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Advocates & Legal Consultants

BUDGET 2010–2011
Indirect Tax Changes



Budget Proposals on Indirect Taxation

- Indirect tax rates being integrated for moving forward on GST path
- Peak customs rates remain unchanged
- Excise Duty rates partially rolled back from 8 to 10 per cent
- Service Tax rates remain unchanged
- Eight new taxable services introduced



CUSTOMS

The peak customs duty and education cess maintained at 10 and 3 per cent respectively.

HIGHLIGHTS

▪ Exemptions

➤ BCD – NIL

- Truck refrigeration units
- Bio polymers / bio-plastics for specified use
- Tunnel boring machine for hydro-electric projects
- Specified parts for electric vehicles
- Ground source heat pump (for geo-thermal energy applications)
- Specified items for orthopedic implants manufacture
- Specified capital goods and raw materials for electronic hardware
- Digital masters/stampers of films, music and gaming software excluding carrier medium
- Electronic promotion kits/beta-cams for film promotion imported free of cost
- Gold ore and concentrate

➤ CVD – NIL

- Mechanised handling & pallet racking systems for food grains and sugar
- Tunnel boring machine for hydro-electric projects
- Machinery items for new solar power generation projects
- Electronic promotion kits/beta-cams for film promotion imported free of cost

➤ SAD – NIL

- Pre-packed goods for retail sale
- Readymade garments, mobile phones, watches, carbon black feedstock, waste paper, paper scrap
- Mechanized handling systems & pallet racking systems for food grains and sugar
- Specified parts for electric vehicles
- Ground source heat pump (for geo-thermal energy applications)
- Most medical equipments including accessories and parts
- Gold ore and concentrate



- Amendments
 - Sale/disposal of imported exempt road construction machinery allowed on customs duty payment on depreciated value
 - Specified powers of Settlement Commission restored
 - Settlement commission can be approached even in case of mis-declaration / suppression / non declaration of goods in bill of entry
 - Rule of one-time settlement for an assessee relaxed
 - Settlement can be now made within 1 year by the commission
 - CVD on goods covered in Medicinal and Toilet Preparations (Excise Duties) Act, 1955 to be based on maximum retail sale price (less abatement)

- Concessional duty of 5 per cent on new projects
 - Solar power generation
 - Urban transport mono rail
 - Cold storage and cold rooms
 - Mechanized handling and Pallet Racking Systems for food grains and sugar.



- Change in Customs Duty rates of certain industries

INDUSTRY	RATE (%)		
	From	↑↓	To
HEALTH CARE			
○ Medical equipment and their parts	Various rates	↑↓	5
ELECTRONIC HARDWARE			
○ Magnetrons of upto 1000 kw for microwave ovens	10	↓	5
PRECIOUS METALS			
○ Serially numbered gold bars and gold coins other than tola bars (per 10 gm)	Rs.200	↑	Rs.300
○ Other forms of gold (per 10 gm)	Rs.500	↑	Rs.750
○ Silver (per kg)	Rs.1,000	↑	Rs.1,500
○ Platinum (per 10 gm)	Rs.200	↑	Rs.300
PETROLEUM			
○ Crude petroleum	0	↑	5
○ Petrol and diesel	2.5	↑	7.5
○ Other specified petroleum products	5	↑	10
FOOD & AGRO PROCESSING			
○ Specified Agricultural machinery	7.5	↓	5
AGRICULTURE / HORTICULTURE			
○ Long pepper	70	↓	30
○ Asafoetida (heeng)	30	↓	20
MISCELLANEOUS			
○ Rhodium	10	↓	2
○ Electrical energy from SEZ to DTA or to non-processing areas of SEZ	0	↑	16



CENTRAL EXCISE

- CENVAT rate increased to 10 per cent as a partial roll-back of stimulus given and Education cess maintained at 3 per cent
- Exemptions
 - Specified equipments for apiary, horticultural, dairy, poultry, aquatic & marine produce and meat and processing.
 - Self-loading and unloading trailers and semi trailers for agricultural purposes.
 - Specified raw materials for rotor blades for wind operated electricity generators.
 - Goods supplied to mega power projects for supply of power through tariff-based competitive bidding.
 - Articles of bedding wholly made from quilted textile materials.
 - Toy balloons of natural rubber
 - Betel nut (Supari)
 - Menthol based oil, intermediates and by-products
- Amendments
 - Clean Energy Cess introduced on coal, lignite and peat.
 - Small Scale Industrial (SSI) units can avail full CENVAT Credit on capital goods in single instalment in the year of receipt
 - Excise duty payment by SSI units now on quarterly basis
 - SSI units can file returns by 10th of the month following the quarter
 - Relaxation from brand name restriction under SSI exemption scheme extended to manufacturers of plastic bottles and containers used as packing material.
 - No penalty if duty paid with interest before issuance of show cause notice.
 - Specified powers of Settlement Commission restored
 - Settlement commission can be approached even in case of mis-declaration / suppression / non declaration of goods in bill of entry
 - Rule of one-time settlement for an assessee relaxed
 - Settlement can be now made within 1 year by the commission



- Rule making powers provided to Central Government to deal with evasion of duty or misuse of Cenvat credit, enabling, withdrawal of facilities or imposition of restrictions on utilizing Cenvat Credit on exporters and manufacturers and suspension of registration of dealers etc.
 - Any process for converting stone blocks into slabs or tiles is deemed to be manufacture
 - Process of drawing or redrawing of aluminum tubes and pipes deemed to be manufacture
 - Pre-authentication of excise invoice dispensed with
 - Retrospective amendment made to Modvat/Cenvat Credit Rules right from 1996, to provide that a manufacturer manufacturing both dutiable and exempt goods by availing Modvat/Cenvat credit, can now opt to reverse the credit or pay an amount equal in proportion to the inputs used in the exempt goods (along with interest), in case the dispute is still pending.
 - Accelerated depreciation provided in Cenvat Credit Rules for computers and computer peripherals at rates as applicable to similar products under EOU/EHTP/STP schemes
 - Principal manufacturer now allowed to send jigs, fixtures, moulds and dies to a job worker without reversal of credit.
- Change in Excise Duty rates of certain industries

INDUSTRY	RATE (%)		
	From	↑↓	To
AUTOMOBILE			
▪ Ad-valorem component of large cars, MUV's and SUV's and their chassis	20	↑	22
▪ Electrically operated vehicles	0	↑	4
CEMENT			
▪ Mini Cement Plant - Packaged MRP <= Rs.190 per 50 kg Bag MRP <= Rs.3800 per tonne	Rs.145 per tonne	↑	Rs.185 per tonne



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▪ Mini Cement Plant - Packaged MRP > Rs.190 per 50 kg Bag MRP > Rs.3800 per tonne	Rs.250 per tonne	↑	Rs.315 per tonne
▪ Mini Cement Plan – Unpackaged	Rs.170 per tonne	↑	Rs.215 per tonne
▪ Other than Mini Cement Plant – Packaged MRP <= Rs.190 per 50 kg Bag MRP <= Rs.3800 per tonne	Rs.230 per tonne	↑	Rs.290 per tonne
▪ Other than Mini Cement Plant – Packaged MRP > Rs.190 per 50 kg Bag MRP > Rs.3800 per tonne	8% of MRP	↑	10% of MRP
▪ Other than Mini Cement Plan – Unpackaged	8% or Rs.230 per tonne whichever is higher	↑	10% or Rs.290 per tonne whichever is higher
▪ Cement clinker (per tonne)	Rs.300	↑	Rs.375

PETROLEUM

▪ Branded Petrol (per litre)	Rs.14.50	↑	Rs.15.50
▪ Unbranded Petrol (per litre)	Rs.13.35	↑	Rs.14.35
▪ Branded Diesel (per litre)	Rs.4.75	↑	Rs.5.75
▪ Unbranded Diesel (per litre)	Rs.3.60	↑	Rs.4.60

MISCELLANEOUS

▪ LED lights/ lighting fixtures	8	↓	4
▪ Refined serially numbered gold bars made from ore/concentrate stage	8	↓	Rs.280 per 10 gm
▪ DTA clearance of plain gold jewellery manufactured by an EOU	Rs.500 per 10 gm	↑	Rs.750 per 10 gm
▪ DTA clearance of plain silver jewellery manufactured by an EOU	Rs.1,000 per kg	↑	Rs.1,500 per kg
▪ Replaceable kits for household type water filters (except based on RO technology)	8	↓	4
▪ Corrugated boxes / cartons manufactured by stand alone manufacturers	8	↓	4
▪ Latex rubber thread	8	↓	4
▪ Goods under Medicinal and Toilet Preparation	16	↓	10



Act				
▪ Maize and tapioca starch	0	↑	4	
▪ Potato starch	8	↓	4	
▪ Mosquito nets impregnated with insecticides	0	↑	4	
▪ Av gas	0	↑	4	
▪ Microprocessors, FDD, HDD, flash drives, CD/DVD and combo drives meant for external use	0	↑	4	
▪ Diapers and sanitary napkins	0	↑	10	
▪ Open tin sanitary cans	0	↑	10	
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SERVICE TAX

- Tax rate and education cess maintained at 10 and 3 per cent respectively
- Exemption withdrawn for transport of goods by rail
- Export of Services Rules, 2005 amended deleting the onerous condition of use of service abroad
- Renting of immovable property services made taxable with retrospective effect to overcome the decision of Delhi High Court in Home Solutions Retail case – renting of property itself is made taxable
- Additional services brought within ambit of Service Tax in relation to:
 - Services of permitting commercial use or exploitation of event
 - Copyright service - Copyrights on cinematograph films and sound recording
 - Health services provided by Hospitals, Nursing Homes and Multi-Speciality Clinics and paid for by
 - (i) any business entity for its employees
 - (ii) insurance companies under health insurance schemes
 - Medical records storage and maintenance of employees of a business entity
 - Services provided by electricity exchanges
 - Preferential location service - Providing preferential location or development of residential or commercial complex
 - Promotion or marketing of brand service
 - Promotion, marketing and organizing of games of chance including lottery – to overcome the Supreme Courts judgment in Martin Lottery case
- Scope of certain existing services extended

S.NO	SERVICE	EXTENDED TO...
1	Air travel	Economy class
2	Information technology software	All cases irrespective of commercial use
3	Sponsorship	Sports events
4	Related to renting of immovable property	Renting of property or leased vacant land for future construction
5	Air Port / Port	All services entirely within airport/port premises or other port
6.	Construction	Construction for intended sale. If no money received by constructor before construction it will be excluded



7.	Management of Investment under ULIP	Value is the maximum amount fixed by IRDA as fund management charges for the ULIP or the actual amount charged for the said purpose by the insurer, whichever is higher.
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- Exclusions
 - 'Auction of property' to exclude auction of Government owned property.
 - Individual excluded from definition of 'business entity'.

- Exemptions
 - Erection, Commissioning or Installation of
 - (i) Mechanized food grain handling systems
 - (ii) Equipments for cold storage
 - (iii) Equipments for units related to agriculture, apiary, horticultural, dairy, poultry, aquatic, marine or meat products.
 - License for pre-packaged IT software
 - Transport of food and pulses
 - Indian news agencies under Online Information and Database Retrieval Service
 - Specified services of Central and State seed testing laboratories and certification agencies.
 - Transmission of electricity

- Amendments
 - Commercial training or coaching centre to include not-for-profit organizations with retrospective effect from July 2003.
 - No penalty if service tax paid with interest before issuance of notice.



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DISCLAIMER

The current document is a private document for the benefit of our clients. Please note that this is only a summary of the budget changes in respect of Indirect Taxes. It is advisable to seek specific legal opinion on any particular provision or changes from experts.



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