



# KNA ASSOCIATES

## CHARTERED ACCOUNTANTS

10 Sagar Apartments, 6 Tilak Marg, New Delhi – 110 001

Phone: +91.11.23.074.074/075/ 076 • Fax: 23.074.101

• E-mail: [contact@knaca.com](mailto:contact@knaca.com) • Website: <http://knaca.com>

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## Highlights of Union Budget – 2009



The Union Finance Minister Mr. Pranab Mukherjee placed before the Lok Sabha (House of Peoples) the Budget Proposals for the Financial Year 2009-10 vide **Finance (No. 2) Bill, 2009** on Monday 6<sup>th</sup> July, 2009.

The summary that follows highlights the silent features of the Finance (No. 2) Bill 2009, in terms of direct and indirect taxes. Unless otherwise mentioned, the proposed amendments relating to direct taxes will apply to Financial Year 2009-2010 relevant to AY 2010-2011 and the amendments relating to indirect taxes will apply from 7<sup>th</sup> July, 2009. The provisions of Finance (No. 2) 2009 are subject to some further amendments by the Parliament and also subject to President` assent. Therefore few proposals could be amended before actual enactment.

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# Budget Proposals –

## 1. Direct Taxes –

### a. Corporate/Business Tax –

- ❖ New Direct Taxes Code to be released before the public within the next 45 days.
- ❖ No changes proposed in the Corporate Tax rates.
- ❖ Fringe Benefit Tax shall be abolished by inserting a **New Section 115WM** w.e.f. 1st April, 2010 and will apply to the Assessment Year 2010-11 and subsequent AYs. Consequently, it has also been proposed to restore the taxation of certain fringe benefits as perquisites in the hands of the employees by amending clause 2 of Section 17.  
[There is no clarity in the whole budget documents as to what will be the treatment of 1<sup>st</sup> instalment of FBT already paid by all assessees on 15<sup>th</sup> June, 2009 relating to AY 2010-11.]
- ❖ Surcharge, as presently levied @ 10% has been eliminated in case of **all Non-Corporate** assessees w.e.f. AY 2010-2011.
- ❖ Commodity Transaction Tax (CTT) to be abolished w.e.f. 1<sup>st</sup> April, 2009. CTT was introduced by Finance Act, 2008 though has not yet been operationalized.
- ❖ The benefit of deduction under sections 10A and 10B of the Income-tax Act in respect of export profits being extended by one more year i.e. for the financial year 2010-11. That means, the deduction will now be available upto assessment year 2011-12
- ❖ The Rate of Minimum Alternate Tax (MAT) to be **increased to 15%** of book profits from present rate of 10 %. However, the period allowed to carry forward the tax credit under MAT to be extended from 7 years to 10 years. (w.e.f. AY 2010-2011 and subsequent years)
- ❖ **Upward uniform revision of the existing limits of the remuneration to Partners**  
The revised proposed limits for admissible Partner`s remuneration u/s 40(b)(v) w.e.f. AY 2010-11 for **Professional & Business Firms as well** shall be as under –

Sr. No.	Amount of Book Profits (Rs.)	Permissible Remuneration
1	On the first Rs. 3,00,000 of the book-profit or in case of a loss	Rs. 1,50,000 or @ 90% of the book-profit, whichever is more;
2	On the balance of the book-profit	@ 60 %

- ❖ Scope of Section 35(2AB) relating to allowing weighted deduction @ 150% of the expenditure incurred on in-house R & D extended to **all manufacturing/production businesses** (except negative List items).
- ❖ **New Section 35AD** has been inserted w.e.f. AY 2010-2011 whereby Investment linked tax incentives shall be provided to the businesses of setting up and operating **a.** cold chain facilities **b.** warehousing facilities for storing agricultural produce and **c.** the business of laying and operating cross country natural gas or crude or petroleum oil pipeline network for distribution on common carrier principle. Under this method, all capital expenditure, other than expenditure on land, goodwill and financial instruments to be fully allowable as deduction.
- ❖ To mitigate the practical difficulties faced by charitable organizations, anonymous donations received by charitable organizations to the extent of 5 % of their total income or a sum of Rs.1 lakh, whichever is higher, not to be taxed.
- ❖ W.e.f. AY 2011-12, scope of presumptive taxation u/s 44AD to be extended to all small businesses with a turnover upto Rs. 40 lakh. All such taxpayers to have option to declare their income from business at the rate of 8 % of their turnover and simultaneously enjoy exemption from the compliance burden of maintaining books of accounts. As a procedural simplification, they are also to be exempted from advance tax liability provisions and allowed to pay their entire tax liability from business at the time of filing their return.
- ❖ **Upward revision in the rates of Presumptive income for truck owners under section 44AE** – W.e.f. 1st April, 2011 that means in relation to assessment year 2011-12 and subsequent years the rates of presumed income per vehicle shall be upward revised as under –

Sr. No.	Type of Vehicle	Existing Rates (Per Month/Per Vehicle)	Revised Rates (Per Month/Per Vehicle)
1	Heavy goods vehicles	3,500/-	5,000/-
2	Other than heavy goods vehicles	3,150/-	4,500/-

- ❖ The existing **Section 44AF - presumptive taxation @5% in case of retail trade** shall become inoperative for the assessment year beginning on or after 1st day of April, 2011 in view of newly substituted Section 44AD

## b. Personal Income Tax –

- ❖ **Maximum Exemption Limit** not chargeable to income tax in case of Personal Income Tax has been raised as under –

Category	Proposed Limit (Rs.)	Existing Limit (Rs.)	Benefit (Rs.)
In case of Senior Citizens	2,40,000	2,25,000	15,000
In case of Women Assesseees	1,90,000	1,80,000	10,000
In case of All other individuals	1,60,000	1,50,000	10,000

- ❖ Surcharge presently levied @ 10% on personal income-tax has been eliminated w.e.f. AY 2010-2011.
- ❖ Benefit of deduction under section 80DD in respect of maintenance, including medical treatment, of a dependent who is a person with severe disability being raised from the present limit of Rs.75,000 to Rs.1,00,000
- ❖ Section 80E of the Income Tax Act has been amended w.e.f. assessment year 2010-11 so as to extend its scope to cover all fields of studies (including vocational studies) pursued after passing the Senior Secondary Examination from any school, board or university recognised by the Central Government or State Government or local authority. Presently the deduction is available only for pursuing full time studies for any graduate or post-graduate course in engineering, medicine, management or for post-graduate courses.
- ❖ Under Section 56(2)(vi) of the Income Tax Act, 1961 Presently any sum of money in excess of Rupees 50,000/- received without consideration by an individual or HUF is chargeable to income tax in the hands of the recipient, subject to some exceptions. At present anything which is received **in kind** having 'money's worth' i.e. property is outside the purview of the existing provisions of Section 56(2)(vi).

Therefore Section 56(2)(vi) of the Income-tax Act has been proposed to be amended to provide that the **value of any property** received without consideration or for inadequate consideration will also be included in the computation of total income of the recipient. Such properties will include immovable property being land or building or both, shares and securities, jewellery, archaeological collections, drawings, paintings, sculptures or any work of art.

### **c. Wealth Tax –**

- ❖ **Enhancement of the limit for payment of Wealth tax –** The maximum exemption limit for the applicability of Wealth tax has been raised from the present limit of Rs. 15.00 Lacs to now Rs. 30.00 Lacs. The proposed amendment will apply for the valuation of net wealth as on 31st March, 2010 and will, accordingly, apply in relation to assessment year 2010-11 and subsequent years.

### **d. Taxation of Limited Liability Partnerships (LLPs) –** With effect from 1st day of April 2010 i.e. assessment year 2010-11 –

- ❖ An LLP shall be treated as a general partnership firm for all taxation purposes.
- ❖ The designated partner shall sign the income tax return of an LLP, or, where, for any unavoidable reason such designated partner is not able to sign the return or where there is no designated partner as such, any partner shall sign the return.
- ❖ In case of liquidation of an LLP, every partner will be jointly and severally liable for payment of tax unless he proves that non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part.

### **e. Amendments in administrative/ procedural law –**

- ❖ **Enhancement of the limit for payment of advance tax** - Section 208 the Income-tax Act has been amended w.e.f. 1st April, 2009 to raise the threshold limit for payment of advance tax from the present Rs. 5,000/- **to Rs. 10,000/-**.
- ❖ The Authorities for Advance Rulings on Direct and Indirect Taxes to be merged by amending the relevant Acts.
- ❖ **Extension of time limit for filing applications for tax exemption u/s 10(23C)** - It has been proposed to extend the time limit for filing an application for seeking exemption u/s 10(23C) to the 30th day of September in the succeeding financial year. It is proposed to provide this relaxation for the financial year 2008-2009 and subsequent years. To illustrate, where the gross receipts of a trust or institution exceeds Rs. 1 crore in the financial year 2008-2009, it can now file the application for exemption upto 30th September, 2009.
- ❖ Section 2(15) of the Income Tax Act, 1961 has been amended to specifically include certain activities under the definition of “Charitable Purpose” i.e. out of the broad definition under - “advancement of any other object of general public utility” with retrospective effect from 1st April, 2009 so that proviso to the section which excludes activities where a cess or fee is charged

from the definition of Charitable activity does not apply on such activities. Such Activities are – 1. **Preservation of environment (including watersheds, forests and wildlife) and 2. Preservation of monuments or places or objects of artistic or historic interest.**

❖ **New Section 293C inserted - Power to withdraw approvals** – In order to provide express provisions relating to power to withdraw of approval to an income-tax authority, a new section 293C has been inserted to provide that an approval granting authority shall also have the powers to withdraw the approval at any time. However, such withdrawal can be made only after giving a reasonable opportunity of showing cause against proposed withdrawal.

❖ W.e.f. A.Y. 2010-2011, Sections 80GGB and Section 80GGC of the Income-tax Act, 1961 has been proposed to suitable amendments to provide that donations to electoral trusts shall be allowed as a 100 percent deduction in the computation of the income of the donor.

❖ **Definition of the term – “Manufacture”** –

W.r.e.f. the 1st day of April, 2009 It is proposed to insert a new clause (29BA) in section 2 so as to provide that ‘**manufacture**’, with all its grammatical variations, shall mean a change in a non-living physical object or article or thing,—

- (a) resulting in transformation of the object or article or thing into a new and distinct object or article or thing having a different name, character and use; or
- (b) bringing into existence of a new object or article or thing with a different chemical composition or integral structure.

❖ **New section 282B – Introduction of Document Identification Number** – **New Section 282B** has been inserted so as to provide that every income tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

It is further proposed that where the notice, order, letter or any correspondence issued by any income-tax authority does not bear a Document Identification Number, such notice, order, letter or any correspondence shall be treated as invalid and shall be deemed never to have been issued (W.e.f. 1st October, 2010)

❖ Alternative dispute resolution mechanism to be created within the Income Tax Department for the resolution of transfer pricing disputes. CBDT to be empowered to formulate ‘safe harbour’ rules [i.e. to provide the circumstances in which the Income-tax authorities shall accept the transfer price declared by the assessee] to reduce the impact of judgmental errors in determining transfer price in international transactions.

❖ **Significant Changes in the rates of Tax deducted at source (TDS) –**

- a. In order to ease the computation of TDS, it is proposed to remove Surcharge and Cess on tax deducted on non-salary payments made to resident taxpayers on or after 1st day of October, 2009.

**b. Rate of TDS u/s 194I – Rent**

Type of Payment	Existing Rates	Proposed Rates* w.e.f. 01-10-2009
Rent of plant, machinery or equipment in case of all assessees	10%	2%
Rent of land, building or furniture in case of individuals & HUFs.	15%	10%
Rent of land, building or furniture in case of a person other than individuals & HUFs.	20%	10%

\*Note - The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1st April, 2010.

**c. Rate of TDS u/s 194C – Contractual Payments –**

Type/incidents of Contractual Payments	Existing Rates	Proposed Rates* w.e.f. 01-10-2009
Individual/HUF Contractor	2%	1%
Other than Individual/HUF Contractor	2%	2%
Individual/HUF Sub- Contractor	1%	1%
Other than Individual/HUF Sub- Contractor	1%	2%
Individual/HUF Contractor/Sub-contractor for Advertising	1%	1%
Other than individual/HUF Contractor/ Sub-contractor for Advertising	1%	2%
Sub-contractor in transport business	1%	NIL*
Contractor in transport business	2%	NIL*

**\*Notes –**

- i. The NIL rates will be applicable if the transporter quotes his PAN. If PAN is not quoted the rate will be 1% for an individual/ HUF transporter and 2% for other transporters upto 31.3.2010
- ii. The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1st April, 2010.

- iii. The Contractual payments u/s 194C to a Transport Operator (as defined in Section 44AE) shall be out of the purview of TDS deduction subject to the condition that the operator has furnished his Permanent Account Number (PAN) to the deductor.
  - iv. Further the provisions of Section 40A (3) of the Income-tax Act, relating to cash payments in excess of Rs 20,000 shall be amended to raise the limit of cash payment to a transport operator (as defined in Section 44AE) to Rs 35,000/- from the existing limit of Rs 20,000/-. These amendments will take effect from the 1st day of October, 2009 and will accordingly apply to transaction on or after such date.
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## 2. Indirect Taxes –

### a. Service Tax –

#### i. 4 new taxable services proposed –

- 1) Service provided in relation to **transport of goods by rail**;
- 2) Service provided in relation to **transport of (i) coastal goods; and (ii) goods through Inland Water** including National Waterways;
- 3) **Legal consultancy services** in relation to advice, consultancy or assistance in any branch of law *excluding* appearance before any court, tribunal or authority  
Note - This service shall not be subject to any tax, if either of the Service provider or Service receiver is an individual)
- 4) **Cosmetic and plastic surgery service**

The above services will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009

#### ii. Scope of certain existing services is being extended or altered as follows: -

- 1) The definition of Business Auxiliary Service (BAS) is being amended so as to provide that only those processes, which result in the manufacture of 'excisable goods' are excluded from the purview of BAS.
- 2) Sub-brokers will now be outside the purview of service tax. The definition of Stock-broker (in stock-broker service) is being amended to exclude sub-broker from its ambit.

### **iii. Exemptions with immediate effect –**

- 1) Exemption from service tax is being provided to inter-state or intra-state transportation of passengers in a vehicle bearing 'Contract Carriage Permit' with specified conditions.
- 2) Exemption from service tax (leviable under Club or Association Service) is being provided to total **22** specified Export Promotions Councils (refer Notification No. 16/2009 for details). The exemption is valid till 31.03.2010.
- 3) Exemption from service tax (leviable under banking and other financial services or under foreign exchange broking service) is being provided to inter-bank purchase and sale of foreign currency between scheduled banks.

### **iv. Amendments in the Rules and existing Notifications –**

- 1) The scope of notification No. 1/2002–ST dated 01.03.2002 is being enlarged by extending the applicability of service tax provisions to installations, structures and vessels in the entire Continental Shelf of India and Exclusive Economic Zones of India.
- 2) Rule 6 (3) of the Cenvat Credit Rules, 2004 is being amended to prescribe that a provider of both taxable and exempted services, who does not maintain separate accounts of inputs, shall pay **an amount equal to 6% of the value of exempted services** instead of earlier **8%**.
- 3) Rule 3 (5B) of the Cenvat Credit Rules, 2004 is being amended so as to provide that a service provider shall pay back the amount of credit taken on inputs/capital goods fully written off.

### **v. Refund Scheme for Exporters –**

Earlier Notification No. 41/2007-ST dated 06.10.2007 superseded by two new Notifications No.17/2009 – Service Tax and 18/2009 – Service Tax both dt. 7<sup>th</sup> July, 2009.

Following are some of the salient features of the revamped refund scheme –

- Terminal Handling Charges' is being added to the list of eligible services.
- The time period for filing a refund claim is being increased to one year from the date of export. The condition for filing refund claims once in a quarter is being dispensed with. Now the exporter can file a refund claim anytime after each export shipment

- A simplified format is being prescribed for filing refund claims. Self-certification is being introduced to ensure faster sanction and disbursement of refunds. In a case, where total amount of refund claim does not exceed 0.25% of the total FOB value of exports under a claim, a self-certification by the exporter. The refunds shall be granted within one month without any pre-audit.
- In a case, where amount of refund claim exceeds 0.25% of the FOB value of exports, the documents submitted by the exporter should be certified by the chartered accountant. On the basis of such certification, the refund claim shall be sanctioned within one month without any pre-audit.

## b. Customs Duty –

Major changes in the rates of Customs duties with immediate effect are as under –

Sr. No.	Name of the items	Existing Rate of duty	Revised rate of duty
1	10 Specified life saving drugs/vaccine	10%	5%
2	Artificial heart and PDA/ASD occlusion device	7.5%	5%
3	LCD Panels	10%	5%
4	Set Top Box for television	NIL	5%
5	Parts for manufacture of mobile phones and accessories	4%	NIL
6	Bio-diesel	7.5%	2.5%
7	Customs duty on silver	Rs.500 per Kg.	Rs.1,000 per Kg
8	Customs duty on gold bars (per 10 gram)	Rs. 100	Rs. 200
9	Cotton waste	15%	10%
10	Wool waste	15%	10%

### c. Excise Duty –

a. Major changes in the rates of Customs duties with immediate effect are as under –

Sr. No.	Name of the items	Existing Rate of duty	Revised rate of duty
1	Branded articles of jewellery	2%	NIL
2	Manmade fibre and yarn	4%	8%
3	PTA and DMT	4%	8%
4	Polyester chips, Acrylonitrile	4%	8%
5	Petrol driven trucks/lorries	20%	8%
6	Chassis of Petrol driven trucks/lorries	20% + Rs.10,000	8% + Rs.10,000
7	Petrol intended for sale with a brand name	6% + Rs.13 per litre	Rs.14.50 per litre
8	Diesel intended for sale with a brand name	6% + Rs.3.25/lt	Rs.4.75 per litre

b. Changes in CENVAT Credit Rules, 2004 with respect to Excise –

- i. **Rule 6 (3)** of the Cenvat Credit Rules, 2004 is being amended to prescribe that a manufacturer of both dutiable and exempted goods, who does not maintain separate accounts of inputs, **shall pay an amount equal to 5% of the total price of the exempted goods** instead of earlier **10%**.
- ii. An explanation has been inserted in Rule 2 of Cenvat Credit rules, 2004 so as to clarify that 'inputs' shall not include cement, angles, channels, CTD or TMT bars and other items used for construction of shed, building or structure for support of capital goods

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