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Discussion on budget highlights

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Dear Reader,

We are pleased to present you with a discussion on the Union Budget for the financial year 2012 – 2013 (the Finance Bill, 2012) presented by the Honorable Finance Minister, Mr. Pranab Mukherjee at the Lok Sabha on March 16, 2012

Budget 2012 was not about big ticket reforms. Instead it was all about cautious steps to focus on growth instead of inflation. The government set itself reasonable targets to harness a ballooning deficit which is threatening to spiral out of control.

Through this issue of 'Tax News' as a part of GJA Learning series, we hope to provide you a snap-shot of some of the key takeaways from the budget speech. While further clarity to many of the amendments will unravel during the coming days, we believe that you will benefit from the early insights from the Budget which may affect your business and personal wealth.

Should you require any further clarifications or details on the budget proposals or any assistance in the analysis of the impact of the proposals on your business, please do feel free to get in touch with us. Further, we always look forward to your valuable suggestions.

Yours faithfully

George Joseph
Managing Partner

Contents

Executive summary

Executive summary

Macro economic outlook	► GDP is expected to grow at 6.9% during 2011 - 12 and 7.6% during 2012-13. ► Fiscal deficit is anticipated to close at 5.9% in 2011-12 and is expected to reduce to 5.1% during 2012-13. ► Direct tax revenue is expected to go up by 13.84% and indirect tax revenue to go up by 26.67%
Direct taxation Key areas include : ▪ In spite of the heavy lobbying to lift MAT on SEZ units, no relief was provided in Budget 2012 ▪ Individual assessees in the highest tax slab stand to gain over INR 20,000 ▪ The government has proposed various amendments to neutralise the effect of various judicial decisions.	► Individual assessees have received benefits in the form of increase in the basic exemption limits and through increase in the 20% slab ceiling. ► Share capital issued at a premium by a closely held company in excess of the fair market value will be treated as income from other sources in the hands of the company. ► TDS has been made applicable to transfer of land above specified limits whereby it would no longer be possible to register a transfer without remittance of TDS. ► The impact of the Vodafone judgment has been neutralised by making necessary amendments with retrospective effect. ► Income arising for software licenses will be treated as income from royalty. ► Transfer pricing regulations will now apply to domestic transactions. ► Advance Pricing Arrangements have been introduced in connection with transfer pricing regulations to minimise litigation. ► The concept of General Anti – Avoidance Rules has been introduced
Indirect taxation Key areas include : ▪ Excise duty and service tax peak rates have been increased from 10.30% to 12.36%. ▪ Peak rate of BCD has been kept unchanged. ▪ Negative list approach has been proposed for service tax.	► The peak rates of excise duty and service tax has been increased from 10.3% to 12.36% ► The peak rate of BCD has been kept unchanged at 10.0%. ► A negative list approach has been introduced for service tax whereby any service outside the list would be subject to service tax. 17 services have been presently notified in the negative list. ► The plethora of exemption notifications are proposed to be shrunk to a single notification containing around 10 exemptions. ► Place of Provision of Service Rules has been proposed to support the negative list. ► Alignment of service tax and excise procedures have been mooted with a common registration and common return. ► Refund of credit of cenvat for exporters is being simplified.

Direct taxation

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Key highlights

- Budget 2012 has increased the basic exemption limit for individual tax payers (other than senior citizens) from INR 1.8 lakhs to INR 2.0 lakhs
- Women assessees did not receive any preferential treatment as their basic exemption limit is now the same as male assessees (other than senior citizens)
- Budget 2012 increased the upper limit of the 20% slab from INR 8.0 lakhs to INR 10.0 lakhs

Direct taxation

- The key changes in the Direct taxation contemplated by the Finance Bill, 2012 are presented below

Change in taxation slabs

- The Finance Bill, 2012 has revised the income tax slabs for individual assesses, as illustrated below:

A) In case of women other than senior citizens

2011 - 12 slabs	Tax rate	2012 – 13 slabs	Tax rate
Below INR 1.9 lakhs	NIL	Below INR 2.0 lakhs	NIL
INR 1.9 lakhs to INR 5.00 lakhs	10.0%	INR 2.0 lakhs to INR 5.00 lakhs	10.0%
INR 5.0 lakhs to INR 8.00lakhs	20.0%	INR 5.0 lakhs to INR 10.0 lakhs	20.0%
Above INR 8.0 lakhs	30.0%	Above INR 10.0 lakhs	30.0%

B) In case of senior citizens

Individuals who are 60 years or more, but less than 80 years			
2011 - 12 slabs	**Tax rate**	**2012 - 13 slabs**	**Tax rate**
Below INR 2.5 lakhs	NIL	Below INR 2.5 lakhs	NIL
INR 2.5 lakhs to INR 5.0 lakhs	10.0%	INR 2.5 lakhs to INR 5.0 lakhs	10.0%
INR 5.0 lakhs to INR 8.0 lakhs	20.0%	INR 5.0 lakhs to INR 10.0 lakhs	20.0%
Above INR 8.0 lakhs	30.0%	Above INR 10.0 lakhs	30.0%

C) In case of very senior citizens

2011 - 12 slabs	Tax rate	2012 – 13 slabs	Tax rate
Below INR 5.0 lakhs	NIL	Below INR 5.00 lakhs	NIL
INR 5.0 lakhs to INR 8.0 lakhs	20.0%	INR 5.0 lakhs to INR 10.0 lakhs	20.0%
Above INR 8.0 lakhs	30.0%	Above INR 10.0 lakhs	30.0%

Key highlights

- The amendments proposed through Budget 2012 translates into savings of over INR 20,000 for individuals in the highest tax slab.
- For male non – senior citizen assessees, the savings are as high as INR 22,660

D) In case of other individuals

2011 - 12 slabs	Tax rate	2012 - 13 slabs	Tax rate
Below INR 1.8 lakhs	NIL	Below INR 2.0 lakhs	NIL
INR 1.8 lakhs to INR 5.0 lakhs	10.0%	INR 2.0 lakhs to INR 5.00 lakhs	10.0%
INR 5.0 lakhs to INR 8.00 lakhs	20.0%	INR 5.0 lakhs to INR 10.0 lakhs	20.0%
Above INR 8.0 lakhs	30.0%	Above INR 10.0 lakhs	30.0%

What does it mean?

With a total income of INR 15.0 lakhs, the tax liability of an individual assessee before and after the Budget 2012 is as follows:

Amounts in INR

Category	2011 – 12	2012 – 13	Savings
Women (non senior citizen)	310,030	288,400	21,630
Senior citizens (between 60 years and 80 years)	303,850	283,250	20,600
Very Senior Citizens (above 80 years)	278,100	257,500	20,600
Other individual assessees	311,060	288,400	22,660

Key highlights

- AMT extended to all assessees claiming deduction under Chapter VI-A or under Sec. 10AA.
- Deduction of 150% of capital expenditure available for certain businesses commencing operations after April 1, 2012

Imposition of Alternate Minimum Tax ('AMT') on all assessees

- Budget 2011 had introduced AMT which was to be imposed on Limited Liability Partnerships ('LLP'). AMT was on similar lines as Minimum Alternate Tax ('MAT') which was imposed on companies.
- In order to widen the tax base, Budget 2012 proposes to extend the applicability of AMT to all assessees who have claimed deduction under Chapter VI-A or under Section 10AA of the Income Tax Act, 1961 ('the Act') whose total income (before the above deductions) is in excess of INR 20.0 lakhs.
- AMT paid in excess of regular income tax will be allowed to be carried forward for up to 10 years and adjusted against regular income tax dues.
- It appears that this amendment has been proposed primarily to bring partnership firms, individuals and other entities operating in Special Economic Zones ('SEZ') at par with companies and LLPs operating in SEZs.

Weighted deduction for scientific research and development

- Companies are permitted weighted deduction of 200% of expenditure (other than land & building) on approved in – house research & development facilities. This benefit was scheduled to expire on March 31, 2012.
- Budget 2012 proposes to extend this benefit for a further period of 5 years, i.e., up to March 31, 2017.

Deduction of capital expenditure on specified businesses

- Deduction of 150% of the capital expenditure will be allowed for certain businesses such as cold chain facilities, warehousing for agricultural produce, hospitals with at least 100 beds, affordable housing projects and fertilizers projects which commence operations after April 1, 2012.
- Businesses such as inland container depots, container freight stations, etc., commencing operations after April 1, 2012 will be eligible for a deduction of 100% of the capital expenditure.
- It has also been clarified that a deduction of 100% of capital expenditure offered to hotels will be available to even those assessees who have outsourced their hotel operations.

Tax incentives for funding specified infrastructure sectors

- In order to encourage non – residents to finance infrastructure sectors such as dam construction, aircraft operations, fertilizers, ports, roads, bridges, power, ships and affordable housing projects, the rate of tax on interest to non residents has been reduced from 20% to 5%. This amendment will take effect from July 1, 2012 onwards.

Key highlights

- Share premium paid in excess of fair market value will be treated as 'income from other sources' and taxed in the hands of the company.
- Cascading effect of DDT removed.

Compulsory filing of returns in relation to assets located outside India

- Every resident who is having any asset (including financial interest in any entity) located outside India or signing authority to any account located outside India will now be required to file tax returns. This requirement is irrespective of whether the resident has taxable income or not.
- This amendment will apply from FY 2011 – 12 onwards.

Share premium in excess of fair market value

- Share capital issued at a premium to resident persons by closely held companies will now be under scrutiny. Any amount of share premium in excess of the fair market value of the shares will be treated as 'income from other sources' in the hands of the company.
- Method for determination of the fair market value will be prescribed. It is open to the company to substantiate its claim based on its valuation of assets including intangible assets.

Unexplained cash credits

- The provisions of Sec. 68 of the Act have been made more stringent by placing the onus on closely held private companies to establish the identity and credit worthiness of any resident person who contributes to the share capital (including share premium and share application money).

Lower rate of tax on dividends received from foreign companies

- Sec. 115BBD of the Act was introduced in Budget 2011 whereby dividend received by an Indian company from a foreign company in which it had more than 26% shareholding would be subject to tax of only 15% as against the regular 30%. This provision has been extended to FY 2012 – 13.

Cascading effect of Dividend Distribution Tax ('DDT')

- Sec. 115 O imposes DDT of 15% on dividend declared by an Indian company. This dividend declared is exempted in the hands of recipient. This provision resulted in a cascading effect in the case of holding company declaring dividend out of dividend received from its subsidiary. To avoid the cascading effect, Sec. 115 O provided for two – tier corporate structures by exempting a holding company from DDT when its subsidiary had already remitted DDT, provided the holding company was not a subsidiary of another company.
- Budget 2012 extends the limited exemption to multi – tier corporate structures by removing the condition that the holding company cannot be a subsidiary of another company. This amendment takes effect from July 1, 2012

Key highlights

- Tax audit no longer required for businesses having a turnover of less than INR 100.0 lakhs.
- Individuals are now eligible for a deduction of up to INR 10,000 for interest from savings bank accounts.

Increase of tax audit limits

- Under the provisions of Sec. 44AB of the Act, every person carrying on business with a turnover exceeding INR 60.0 lakhs was subject to a tax audit. This limit has now been increased to INR 100.0 lakhs.
- Similarly, persons carrying on profession with a turnover exceeding INR 15.0 lakhs was subject to tax audit. This limit has now been increased to INR 25.0 lakhs.

Presumptive taxation

- Budget 2011 had introduced presumptive taxation for all businesses with a turnover of less than INR 60.0 lakhs. Under presumptive taxation, the assessee was not required to maintain books of account and had to offer 8% of the turnover as total income to be subject to tax.
- This limit of INR 60.0 lakhs has now been revised to INR 100.0 lakhs.
- Further, it has also been clarified that persons carrying on profession are not entitled to the benefits of presumptive taxation.

Deduction for preventive health check - up

- Deduction of INR 5,000 has been provided for expenditure on preventive health check – up incurred on self, spouse, dependant parents and children.

Eligibility criterion for life insurance policies

- To obtain a deduction for life insurance premium paid or to exempt income received from a life insurance policy, it was a prerequisite that the premium paid for any of the years could not exceed 20% of the sum assured. It is now proposed to reduce this threshold to 10% of the sum assured.

Deduction for interest from savings accounts

- Individuals have been provided with a deduction of up to INR 10,000 from interest earned from savings account maintained with banks, co-operative banks and post offices.

Tax Deducted at Source ('TDS') on transfer of immovable properties

- The transferee of an immovable property will now be required to deduct and remit TDS of 1% from the transferor prior to registration of the transfer of property if the consideration for transfer exceeds
  - INR 50.0 lakhs in the case of specified urban agglomeration
  - INR 20.0 lakhs in other cases
- The registering officer will not be permitted to register transfers unless the proof of remittance of TDS is furnished.
- This amendment will take effect from October 1, 2012.

Key highlights

- TDS returns have been made more stringent by converting the existing penalty provisions into a compulsory filing fee.
- Some solace has been provided to assessees who have made payments without deduction of tax, when the payee remits the tax and files his tax return.

TDS on remuneration to directors

- With effect from July 1, 2012, remuneration paid to a director of a company which is not in the nature of salary will be subject to TDS of 10%.

Tax Collected at Source ('TCS')

- TCS of 1% will be required to be collected by the seller at the time of cash sales of bullion or jewellery exceeding Rs. 2.0 lakhs.
- Purchase of coal, lignite and iron ore other than for personal consumption or further manufacture will be subject to TCS of 1%.
- The above amendments will take effect from July 1, 2012.

Rationalisation of TDS provisions

- If an assessee has failed to deduct TDS, the assessee is treated as an assessee in default. It is now proposed to amend Sec. 201(1) of the Act to provide that if the payee has remitted the taxes on the amount received, the assessee would no longer be treated as an assessee in default.
- Interest will have to be paid by the assessee up till the date of filing of return by the payee.
- In the event an assessee fails to deduct TDS, the expenditure is disallowed under Sec. 40(a)(ia) of the Act. It is now proposed to allow the expenditure if it is proven that the payee has remitted taxes on the amount received and has filed the tax return.

Fee and penalty for delay in furnishing TDS returns

- Presently, Sec. 272A of the Act provides for the imposition of a penalty of INR 100 per day for delays in filing of TDS returns. As the penalty provisions have not been effective, it is now proposed to charge a fee of INR 200 per day for delays in filing of TDS returns. However, the fee shall not exceed the tax deductible during the period.
- A separate penalty of INR 10,000 to INR 100,000 may also be imposed in addition to this if the TDS returns have not been filed within one year from its due dates.
- These provisions are applicable from July 1, 2012.

Other TDS amendments

- Payments of compensation or consideration for compulsory acquisition are subject to TDS of 10%. The threshold limit for TDS on such payments has been increased from INR 1.0 lakh to INR 2.0 lakhs.
- The threshold limit for deduction of TDS on interest on debentures issued by closely held companies has been set at INR 5,000 provided the payment is made by account payee cheque.

Key highlights

- The government has proposed amendments in law to circumvent the set backs faced in connection with the high profile Vodafone judgment.
- It has now been clarified that payment of computer software is royalty.

Amendments to neutralise the Vodafone judgement

- Budget 2012 proposed retrospective amendments to various sections of the Act in order to neutralise the recent Supreme Court verdict on a USD 2.2 billion tax demand on Vodafone.
- The proposed amendment to Sec. 9 of the Act clarified that an asset or a capital asset being any share or interest in a company or entity registered or incorporated outside India shall be deemed to be and shall always be deemed to have been situated in India if the share or interest derives, directly or indirectly, its value substantially from the assets located in India
- Sec. 195 of the Act is proposed to be amended to clarify that the obligation to deduct tax applies and shall be deemed to have always applied to all persons, resident or non resident and irrespective of whether or not the non resident has a residence or place of business or business connection or for that matter, any presence in India.

Payment for computer software is royalty

- Income by way of royalty is deemed to be accruing or arising in India. Various judicial decisions have come out which raised doubts as to whether consideration for use of computer software is royalty or not. To put these doubts to rest, a retrospective amendment of Sec. 9 of the Act is proposed which clarifies that consideration for use or right to use of computer software is royalty.

Requirement of Tax Residence Certificate ('TRC')

- Budget 2012 proposes to make it mandatory for a person claiming benefits under a Double Taxation Avoidance Agreement ('DTAA') to obtain a TRC in order claim such benefits.

Advance Pricing Agreements ('APA')

- APA is an agreement between a taxpayer and a taxing authority on an appropriate transfer pricing methodology for a set of transactions over a fixed period of time in future. APAs offer better assurance on transfer pricing methods and are conducive in providing certainity and unanimity of approach.
- Budget 2012 provides a framework for APA under the Act. Further, the Central Board of Direct Taxes ('CBDT') has been empowered to prescribe a scheme providing for the manner, form, procedure and any other matter generally in respect of APAs.

Key highlights

- Transfer pricing regulations will now apply to even domestic transactions exceeding INR 500.0 lakhs
- New tolerance limits of + / - 3% have been notified for variations between the arithmetic mean of prices determined and the transaction price.

Transfer pricing regulations to apply to domestic transactions

- Transfer pricing regulations are presently applicable only to international transactions. As far as domestic transactions are concerned, the assessing officer is only empowered to disallow unreasonable expenditure incurred between related parties or to recompute income where profit linked deductions have been given. However, no specific method to determine the reasonableness of expenditure or fair market value to recompute income in such related transactions is provided
- To fill the lacuna, transfer pricing regulations have been extended to domestic transactions whereby the aggregate of such transactions exceeding INR 500.0 lakhs will be subject to such transfer pricing regulations.

Transfer pricing tolerance limits are not standard deductions

- Transfer pricing regulations provided for tolerance limits of + / - 5% for the variation between the transaction price and the arithmetic mean of prices determined by application of transfer pricing methods.
- In cases where the tolerance limit of + / - 5% was exceeded, disputes arose as to whether the adjustment required under transfer pricing regulations was the difference between the arithmetic mean and the transaction price or whether the 5% tolerance limit could be further adjusted from the difference as a standard deduction.
- In order to put these disputes to rest, it has now been clarified that the + / - 5% tolerance limits are not standard deductions and cannot be adjusted from the difference between the arithmetic mean and transaction price.

Tolerance limits of + / - 3% notified

- Budget 2012 has notified tolerance limits of + / - 3% in respect of variations of the transaction price from the arithmetic mean of Arm's Length Prices.

Other amendments in connection with international taxation

- The due date of filing of return of income was extended from September 30th to November 30th for all corporate assessees who had entered into international transactions with associated enterprises and hence were subject to transfer pricing regulations. This extended date has now been extended to non corporate assessees. As a result, individuals, LLPs, partnership firms, etc. who are subject to transfer pricing regulations will now be permitted to file their return on or before November 30th.
- Though assessees who were subject to transfer pricing regulations, were permitted to file their return by November 30th, they were still required to obtain a tax audit report by September 30th. Suitable amendments are proposed to extend this time limit to November 30th.

Key highlights

- GAAR is proposed to be introduced which announces that the government will now be adopting a 'substance over form' approach while battling aggressive tax planning

General Anti – Avoidance Rule ('GAAR')

- GAAR is proposed to be inducted which is essentially a 'substance over form' approach to battle aggressive tax planning. GAAR effectively shifts the onus on to the taxpayer to prove that obtaining tax benefits is not the main purpose behind the transaction.
- The Finance Ministry has taken cognizance of the fact that GAAR is criticized world wide for providing wide discretion and authority to the tax administration which at times is prone to misuse. As a result, several layers of approval is required before GAAR can be invoked.

Impact of revaluation reserve on MAT

- When a revalued asset is disposed off, in certain cases, amount standing to the credit of revaluation reserve is taken to general reserve and thus, the profit which is transferred to general reserve is never subjected to MAT. Sec. 115JB of the Act is proposed to be amended to counter the effect of this accounting treatment.

Prohibition of cash donations in excess of INR 10,000

- It will now be possible to get a deduction for donations exceeding INR 10,000 to approved funds and charitable institutions under Sec. 80G and Sec. 80GGA only if the donations are paid in any mode other than cash.

Exemption for senior citizens from advance tax

- In the case of senior citizens not having any business income, the requirement of payment of advance tax has been dispensed with.

Relief from long term capital gains tax on residential properties

- It is proposed provide rollover relief from long term capital gains tax to an individual or an HUF on sale of a residential property (house or plot of land) in case of re-investment of sale consideration in the equity of a new start-up SME company in the manufacturing sector which is utilized by the company for the purchase of new plant and machinery.

Indirect taxation

Excise duty

Key highlights

- Effective duty has been increased across the board to 12.36% from 10.30%.

Effective rates of duty increased

- Effective rate of duty of 10.30% on non – petroleum products is being increased to 12.36%.
- Concessional rate of excise duty of 5% on non – petroleum products is being increased to 6%.
- Lower rate of 1% on non – petroleum products is being increased to 2%. However, precious metal jewellery, coal and fertilizers would remain at 1%

The impact of Budget 2012 on key sectors are as follows:

Cement

- Rate of excise duty on cement and cement clinker have been revised. Cement cleared in packaged form will now be subject to excise duty of ad valorem rate of 12% + INR 120 per tonne. Cement will now be subject to retail sale price ('RSP') based assessment with an abatement of 30% from RSP.

Precious metals

- At present, branded jewellery of precious metals attracts excise duty of 1%. The scope of the levy is extended to include unbranded jewellery within its ambit. However, the duty on such unbranded jewellery would be charged on 30% of transaction value declared in the invoice.
- Branded silver jewellery and gold coins of purity of 99.5% and silver coins of purity of 99.9% and above are being fully exempted from excise duty.

Mass consumption items

- Refills and inks used for the manufacture of writing instruments of value not exceeding INR 200 per piece are being fully exempted from excise duty.
- Footwear above INR 500 per pair would attract excise duty of 12%.

Textiles

- For the purpose of charging excise duty on ready-made garments bearing a brand name or sold under a brand name, the level of abatement from the RSP is being increased from 55% to 70%.

Miscellaneous

- Full exemption from excise duty is being provided to food preparations containing fruits and vegetables which are prepared in a hotel, restaurant or a retail outlet, whether or not such food is consumed in such hotels/restaurants/retail outlets.
- Excise duty on parts of mobile phones, other than those cleared to a manufacturer of mobile phones, is being reduced from 10% to 2%, provided no Cenvat credit is taken.

Indirect taxation

Customs duty

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Key highlights

- No changes have been proposed on the peak rates for customs duty.

Peak rate of duty maintained

- The peak rate of Basic Customs Duty ('BCD') has been left unchanged at 10.0%. However, CVD has been increased from 10.0% to 12.0% following the increase in central excise levy.
- CVD has been exempted from education cess and secondary and higher education cess.

Increase in BCD		
Category	**Existing**	**Proposed**
Large cars, MUVs, SUVs	60%	75%
Flat rolled products of non-alloy steel	5%	7.5%
Cut and polished coloured gems	Nil	2%
Digital Still Cameras	Nil	10%
Standard gold / platinum bars	2%	4%

Decrease in BCD		
Category	**Existing**	**Proposed**
Isolated soya protein	15%	10%
Specified life saving drugs/ vaccines and their bulk drugs	10%	5%

- CVD has been exempted on foreign going vessels imported into India.

- BCD has been exempted for steam coal, natural gas, LNG, equipment imported for road construction projects, etc.

Indirect taxation

Service tax

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Key highlights

- Service tax rate increased from 10.30% to 12.36%
- Negative list approach has been proposed so as to tax all services other than those listed in the negative list

Service tax rate increased

- The effective service tax rate has been increased from 10.30% to 12.36% with effect from April 1, 2012.
- Consequently, certain compounding rates have also increased with effect from April 1, 2012.
  - Service tax applicable on money changing services have increased by 20%.
  - For life insurance, first year premiums will be subject to 3% service tax and subsequent years will be subject to 1.5% service tax.
  - Service tax on works contract has been increased from 4.0% to 4.8%.

Introduction of negative list approach

- A Negative List approach to taxation of services is being introduced. The services specified in the 'Negative List' shall remain outside the tax net. All other services, except those specifically exempted would thus be chargeable to service tax.
- To support the negative list approach to taxation of services, draft Place of Provision of Services Rules, 2012 ('PPoS Rules') is being proposed. The draft PPoS Rules contain principles on the basis of which taxing jurisdiction of a service can be determined. When the PPoS Rules come into effect, existing Export of Services Rules, 2005 and Taxation of Services (Provided from outside India and received in India) Rules, 2006 will be rescinded.
- Negative list approach to taxation of services shall come into effect from a date to be notified, after the Finance Bill, 2012 receives the assent of the President.

Services under the Negative List

- Most services provided by Government or local authorities.
- Services provided by the Reserve Bank of India.
- Services by a foreign diplomatic mission located in India.
- Services relating to agriculture.
- Trading of goods
- Processes amounting to manufacture or production of goods
- Selling of space or time slots for advertisements other than advertisements broadcast by radio or television
- Access to a road or a bridge on payment of toll charges
- Betting, gambling or lottery
- Entry to Entertainment Events and Access to Amusement Facilities.
- Transmission or distribution of electricity
- Specified services relating to education

Key highlights

- Exemption notifications to be consolidated into a single notification which will contain around 10 exemptions.

Services under the Negative List (Contd..)

- Services by way of renting of residential dwelling for use as residence
- Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount
- Service relating to transportation of passengers
- Service relating to transportation of goods
- Funeral, burial, crematorium or mortuary services including transportation of the deceased

Declared services

- To remove some ambiguities certain activities have been specifically defined by description as services and are referred as Declared Services

Exempted services

- Under the present system there are 88 exemption notifications. The need for exemptions is not obliterated with the introduction of negative list. While some existing exemptions have been built into the negative list, others, wherever necessary, have been retained as exemptions. In addition new exemptions are proposed to be introduced in the context of the negative list. The total number of exemption notifications, therefore, proposed to be issued in the new system would be only 10. Important services are as follows:
    - Health care services
    - Services provided by individual advocates and journalists
    - Construction of specific infrastructure such as roads
    - Copyright to cinematographic films
    - Services of sports persons, folk and classical arts, etc

Amnesty for renting of immovable property service

- Service tax on renting of immovable property service has been the subject matter of litigation which has finally led to the pronouncement of court judgments in favour of the government. The Government has decided to waive the penalty for those taxpayers who pay the service tax due on the renting of immovable property service, in full along with interest. This scheme of penalty waiver will be open only for a period of six months from the date of enactment of the Finance Bill, 2012.

Key highlights

- Excise and service tax registration and returns simplified

Other general changes

- The time period for issuance of invoice is being increased to 30 days ordinarily and 45 days for banks and financial institutions.
- A common simplified registration format for Central Excise and Service Tax is being placed for public comments, together with further liberalization in registration requirements, particularly centralized registrations.
- Likewise a new simplified one page common return with Central Excise: to be called Excise & Service Tax Return (EST for short) is being introduced.
- Tax payment requirement is proposed to be revised as follows:
    - Assessees who paid tax of Rs 25 lakh or more in previous year and new assessees other than individuals and firms: Monthly
    - Others: Quarterly

Amendments in Cenvat Credit Rules, 2004

- Procedure for refund of unutilized credit on account of exports is being simplified.
- Presently credit on goods can be taken only after they are brought to the premises of the service provider. Credit will now be allowed without bringing them into premises subject to due documentation regarding their delivery and location.

Investment Policy & Exchange Regulation Updates

Key highlights

- FDI in aviation and multi – brand retail under consideration

Investment policy

- Foreign Direct Investment ('FDI') in aviation and multi - brand retail upto 49% and 51% respectively is under consideration.

- External Commercial Borrowings ('ECB') is to be permitted for the following:
  - Working capital for aviation industry
  - Capital expenditure for maintenance and operation of toll systems for roads and highways
  - Low cost affordable housing projects
  - Financing rupee debt of existing power projects

- Initial Public Offers ('IPO') of above INR 1,000.0 lakhs will only be permitted in electronic form.

Glossary

Act	: The Income Tax Act, 1961	**INR**	: Indian Rupee
AMT	: Alternate Minimum Tax	**IPO**	: Initial Public Offer
APA	: Advance Pricing Agreement	**Lakhs**	: Hundred thousands
BCD	: Basic Customs Duty	**LLP**	: Limited Liability Partnership
CVD	: Countervailing Duty	**MAT**	: Minimum Alternate Tax
DDT	: Dividend Distribution Tax	**PPoS Rules**	: Provision of Place of Services Rules, 2012
DTAA	: Double Taxation Avoidance Agreement	**RSP**	: Retail Sales Price
ECB	: External Commercial Borrowings	**SEZ**	: Special Economic Zone
FDI	: Foreign Direct Investment	**TCS**	: Tax Collected at Source
GAAR	: General Anti – Avoidance Rule	**TDS**	:Tax Deducted at Source
GDP	: Gross Domestic Product	**TRC**	: Tax Residency Certificate
GJA	: G. Joseph & Associates	**VAT**	: Value Added Tax

Notice to the reader

Glossary

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We have used following sources while preparing this document

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Notes:

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