect of New Section Inserted – 115BBD

- Dividend recd. By Indian Co. from foreign subsidiary Co. now taxable @ 15% (plus surcharge + Cess) on **gross amount** of dividend.
- No expenditure in respect of dividends received from foreign subsidiary shall be allowed under the Act.

Note: presently such div. taxable in shareholder's hands at MMR and in Co.'s hands @ 30%

New Chapter XII-BA Inserted –
Special provisions relating to Certain
LLP

Clause of Finance Bill, 2011	New Inserted Section	w.e.f.
18	115JC	01/04/2012
	115JD	01/04/2012
	115JE	01/04/2012
	115JF	01/04/2012

Effects of Introduction of New Chapter

- Presently the LLP's are being taxed as per normal income tax rates, and command huge tax benefits in comparison to a company such as **no dividend distribution tax, No surcharge, no MAT.**
- Proposed to subject the LLP's **Alternate Minimum Tax (AMT) (Similar to MAT)** as it exists in US and other Western countries.
- The MAT rate has been fixed at **18.50%** and the excess MAT paid shall be allowed to be c/fd to **10 successive assessment years.**
- The new section fairly brings out the **mode of computation of the adjusted total income** and the **basis of comparison is the Tax payment and not the Income.**

Effects of Introduction of New Chapter

- Credit for tax (tax credit) paid by a limited liability partnership under this newly inserted Chapter XII-BA shall be allowed to the extent of the excess of the alternate minimum tax paid over the regular income-tax. This tax credit shall be allowed to be carried forward up to the tenth assessment year immediately succeeding the assessment year for which such credit becomes allowable. It shall be allowed to be set off for an assessment year in which the regular income-tax exceeds the alternate minimum tax to the extent of the excess of the regular income-tax over the alternate minimum

**Power granted u/s 131 now
extended to cover International
Transactions**

Clause - 21 of Finance Bill -2011

*New subsection (2) proposed to be inserted to S. 131
& Amendment in S. 131(3) w.e.f. 01/06/2011*

Effect of New Section Inserted – 131(2) & (3)

- Newly inserted sub section (2) to Section 131 seeks to strengthen the apparatus of enquiries and investigation in respect of any person or class of persons in relation to agreement referred to in section 90 and section 90A. The apparatus is in the form of designated officers not below the rank of ACIT. The strengthening is done by giving them power as envisaged in sub section 1 even if no proceedings are pending before them and
- Further S.131(3) amended empowering the designated authority with power to impound and retain books of accounts or other documents.

**Extension of time limit for assessments in
case of exchange of information**

Clause - 25 of Finance Bill -2011

*New clause (viii) proposed to be inserted to
explanation 1 of S. 153 w.e.f. 01/06/2011*

New clause (viii) inserted to explanation 1 of S. 153

(viii) the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is received by the Commissioner or a period of six months, whichever is less.

Analysis

- It is proposed to exclude the time taken in obtaining information from the tax authorities in jurisdictions situated outside India, under an agreement referred to in section 90 or section 90A, from the statutory time limit prescribed for completion of assessment or reassessment.
- It provides that the period commencing from the date on which a reference for exchange of information is made by an authority and ending with the date on which the information so requested is received by the Commissioner, or a period of six months, whichever is less, shall be excluded.

**Scope of Application before Settlement
Commission Extended.**

Clause - 28 of Finance Bill -2011

*New clause (ia) proposed to be inserted to proviso to
S.245C(1) w.e.f. 01/06/2011*

Effect of New clause (ia) inserted to proviso to S.245C(1)

- Scope of application before Settlement Commission widened to include, the **application by relative / entities** (*where in such person is substantially interested*) related to a person in whose case proceedings have been initiated as a result of search, and where such person has filed an application before settlement commission.
- Additional amount of income-tax payable on the income disclosed in application by such relative or entity has been reduced from **Rs. 50 lacs to Rs. ten lacs.**



Settlement Commission granted
Power of Rectification

Clause - 29 of Finance Bill -2011

*New Sub section (6B) proposed to be inserted to
S.245D w.e.f. 01/06/2011*

Effect of New Sub section (6B) inserted to
S.245D

Power is proposed to be granted to the settlement commission that it may, at any time within a period of 6 months from the due date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it u/s 245D.

Similar amendment made under Wealth Tax Act through clause 34 of the FB,2011]

**Omission of the requirement of
quoting of Document Identification No.**

Clause - 30 of Finance Bill -2011

Section 282B Omitted

**Liaison Offices to file Statement
in prescribed form**

Clause - 31 of Finance Bill -2011

**New section 285 proposed to be inserted w.e.f.
01/06/2011.**

Effect of New section 285

- Regular information from non-residents regarding the activities of their liaison offices in India.
- Mandatory filing of annual information by non-residents regarding liaison offices.
- Information to be filed within 60 days from the end of financial year.



Miscellaneous

*Clause – 32 & 33 of Finance Bill -2011
Amendment proposed in section 296 & Fourth
Schedule to Income Tax Act, 1961*

Effect of Amendment proposed in section **296 w.e.f. 01/06/2011**

During the course of his budget speech, the FM had in clause 121 referred, that the Board shall soon notify a category of salaried tax payers who will not be required to file a return of income as their tax liability has been discharged by their employer through deduction at source. This clause together with clause no. 23 (partly) provides the enabling rules for notification of such scheme. This scheme reminds of an earlier such initiative of the Board, then popularly known as BFRS (Bulk Filing of return scheme by Salaried employees), which was withdrawn later on due to lack - lusture approach by the employees and employers too.

**Effect of Amendment proposed Fourth Schedule to
Income Tax Act, 1961 w.e.f. 01/01/2011**

- The power of commissioner to withdraw the recognition of provident fund has been extended to 31st March, 2012.

THANK YOU!!!

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