

Overview of the Union Financial Budget 2011-12

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"While India Inc is all galvanised to tread on the curve of high growth, after a period of global downturn, Budget 2011 focuses on recovery, reforms and rejuvenation. As evident, fiscal consolidation and expenditure discipline have been rightly treated as the foremost priorities in this budget.

Addressing the key issue of infrastructure financing, this budget brings forth some welcome initiatives in the form of tax-free bonds and raising the investment limits for Foreign Institutional Investors (FIIs) in corporate bonds with residual maturity of more than five years issued by infrastructure companies by US\$20 billion.

The investment inflows are likely to improve further with specified mutual funds now being permitted to raise funds through foreign investors. Introduction of these fresh channels of funding might ease the burden on the current account deficit.

At the same time, the challenge posed by elevated levels of inflation warrants tightened monetary measures and more emphasis on fiscal prudence. Meanwhile, the budget reaffirms government's commitment to tax reforms, with certainty on Direct Taxes Code (DTC) scheduled to be implemented from 01 April 2012 and a plan of action for rolling out the Goods and Services Tax (GST).

Evidently, this budget does not attempt to boil the ocean with any dramatic propositions but confines to what matters the most against the backdrop of recovery in the global and domestic economy."

Pallavi Joshi Bakhru
Partner & Practice Leader,
Walker Chandio & Co



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Fiscal consolidation & Reforms

- **Laying down fiscal road map for next five years** through amendment to Fiscal Responsibility & Budget Management Act, 2003
- **Direct Taxes Code Bill (DTC)** under consideration by the Parliamentary Standing Committee, expected to be effective from 01 April 2012
- Constitution Amendment Bill for **Goods and Service Tax (GST)** to be introduced in the Budget session of Parliament
- Work on **Draft Central GST, Model State GST, and Design of Information Technology (IT) infrastructure** for GST in progress
- Multi pronged strategy to deal with problem of generation and circulation of **black money**
- Discussions concluded on **Tax Information Exchange Agreements** with 11 jurisdictions and **Double Taxation Avoidance Agreements** with 13 countries
- **Companies Bill** to be introduced in the Budget session of Parliament
- Further **liberalisation in Foreign Direct Investment (FDI)** expected

Financial Sector

- **Portfolio Investment route** now available to foreign investors for investing in Securities and Exchange Board of India (SEBI) registered Mutual Funds
- **Foreign Institutional Investors (FIIs)** limit for corporate bonds with residual maturity of over five years issued by companies in **infrastructure sector** is raised by an additional limit of US\$20 billion taking the limit to US\$25 billion
- Suitable legislative amendments in the current session of Parliament in the context of **additional banking licenses to private sector players**
- Government considering appropriate regulatory framework to protect the interest of **small borrowers borrowing from Micro Finance Institutions (MFIs)**
- The scheme of **1% interest subvention** on housing loans announced for the Financial Year (FY) 2009-10 has been extended further to housing loan up to ₹15 lakh where the cost of the house does not exceed ₹25 lakh from the present limit of ₹10 lakh and ₹20 lakh, respectively

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Better Governance

- Significant progress on **Unique Identification (UID)** Project – 10 lakh Aadhaar numbers to be generated every day from 01 October 2011
- UID to enable **direct transfer of cash subsidy** to people below poverty line in a phased manner for better delivery of kerosene, Liquefied Petroleum Gas (LPG) and fertilizers
- Efficient tax administration through IT initiatives such as **e-filing and e-payment of taxes**
- Outlay of ₹300 crore to states for **modernising their stamp and registration administration** and roll-out of e-stamping in all the districts in next three years
- Three more benches of **Settlement Commission** to fast track the disposal process

Disinvestment

- ₹40,000 crore to be raised through **disinvestment** during 2011-12. However, Government committed to retain at least 51% ownership and management control of the Central Public Sector Undertakings

Infrastructure & Industry

- Allocation of **₹214,000 crore for infrastructure**, constituting 48.50% of total plan allocation
- A comprehensive policy soon for further developing **Public Private Partnership**
- **Tax free bonds of ₹30,000 crore** proposed to be issued by the Government undertakings during 2011-12
- **National Mission for hybrid and electric vehicle** to be launched for green and clean transportation for the masses
- Financial assistance for speedy implementation of **Metro rail projects of Bengaluru, Kolkata and Chennai**

Agriculture

- Banks asked to **step up direct lending for agriculture** - Credit flow for farmers raised from ₹375,000 crore to ₹475,000 crore in 2011-12
- **3% interest subvention for farmers** who repay their short-term crop loans on time
- Allocation under Rashtriya Krishi Vikas Yojana increased from ₹6,755 crore to ₹7,860 crore

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Inclusive Development

- **Allocation of ₹160,887 crore for social sector** in 2011-12 is an increase of 17% over current year, constituting 36.40% per cent of the total plan expenditure
- Plan has been finalised to provide **Rural Broadband Connectivity to all 2,50,000 Panchayats** in the country in three years
- For **Education, an allocation of ₹52,057 crore**, which is an increase of 24% over the current year
- For Health, **a plan allocation of ₹26,760 crore**

Exports

- **Introduction of self-assessment in Customs** wherein importers and exporters will themselves assess their duty liabilities while filing their declarations in the Electronic Data Interchange (EDI) system. The Department will verify such assessments on a selective system driven basis
- **A scheme for the refund of input service tax** to be drawn up on the lines of drawback of duties in a far more simplified and expeditious manner



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GDP and key fiscal indicators

- **Gross Domestic Product (GDP)** growth rate registered at **8.6%** during 2010-11 as compared to 8% in 2009-10
- **Gross fiscal deficit** at **4.80%** of the GDP in 2010-11, lower than provisional actuals of 6.30% estimated for 2009-10
- **Revenue deficit** recorded at **3.50%** of the GDP in 2010-11, lesser than provisional actuals of 5.10% estimated for the preceding year
- **Primary deficit** at **1.70%** of the GDP in 2010-11, down from provisional actuals of 3.10% estimated for 2009-10

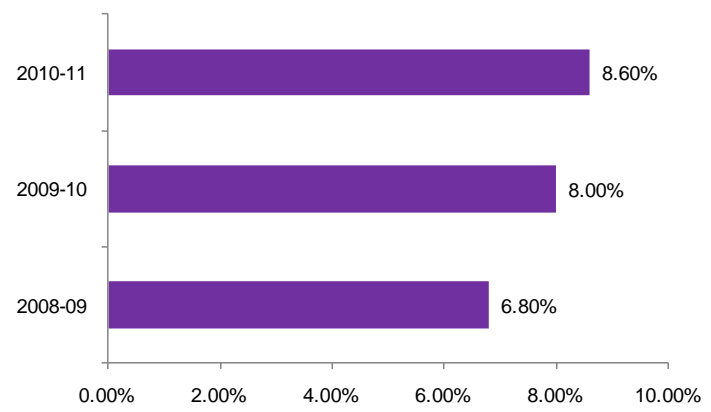
External sector and per capital net national income

- **Robust growth in exports: 29.50%** in 2010-11 as compared to negative growth of 3.50% in 2009-10
- **Imports registered at 19%** in 2010-11 as compared to negative growth of 5% in the previous year
- **Per capita net national income (factor cost at current prices): ₹54,527** in 2010-11, which is more than 17% higher than ₹46,492 in the preceding year

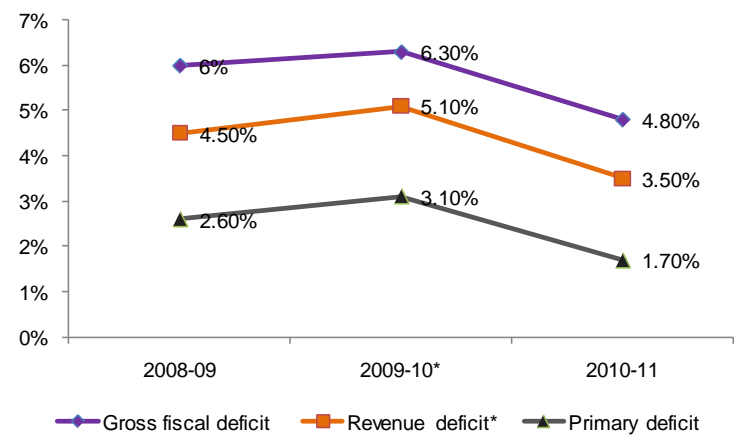
Money and credit

- **Scheduled commercial bank credit growth estimated at 24.40% in 2010-11**, from 16.9% in the preceding fiscal

GDP (factor cost 2004-05 prices)



Key fiscal indicators (% of GDP)



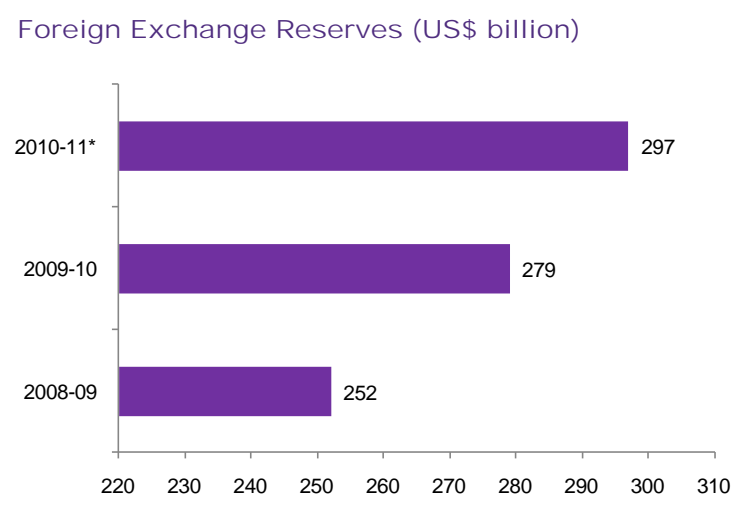
Source: Economic Survey 2010-11

*fiscal indicators for 2009-10 are based on the provisional actuals for 2009-10

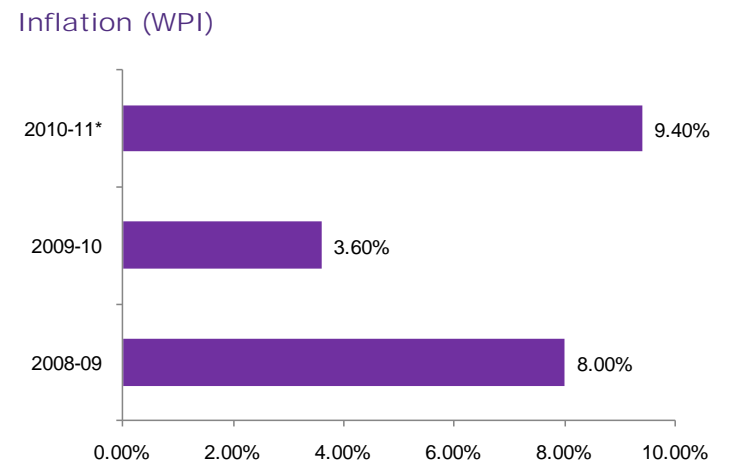
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- Other key economic indicators
- **External debt stock at US\$262.3 billion at end of March 2010**, recording an increase of US\$37.8 billion over end of March 2009
 - **Current account deficit of 2.8%** of GDP in 2009-10 vis-à-vis 2.30% in 2008-09
 - **Foreign exchange reserves of US\$297 billion** as of 31 December 2010
 - **Gross Fixed Capital Formation estimated at 8.40%** in 2010-11, from 7.30% in 2009-10 and 1.50% in 2008-09
 - **Gross Domestic Saving estimated at 33.7%** in 2009-10
 - **Net capital flows increased to 3.8%** of GDP in 2009-10 from 0.5% in 2008-09
 - **Gross capital inflows pegged at US\$345.7 billion** during 2009-10, which is 10.2% higher than US\$313.6 billion in 2008-09
 - **Net inflows from FIIs marked at US\$22.3 billion** during April-September 2010 as compared to **US\$15.3 billion in the preceding year**
 - **Inflation**, in April-December 2010, **recorded at staggering 9.4%**, which is substantially higher than 3.60% in 2009-10



Source: Economic Survey 2010-11
*As of 31 December 2010



Source: Economic Survey 2010-11
*Apr-Dec 2010

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Direct Taxes

- Repatriation of dividends from foreign subsidiary in FY 2011-12 to be taxed at a reduced rate of 15%
- New provisions introduced to apply Alternate Minimum Tax to Limited Liability Partnerships (LLP)
- **Minimum Alternate Tax (MAT)** rates increased marginally to 18.5% and now applicable to Developers of and Units in a **Special Economic Zone (SEZ)**
- **SEZ Developers** now liable to **Dividend Distribution Tax** of 15%
- The amount of **weighted deduction allowed for contributions to specified institutions for approved scientific research** increased from 175% to 200%
- **Investment linked deduction** for affordable housing projects and production of fertilisers in India
- Contribution made by employer to New Pension Scheme to be excluded from the overall ₹100,000 limit prescribed under Section 80CCE
- **Infrastructure debt funds** notified by the Government to be exempt from tax and foreign residents to obtain benefit of lower withholding **tax rate of 5% on interest payments**
- Personal Income tax exemption limit increased to ₹180,000
- Senior Citizen age limit revised to 60 years from earlier level of 65 years; further exemption limit increased to ₹250,000
- Exemption limit carved out for a new category of **very Senior citizens** (pegged at 80 years and above) at ₹500,000
- **Surcharge for corporate reduced to 5% from 7.5%**
- Extension of tax holiday till 31 March 2012 for undertakings in **Power Sector and Production of Mineral Oil**
- Deduction for **investment in long term infrastructure bonds** made available for 2011-12
- **Transfer pricing** implications to apply to all transaction with residents of countries which refrain from exchange of effective information along with certain other adverse implications
- **Liaison office** to file annual information report within 60 days from end of the financial year
- Requirement to quote **Document Identification Number** done away with

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Indirect Tax - highlights

Introduction to GST

- The Government has reiterated its commitment to introduce GST regime
- The Constitutional Amendment Bill to be introduced in this session of Parliament
- The Indirect Tax levies of Service Tax, Central Excise and Value Added Tax would converge into a uniform dual GST
- Point of Taxation Rules are proposed to be introduced to change the basis of payment of service tax from 'receipt' to 'accrual'. This is also a precursor to the introduction of GST
- There is no specific date or rate indicated for the introduction of GST; however, the removal of several exemptions and maintenance of rates at uniform levels indicate the governments determination to bring about this milestone tax reform
- A significant progress has been made on the GST Network for the establishment of a strong IT infrastructure. The National Securities Depository Limited shall partner to establish the IT backbone for GST

Rates remain constant

- The rate of Service Tax continues to be at 10%
- The standard rate of Central Excise duty has also been maintained at 10%
- The merit rate of Central Excise duty has been increased to 4 to 5%
- The peak rate of custom duties remains at 10%. The existing rates of 2%, 2.5% and 3% are being fused into a single rate of 2.5%
- Rate of central sales tax remains unchanged at 2%

New Levies and increases

Service Tax

- The levy of Service Tax has been extended to the following new services:
 - Services provided by air conditioned restaurants having license to serve liquor. An abatement of 70% will be allowed on the bill value
 - Services provided by hotels, inns, guest houses, clubs, camp sites. This service will be taxed only when the continuous period of stay is less than three months. An abatement of 50% will be allowed on the bill value

These new levies will come into effect after the enactment of the Finance Bill 2011

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Expansion of Scope of Existing Levies

- The scope of the following services is expanded:
 - Life Insurance Services - to include services in relation to management of investments
 - Commercial Training or Coaching Services- to include services in relation to all training for unrecognized courses by a Centre, providing both recognized and unrecognized courses
 - Club or Association Services – to include services provided to non members
 - Business Support Services – to include operational/administrative assistance
 - Services by legal professionals – to include services provided by a business entity to an individual or vice versa and to also include services provided by arbitrators to business entities
 - Services by clinical establishments - to include any service provided:
 - by an establishment having central air conditioning and more than 25 beds
 - by an establishment providing diagnostic services with the aid of laboratory equipment
 - by doctors who provide services from the premises of a clinical establishment but are not its employees
- Service tax on air travel has been increased

Custom Duty

- 2.5% Basic Custom Duty (BCD) imposed on import of aircrafts by non-scheduled operators. Currently these imports are duty free

Significant Exemptions

Service Tax

- Service Tax on business exhibitions held outside India
- Works contracts services provided within a port or an airport
- Inter –State or intra -State transportation of passengers in a vehicle bearing contract carriage permit or a tourist vehicle permit exempt retrospectively for a period 1 April 2000 to 6 July 2009

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Significant Exemptions

Central Excise

- Goods supplied to mega power projects including power cables
- Air conditioning equipments, panels and refrigeration panels for installation of cold chain infrastructure for preservation, storage or transport of agriculture produce and apiary, horticulture, etc.
- Conveyer belt systems for use in cold storage and in mandis and warehouse for the storage of food grains and sugar
- Colour, unexposed cinematographic film in jumbo rolls of 400 feet and 1000 feet
- Pipe fittings required for a water supply project

Description of Change	Effective Date
Amendments to CENVAT Credit Rules, 2004 (Other than those specified in relevant Notifications)	1 April 2011
Amendment to Taxation of Service (Provided from Outside India and Received in India) Rules, 2006	1 April 2011
Point of Taxation Rules under the Finance Act, 1994	1 April 2011
Amendment to Export of Service Rules, 2004	1 April 2011
New Services and Changes in Existing Services	From a date to be notified after the enactment of the Finance Bill 2011
Specific levy change for Transport of Passengers by Air Service	1 April 2011
Legislative changes in Custom and Excise provisions	Date of enactment of the Finance Bill 2011
New Rates of Custom duty	1 March 2011
New Rates of Excise duty	1 March 2011

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Significant Exemptions contd.

Custom Duty

- BCD reduced on certain priority sectors like agricultural machinery and micro irrigation equipment
- Exemption from BCD on components of mobile handsets extended till 31 March 2012
- BCD exempted on imports of stainless steel scrap
- The condition of Retail Sale Price (RSP) has been removed to avail of exemption of additional duties of customs on the consideration attributable towards transfer of right to use the software on packaged or canned software
- Work of art imported for exhibitions in public museums or national institutions

Legislative amendments

Certain important Rules amended / introduced

CENVAT Credit Rules

- The definition of 'input' and 'input services' has been broadened
- Accessories cleared along with final products and goods used for free warranty are also included as inputs
- Goods and services used for construction have been excluded from the purview of credit
- Trading has been clearly defined as an exempt service
- Rule 6(5) that allowed complete credit of 17 services has been withdrawn

Changes in Export / Import of Service Rules

- Amendments have been introduced to both these Rules to move towards a destination based levy in all cases where transactions are between businesses
- The origin based levy remains in case of transactions between business to customer

Penal Provisions

- Penal provisions have been rationalized to reinforce the message that honest tax payers would be facilitated and deviants would be dealt with severely

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Certain important Rules amended / introduced

Rationalization of Appeal provisions

- Provisions introduced to empower the Central Board of Excise and Customs (CBEC) to issue instructions prescribing monetary limits below which appeals, revision applications cannot be filed
- These provisions will acquire force when the Finance Bill 2011 is enacted although with effect from 20 October 2010

Self Assessment introduced in the Customs Act, 1962 (Customs Act)

- Self assessment is introduced in the Customs Act for both imported and exported goods - this is indeed a welcome move

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Rates of taxes

Personal tax

- Personal income-tax slabs proposed to be revised as under

Existing Slab (₹)	Revised Slab (₹)	Rate (%)
Upto 160,000	Upto 180,000	NIL
160,001 to 500,000	180,001 to 500,000	10
500,001 to 800,000	500,001 to 800,000	20
Above 800,000	Above 800,000	30

- Minimum exemption limit has been increased for senior citizens to ₹250,000; Minimum age requirement for individual to qualify as senior citizen reduced from 65 to 60 years
- Limit remains unchanged for women (₹190,000)
- New category of very senior citizen (age of 80 years and above) introduced – minimum exemption limit of ₹500,000 provided for such category
- Education Cess and Secondary and Higher Education Cess at 2% and 1% respectively to continue

Corporate tax

- No change in corporate tax rate
- Minimum Alternate Tax rate proposed to be increased from 18% to 18.5%
- Surcharge on domestic companies having income above ₹10 million proposed to be reduced from 7.5% to 5%
- Surcharge on foreign companies proposed to be reduced from 2.5% to 2%
- Marginal relief provisions to continue
- Education cess and Secondary and Higher Education Cess at 2% and 1% to continue
- Education cess and Secondary and Higher Education Cess will not apply on tax deducted or collected at source in case of domestic companies and other resident persons (the provision remains unchanged)



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Charitable Purpose [Section 2(15)]

- The current provisions restrict the definition of "charitable purpose" by excluding from its ambit 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 provided the aggregate receipts from such activity exceeds ₹1,000,000 in a financial year.
- The income from such activities in excess of such limit is liable to tax
- The limit of ₹1,000,000 is now proposed to be increased to ₹2,500,000
- The amendment is proposed to come into effect from 01 April 2012 (i.e. Assessment Year 2012-13 onwards)

Perquisites [Section 10(45)]

- Perquisites or allowances received by an employee are liable to tax under the head "salaries"
- It is now proposed to exempt specified perquisites or allowances paid to the Chairman or a retired Chairman or any other member or retired member of the Union Public Services Commission in line with similar perquisite exemptions being provided to Supreme Court judges, Election Commissioners et al
- The perquisites or allowances qualifying for exemption would be notified by the Central Government in the Official Gazette
- This provision is proposed to be made effective retrospectively from 01 April 2008 (i.e. Assessment Year 2008-09 onwards) and therefore may necessitate filing of revised returns by these individuals, where required, to claim exemption of specified perquisites

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Exemption of specified income of notified body or authority or trust or board or commission [Section 10(46)]

- It is proposed to exempt the specified income of a body, authority, board, trust or commission which is set up or constituted by a Central, State or Provincial Act or by the Central Government or a State Government
- In order to be eligible for such exemption, the body, authority, board, trust or commission should be set up or constituted with the objective of regulating or administering an activity for the benefit of general public provided—
 - it is not engaged in commercial activity, and
 - it is notified by the Central Government
- The nature and extent of income to be exempted will be specified by the Central Government

Consequential amendment in Section 139(4C)

- A consequential amendment has been proposed in Section 139(4C) which requires such body, authority, board, trust or commission to file a return of income
- The amendments proposed to come into effect from 01 June 2011

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Infrastructure Debt Funds

- The Government of India has proposed to create Special Purpose Vehicles in the form of infrastructure debt funds to attract foreign funds for financing infrastructure in India
- The income of the infrastructure debt funds notified by the Central Government is proposed to be exempt under the newly inserted clause 47 to the Section 10 subject to filing a return of income
- Any interest payment received from such notified infrastructure debt funds by foreign investors shall be taxable at the rate of 5% on the gross amount of such interest
- The above interest payments made by the notified infrastructure debt funds to its foreign investors shall be subject to withholding tax at 5% under the proposed new Section 194LB
- It is interesting to note that Section 195 currently requires tax deduction at source on interest payments to non-residents. Given the provisions of Section 194LB and in order to avoid ambiguity, the Government may examine exclusion of interest on notified infrastructure debt funds from the ambit of Section 195 through an amendment
- These provisions are proposed to come into effect from 01 June 2011

Special Economic Zones ("SEZ")

- SEZ Developers and Units now brought within the ambit of MAT, effective from 01 April 2011 (AY 2012-13 onwards)
- SEZ Developers now liable to Dividend Distribution Tax of 15%, effective from 01 June 2011

Scientific Research

- The amount of weighted deduction allowed for contributions to specified institutions for approved scientific research has been increased from 175% to 200%, effective from 01 April 2011 (AY 2012-13 onwards)

Investment Linked Incentives

- Investment linked deduction (deduction of entire capital expenditure in the year in which it is incurred) in respect of 'specified business' under Section 35AD to also include business of:
 - Developing and building affordable housing projects under Government framed schemes and duly notified by Central Board Direct Taxes; and
 - Production of fertilizers in a new plant or newly installed capacity in an existing plant.

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Set off of Losses

- By amending the definition of eligible business under Section 35AD(8), losses from specified business of hotels and hospital can now be set off against profits from existing business in the same field (irrespective of whether the existing business is eligible for a benefit under Section 35AD or not).
- The amended is effective retrospectively from 01 April 2011 (AY 2011-12 onwards)

New Pension System

- Section 80CCD provides a deduction to employees in respect of any contributions made to the New Pension Scheme (NPS) by the employee and employer
- The current provisions of Section 80CCE, restricts the aggregate amount of deduction to be claimed under Section 80C, 80CCC and 80CCD to ₹100,000
- It is proposed that the contribution made by the employer to the NPS be excluded for computing the ₹100,000 limit under Section 80CCE
- Further, it is proposed that the employer be allowed a deduction under Section 36 in respect of his contribution to the NPS of an amount being lower of
 - Actual employer contribution to NPS; or
 - 10% of employees salary

Long-term infrastructure Bonds

- The Finance Act 2010 provided a deduction for amount paid or deposited during Financial Year 2010-11 for subscription to notified long-term infrastructure bonds under Section 80CCF
- This amount of deduction was in addition to the deduction of ₹100,000 specified under Section 80CCE and was the lower of:
 - Actual amount of subscription; or
 - ₹20,000
- With the objective of providing continued impetus to infrastructure, this deduction has been extended for a further period of one year i.e. deduction would be available for investment in notified infrastructure bonds for Assessment Year 2012-13 as well

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Extension of Tax Holiday of specified Power Undertakings

- Section 80-IA(4)(iv) provides a deductions of profits and gains for an undertaking which
 - is set up for the generation and distribution of power;
 - Starts transmission and distribution by laying a network of new transmission or distribution lines;
 - Undertakes substantial renovation and modernisation of existing network of transmission and distribution lines.
- The above deduction currently available upto 31 March 2011 has been extended for a further period of one year, i.e., upto 31 March 2012 (for AY 2012-13).

Removal of Tax Holiday on NELP blocks

- Production linked 100% deduction available for an undertaking located in any part of India engaged in commercial production of mineral oil under Section 80-IB (9)(i), would not be available for blocks licensed under a contract awarded after 31 March 2011 under the New Exploration Policy announced by Government of India or in pursuance of any law for the time being in force or by Central or a State government in any other manner

Transfer Pricing

Benefit under second proviso to Section 92C(2)

- The existing provisions of Section 92C(2) permit a variation of 5% of the transaction price for purposes of testing the arm's length nature of any transaction
- Finance Bill 2011 proposes to do away with the fixed 5% benefit available across all business segments and range of international transactions and to be substituted by such percentage as may be notified.
- The above change is proposed to take effect from 01 April 2012 (AY 2012-13 onwards)
- The proposed amendment seems to suggest that the permissible variation could be different depending on the industry segment and/or year of the transaction. The intention may be to provide a higher tolerance for certain industries depending on the economic / business cycle. It would also be essential that these percentages are prescribed at the beginning of the relevant financial year to enable the tax payer to plan their transfer pricing policies.

Due Date for filing of Accountant's report

- The due date for filing return of income is proposed to be extended by two months to 30 November of the relevant assessment year in cases where the taxpayer is required to file an accountant's report (Form 3CEB) for reporting international transactions

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Transfer Pricing

- Impliedly, the due date for furnishing Form 3CEB would also stand extended by the same duration.
- The said change is proposed to take effect from 01 April 2011 (AY 2011-12 onwards)
- The amendment has been proposed with a view to address practical difficulties faced by assessee's in accessing contemporaneous comparable data. This is a departure from the provisions contained in Direct Taxes Code Bill 2010, which proposes to prepone the date of filing of return. There may be a change in the Direct Taxes Code to align the due date of filing of return with the above mentioned date.

Additional Powers to Transfer Pricing Officer (TPO)

- It is proposed to extend the jurisdiction of the TPO to determine arm's length price even in respect transactions which he may subsequently come across during the course of proceedings before him.
- It is proposed to empower the TPO to exercise the powers to survey so as to conduct on-the-spot enquiry and verification.
- The above amendment is proposed to take effect from June 01 2011

Transfer Pricing

- Although the intent is to ensure better enforcement this may be a damaging provision from the assessee's perspective considering the level of confidentiality required to be maintained on certain crucial business and pricing issues. If the same is not handled sensitively it could have larger ramifications and protracted litigation
- The above proposed changes highlight the increasing focus and emphasis of the government on transfer pricing as a mechanism to curb evasion of tax

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Transactions with persons located in notified jurisdictional area

- As part of the Government's five fold strategy to tackle black money accumulation in tax havens, a new Section 94A is proposed to be introduced to deal with transactions undertaken with persons located in a country or territory which does not effectively exchange information with India
- The proposed new provision enables the Central Government to notify any such country or area outside India having regard to lack of effective information exchange of such jurisdiction with India
- The impact the proposed provision on transactions with parties in such notified jurisdiction would be:
 - All parties to the transaction would be treated as deemed associated enterprises and transactions would be treated as deemed international transactions. Therefore, transfer pricing provisions would apply
 - The benefit of the permissible variation of transaction price would not be available
 - Deduction would be denied in respect of payment to financial institutions located in notified jurisdictions unless assessee provides authorisation in the prescribed form authorising income tax authorities to seek relevant information from the financial institution

Transactions with persons located in notified jurisdictional area

- Deduction would be denied in respect of any expenditure or allowance (including depreciation) arising from the transaction unless assessee maintains prescribed documentation and furnishes prescribed information
- In case of any sum received or credited from a party in a notified jurisdiction, onus is on the assessee to satisfactorily explain the source of such income. In case of failure to do so, the amount received shall be deemed to be income of the assessee.
- The proposed provisions would also apply to Permanent Establishments located in the notified jurisdictions
- Payments made to parties in the notified jurisdiction would be subject to tax deduction at source at the higher of:
 - Rate or rates in force
 - Rate specified in the relevant provisions of the Act
 - 30%
- This provision is proposed to be come into effect from 01 June 2011
- The amendment has been proposed with a view to bring into ambit transactions with third parties situated in low tax jurisdictions and tax havens.

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Taxation of certain foreign dividends at a reduced rate

- Currently, Indian companies receiving dividends from foreign companies are liable to tax in respect of such dividend income at the rate of 30% (plus applicable surcharge and cess)
- A new Section 115BBD is proposed to be introduced under which dividends received by an Indian company from its foreign subsidiary would be liable to tax at 15% (plus applicable surcharge and cess)
- Foreign subsidiary has been defined to mean a foreign company in which the Indian company holds more than 50% of the nominal value of equity share capital. Dividends mean dividends defined under Section 2(22)(a) to (d) i.e. excluding Section 2(22)(e)
- The beneficial tax rate is proposed to come into effect from 01 April 2012 and is applicable only for the Financial Year 2011-12
- Considering that the Direct Taxes Code with its anti-avoidance measures expected to be effective from 01 April 2012 and given Government's five fold strategy to bring back money accumulated in tax havens, this proposal provides a one-time amnesty / opportunity to Indian companies to repatriate funds from Controlled Foreign Companies at a concessional rate

Limited Liability Partnerships ("LLP")

- Special provisions inserted under new Chapter XII-BA to cover taxation of LLP's
- Concept of Alternate Minimum Tax (AMT) introduced on similar lines to MAT
- AMT applicable at 18.5% on adjusted total income of LLPs
- Adjusted total income = Total income as computed under the normal provisions of the Income Tax Act + Deductions claimed, if any, under Chapter VI-A and Section 10AA
- Tax payable = AMT or tax under normal provisions of the Income tax Act, whichever is higher
- Credit for tax paid under AMT allowed to be carried forward to be set off against tax payable under normal provisions of the Act upto 10 Assessment Years
- Effective from 01 April 2011 (AY 2012-13 onwards)

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Taxation on income distributed to unit holders

- Currently under Section 115R, specified companies or mutual funds distributing income to unit holders are required to pay additional income tax on such income at the following rates:
 - 25% on income distributed by a money market mutual fund ("MMMF") or a liquid fund
 - 12.5% on income distributed to any person being an individual or Hindu Undivided Family by a fund other than a MMMF or a liquid fund
 - 20% on income distributed to any other person by a fund other than a MMMF or a liquid fund.
- It is proposed to amend this Section as follows: -
 - 25% on income distributed by MMMF or liquid funds to Individuals or Hindu Undivided Families
 - 30% on income distributed by MMMF or liquid funds to any other person
 - 30% on income distributed to any person other than an individual or Hindu Undivided Family by a fund other than a MMMF or a liquid fund
- This amendment is proposed to come into effect from 01 June 2011

Collection of information for tax authorities outside India

- A new provision is proposed to be introduced under Section 131 which provides the Assessing Officer, not below the rank of Assistant Commissioner of Income-tax, the powers prescribed under Section 131(1) (i.e. discovery and inspection, enforcing attendance of any person, examining on oath, production of books et al) for the purpose of collecting information (from any person) requested by tax authorities outside India under relevant Double Taxation Avoidance Agreements / Tax Information Exchange Agreements
- This proposed amendment will be applicable even in a case where no proceedings are pending before any income tax authority with respect to the above person.
- Further, Section 131(3) is also proposed to be amended to provide the Assessing Officer power to impound and retain any books of account and other documents produced before the tax authorities in respect of such persons
- Similar amendments have also been proposed in Section 133 i.e. powers of collection of information
- The above amendments are proposed to come into effect from 01 June 2011

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Exemption from filing tax return - Salaried class of Assessee

- A new sub-Section (1C) is proposed to be introduced under Section 139(1) of the Act under which salaried class of tax payers (as notified by Central Government), whose tax liability is fully discharged by the employer through the tax deduction at source route and who have no other source of income other than 'income from Salaries', are not required to file a return of income
- A consequential amendment is also proposed to Section 296 of the Act as per which any notification under Section 139(1C) would be required to be laid before the Parliament
- The above amendments will take effect from 01 June 2011

Extension of time limit for processing return in Centralised Processing Centres

- Existing time limit for processing tax returns at Centralised Processing Centres to determine the tax payable / refundable has been extended to 31 March 2012

Extension of time limit for Assessment

- Section 153 is proposed to be amended to exclude the lower of the following while determining the period of limitation for completion of assessment:
 - Period commencing from the date on which reference for exchange of information was made by tax authorities outside India under Double Taxation Avoidance Agreement or Tax Information Exchange Agreements to the date on which the information was received by the Commissioner of Income Tax;
 - 6 months
- Similar amendment is also proposed to be made in Section 153B (search cases)
- This amendment is proposed to be effective from 01 June 2011

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Application for settlement of cases

- A new clause (ia) has been inserted in the proviso to sub-Section (1) of Section 245C to define person eligible for filing an application before Settlement Commission to include the following situation
 - the applicant is related (the term has been defined in the section) to a person in whose case proceedings have been initiated as a result of search and who has filed an application; and
 - search / survey proceedings have been initiated in case of the applicant.
- The above is applicable only when the addition amount of income tax payable on the income disclosed in his application exceeds ₹10 lakh
- This amendment will take effect from 01 June 2011

Procedure on receipt of application for settlement of cases

- A new sub-Section (6B) has been inserted to Section 245D which gives power to Settlement Commission to rectify a mistake apparent from the record, of any order passed by it, within a period of six months.
- Before modifying the tax liability, the Settlement Commission has to give notice and an opportunity of being heard to the Applicant and the Commissioner.
- Similar consequential amendments are also proposed under Section 22D of the Wealth Tax Act 1957

Extension of time limit – Recognised Provident Fund Applications

- The time limit for processing the applications made by establishments seeking exemption under Section 17 of the Employees Provident Fund and Miscellaneous Provisions Act, 1952 has been extended from 31 December 2010 to 31 March 2012

Reporting of activities of Liaison Office

- A new Section 285 is proposed to be inserted requiring a Liaison Office in India to file an Annual Information statement (in the prescribed form) providing prescribed details of its activities, within 60 days from the end of the financial year
- The statement is required to be filed with the jurisdictional Assessing Officer
- The provisions are proposed to become effective from 01 June 2011

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Service Tax

Rate

- Service tax rate remains unchanged at 10%

Levy extended to following new services:

- Services provided by **air-conditioned restaurants** having a license to serve alcoholic beverages in relation to serving of food/ beverages. An abatement of 70% is proposed on the value of such services
- **Short-term accommodation** provided by hotel, inn, guest house, club or campsite or any other similar establishment for a continuous period of less than three months. Actual levy is restricted to accommodation with declared tariff of ₹ 1,000 per day or higher as may be notified. An abatement of 50% is proposed on the value of such services

Scope of existing services expanded/ altered

- **Life insurance services** relating to managing investment for policy holders is being brought into the tax net
- Option has been given to pay tax at the standard rate on the portion of premium that has not been invested and is so indicated in any of the documents given to policy holder. The composition rate is also being increased from 1% to 1.5%
- **Club or association services** to include services provided to non-members
- Definition of **Authorized Service Stations** amended to cover services provided by all persons (irrespective of authorization) and all motor vehicles, other than those meant for goods carriage or three wheeler auto rickshaw
- **Business Support Services** to include services provided by way of operational or administrative assistance in any manner
- **Legal Consultancy Services** to cover services provided by business entities to individuals, representational services provided by any person to any business entity and arbitration services provided by Arbitral Tribunal to any business entity. Effectively, legal consultancy services provided by an individual to another individual remain outside the tax net
- **Commercial Training or Coaching Services** to cover all unrecognized courses conducted by an institute which also conducts courses which lead to grant of recognized degree or diploma

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Scope of existing services expanded/ altered

- **Health Services** provided by a clinical establishment (centrally air-conditioned in whole or part) with more than 25 beds for in-patient treatment at any time of the year, services in relation to diagnostic tests with the help of laboratory or medical equipments and services provided by visiting doctors from the clinical establishments. An abatement of 50% has been provided on value of services, thus effective tax rate would be 5.15%. The above does not cover establishments owned or controlled by Government or local authorities

The above services will come into effective from a date to be notified after enactment of the Finance Bill 2011

Exemptions

- Service provided by an organizer in relation to **business exhibitions** held outside India
- Only 75% of the value of service provided in relation to **transport of goods through coastal and inland shipping** liable to service tax
- **Works contract services** in relation to construction or finishing of new residential complex under Jawaharlal Nehru National Urban Renewal Mission and Rajiv Awaas Yojana
- **Works contract services** provided within a port or other port or an airport for specified purposes
- **General Insurance Services** in relation to Rashtriya Swasthya Bima Yojana

Above exemptions come into effect immediately.

- Value of air freight charged to Custom Duty for the purpose of customs valuation to be exempt under **Transport of Goods by Air Services**
- Services related to **transportation of goods by road, rail or air**, when both the origin and the destination are located outside India

Above exemptions come into effect from 1 April 2011

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Withdrawal or amendment of exemptions

- Rate of service tax on **travel by air** stands revised with effect from 1 April 2011 as under:
Domestic (economy class) – from ₹ 100 to ₹ 150
International (economy class) – from ₹ 500 to ₹ 750
Domestic (other than economy) – 10% (standard rate)
- Membership fees for **Club or Association services** for associations or chambers representing industry or commerce exempt for the period 16 June 2005 to 31 March 2008
- Inter-State or intra-State **transportation of passengers in a vehicle bearing contract carriage permit** or a tourist vehicle permit for the period 1 April 2000 to 6 July 2009 exempt retrospectively. Post 6 July 2009 the said services are exempt vide a separate notification

The last changes will be effective from date of enactment of the Finance Bill 2011

Amendments in Rules/Notifications

- With effect from 1 April 2011 **Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006** are amended to move some of the specified services from one category to another
 - Preferential Location Services will be considered exported if property is located outside India
 - Rail travel agent and health check up services are moved to performance category (even when partly performed outside India)
 - Credit rating agency services, market research agency services, transport of goods by air, road and rail, etc. are move to residuary category (i.e. where the recipient is located). Thus the additional condition of performing these services outside India stand removed
- With effect from 1 March 2011 **Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007** has been amended to provide that the credit of tax on input services of Erection, Commissioning or Installation, Commercial or Industrial Construction and Construction of Complex Services shall be restricted to 40% of tax paid, when such tax has been paid on full value of the service after availment of CENVAT credit

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Amendments to CENVAT credit provisions

- The scope of eligible input and input services has been defined more clearly to minimize disputes
- Scope of exempt services extended to include trading and taxable services, on which abatement is available
- Scope of exempt goods extended to include excisable goods chargeable to concessional rate of duty, with condition that no credit is availed
- Rules amended to provide for reversal of CENVAT Credit, where payment made towards an invoice of input service is received back
- Provisions relating to obligation of manufacturer of dutiable and exempted goods and provider of taxable and exempt services amended as under:
 - Reduce the requirement of payment of 6% of value of exempted services to 5%
 - Option available to maintain separate accounts for inputs for availing credit; whereas for input services credit to be reversed based on allocation formula
 - The payment made under this rule shall be treated as credit not availed for the purpose of specified exemption notification
 - Rule relating to availment of credit on 17 specified common services has been deleted. Thus, proportionate reversal needs to be done for such services as well
- Banking companies and financial institutions providing Banking and Other Financial Services will be allowed to utilize only 50% of the CENVAT credit availed for payment of service tax. This could be on account of no service tax being applicable on interest
- The providers of life insurance services and management of investment under ULIP will be allowed to utilize only 80% of the CENVAT credit availed for payment of service tax. This could be on account of the fact that the investment portion of the ULIP is not taxable

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Point of Taxation Rules effective 1 April 2011

- The Government had circulated the draft Point of Taxation Rules in August 2010 to bring clarity in the matter of levy and collection of service tax. Currently the payment of tax is linked to receipt of value of services
- The major change is to link payment of service tax to the provision of service, raising of invoice or receipt of payment whichever is earlier
- The proposed changes are in line with the best international practices. The main purpose of these rules is alignment of service tax procedures with the proposed GST by making it transaction based taxable event
- Salient features
 - Concept of 'continuous supply of service' introduced where services are provided for 6 months or more
 - Clarity that both 'providing of services' and 'services to be provided' are taxable event
 - In case invoice is issued and payment is received against services provided or to be provided, the earlier would be the point of taxation
 - Receipt of advance would continue to remain point of taxation
 - No service tax on interest free refundable deposits
- For services received from outside India, point of taxation shall be date on which the invoice is received or the payment is made, whichever is earlier

Point of Taxation Rules effective 1 April 2011 .

- In case of associated enterprises, point of taxation would be earliest of, date of receipt of payment, date of entry in books of account or date of issuance of debit/ credit note
- Separate rule provided for determining point of taxation in relation to continuous supply of services
- In case of change in the rate of tax between the dates of issuance of invoice, date of payment and provision of services, point of taxation would be determined under specific and separate provisions
- In case of royalties and payments towards copyrights, trademarks, etc, where the whole amount of consideration is not ascertainable at the time of provision of service, the point of taxation shall be each time a payment is received or an invoice is issued, whichever is earlier

The above changes are a clear indication of how services are going to be taxed under the upcoming GST regime proposed to be introduced

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Amendments to penalty provisions effective from date to be notified

- Maximum penalty for late filing of returns enhanced from ₹ 2,000 per return to ₹ 20,000 per return
- Erstwhile provision dealing with reduced penalty (if paid with 30 days of receipt of the notice) as a result of fraud or willful collusion stands deleted
- New proviso has been introduced for reduced penalty in cases where during the course of the audit/ verification, it is established that the transactions not reported were available on specified records. Penalty is reduced to 1% per month with a limit of 25% of the tax amount
- Delayed payment of tax shall now attract a penalty of ₹ 100 per day or 1% per month, whichever is higher, subject to an overall cap of 50% of the tax amount due
- Maximum penalty for contravention of Rules and provisions of the Finance Act, 1994 proposed to be enhanced from ₹ 5,000 to ₹ 10,000
- Penalty for suppressing value of taxable service has been made mandatory and equal to tax evaded. In cases, where the liability arises on account of fraud/ willful collusion, etc, it would be 50% of tax amount. The penalty would be reduced to 25% if such tax, interest and reduced penalty is deposited within 30 days. For service providers with turnover less than ₹ 60 lakhs, the above period is relaxed to 90 days

Service Tax

Amendments to valuation provisions effective 1 April 2011

- Specific provisions introduced for determining value of **money exchange services** for payment of service tax
- In relation to **telecommunication services**, value of taxable services shall be gross amount charged by the telegraph authority from the service receiver

SEZ Refunds

- Criteria for determination of 'wholly consumed' services have been laid down. The same is borrowed from Export of Services Rules, 2005
- All services received by an entity in SEZ not having any other DTA operations will constitute wholly consumed services
- No service tax is required to be paid even in case of services liable to tax on reverse charge basis, if the same are meant to be wholly consumed within SEZ
- Refund of other services not wholly consumed with SEZ shall be available on pro-rata basis i.e. ratio of SEZ turnover to the total turnover
- Services provided to SEZ shall not be considered as exempt services for the purpose of Rule 6 of the CENVAT Credit Rules, 2004. Thus, requirements of Rule 6 would not be applicable.
- Procedures specified for claiming the above exemption and refund

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Other important changes

- **Limit for adjusting excess payment of service tax** increased from ₹ 1 lakh to ₹ 2 lakhs
- In case of **sale or purchase of foreign currency**, the composition rate has been reduce from 0.25% to 0.1% of the gross amount of currency exchanged towards discharge of tax liability. The option of paying service tax on billed charges has been withdrawn and thus, tax needs to be paid mandatorily under composition rate
- With effect from 1 April 2011, rate of interest on delayed payment of service tax has been increased from 13% to 18% per annum

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Central Excise

Rate

- Excise duty rate remains unchanged at 10%
- Merit rate of excise duty increased from 4% to 5%

Increase in rate of Excise Duty

- Readymade garments, under the brand name, would be liable to mandatory excise duty without any option of exemption
- Excise duty on cotton garments increased from 4% to 10%
- Cement would now be chargeable to 10% advalorem plus specific amount of duty. Earlier there were various slabs of specific duties
- Exemption on 130 consumer goods such as sugar confectionary, Pasta, coffee or tea premix, sauce and ketchup, branded jewellery etc. has been withdrawn. and Excise duty at 1% , without allowing CENVAT benefit, has been imposed
- Exemption from excise duty available to automatic looms and projectile looms has been withdrawn. Now duty at 5% would be payable
- Excise duty at 5% would be payable on micro-processors, FDD, HDD, CD Rom drive, DVD drives/writer and combo drives. Earlier, these items were exempt from excise duty.

Reduction in rate of Excise Duty

- Duty on precious metal reduced from ₹ 280 per 10 grams to ₹ 200 per 10 grams
- Kits and parts thereof for the conversion of fossil fuel vehicle into hydro vehicles reduced from 10% to 5%
- Excise duty on grease proof paper and glassine paper reduced from 10% to 5%
- Excise duty on sanitary napkin, baby diapers, adult diapers and water filter has been reduced to 1%

Exemptions

- Goods supplied to mega power projects & power cables
- Air conditioning equipments, panels and refrigeration panels for installation of cold chain infrastructure for preservation, storage or transport of agriculture produce and apiary, horticulture, dairy , poultry, aquatic & marine produce and meat
- Conveyer belt systems for use in cold storage and in mandis and warehouse for the storage of food grains and sugar
- Specific part of sewing machine (without inbuilt motor)
- Parts of power tillers when cleared to another factory of the same manufacturer for manufacture of power tiller
- Cotton stalk particle board
- Enzymatic preparations for pre tanning of leather
- Colour, unexposed cinematographic film in jumbo rolls of 400 feet and 1000 feet
- Pipe fittings required for water supply project

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Central Excise

Important Legislative changes

- To determine valuation on the basis of Maximum retail price it is proposed to **repeal the Standards of Weight & Measures Act, 1976** and **introduce Legal Metrology Act, 2009** with effect from 1 March 2011
- Provisions related to levy and recovery of excise duty are proposed to be redrafted so as to make them more lucid and coherent. A new category of specified cases is carved out in respect of which the period of limitation would be five years but which would attract general penalty of 50% of the duty. Waiver of show cause notice and conclusion of proceedings would be available, if the duty along with interest and specified penalty is paid before the issue of show cause notice in such cases
- A new provisions (section 11E) is proposed so as to create **first charge on the property of the defaulter** for recovery of central excise dues from such defaulter subject to provisions of Section 529A of the Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
- Section 12 of the Central Excise Act, 1944 is proposed to be amended to enable Central Government to apply provisions of Customs Act, 1962, related to levy of exemption, drawback, warehousing, offences, penalties, confiscation etc, to **Section 3A of the Central Excise Act, 1944**

Other important changes

- Section 12F of the Central Excise Act, 1944 is being inserted to empower the Joint Commissioner or the Additional Commissioner of the Central Excise to himself search or authorize a Central Excise Officer to carry out the search of any premises
- A new Section 35R is being inserted retrospectively with effect from 20 October 2010, so as to empower CBEC to issue instructions relating to non-filing of appeal in certain cases in line with National Litigation Policy
- **Rate of interest** for delay in payment of excise duty has been increased from 15% p.a. to 18% p.a
- In case readymade garments or other textile products are manufactured through a job worker, principal manufacturer would be liable to discharge excise duty liability. However, job worker may discharge excise duty liability on behalf of the principal manufacturer
- CENVAT credit rules is proposed to be amended, with retrospective effect, to allow CENVAT credit of service tax paid on import of services under reverse charge method

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Central Excise

Amendments to the CENVAT Credit Rules, 2004

- **Definitions** of inputs, input services, capital goods, exempted goods and exempted services **amended** with a view to bringing greater clarity. All goods used in the factory by the manufacturer of the final product, except those specified in the negative list and goods having no relationship whatsoever with the manufacture of the final product, would qualify as inputs
- In addition, any **goods including accessories cleared** along with the final product and goods used for providing free warranty, have also been included in the definition of 'inputs'
- Goods used for generation of electricity or steam for captive use would also constitute as inputs
- **Goods used for the construction of a building** or a civil structure or laying of foundation or making of structure for support of capital goods and goods used primarily for personal use or consumption of any employee including food articles, etc, have been expressly excluded
- Services related to any goods excluded from the definition of 'inputs' are also excluded from the definition of 'input services'. For instance, goods used for construction have been excluded from inputs while construction services, works contract services, and other specified services in so far as they are used for construction have been kept out of the purview of input services.

Amendments to the CENVAT Credit Rules, 2004

- Credit of duty paid on capital goods used outside the factory for generation of electricity for captive use within the factory has been permitted
- In case of ship breaking units, only 85% of the additional duty of customs paid on ships, boats etc. imported for breaking would be allowed as CENVAT credit
- Even in case of partial write offs, in the value of inputs/ input services, proportional reversal in CENVAT credit would be required

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Rate of duty

Description	Existing rate	Proposed rate
Parts of DVD Drive, DVD Writer, Combo drive, CD-ROM drive	Nil	5%
The following goods, namely:- (a) Microprocessor for computer, (other than motherboards); (b) Floppy disc drive; (c) Hard disc drive; (d) CD-ROM drive; (e) DVD Drive or DVD Writer; (f) Flash memory; (g) Combo drive.	Nil	5%
Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes	Nil	1%
Sugar confectionery (excluding white chocolate and bubble gum)	4%	5%
Preparations for infant use, put up for retail sale	Nil	1%
Preparations of vegetables, fruits, nuts, etc,	Nil	1% *
Coffee or tea pre-mixes	Nil	1% *

Description	Existing rate	Proposed rate
Sauces, ketchup and the like and preparations thereof	Nil	1% *
Soups and broths and preparations thereof	Nil	1% *
Ice-cream and other edible ice, whether or not containing cocoa	Nil	1%
All kinds of food mixes, including instant food mixes	Nil	1% *
(i) Ready to eat packaged food, (ii) Milk containing edible nuts with sugar or other ingredients	Nil	1% *
Fruit pulp or fruit juice based drinks	Nil	1% *
Flavoured Milk of Animal origin	Nil	1% *
Coal, briquettes, ovoids and similar solid fuels manufactured from coal	Nil	1%
Coke and semi-coke of coal, of lignite or of peat, whether or not agglomerated; retort carbon	Nil	1%

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Rate of duty

Description	Existing rate	Proposed rate
Vaccines (other than those specified under the National Immunisation Program)	Nil	1% *
Fertilisers (other than those which are clearly not to be used as fertilisers)	Nil	1% *
Ready-mix concrete (RMC)	Nil	1%
Surgical rubber gloves or medical examination rubber gloves	Nil	1% *
Leather board	Nil	1% *
Laminated jute bags	Nil	1% *
All goods of cotton, not containing any other textile material (other than those bearing a brand name or sold under a brand name)	4%	5%
*1% without credit and 5% with credit		

Description	Existing rate	Proposed rate
Motor vehicles falling under heading 8703 for transport of up to 13 persons, including the driver (other than three wheeled motor vehicles), which after clearance has been registered for use solely as taxi	NA	80% of the excise duty paid at the time of clearance

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Custom Duty

Rate

- Peak rate of Custom Duty remains unchanged at 10%
- A median rate of 2.5% is introduced in place of duty rates of 2%, 2.5% & 3%

Exemption given to certain thrust industries

- BCD reduced from 5% to 2.5% on specified agricultural machinery namely paddy transplanted, laser land leveler, cotton picker, reaper-cum-binder, straw or fodder balers, sugarcane harvesters and track used for manufacture of track-type combine harvester
- BCD on parts and components required to manufacture the above equipment reduced from 7.5% to 2.5%
- BCD reduced from 7.5% to 5% on micro-irrigation equipment

Other exemptions

- Exemption from additional duty of customs on the consideration attributable towards transfer of right to use the software (packaged or canned) not required to bear the retail sale price
- Full exemption from BCD extended to parts/ components required for the manufacture of PC connectivity cable and sub-parts of such parts and components of battery charger, hand-free head phones and PC connectivity cable of mobile handsets
- BCD exempt on import of stainless steel scrap

Other significant changes

- BCD of 2.5% being imposed on the import of aircrafts for non-scheduled operators. Exemption from education cess and secondary and higher education cess presently available to aircrafts now withdrawn. The exemption from additional duty of customs (CVD) and special additional duty of customs (SAD) would continue
- All dutiable articles, intended for personal use, imported by post or air and exempted from any prohibition, chargeable to 10% BCD. However, items like drugs and medicines chargeable to 35% BCD
- The Second Schedule of the Customs Tariff Act, 1975 is being amended to align the entries with the Harmonized System of Nomenclature
- Export duty at 10% imposed on de-oiled rice barn cake
- The export duty on iron ore lumps and fines enhanced from 15% and 5%, respectively to 20%
- Export of iron ore pellets fully exempt from export duty

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Custom Duty

Legislative changes

- **Self-assessment of duty** is allowed on goods imported or exported subject to prescribed procedures
- Enhancement of **time-limit for claiming refund** from six months to one year
- Empowering the adjudicating authority to allow release of seized goods
- Government to prescribe circumstances where drawback would be allowed when payment not received in prescribed time limit
- In line with National Litigation Policy, an amendment is made retrospectively with effect from 20 October 2010, empowering the **CBEC to issue instructions on non-filing of appeal**
- The CBEC to prescribe regulations for specifying the **manner of conducting audit** at office of the Proper Officer of customs or at the premises of the importer
- Delayed payment of duty to attract interest at 18%
- Imported goods consisting of a set of articles would be chargeable to duty at respective rate as against the earlier practice of charging them at the highest rate. This is provided the same is evidenced to the proper officer

- Show Cause Notice to be issued with the prior approval of an officer not below the rank of an Assistant Commissioner of Customs, as against Deputy Commissioner, presently
- Provision inserted to create **first charge on the property of the defaulter** for recovery of the customs dues from such defaulter, subject to the provisions of Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act
- Balance of sale proceeds of unclaimed cargo sold in auction shall be paid to the Government, if they cannot be paid to the owner within 6 months
- **Export under EPCG Scheme** to simultaneously avail of benefits under export reward schemes such as Serve from India Scheme, Focus Product Scheme and Focus Market Scheme
- The above legislative changes shall come into effect on enactment of the Finance Bill 2011

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Custom Duty

Decrease in Custom Duty rates

Description	Existing Rate	Proposed Rate
Median rate	2%, 2.5%, 3%	2.5%
Agriculture machinery namely paddy transplanter, laser land leveler, cotton picker, reaper-cum-binder, straw or fodder balers, sugarcane harvesters and track used for manufacture of track-type combine harvester	5%	2.5%
Micro irrigation Equipments	7.5%	5%
Parts & Components of above	7.5%	2.5%
Raw pistachios	30%	10%
Sun-dried dark seedless raisins	100%	30%
Cranberry products	30%	10%
All goods-cleared from SEZ to DTA	4% (SAD)	Nil
Raw silk of all grades	30%	5%
Cash Dispensers & Parts	10%	Nil
Solar lantern or lamps	10%	5%
Petroleum Coke	5%	2.5%

Description	Existing Rate	Proposed Rate
Toughened glass and silver paste	10%	Nil
Specified gems and jewellery machinery	7.5%	5%
Lactose for use in the manufacture of homoeopathic medicines	25%	10%
Bamboo used for manufacture of agarbattis	30%	10%
Parts, components and accessories for manufacture of mobile handsets including cellular phones	Nil upto 31 March 2011	Nil upto 31 March 2012
Specified Life saving drugs	10%	5%
De-oiled rice bran oil cake	30%	Nil
Fin Fish feed	30%	Nil
Mineral Gypsum	5%	2.5%

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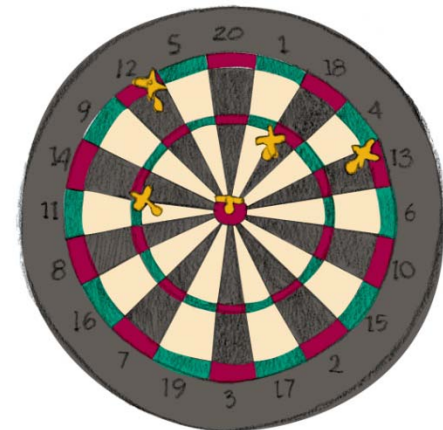
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Custom Duty

Increase in Custom Duty rates

Description	Existing Rate	Proposed Rate
De-oiled rice bran oil cake	Nil	30% Export duty
Ores & Concentrates (imports)	2%	2.5%
Ores & Concentrates (exports)	Nil	20% Export duty



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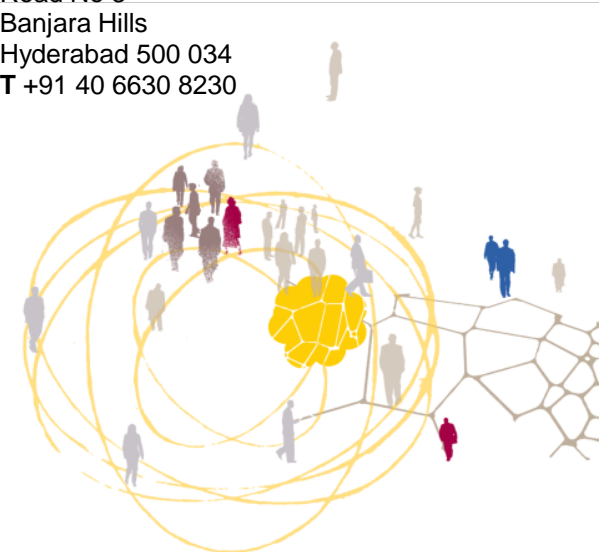
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