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# BUDGET 2009 : HIGHLIGHTS

## Tax Rates:

### 1. Income-tax Rates

There is no change as such in the rate.

### 2. Surcharge Rates

Surcharge will be not applicable to individuals, HUF, AOP, BOI and Artificial Juridical persons, Firms, Co-operative Societies, Local Authorities. But there is no change in surcharge rates for Companies

### 3. Education Cess and Secondary and Higher Education Cess Rates

There is no change in rates for any assessee. It is payable in all cases at 3% of Tax due in cases where the assessee is not a Company and payable at 3% of Tax and Surcharge due in the case of Companies

## Individual Tax:

### 1. Increase in **threshold exemption limit** for FY 2009-10:

Particulars	Male Assessee	Female Assessee	Senior Citizen
Increased by	10000	10000	15000
Revised Exemption limit	160000	190000	240000
Effective Tax Saving	1030	1030	1545

#### Comment:

There is no change in the tax rate- only the threshold limit is raised.

### 2. No **surcharge** shall be levied for FY 2009-10:

Comment: This shall mean saving to the high net worth individuals i.e. having taxable income more than Rs.10.00 Lacs

### 3. Limit for **advance tax** increased to Rs.10,000/- from Rs.5000/-. This amendment is effective for FY 2009-10.

Comment: This shall save small taxpayers from the burden of paying advance tax as well save interest on advance tax.

### 4. Deduction in respect of Interest on loan taken for **higher education**:

The amended provision shall extend the deduction to cover all fields of studies (including vocational studies) pursued after passing the Senior Secondary Examination or its equivalent from any school, board or university recognized by the Central Government or State Government or local authority or by

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any other authority authorized by the Central Government or State Government or local authority to do so. Effective from FY 2009-10.

Comment:

5. Deduction for medical treatment of a **dependent suffering from disability**: The amendment proposes to increase the limit of deduction for severe disability to Rs.1 lakh from Rs. 75,000. However, the limit for ordinary disability is proposed to be retained at the existing level of Rs.50,000. Effective from FY 2009-10.

6. **Gifts**: Taxation of certain transactions without consideration or for an inadequate consideration as income from other sources. It is proposed to amend section 56 of the Income-tax Act to provide that the value of any property received without consideration or for inadequate consideration will also be included in the computation of total income of the recipient. Such properties will include immovable property being land or building or both, shares and securities, jewelry, archaeological collections, drawings, paintings, sculptures or any work of art.

Comment:

This fills in the lacuna that the provision was applicable only to cash transactions.

## Firm Taxation:

1. LLP shall be taxed as partnership firms.

Comment: This gives much needed clarity to this new form of business enterprise.

2. No surcharge shall be levied.

Comment This will make partnership firm/ LLP as an attractive option as against corporate. Considering increased rate of MAT and continuance of surcharge it is possibility worth considering converting a Pvt. Ltd. into a LLP.

3. Limit of allowable remuneration payable to partners revised

It is proposed to make upward revision of the existing limits of the remuneration. It is also proposed to prescribe uniform limits for both professional and non professional firms for simplicity and administrative ease. The revised limits are proposed to be as under:

On the first Rs 3,00,000 of the book-profit	Rs 1,50,000 or at the rate of 90 per cent of the book profit whichever is more
On the balance of the book-profit	At the rate if 60 per cent

Comment:

1. This shall mean more attractive position to LLP and Partnership firm as against a sole proprietary business having profits more than Rs.5.00 Lacs due to savings in average rate of tax.

2. Increased savings in tax to existing firms due to increased level of remuneration:



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<b>Business Firm</b>				
Book Profit	Existing Remuneration	Revised Remuneration	Impact on Profit	Saving in Tax
300,000	172,500	270,000	97,500	30,128
400,000	212,500	330,000	117,500	36,308
500,000	252,500	390,000	137,500	42,488
600,000	292,500	450,000	157,500	48,668

<b>Firm carrying on Profession</b>				
Book Profit	Existing Remuneration	Revised Remuneration	Impact on Profit	Saving in Tax
300,000	190,000	270,000	80,000	24,720
400,000	230,000	330,000	100,000	30,900
500,000	270,000	390,000	120,000	37,080
600,000	310,000	450,000	140,000	43,260

## Corporate Tax:

1. No change in tax rates as well as surcharge
2. MAT rate increased to 15% from 10% from FY 2009-10
3. MAT credit period extended from 7 years to 10 years from FY 2009-10

### Comment:

The increase in the MAT rate is a retrograde step. The extension in the MAT credit period of course is a positive step, in these days of losses..

4. It is also proposed to provide that if any provision for diminution in the value of any asset has been debited to the profit and loss account, it shall be added to the net profit as shown in the profit and loss account for the purpose of computation of book profit u/s 115JA and 115JB. (retrospectively from 1<sup>st</sup> April, 1998)

## Business Income

1. The benefit of weighted deduction (150% of expenditure for in-house research and development) will be applicable to all companies engaged in the business of manufacture or production of an article or thing except those specified in the Eleventh Schedule of the Income-tax Act. Previously the deduction was available only for manufacture of certain selected products.

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2. All donations to electoral trusts shall be allowed as a 100 percent deduction in the computation of the income of the donor.

3. The Hon'ble Supreme Court in the case of CIT Vs. Doom Dooma India Ltd (222 CTR 105) has held that in view of the language employed in sub-clause (b) of clause (6) of section 43 regarding depreciation "actually allowed", where any income is partially agricultural and partially chargeable to tax under the Income tax Act, 1961 under the head "Profits & Gains of Business", the depreciation deducted in arriving at the taxable income alone can be taken into account for computing the WDV in the subsequent year. Since it is not the intent of the Act, it is therefore proposed to provide that in the cases of 'composite income', notwithstanding that the assessee was not required to compute a part of his income for the purposes of Income-tax Act for any previous year, depreciation shall be computed as if the total composite income of the assessee is chargeable under the Income-tax Act and such depreciation shall be deemed to have been "actually allowed" to the assessee. This amendment will affect all assesses engaged in plantation of tea/ rubber/ other agricultural products which is subject partially to Central Income Tax

## Capital Gains:

The scope of Sec 50 C is proposed to be extended even to cases where the assessee executed only an agreement to sell or power or attorney for transfer of property at consideration less than guideline value.

## Charitable Trusts

1. Under the current provisions of section 115BBC, wholly religious entities are outside the purview of taxation of anonymous donations. Partly religious and partly charitable entities have also been exempted from the taxation of anonymous donations, except where the anonymous donation is made to an educational or medical institution run by such entity in which case such donations are taxed at the rate of 30 per cent. In the case of wholly charitable entities, all anonymous donations are taxed at the rate of 30 per cent.

2. In order to mitigate the compliance burden, it is proposed to provide relief to such organizations by exempting a part of the anonymous donations from being taxed. The proposed amendment will result in the following:—

- a) Anonymous donations received by wholly religious institutions shall remain exempt from tax.
- b) In the case of partly religious and partly charitable institutions, anonymous donations directed towards a medical or educational institutions run by such entities shall be taxable only to the extent such donations exceed 5 per cent. of total income of such trust or institution or a sum of Rs.1 lakh, whichever is more.
- c) In the case of wholly charitable institutions, anonymous donations shall be taxable to the extent such donations exceed 5 per cent. of total income of such trusts/institution or a sum of Rs.1 lakh, whichever is more.

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## Deductions from total income

### A. Extension of Terminal Dates- Ss 80-IA and 10A/10B

**80-IA:** The terminal date for commencing the activity of generation, transmission or distribution of power in case of such undertaking is extended from 31.3.2008 to 31.3.2011. The terminal date of exemption u/s 80-IA is extended by a further period of one year upto 31-03-2011 for the industries a) which is set up for the generation and distribution of power b) which starts transmission or distribution by laying a network of new transmission or distribution lines c) which undertakes substantial renovation and modernization of existing network of transmission or distribution lines

**10A/10B:** It is proposed to amend sections 10A and 10B to extend the tax benefit under both these sections by one year i.e., the deduction will be available upto assessment year 2011-12.

### B. Rationalising section 80-IB(10)

1. Sub-section (10) of section 80-IB of the Income-tax Act, 1961 provides for 100 per cent deduction of the profits derived by an undertaking from developing and building housing projects. The objective of this tax concession is to provide tax benefit to the person undertaking the investment risk i.e. the actual developer. However, any person undertaking pure contract risk is not entitled to the tax benefits.

2. With a view to clarify accordingly, it is proposed to insert an Explanation after sub-section (10) of section 80-IB so as to provide that nothing contained in this sub-section shall apply to any undertaking which executes the housing project as a works contract awarded by any other person (including Central or State Government). This amendment will take effect retrospectively from the 1st day of April, 2001 and shall accordingly, apply in relation to assessment year 2001-02 and subsequent assessment years.

3. The objective of the tax benefit for housing projects is to build housing stock for low and middle income households. This has been ensured by limiting the size of the residential unit. However, this is being circumvented by the developer by entering into agreement to sell multiple adjacent units to a single buyer. Accordingly, it is proposed to insert new clauses in the said subsection to provide that the undertaking which develops and builds the housing project shall not be allowed to allot more than one residential unit in the housing project to the same person. If the allottee is an individual no other housing unit can be allotted to the spouse or minor child, the HUF in which he is the Karta, a representative of the spouse, minor child or HUF

## Presumptive Taxation:

1. It is proposed to expand the scope of presumptive taxation to all businesses by substituting a new section 44AD. The presumptive rate of income is prescribed at 8% of gross turnover /gross receipts. The proposed amendment will take effect from FY 2010-11.

Comment: This brings much needed reprieve to micro and small enterprises. This will make the record keeping much easier to prepare the income tax return with pragmatic taxation. Presumptive taxation is available only for selected categories of business. Now this is proposed to be extended to all businesses where the turnover is less than Rs.40 Lakhs. If the assessee declares 8% of Gross Turnover/ Receipts no

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books of account need to be maintained. Otherwise the accounts should be subjected to compulsory audit u/s 44AB. One catch in the proposal is 44AF relating to retail business will be abolished and accordingly the presumption rate of income will increase to 8% from the present 5%

## 2. Presumptive income for truck owners under section 44AE

It is proposed to enhance the presumed income per vehicle for the owners of-

- (i) heavy goods vehicle to Rs.5,000/- per month from Rs. 3500/-; and
- (ii) other than heavy goods vehicles to Rs.4,500/- per month from Rs. 3150/-.

## Tax Deduction at Source

The rates of TDS are proposed to be changed as under:

Particular	Existing rate	Proposed rate (1-10-2009)
<b>Nature of Payment (194-I)</b>		
rent of plant, machinery or equipment	10%	2%
rent of land, building or furniture to an individual and Hindu undivided family	15%	10%
rent of land, building or furniture to a person other than an individual or Hindu undivided family	20%	10%
<b>Nature of Payment (194C)</b>		
Individual/HUF contractor	2%	1%
Other than individual/HUF contractor	2%	2%
Individual/HUF sub-contractor	1%	1%
Other than individual/HUF sub-contractor	1%	2%
Individual/HUF contractor/sub-contractor for advertising	1%	1%
Other than individual/HUF contractor/ sub-contractor for advertising	1%	2%
Sub-contractor in transport business	1%	Nil
Contractor in transport business	2%	Nil

The rate of TDS will be 20 per cent in all cases, if PAN is not quoted by the deductee w.e.f. 1.04.2010.

### Comment:

This is a positive step- if profits go down, at least cash flows will improve. The PAN is becoming all the more important- there being a negative price for that.No surcharge and cess will apply if payment (other than Salaries) is made to resident tax payers. There will be no difference in TDS rates for contractor and a sub-contractor (general rate will be 1%). There will be no separate concessional rate for contract of advertising (will fall under the general rate of 1%). Job-Contractors are subjected to TDS only if the raw material was supplied by the principal. For example, if material is purchased in the open market and



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finished product was manufactured even if according to the specification of the principal, then the contract will be treated as a contract for sale of goods and will not attract TDS.

## Transfer Pricing

1. Alternative Dispute Resolution mechanism called Dispute Resolution Panel to be created within the Income-tax Department for the resolution of transfer pricing disputes. Matters will be referred by the AO to the Panel. The orders passed by AO in this context will not be agitated by the Income tax Department.
2. The determination of arm's length price shall be subjected to 'Safe Harbour Rules' which will be notified in the due course.

## Fringe Benefit Tax

1. This tax has been abolished from FY 2009-10.
2. Consequently, it is also proposed to restore the taxation of the fringe benefits as perquisites in the hands of the employees in the following cases i.e. a) Employees Stock Option/ Sweat Equity b) Amount of any contribution to an approved superannuation fund by the employer in respect of the assessee, to the extent it exceeds one lakh rupees. c) The value of any other fringe benefit or amenity as may be prescribed.

### Comment:

Savings in tax and time in compliance of fringe benefit tax.

## Reassessment:

1. It is proposed to insert an explanation in Section 147 to provide that the assessing officer may assess or assess income in respect of any such issue which come to his notice subsequently in the course of proceedings under this section, notwithstanding that the reason for such issue has not been included in the reasons recorded under sub-section (2) of Section 148.
2. This amendment will take effect retrospectively from 1<sup>st</sup> April, 1989 and will, accordingly, apply in relation to assessment year 1989-1990 and subsequent years.

## Document Identification Number.

1. Now every income-tax authority shall allot a computer generated Document Identification Number in respect of every notice, order, letter or any correspondence sent or received by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.
2. This amendment will take effect from 1<sup>st</sup> October, 2010.



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## Wealth Tax

It is proposed to raise the threshold limit for payment of wealth tax from Rs. 15 lakhs to Rs 30 lakhs.

## Commodities Transaction Tax

This tax has been abolished.

Comment:

The Securities Transaction Tax continues

## Service Tax

1. Service tax is being imposed on the following specified services a) Service provided in relation to transport of goods by rail b) Service provided in relation to transport of (i) coastal goods; and (ii) goods through Inland Water including National Waterways c) Legal consultancy service and d) Cosmetic and plastic surgery service
2. Scope of following services has been modified: a) Business Auxilliary Services(to exclude processes which result in manufacture of excisable goods), b) Stock Broker Services( to exclude sub-brokers from its ambit) and c) Information Technology Services (to cover provision and not acquisition of right to use)
3. Exemption is provided in the following services a) Tour Operators( to those having a contract carriage permit for inter state or intra state transportation of passengers) b) Notified Associations (like FIEO, EPC), c) Banking and other Financial Services and Foreign Exchange Broker Services( provided by a scheduled bank to another scheduled bank)

## Tax Havens

1. The Bill proposes to amend Section 90(1) such that the Government would be permitted to enter into tax treaties with specified territories outside India, which may not be sovereign countries.