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**BUDGET 2011–2012**  
**Indirect Tax Changes**



*Corporate Lexport*

### **Budget Proposals on Indirect Taxation**

- Excise Duty, Customs Duty and Service Tax maintained at 10 per cent



## **CUSTOMS**

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

The existing Basic Customs Duty rates of 2%, 2.5% and 3 % unified at a single rate of 2.5%.

## **HIGHLIGHTS**

### ▪ Exemptions

#### ➤ BCD – NIL

- De-oiled rice bran oil cake
- Specified parts of hybrid vehicles namely battery pack, battery chargers, AC/DC, electric motors and motor controllers, spare battery packs for specified electric vehicles till March 2013 subject to actual user condition
- Cotton waste
- Imports for water pumping station and water reservoir for water supply projects
- Tunnel Boring Machines and their parts for highway development projects
- Cash dispensers and their parts
- Bio based asphalt sealer and preservation agent, millings remover, crack filler, asphalt remover and corrosion protectant and sprayer system for bio-based asphalt applications
- Toughened glass and silver paste imported for manufacture of solar cells or solar modules
- Endovascular stents
- Parts and components for manufacture of PC connectivity cable
- Sub-parts of parts and components of battery charger, hands free head phones and PC connectivity cable of mobile handsets, including cellular phones
- Specified additional capital goods and raw material for manufacture of electronic hardware
- New specified goods for use in manufacture of leather goods meant for export
- Anti theft devices like labels, tags and sensors therein for manufacture of textile and leather garments
- Specified tools used by handicrafts sector
- Fin fish feed
- Stainless steel scrap
- Value of gold and silver contained in copper concentrate
- Gold dore bars of upto 80% gold purity imported for refining and manufacturing serially numbered gold bars in India
- Crude palm stearin for manufacture of laundry soap on actual user condition



- Works of art or antiques for exhibition or display in private art galleries or similar purposes that are open to general public
  - Works of art created by an Indian artist abroad irrespective whether imported along with the artist on his return to India
- CVD – NIL
- SEZ to DTA clearances of plastic materials reprocessed out of scrap or waste of specified material
  - Spares and consumables for repairs of ocean going vessels imported by owners of such vessels registered in India
  - Tunnel Boring Machines and their parts for highway development projects
  - Specified life saving drugs and their bulk drugs
- SAD – NIL
- Specified parts of hybrid vehicles namely battery pack, battery chargers, AC/DC, electric motors and motor controllers, spare battery packs for specified electric vehicles till March 2013 subject to actual user condition
  - SEZ to DTA clearances (provided no exemption from VAT/Sales Tax)
  - Mail room equipment compatible with high speed printing machinery used by registered newspaper establishments
  - Specified high voltage transmission equipment
  - LED's used for manufacture of LED lights and light fixtures
  - Specified raw material for manufacture of syringes, needles, catheters, cannulae
  - P&P Medicines for retail sale
  - Parts of inkjet and laser-jet printers for their manufacture
  - Parts, components and accessories for manufacture of mobile handsets including cellular phones upto March 2012
  - Parts for manufacture of DVD writers, combo drives and CD drives subject to actual user condition
  - Copper dross, copper residues, copper oxide mill scale, brass dross and zinc ash
  - Gold dore bars of upto 80% gold purity imported for refining and manufacturing serially numbered gold bars in India
- Amendments
- Special provision for imposition of retrospective safeguard duty on imports of soda lye into India during 4.12.2009 to 03.03.2010



- Special provision to retrospectively provide concessional BCD of 30% on fresh garlic imported by NCCF and MPSCMF as per import licenses issued by Government
- Assessment now to include “Self Assessment” (Section 2).
- Optional “Self Assessment” is now made compulsory. Customs officers can verify the Self Assessment and reassess the duty on the imported/exported goods. Officers can conduct audit for this purpose. (Section 17)
- If self assessment not possible then provisional assessment to be done (Section 18)
- Now refund applications can be filed within uniform period of one year of duty payment (earlier it was 1 year for Government & import for personal use by individual and 6 months in other cases) (Section 27(1))
- Now uniform period of one year from relevant date is provided for issuance of Show Cause Notice (earlier it was 1 year for Government & import for personal use by individual and 6 months in other cases) (Section 28)
- Filing of Bill of Entry electronically made compulsory. Enabling provision is also provided for filing physical Bill of Entry/Shipping Bill when electronic filing is not feasible (Section 46 and 50)
- Central Government can now prescribe circumstances under which drawback would not be disallowed even though remittances not received within the period prescribed under FEMA (Section 75)
- Power to allow release of seized goods in some situations is transferred from Commissioner of Customs to the Adjudicating Authority. (Section 110 A)
- Show Cause Notices can be issued only with prior approval of an officer not below the rank of AC (earlier DC) (Section 124)
- Enabling provisions for the board to retrospectively issue instructions relating to non filing of appeals in certain cases (w.e.f 20.10.2010) in line with National Litigation Policy (Section 131D)
- New Section being inserted so as to create a first charge on the property of the defaulter for recovery of Customs dues subject to the Companies Law, Debt Recovery Law and Securitisation Law (Section 142A)
- Balance sales proceeds of unclaimed cargo sold in auction to be paid to Government when the owner cannot be paid within 6 months (Section 150)



- Board can issue instructions to Customs Authorities for matters relating to prohibition, restrictions or procedure relating to import or export of goods. (Section 151A)
  - Board can prescribe regulations for manner of conducting audit by customs officers at their office or at the premises of the importer (Section 157)
  - Central Government empowered to reduce anti-dumping duty, if importer proves the payment of anti dumping duty in excess of actual margin of dumping (Section 9AA of Customs Tariff Act, 1975)
- Change in Customs Duty rates of certain industries

INDUSTRY	RATE (%)		
	From	↑↓	To
<b>HEALTH CARE</b>			
➤ Lactose used for manufacture of homeopathic medicines	25	↓	10
➤ Specified life saving drugs and their bulk drugs	10	↓	5
<b>METALS</b>			
➤ Ferro Nickel	5	↓	2.5
➤ Export Duty on Iron Ore	20	↑	30
➤ Iron ore fines & lumps	Various rates	↑↓	20
➤ Vanadium Pentoxide and Vanadium sludge	7.5	↓	2.5
<b>FOOD, AGRO PROCESSING &amp; AGRICULTURE</b>			
➤ Specified Agro Machinery including paddy transplanter, laser land leveler, cotton picker, reaper-cum-binder, straw and fodder balers, sugarcane harvesters and track-type combine harvesters	5	↓	2.5
➤ Components for above specified Agro Machinery	7.5	↓	2.5
➤ Micro Irrigation Equipment	7.5	↓	5
➤ Raw pistachios	30	↓	10
➤ Sun-dried dark seedless raisins	100	↓	30
➤ Cranberry Products	30	↓	10



**TEXTILES**

➤ Raw Silk	30	↓	5
➤ Poly Tetra Methylene Ether Glycol (PTMEG)	7.5	↓	5
➤ Diphenylmethane 4	7.5	↓	5
➤ 4-diisocyanate (MDI)	7.5	↓	5
➤ Acrylonitrile	5	↓	2.5
➤ Sodium Polyacrylate	7.5	↓	5
➤ Caprolactum	10	↓	7.5
➤ Mylon chips, fibre & yarn	10	↓	7.5
➤ Rayon grade wood pulp	5	↓	2.5

**GEMS & JEWELLERY**

➤ Specified gems and jewellery machinery	7.5	↓	5
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**AIRCRAFTS**

➤ Import of aircrafts for non scheduled operations	0	↑	2.5
➤ Education cess on aircrafts	0	↑	3

**MISCELLANEOUS**

➤ Solar lantern and lamps	10	↓	5
➤ Bamboo used for manufacture of agarbattis	30	↓	10
➤ Vannamei broodstock	30	↓	10
➤ Waste paper	5	↓	2.5
➤ Carbon black feed stock	5	↓	2.5
➤ Petroleum Coke	5	↓	2.5
➤ Mineral Gypsum	5	↓	2.5



## **CENTRAL EXCISE**

- The peak Excise Duty and Education Cess maintained at 10 and 3 per cent respectively
- Concessional rate of Excise Duty of 4% increased to 5% across the Board
- 1% Excise Duty without CENVAT facility imposed on 130 specified items (which are presently fully exempt or chargeable to NIL rate) – 40% abatement is available from MRP for this – SSI benefit will be available
- 10% Excise Duty imposed on branded garments and textile made ups – SSI benefit will be available to these items
- Exemptions
  - Air-conditioning equipment, panels and refrigeration panels for installation of cold chain infrastructure for the preservation, storage, transport or processing of agricultural, horticultural, dairy, poultry, apiaries, aquatic and marine produce
  - Conveyor belt systems for preservation storage, transport or processing of agricultural, horticultural, dairy, poultry, apiary, aquatic and marine produce and in mandis and warehouses for storage of food grains and sugar.
  - Goods required for expansion of existing mega/ultra mega power project
  - Specified parts of sewing machines other than those with in-built motors
  - Pipe fittings such as joints, elbows, couplings etc., for delivery of drinking water from its source to the plant and from there to the first storage point
  - Parts of power tillers cleared to another factory of the same manufacturer for manufacturing power tillers.
  - Cotton stalk particle boards.
  - Color, unexposed cinematographic film in jumbo rolls of 400 and 1000 feet.
  - Concessional rate of excise duty of 5 per cent extended to corrugated sheets whether or not pasted with duplex sheet on outer surface.
  - Concessional rate of excise duty of Rs. 200 per 10 grams extended to serially numbered gold bars manufactured by refining of gold dore bar.





- Amendments
  - Definition of CKD (completely knocked down) unit of a vehicle including two wheelers amended to exclude units containing preassembled engine or gearbox or transmission mechanism or chassis where such parts are installed.
  - A new category is introduced in which 50 per cent penalty would be imposed in case of invocation of extended period of limitation provided details relating to such transaction were available in specified records filed by the assessee. (Section 11A and Section 11AC)
  - New Section being inserted so as to create a first charge on the property of the defaulter for recovery of Excise dues subject to the Companies Law, Debt Recovery Law and Securitisation Law (Section 11E)
  - Joint Commissioner or Additional Commissioner are authorized to search the premises of assessee (Section 12F)
  - Enabling provisions for the board to retrospectively issue instructions relating to non filing of appeals in certain cases (w.e.f 20.10.2010) in line with National Litigation Policy (Section 35R)
  - Rule 2 CENVAT Credit Rules amended to bring clarity in the definition of:
    - “Capital Goods”: CENVAT Credit would be available if listed goods are used (outside factory) for generation of electricity for captive use within factory.
    - “Inputs”: definition made exhaustive, any goods cleared alongwith final product, goods used for providing warranty, generation of electricity are specifically included in definition. Goods having no relationship with manufacture of final product are specifically excluded.
    - “Input services”: phrase “used in relation to business” removed from the definition.
  - Rule 4(7) of CENVAT Credit Rules amended to provide for reversal of credit in cases payment for input services are received back by assessee.



- Change in Excise Duty rates of certain industries

INDUSTRY	CHANGE		
	From	↑ ↓	To
<b>AUTOMOTIVE</b>			
➤ Hydrogen vehicles based on fuel cell technology		↓	10%
➤ Hybrid kits for conversion of fossil vehicles to hybrid vehicles and their parts	10%	↓	5%
➤ Factory built ambulances		↓	10%
<b>CEMENT</b>			
➤ Mini Cement Plant – Packaged MRP ≤ Rs. 190 per 50 kg bag MRP ≤ Rs.3,800 per tonne	Rs. 185 per tonne	↑ ↓	10% ad valorem
➤ Mini Cement Plant – Packaged MRP > Rs. 190 per 50 kg bag MRP > Rs.3,800 per tonne	Rs.315 per tonne	↑ ↓	10% ad valorem + Rs.30 per tonne
➤ Mini Cement Plant – Unpackaged	Rs.215 per tonne	↑ ↓	10% ad valorem
➤ Other than Mini Cement Plant – Packaged MRP ≤ Rs. 190 per 50 kg bag MRP ≤ Rs.3,800 per tonne	Rs.290 per tonne	↑ ↓	10% ad valorem + Rs.80 per tonne
➤ Other than Mini Cement Plant – Packaged MRP > Rs. 190 per 50 kg bag MRP > Rs.3,800 per tonne	10% of retail sale price	↑ ↓	10% ad valorem + Rs.160 per tonne
➤ Other than Mini Cement Plant – Unpackaged	10% or Rs. 290 per tonne whichever is higher	↑ ↓	10 ad valorem
➤ Cement clinker	Rs. 375 per tonne	↑ ↓	10% ad valorem + Rs.200 per tonne
<b>PRECIOUS METALS</b>			
➤ Serially numbered gold bars (other than tola	Rs. 280 per	↓	Rs. 200 per



bars) made starting from the ore/concentrate stage in same factory	10 grams		10 grams
➤ Serially numbered gold bars other than tola bars manufactured during process of copper smelting	0	↑	Rs. 300 per 10 grams
➤ Silver manufactured during gold refining starting from ore or concentrate stage or from gold dore bar or during coppers smelting process	0	↑	Rs. 1500 per Kg
➤ Branded jewellery and branded articles of precious metals	0	↑	1%
<b>HEALTH</b>			
➤ Sanitary napkins, baby & clinical diapers (no CENVAT credit)	10%	↓	1%
<b>MISCELLANEOUS</b>			
➤ Automatic looms and projectile looms	0	↑	5%
➤ Paper manufactured from non-conventional material	0	↑	10%
➤ Microprocessors (other than motherboards), floppy disc drives, hard disc drive, CD-ROM drive, DVD drives / DVD writers, Flash memory, Combo drives meant for fitment inside CPU or laptops	0	↑	5%
➤ Parts of specified textile machinery	10%	↓	5%

## SERVICE TAX

- Tax rate and education cess maintained at 10 and 3 per cent respectively, seeking a closer fit between present regime and its GST successor.
- Point of Taxation Rules, 2011 have been introduced and made effective from 01.04.2011 to determine the point in time when the services deemed to be provided.
- Service Tax estimated to result in net revenue gain of Rs. 4,000 Crores.
- Additional services brought within ambit of Service Tax in relation to
  - Accommodation provided by a hotel, inn, guesthouse, club or campsite in excess of Rs. 1,000 per day for a continuous period of less than 3 months
  - Air conditioned restaurants licensed to serve alcoholic beverages
- Scope of certain existing services extended

SERVICE	EXTENDED TO...
<b>Life Insurance</b>	All services regarding insurance covered
<b>Club or association</b>	Services provided to non-members
<b>Authorised service station</b>	<ul style="list-style-type: none"> <li>a) Provided by any person</li> <li>b) Cover all motor vehicles except goods carriage vehicle, 3 wheeler and &amp; auto rickshaws</li> <li>c) Services of decoration &amp; similar services</li> </ul>
<b>Business Support</b>	Operational or Administrative assistance
<b>Legal &amp; consultancy</b>	<ul style="list-style-type: none"> <li>a) Provided by business entity to individual</li> <li>b) Representational services provided by any person to any business entity</li> <li>c) Arbitrational services by arbitral tribunal to any business entity</li> </ul>



<b>Commercial Training or Coaching service</b>	All unrecognized courses
<b>Health Services</b>	a) Any service (incl. diagnostic services) provided by centralized AC clinical establishment having 25 beds at any time during the year b) Diagnostic Services provided by clinical establishment with aid of laboratory. or medical equipment c) Service by doctor, not being employee of clinical establishment, from the premises of such establishment.

▪ Exemptions

- Business exhibitions held outside India
- 25 per cent of taxable value of services under “Transport of goods through coastal and inland shipping”
- Work Contract Services under ‘Jawaharlal Nehru National Urban Renewal Mission’ and ‘Rajiv Awaas Yojana’ for construction / finishing of new residential complex
- Services provided within the port or other port or air port under ‘Work Contract’ for specified purposes
- ‘Rashtriya Swasthya Bima Yojana’ under ‘General insurance’ service.
- Services related to transportation of goods by rail, road or air provided the origin and destination are located outside India.
- Under services of ‘Transport of goods by Air’, air freight already included in assessable value for charging customs duty.
- Service Tax on membership fees under ‘Club or association Services’ is exempted for associations or chambers representing industry or commerce for the period from 16.06.05 to 31.03.08
- Tax on transportation of passengers in a vehicle bearing contract carriage permit (inter and intra state) is now exempted w.e.f. 1.04.2000

▪ Amendments

- Scope of “Authorised Service Station Service” expanded to include all persons (earlier only Authorised Service Stations were covered) and the service of decoration and other similar services {Section 65(9) & 65(105)(zo)}



- Scope of “Club or association” service is expanded by including services to non-members within its scope {Section 65(25aa)}
- Scope of “Commercial training or coaching centre” expanded by including the pre-school coaching/training centres and other institutions within its ambit {Section 65(27)}
- Life Insurance Services: Tax shall be charged on the portion of premium other than allocated for Investment, if shown separately.
- Scope of “Legal Consultancy Service” expanded by including the following:
  - Consultancy service by any business entity to any person
  - Representative service by any person to any entity
  - Service of “arbitration” provided by an arbitral tribunal to any business entity
- Penalty for late filing of Service Tax return increased from 2,000 to 20,000 (Section 70)
- New Section being inserted so as to create a first charge on the property of the defaulter for recovery of Service Tax subject to the Companies Law, Debt Recovery Law and Securitisation Law (Section 88)
- All individual & sole proprietors with turnover up to Rs. 60 lakhs are free from formalities of audit.
- Under Works Contract Composition Scheme, CENVAT Credit in respect of “Erection, Commissioning or Installation”, “Commercial or Industrial Construction” and “Construction of Complex” Services shall be available only upto 40% of Service Tax paid, provided the input service provider has paid the service tax without availing composition scheme {Rule 3(2A) Works Contract Rules}

### **Service Tax Rules**

- Rate of Service Tax would be the applicable rate prevailing on the deemed date of provision of service (Rule 5B)
- Limit of self adjustment of excess payment of Service Tax increased from Rs. 1,00,000 to Rs. 2,00,000 {Rules 6(4B)(iii)}
- Rule 6(6A) is being inserted to provide that any unpaid amount of self assessed tax is recoverable along with interest u/s 87, no need to resort to notice from CEO
- Valuation of Money changing services:
  - a) Unit of currency exchanged multiplied by difference in buying & selling rate (RBI rates are to be considered)



- b) If RBI rate is not available, 1 per cent of the gross amount of INR provided or received
  - c) If INR is not involved in transaction, 1 per cent of lesser of the two amounts the person changing money received in INR on that day.
- Explanation has been inserted to clarify, taxable value will be the gross amount charged by telegraph services for the purpose of 'Telecommunication Services'.
- Changes in Service tax:

NATURE OF SERVICES	CHANGE		
	From	↑↓	To
<b>LIFE INSURANCE SERVICE</b>			
➤ Tax on premium other than allocated for investment	1%	↑	1.5%
<b>AIR TRAVEL</b>			
➤ Domestic travel (economy class)	Rs. 100	↑	Rs. 150
➤ International travel (economy class)	Rs. 500	↑	Rs. 750
➤ Domestic travel (other than economy class)			10%
<b>FOREIGN EXCHANGE MONEY CHANGER</b>			
➤ Gross amount of currency exchanged	0.25%	↓	0.1%
➤ Monetary limit regarding the self – adjustment of excess service tax	Rs 1 lac	↑	Rs 2 lac
<b>PENALTIES</b>			
➤ Penalty for delayed payment	2%	↓	1%
➤ Penalty for non – registration or delayed registration	Rs. 5,000	↑	Rs. 10,000
➤ Penalty for evading the payment of service tax	50%	↓	25%
➤ Interest on delayed payment of service tax for assessee with a turnover upto Rs 60 lacs	13%	↓	10%
➤ Maximum delay in filing of return	Rs 2,000	↑	Rs 20,000

### **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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