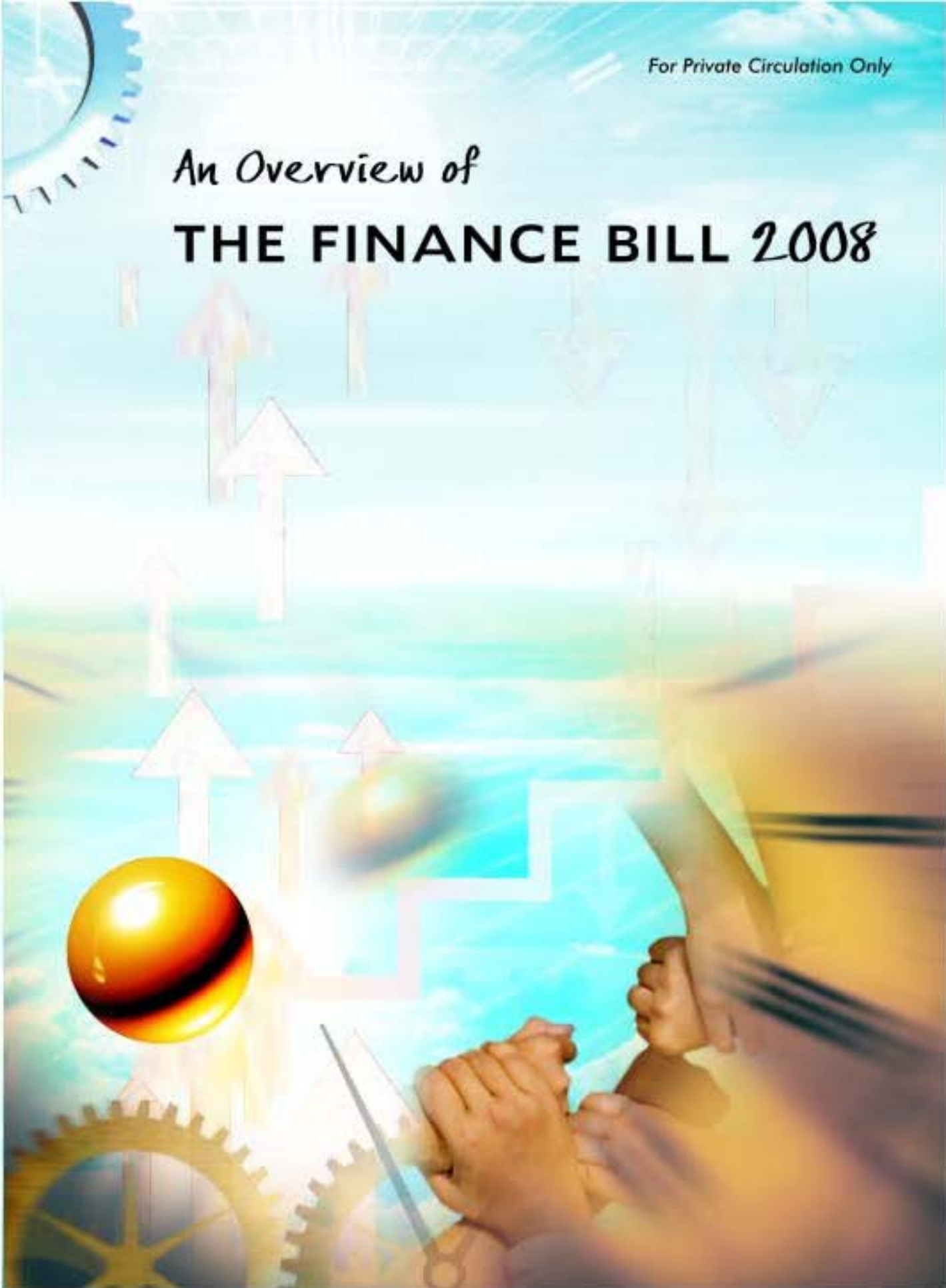


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*An Overview of*

# **THE FINANCE BILL 2008**



**K C Mehta & Co.**

Chartered Accountants

Our cover page highlights the facets of the Indian economy in the world space, painted with an illusionary story line. The portrait of a clear limitless sky aptly reflects and symbolizes the scope and dimension of the economic resurgence of the country. An indication of the upward rise and its resultant benefits is softly visible in the concept of the golden sphere - showcasing India's combined strengths and potential to be in sync with global trends and developments. The movement on the stairway of financial growth defines our progress as we tap the global opportunities and enter the bright era. Our time has come, as the nation steadily strides ahead. The economy possesses the inherent sustenance and self generated vigor that emanates from the unflinching efforts and acumen of our people, who keep the wheels of success in motion.

This escalation, however, tends to get diluted or diffused, due to certain unknown, unanticipated or hidden factors that may affect the direction and pace of growth represented by the play of arrows.

A creative synchrony is thus achieved by the cycle of time, with its interplay of trials, tribulations and triumphs.

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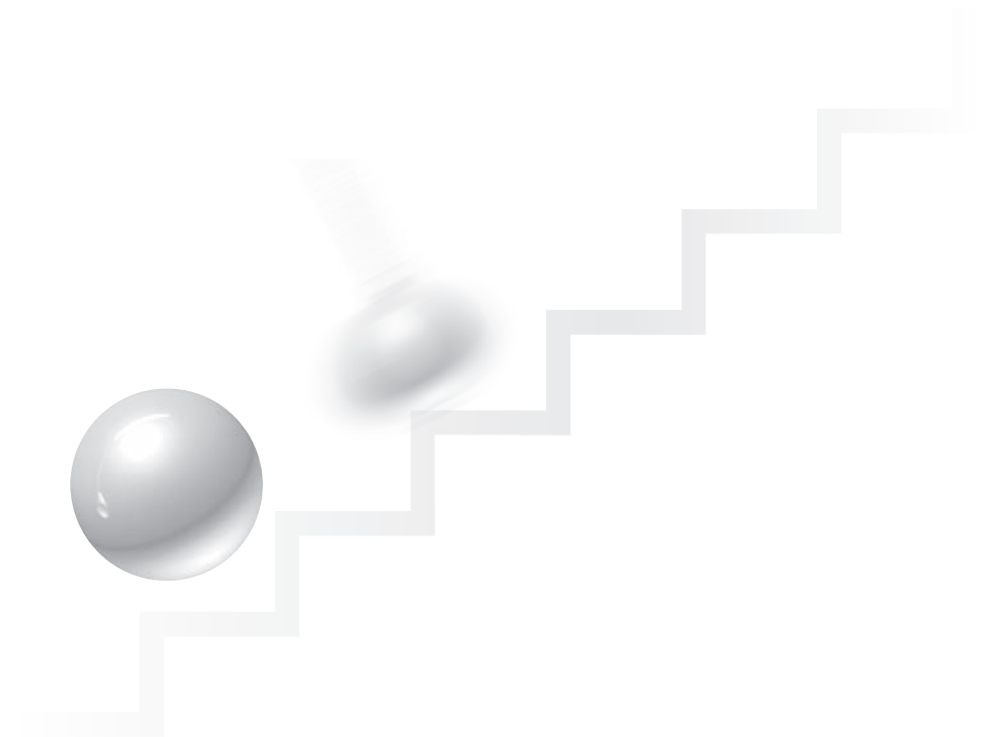
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*An Overview of*

## THE FINANCE BILL 2008



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**FINANCE BILL, 2008**

Unless otherwise specifically mentioned, the amendments proposed are to be effective from A.Y. 2009-2010 and are therefore applicable with respect to income arising on or after 1<sup>st</sup> April 2008. Specific mention is made at the relevant places, when the effective date of a proposed amendment is other than 1<sup>st</sup> April 2008. Reference to the existing provisions means the provisions of the Act immediately prior to the amendments proposed in the Bill.

Any reference to the sections, unless otherwise stated, is to the sections of the Income Tax Act, 1961.

**RATES OF TAX**

In respect of rates of tax, the following changes have been proposed in the Finance Bill, 2008:

- Increase in basic exemption limit by Rs. 40,000/- in case of Individuals, HUFs, AOPs and BOIs (other than Women and Senior Citizen), Rs. 35,000/- in case of Resident Women Assesseees and Rs. 30,000/- in case of Resident Senior Citizen Assesseees.
- There is no change in tax slabs of Firms, Domestic Companies, Companies Other than Domestic Companies, Co-operative Societies.
- There is no change in Rates of Surcharge, Educational Cess, Secondary and Higher Secondary Education Cess and its applicability.
- Rate of Tax on Short Term Capital Gain on Listed Equity Shares and Units of Equity Oriented Mutual Fund have been increased from 10% to 15%.
- There is no change in rates of tax deducted at sources and tax collected at sources. However the Finance Bill has proposed to cover BOI and AOP under section 194C (for payments made to contractors and sub-contractors) even where turnover is less than Rs. 40 Lacs.
- There is no change in rates of Dividend Distribution Tax (DDT) on Companies. However the Finance Bill has proposed to provide the relief when the holding company receives dividend from its Subsidiary Company after paying DDT.
- New Commodities Transaction Tax (CTT) is proposed to be inserted from 1<sup>st</sup> April 2008 in line with Securities Transaction Tax.

The proposed income tax rates (including Surcharge, Education Cess and Secondary and Higher Secondary Cess) for the A.Y. 2009-2010 have been given in **Table 1** for ready reference. These income tax rates are applicable on any income earned during the period from 1<sup>st</sup> April 2008 to 31<sup>st</sup> March 2009.

The rates of Dividend Distribution Tax, Securities Transactions Tax, Banking Cash Transaction Tax and Commodities Transaction Tax are given in **Table 2**.

**Table 3** contains the applicable rates of TDS and TCS.



TABLE 1

Particulars	Threshold limit for Surcharge	Tax Rates	
		Without Surcharge	With Surcharge
Individual, HUF, AOP & BOI	10,00,000		
Upto Rs. 1,50,000		Nil	Nil
Rs. 1,50,001 to Rs. 1,80,000 *		10.30%	11.33%
Rs. 1,80,001 to Rs. 2,25,000 **		10.30%	11.33%
Rs. 2,25,001 to Rs. 3,00,000		10.30%	11.33%
Rs. 3,00,001 to Rs. 5,00,000		20.60%	22.66%
Rs. 5,00,001 onwards		30.90%	33.99%
* "Nil" tax rate in case assessee is Senior Citizen or Women below age of 65 years			
**"Nil" tax rate in case assessee is Senior Citizen			
Partnership Firm	1,00,00,000	30.90%	33.99%
Domestic Company	1,00,00,000	30.90%	33.99%
Company other than Domestic Company	1,00,00,000	41.20%	42.23%
Local Authority	Nil	30.90%	30.90%
Co-operative Society	Nil		
Upto Rs. 10,000		10.30%	-
Rs. 10,001 - Rs. 20,000		20.60%	-
Rs. 20,001 onwards		30.90%	-
Minimum Alternate Tax	1,00,00,000	10.30%	11.33%
<b>STCG on Listed Securities</b>			
Individual, HUF, AOP & BOI	10,00,000	15.45%	16.995%
Partnership Firm	1,00,00,000	15.45%	16.995%
Domestic Company	1,00,00,000	15.45%	16.995%
Company other than Domestic Company	1,00,00,000	15.45%	15.836%
<b>STCG on assets other than Listed Securities</b>			
Individual, HUF, AOP & BOI	10,00,000	As per Slab	As per Slab
Partnership Firm	1,00,00,000	30.90%	33.99%
Domestic Company	1,00,00,000	30.90%	33.99%
Company other than Domestic Company	1,00,00,000	41.20%	42.23%
<b>LTCG on assets other than Listed Securities</b>			
Individual, HUF, AOP & BOI	10,00,000	20.60%	22.66%
Partnership Firm	1,00,00,000	20.60%	22.66%
Domestic Company	1,00,00,000	20.60%	22.66%
Company other than Domestic Company	1,00,00,000	20.60%	21.115%
<b>Fringe Benefit Tax</b>			
AOP/BOI	10,00,000	30.90%	33.99%
Domestic Company, Firm	Nil	-	33.99%
Company other than Domestic Company	Nil	-	31.6725%

TABLE 2

Particulars	Tax Rates	
<b>Dividend Distribution Tax</b>		
By Domestic Company		16.995%
By Money Market Mutual Fund or Liquid Fund		28.325%
By Other Mutual Funds		
-For income distributed to Individual/HUF		14.1625%
-For income distributed to others		22.66%
<b>Securities Transaction Tax</b>		
Delivery based purchase of an Equity Share in Company or a Unit of an Equity Oriented Fund		0.125%
Delivery based sale of an Equity Share in Company or a Unit of an Equity Oriented Fund		0.125%
Non-Delivery based sale of an Equity Share in Company or a Unit of an Equity Oriented Fund		0.025%
Derivatives [Futures & Options]		0.017%
Sale of an option in securities where option is exercised		0.125%
Repurchase of Units of an Equity Oriented Fund		0.250%
<b>Banking Cash Transaction Tax</b>		<b>Threshold limit</b>
Individual or Hindu Undivided Family	50,000	0.10%
Other than Individual or Hindu Undivided Family (other than office or establishment of Central or State Government)	1,00,000	0.10%

**A new tax called Commodities Transaction Tax (CTT) is proposed to be levied on taxable commodities transactions entered in a recognized association.**

Taxable Commodities Transactions	Rate	Payable by
Sale of an option in goods or an option in commodity derivative	0.017% on option premium	Seller
Sale of an option in goods or an option in commodity derivative, where option is exercised	0.125% on the settlement price of the option	Purchaser
Sale of any other commodity derivative	0.017% of the price at which the commodity derivative is sold	Seller

**TDS RATES FOR THE A. Y. 2009-2010 (in %)**  
TDS RATES W.E.F. from 1<sup>st</sup> April, 2008

**TABLE 3**

Section	Nature of Payment	Threshold Limit (in Rs.)	Individual, HUF, BOI, AOP		Firm		Co-op soc., Local Authority	Company	
			Payment up to Rs.10 lac	Payment more than Rs. 10 lac	Payment up to Rs.1 crore	Payment more than Rs.1 crore		Payment up to Rs.1 crore	Payment more than Rs.1 crore
192	Salary	0	Normal Rate	Normal Rate			Normal Rate		N.A.
193	Interest on Securities (1) Interest on Debentures or Securities (Listed) (2) Interest on 8% Savings Taxable Bonds, 2003 (3) Any Other Interest on Securities (Unlisted)	2500* 10000 0	10.30 10.30 20.60	11.33 11.33 22.66	10.30 10.30 20.60	11.33 11.33 22.66	10.30 10.30 20.60	20.60 20.60 20.60	22.66 22.66 22.66
194	Dividend other than dividend covered by Section 115-O	2500 *	20.60	22.66	20.60	22.66	20.60	20.60	22.66
194A	Interest other than Interest on Securities (cases other than below)	5000	10.30	11.33	10.30	11.33	10.30	20.60	22.66

\* In case of individual resident only

**TDS RATES FOR THE A. Y. 2009-2010 (in %)**  
TDS RATES W.E.F. from 1<sup>st</sup> April, 2008

Section	Nature of Payment	Threshold Limit (in Rs.)	Individual, HUF, BOI, AOP		Firm		Co-op soc., Local Authority	Company	
			Payment up to Rs.10 lac	Payment more than Rs. 10 lac	Payment up to Rs.1 crore	Payment more than Rs.1 crore		Payment up to Rs.1 crore	Payment more than Rs.1 crore
194B	Where the payer is (1) Banking Company (2) Co-operative Society engaged in banking business (3) Post Office under a deposit scheme framed by Central Government	10000 10000 10000	10.30 10.30 10.30	11.33 11.33 11.33	10.30 10.30 10.30	11.33 11.33 11.33	10.30 10.30 10.30	20.60 20.60 20.60	22.66 22.66 22.66
194BB	Winning from Lotteries Winnings from Horse Races	5000 2500	30.90 30.90	33.99 33.99	30.90 30.90	33.99 33.99	30.90 30.90	30.90 30.90	33.99 33.99
194C	Payments to Contractors (1) In case of Advertising (2) Other Contracts (3) Sub-Contracts	20000** 20000** 20000**	1.03 2.06 1.03	1.133 2.266 1.133	1.03 2.06 1.03	1.133 2.266 1.133	1.03 2.06 1.03	1.03 2.06 1.03	1.133 2.266 1.133

\*\* If consolidated amount during the year exceeds Rs. 50000/-  
Note: In case of AOP/BOI (Payer) incorporate or not the TDS u/s 194C will be applicable without any threshold limit of Rs.40 lacs of Turnover.

**TDS RATES FOR THE A.Y. 2009-2010 (in %)**  
TDS RATES W.E.F. from 1<sup>st</sup> April, 2008

Section	Nature of Payment	Threshold Limit (in Rs.)	Individual, HUF, BOI, AOP		Firm		Co-op soc., Local Authority		Company	
			Payment up to Rs. 10 lac	Payment more than Rs. 10 lac	Payment up to Rs. 1 crore	Payment more than Rs. 1 crore	Payment up to Rs. 1 crore	Payment more than Rs. 1 crore	Payment up to Rs. 1 crore	Payment more than Rs. 1 crore
194D	Insurance Commission	5000	10.30	11.33	10.30	11.33	10.30	10.30	20.60	22.66
194E	Non-Resident sportsman/sports association	0	10.30	11.33	10.30	11.33	10.30	10.30	NA	NA
194EE	Deposits under NSS to Resident/Non-Resident	2500	20.60	22.66	20.60	22.66	20.60	20.60	NA	NA
194F	Repurchase of Units of Mutual Fund/UTI from Resident / Non-Resident	0	20.60	22.66	20.60	22.66	20.60	20.60	NA	NA
194G	Commission on Sale of lottery tickets to Resident / Non-Resident	1000	10.30	11.33	10.30	11.33	10.30	10.30	10.30	11.33
194H	Commission or Brokerage to Resident	2500	10.30	11.33	10.30	11.33	10.30	10.30	10.30	11.33

**TDS RATES FOR THE A.Y. 2009-2010 (in %)**  
TDS RATES W.E.F. from 1<sup>st</sup> April, 2008

Section	Nature of Payment	Threshold Limit (in Rs.)	Individual, HUF, BOI, AOP		Firm		Co-op soc., Local Authority		Company	
			Payment up to Rs. 10 lac	Payment more than Rs. 10 lac	Payment up to Rs. 1 crore	Payment more than Rs. 1 crore	Payment up to Rs. 1 crore	Payment more than Rs. 1 crore	Payment up to Rs. 1 crore	Payment more than Rs. 1 crore
194I	Rent to Residents (a) Rent for Machinery/ plant/equipment (b) Rent for other than in (a)	120000	10.30	11.33	10.30	11.33	10.30	10.30	10.30	11.33
194J	(1) Individual / HUF	120000	15.45	16.995	NA	NA	NA	NA	NA	NA
	(2) Other than Individual / HUF fees for Professional / Technical Services to Resident	20000	10.30	11.33	10.30	11.33	10.30	10.30	20.60	22.66
194LA	Compensation to Resident on acquisition of immovable property	100000	10.30	11.33	10.30	11.33	10.30	10.30	10.30	11.33
196B	Income from units (including long term Capital Gain on transfer of such units) to an offshore fund	0	10.30	11.33	10.30	11.33	10.30	10.30	10.30	10.558
196C	Income from foreign currency bonds or GDR of Indian Company	0	10.30	11.33	10.30	11.33	10.30	10.30	10.30	10.558
196D	Income of FI from securities not being dividend, long term and short term capital gain	0	20.60	22.66	20.60	22.66	20.60	20.60	20.60	21.115



TCS RATES FOR THE A.Y. 2009-2010 (in %)									
TCS RATES W.E.F. from 1 <sup>st</sup> April, 2008									
Section	Nature of Payment	Threshold Limit (in Rs.)	Individual, HUF, BOI, AOP		Firm		Co-op soc., Local Authority	Company	
			Payment up to Rs. 10 lac	Payment more than Rs. 10 lac	Payment up to Rs. 1 crore	Payment more than Rs. 1 crore		Payment up to Rs. 1 crore	Payment more than Rs. 1 crore
206C	Scrap	0	1.03	1.133	1.03	1.133	1.03	1.03	1.133
206C	Tendu leaves	0	5.15	5.665	5.15	5.665	5.15	5.15	5.665
206C	Timber obtained by any mode and any other forest produce	0	2.575	2.833	2.575	2.833	2.575	2.575	2.833
206C	Alcoholic liquor for human consumption and Indian made foreign liquor	0	1.03	1.133	1.03	1.133	1.03	1.03	1.133
206C	Parking lot, toll plaza, mining and quarrying	0	2.06	2.266	2.06	2.266	2.06	2.06	2.266

## PERSONAL TAXATION

**B.1 Scope of Agriculture Income expanded**

Agriculture Income continues to remain exempt. One of the important condition for an income to be eligible as Agriculture Income is carrying out basic operations on the land used for agricultural purposes. Disputes were raised in case of horticulture, floriculture and other activities including the activities of tissue culture, where the saplings and seedlings are planted not on the land but in the pots in a nursery. For extending the benefits of exemption to income of such nurseries, explanation is proposed to be inserted in the definition of Agriculture Income contained in Section 2(1A) so as to provide that income derived from saplings and seedlings grown in a nursery shall be deemed to be agricultural income.

**B.2 Income of Sikkimese U/s. 10(26AAA)**

Exemption is provided to an Individual being a Sikkimese, in respect of its income

- from any source in the State of Sikkim, or
- by way of dividend or interest on securities

Sikkimese means a person whose name is entered in the register of Sikkim subjects prior to 26<sup>th</sup> April, 1975 or by virtue of an order dated 7<sup>th</sup> August, 1990 or 8<sup>th</sup> April, 1991. It also includes the cases of individuals names of whose father, husband, paternal grandfather or brother from the same father is included in the said registers.

Exemption is lost by a woman if she marries to a non-Sikkimese on or after 1<sup>st</sup> April, 2008.

**B.3 Deduction of Investment U/s. 80C**

Senior Citizens Saving Scheme, 2004 and Post Office 5 years Time Deposit Scheme is now eligible for deduction under section 80C (xxiii) & (xxiv), within the overall limit of Rs. 1.00 lac for all eligible investments U/s. 80 C. The amount invested under these Schemes can not be withdrawn before the expiry of the period of five years. If the amount is withdrawn before expiry of the period of 5 years then the same shall be deemed to be the income of the assessee in the year of withdrawal. Withdrawal within 5 years by nominee or legal heirs on death of assessee will not be liable to tax.

Interest on these deposits continue to be taxable.

**B.4 Deduction of Medical Insurance Premium U/s. 80D**

Following changes have been made in the section 80D by substituting the said section:

- The payment of such premium can be made by any mode other than cash.

- I The deduction for the premium paid is admissible within overall limit of Rs. 15,000.
- I If the person insured is a senior citizen then the limit applicable would be Rs. 20,000.
- I Additional limit of Rs. 15,000 (Rs. 20,000 if person insured is senior citizen) available for insurance of health of parent or parents, who need not be dependent on the assessee.
- I Deduction admissible also in the case of HUF within the overall limit of Rs. 15,000 or Rs. 20,000 as the case may be. HUF however, not entitled to additional limit of Rs. 15,000 for parent or parents.

#### **B.5 Income from Transaction of reverse Mortgage U/s. 10(43)**

Any amount received by an individual as a loan, either in lump sum or in installment, in a transaction of reverse mortgage under a scheme made and notified by the Central Government is proposed to be exempted from tax.

Consequently it is also provided that the transaction of reverse mortgage will not be considered as transfer and accordingly no capital gains will be attracted under such transaction.

## **BUSINESS INCOME**

### **C.1 Weighted Deduction of 125% for amount paid to Company for Scientific Research U/s. 35(1)(ia)**

To boost the activity of Scientific Research in India, the Finance Bill, 2008 proposes to provide deduction of 125% of the amount paid to a company on or after 01.04.2009 to be used by it for scientific research. Such weighted deduction is available only if each of the following conditions are satisfied:

- i) The company to which the payment is made should be registered in India.
- ii) The main object of such Company should be of scientific research and development.
- iii) Such company is approved by the prescribed authority for this purpose and also fulfils such other conditions as may be prescribed.

This provision would give advantage to the contribution made to contract research companies.

The Finance Bill has also provided that if such contract research company incurs expenditure out of the funds so received then such expenditure would not be eligible for weighted deduction of 150% of the expenditure incurred U/s.35(2AB) available to such company.

### **C.2 Weighted deduction of 150% for scientific research**

Presently section 35 (2AB) grants weighted deduction of 150% of the expenses incurred (including capital expenditure, except on land and building) on scientific research in an in house approved laboratory in a programme approved in this behalf by an assessee engaged in specified industry. The list includes the industry in the nature of drugs, pharmaceuticals, electronic equipments, computers, telecommunication, Information Technology, automobiles including the auto components manufacturing. The Finance Minister in his speech has assured that more number of industries would be added to this list and accordingly, weighted deduction of 150% would be available also in such industries.

### **C.3 Deduction for Preliminary Expenses U/s. 35 D**

Section 35 D provides for deduction of preliminary expenses incurred by a person over a period of 5 years. It also provides for deduction of the preliminary expenses incurred at the time of expansion. However, under the existing provisions, preliminary expenses incurred by industrial undertaking only was covered and other concerns were not covered and accordingly, the service enterprises, consulting enterprises, enterprises engaged in trading activities, enterprises in finance business, etc. were not covered and accordingly deduction of preliminary expenses incurred by these persons at the time of expansion of their respective businesses were not available. To remove this anomaly, amendment is proposed in section 35 D and accordingly, deduction U/s. 35 D would be available in all cases of expansion of businesses.

#### C.4 Deduction of Securities Transaction Tax and Commodities Transaction Tax

Under the existing provision, where the income from the transactions in listed securities were included as business income, then the Securities Transaction Tax ("STT") paid thereon was available as rebate from the tax attributable to the income from such transactions in securities. The rebate thus available U/s. 88E is now proposed to be withdrawn and STT paid will accordingly be treated as allowable business expenditure. Provisions of section 36 proposed to be amended accordingly. Consequently section 40(a)(ia) and section 88E also amended.

With introduction of the Commodities Transaction Tax ("CTT") on the transactions in commodity derivatives, provisions made for allowing deduction of CTT paid when the income from the commodity derivatives is included as business income.

#### C.5 Disallowance of cash expenditure exceeding Rs. 20,000/- U/s 40A(3).

As per existing provision whole of the expenditure incurred otherwise than by account payee cheque or account payee bank draft exceeding Rs. 20000/- is disallowable, unless the payment falls within the exception carved out in Rule 6DD of the Income Tax Rules.

Under various decisions, it was held that the limit of Rs. 20,000 is to be applied to each payment. Amendment is proposed for aggregating the payment made to one person on one day. Therefore, in case where same person is paid from more than one locations would also be covered by the amended provision, if aggregate payment exceeds Rs. 20,000 in a single day.

Existing provision further provides that if liability for making payment is incurred in one year, but actual payment is made otherwise than by way of account payee cheque in the subsequent year beyond the threshold limit of Rs. 20,000, then the disallowance is to be made in the year in which deduction was claimed. Amendment is proposed to shift the disallowance to the year in which the payment is made and not in the year in which the original deduction is claimed.

#### C.6 Computation of Written Down Value

The Finance Bill 2008, has inserted Explanation 6 to Section 43(6) with retrospective effect from the 1<sup>st</sup> day of April, 2003 which defines the "Written Down Value" of the block of assets.

For smoothly migrating the tax free entities to the taxable entities the amendments have been proposed in the Act. It provides that the depreciation on the assets is to be allowed on the written down value of the assets computed in the following manner in the first year in which the entity is required to compute its income under the Act:

- i) The value of the assets be adjusted by the amount of revaluation if any made in the books of accounts and it should accordingly be brought down to the actual cost of acquisition of the assets;
- ii) Depreciation actually provided in the books of accounts in the past should be reduced from the above value;
- iii) If the depreciation provided in the books of accounts is attributable to the revalued amount of the asset, then to that extent the depreciation should be less reduced from the value of the asset for arriving at the opening WDV of the asset for granting the depreciation.

It may be mentioned that the above intention becomes clear from the memorandum explaining the provisions of Finance Bill, 2008. However, the way in which the amendments have been proposed, the provisions are capable of being interpreted differently.

## CORPORATE TAXATION

### D.1 Minimum Alternative Tax (MAT) U/s.115JB

Retrospective amendment with effect from 1<sup>st</sup> April, 2001 is sought to be made in defining the adjustments to be made for determining the book profits for the purpose of computing MAT u/s.115JB.

It was held in various judicial forums that provision for deferred tax made as required under the Accounting Standard 22 is not income tax paid, payable or provision thereof. Therefore, the provision for deferred tax should not be added to the profit for computing the book profit for the purpose of MAT. Amendment is proposed with effect from A.Y. 2001-02 that provision for deferred tax should be added back for computing the book profits.

Similar controversy was there in respect of dividend distribution tax or tax on distribution of income. It has now been provided that DDT and tax on distribution of income is also to be added back for computing the book profits.

To clarify the position, it has also been held that interest, penalty, surcharges and cesses shall be considered as part of income tax and accordingly will have to be also added back to Book Profit if the same is debited to profit and loss account.

The amendment appears to have been introduced to nullify the decision of ITAT, Kolkata in the case of ACIT vs Balarampur Chini Mills Ltd. 109 ITD 146 and the decision of Bombay High Court in the case of M J Pharmaceuticals Ltd, Mumbai Vs. DCIT 2007-TIOL-657-HC-IT.

Here it is pertinent to note that no clarification or changes have been made so as to provide that when provision for deferred tax is reversed by corresponding credit in the profit and loss account, then the same should be reduced from the profit liable for MAT.

### D.2 Dividend Distribution Tax U/s. 115-O

One welcome change has been proposed in section 115-O to nullify the cascading effect of DDT on dividend received by the domestic company from its subsidiary company. Presently company is liable to pay dividend distribution tax on the amount of dividend distributed. The said amount may also include the amount of dividend received from subsidiary company on which the subsidiary has already paid the dividend distribution tax u/s.115-O. To nullify the said effect new clause is proposed to be inserted in section 115-O. In view of the same the domestic company shall be entitled to reduce the amount of dividend received from its subsidiary company from the amount of dividend so distributed by it for the purpose of computing dividend distribution tax. The said reduction is subject to the following conditions:

- | The dividend is received from its subsidiary company and not from any other company
- | Such subsidiary has paid the tax U/s.115-O on such dividend
- | The holding company is not subsidiary of any other company

While the amendment is welcome amendment, there appears to be less justification for denying the benefit in cases where the holding company is subsidiary of another company. Further, requirement that there has to be relationship of holding company and subsidiary company for claiming the benefit could also have been replaced by a company holding not less than 26 % of the capital of the other company.

## CAPITAL GAINS

### E.1 Transaction not regarded as transfer U/s. 47

The Finance Bill 2008, has inserted two new clauses in section 47:

- I Clause (xv) states that the bonds of an Indian Company issued in accordance with such scheme as the Central Government may by notification in the Official Gazette specify in this behalf or the bonds of the Public Sector company sold by the Government and purchased in foreign currency is converted in shares or debentures of any company shall not be regarded as transfer.
- I Clause (xvi) states that any transfer of capital asset in a transaction of reverse mortgage under a scheme made and notified by the Central Government shall not be regarded as transfer.

### E.2 Cost with reference to certain modes of acquisition U/s. 49

Since the Finance Bill 2008, has provided for tax neutrality to the conversion of bonds into shares or debentures and cases of reverse mortgage, consequent amendments are proposed to be made for defining costs in case of such transactions.

The proposed amendment provides that the cost of acquisition of shares or debentures acquired on conversion of debenture, debenture stock, deposit certificate or bonds purchased in foreign currency shall be that part of the cost of debenture, debenture stock, deposit certificate or bonds purchased in foreign currency in relation to which such asset is acquired by the assessee.

### E.3 Tax on Short Term Capital Gain U/s. 111A and U/s. 115AD

Presently the short term capital gain arising on account of sale of equity shares or units of equity oriented mutual fund, which have been subjected to securities transaction tax, is taxable @ 10% (as increased by the surcharge, if applicable and by Education and Secondary and Higher Education Cess). It is proposed to increase the rate of tax to 15%. Therefore income earned on such transactions after 1<sup>st</sup> April, 2008 shall attract increased tax. Effective tax on STCG on listed securities which have been subjected to STT is increased to 15.45 % (16.995 %, if surcharge applicable).

Consequently Foreign Institutional Investor will also be subjected to increased rate of 15% in respect of their income in the nature of short term capital gains from transactions in listed securities which have been subject to STT. Effective rate in case of FII will accordingly be 15.45% (15.83625%, if surcharge applicable).

## DEDUCTIONS AND EXEMPTIONS

### F.1 Charitable Purpose U/s. 2 (15)

Previously the definition of "Charitable Purpose" U/s. 2 (15) included relief of the poor, education, medical relief and the advancement of any other object of general public utility.

The concept of "advancement of any other object of general public utility" is not defined in the Act, but very wide meaning was given by the courts to this term. Issues have been raised that whether commercial and trading organizations (like Agricultural Produce Market Committees, Stock exchanges, etc.) can be covered by the above clause and accordingly be considered as charitable institute, eligible for exemption of its income.

It is proposed in the Bill that if an organization is engaged in activity in the nature of trade, commerce or business, or rendering services in relation to any trade, commerce or business for a cess or fee or any other consideration, then such institution cannot be considered as the charitable institution and would thus not be eligible for exemption U/s. 11, irrespective of the fact that entire income earned from such activity is used for charitable purposes.

Under the existing provisions of law, all charitable institutions were permitted to carry on business activity if the same was incidental to the attainment of the main object and was fulfilling other conditions prescribed. This would no longer be valid.

The amendment does not propose to cover the cases of institutions which have the object of providing relief to poor, education or medical relief.

### F.2 Income of Coir Board U/s. 10(29A)

It is proposed that with effect from A.Y. 2009-10, income accruing or arising to the Coir Board established U/s. 4 of the Coir Industry Act, 1953 will be exempted from tax U/s. 10 (29A).

### F.3 Deduction of Profit and Gains from business of refining of Mineral Oil U/s. 80IB

Section 80IB(9) provides for 100% deduction in respect of profit and gains derived from the activity of commercial production and refining of mineral oil for seven years beginning with the year in which the commercial production or refining of the mineral oil is commenced.

While not disturbing the deduction available for profits in respect of production of mineral oil, it is proposed to withdraw the deduction in respect of profits from refining activities, if the refining activities have commenced on or after 1<sup>st</sup> April, 2009.



**F.4 Deduction of Profit and Gains from business of running Hospital U/s.80IB**

To boost the development of medical facilities in India one new sub-section (11C) is proposed to be inserted in Section 80IB. The new sub-section provides for 100% deduction of profit from the business of operating and maintaining a hospital located anywhere in India for a period of 5 years beginning with the year in which hospital starts functioning. Proposed scheme of deduction is as under:

- I The hospital is constructed and has started or starts functioning during the period between 01.04.2008 to 31.03.2013.
- I The hospital should have at least 100 beds for patients.
- I The construction of such hospital should be in accordance with the regulation of the applicable local authority.
- I The assessee shall furnish along with the return of income, the report of a Chartered Accountant certifying that the deduction has been correctly claimed.
- I Deduction is available to 100% of the profit for the period of 5 consecutive years, beginning with the year in which it starts functioning.

No such deduction is available if such hospital is located in the 7 metros (Delhi, Mumbai, Chennai, Bangalore, Hyderabad, Kolkatta and Ahmedabad) together with their urban agglomeration. The list also includes districts which are in close proximity to these 7 metros (Faridabad, Gurgaon, Gautam Budh Nagar, Ghaziabad, Gandhinagar and Secunderabad).

**F.5 Deduction of Profit and Gains from business of running Hotel U/s.80ID**

By Finance Act, 2007, deduction was granted to new hotels set up in the National Capital Region (Delhi and surrounding areas). To extend these benefits further, incentives are also given for hotels set up in specified districts having a World Heritage Site. Proposed scheme of deduction is as under:

- I The hotel is constructed and has started or starts functioning during the period between 01.04.2008 to 31.03.2013.
- I The hotel should be located in specified district of the various states having World Heritage Site. For Gujarat such specified district is Panchmahal on account of Champaner being recognized as World Heritage Site.
- I The hotel should be classified as two stars, three stars or four stars by the Central Government.
- I Such hotel is not formed by way of splitting up or the reconstruction of the business already in existence. Such hotel is not formed by the transfer to the new business of a building, machinery or plant previously used as a hotel.
- I The assessee shall furnish along with the return of income, the report of a Chartered Accountant certifying that the deduction has been correctly claimed.
- I Deduction is available to 100% of the profit for the period of 5 consecutive years, beginning with the year in which the hotel starts functioning.

**RETURNS AND ASSESSMENT****G.1 Due date for filing return of income U/s.139 (1) and return of fringe benefit U/s. 115WD**

The due date for filing return shall be changed from 31<sup>st</sup> October to 30<sup>th</sup> September of the Assessment year for

- I Company
- I A person who is required to get their accounts audited under the Income Tax Act or under any other law, or
- I A working partner of the firm whose account is required to be audited U/s. 44AB

Similarly, the due date for filing return of Fringe Benefit for these persons is also changed from 31<sup>st</sup> October to 30<sup>th</sup> September.

**G.2 Time limit for filing report required to be filed U/s.142(2A)**

Where the assessee is directed by the Assessing Officer U/s. 142 (2A) to get the accounts audited by an accountant, the time specified by the Assessing Officer for filing the audit report can be extended by the Assessing Officer himself or on an application made by the assessee.

**G.3 Issuance of Intimation U/s. 143 (1)****Adjustment to the Income**

Presently the income tax authority has no power to correct any errors including arithmetical errors while processing the return and issuing intimation u/s.143(1) in respect of return of income filed by the assesses. The said power was available to the income tax authority up to A.Y.1998-99. In this Finance Bill the said power is proposed to be reintroduced- with certain modifications.

It is proposed that while processing the intimation u/s.143(1), the assessing officer will have power to make adjustment of any arithmetical error in the return, incorrect claim apparent from any information in the return. Very restricted scope is given in the provision for making the adjustment to the total income and adjustment are allowed to be made only in respect of :

- i) an item, which is inconsistent with other item or same item in the return of income;
- ii) in respect of which information required to be furnished under law has not been furnished;
- iii) in respect of deduction, wherein claim is clearly outside the limits specified under the law.

### Issuance of Intimation

The intimation where required to be issued has to be issued on or before expiry of 1 year from the end of the financial year in which the return is filed. Effectively, the Department would get more than 1 ½ years to process the returns.

No intimation is required to be issued where there is neither any refund due or tax demand arising therefrom. In such a case, the acknowledgement issued shall be deemed to be an intimation.

It is however necessary for the assessing officer to issue the intimation in case where the loss declared in the return by the assessee is reduced but no tax or interest is payable or no refund is due.

Such intimation sent to an assessee shall be deemed to be a notice of demand U/s. 156.

### Centralised Processing of the Returns

Continuing with their efforts for computerized processing of the returns, enabling provisions have been made for the centralized processing of returns. The Central Government is empowered to issue such directions as may be necessary for implementing the scheme, provided such instructions are issued on or before 31<sup>st</sup> March, 2009.

### G.4 Time Limit for issuance of notice for scrutiny assessment U/s.143(2)

Under the existing provisions, Assessing Officer is required to issue notice for the scrutiny assessment within the period of twelve months from the end of the month in which the return is furnished.

Now, Assessing Officer will be required to issue notice within the period of six months from the end of the financial year in which the return is furnished.

Therefore, in each year, 30<sup>th</sup> September would be date by which the AOs are expected to complete the process of selection of cases for scrutiny for returns filed in the immediately preceding financial year and serve the notices for scrutiny assessments.

### G.5 Scope of Reassessment U/s.147

The Bill seeks to provide that the AO is not permitted to make re-assessment in respect of items which are subject matter of appeal, reference or revision. The amendment gives statutory recognition to the doctrine of merger of the appellate or revision orders with the original order and also provides that the doctrine of merger applies only to the extent of the items which are covered by the order of appeal, revision or reference and not to other items.

### G.6 Issuance of Notice for re-assessment

Under the existing provisions notice of re-assessment u/s.148 cannot be issued in specified cases, unless the Joint Commissioner, the Commissioner, or as the case may be, the Chief Commissioner is satisfied with the reasons recorded by the AO that it is a fit case for issue of such notice.

To clarify the position that these authorities are only required to record their satisfaction and notice need not be issued by these higher authorities and it may continue to be issued by the concerned AO, an amendment is proposed in section 151 w.r.e.f. 1<sup>st</sup> October, 1998

### G.7 Special Provision for annulled search assessments

By Finance Act, 2003, new scheme of assessment in search cases were introduced by scrapping the old scheme of block assessment. Accordingly, in search cases, assessments were required to be made under special provisions of section 153 A, 153 B, 153 C and 153 D. Under these provisions fresh assessments are required to be made for 6 years immediately preceding the year in which the search has taken place.

The Existing provisions also provide that for the years for which fresh assessments are to be made under these special provisions, all pending assessments and re-assessments shall abate.

There are times where the assessments which are made under the special provisions are challenged in appellate / writ proceedings. Amendments are proposed in the Bill for taking into consideration cases of annulment of such proceedings or assessments and reversal of orders annulling such proceedings or assessment.

It is accordingly proposed to amend section 153 and 153 A to provide as under:

- i) The proceedings which were abated due to special provisions of search assessment shall stand revived with effect from the date on which the order annulling the proceedings or assessment under special search provisions is received by the Commissioner;
- ii) If such order of annulment is reversed by any appellate authority, then the AO will get fresh time of not less than 1 year from end of the month in which the order of annulment is reversed by the appellate authority. However, the normal time limit for completing the assessment provided U/s. 153 B is for longer period, then the normal time limit shall apply.

The amendment has been made with retrospective effect from 1<sup>st</sup> October, 2003 being the date on which the new procedure for search assessment was introduced.

### **G.8 Power to grant stay available to Tribunal**

Section 254 prescribes the manner in which the appeals are to be disposed off by the Income Tax Appellate Tribunal. One of the sub-sections, proposed to be amended i.e. sub-section (2A) deals with the time period during which Tribunal should dispose off appeal and also granting of stay of demand and disposing off the matter in which the demand is stayed by the Tribunal.

By proposed amendment to the third proviso it has been amply made clear, in any case, where demand is stayed, the appeal has to be disposed off within a period of 365 days from the date of original order granting stay of demand. If the appeal is not disposed off before expiry of the period of 365 days then even if the delay is not because of any reasons attributable to the assessee, the stay would stand vacated. The existing provisions on same lines have been re-emphasized in the proposed amendment.

Attempt is to nullify effect of a judgment of Bombay High Court. The Bombay High Court in the case of Narang Overseas (P) Ltd. Vs ITAT & Ors. reported in 295 ITR 22 (Bom)/ 211 CTR 524 (Bom) had held that the third proviso to s. 254(2A) has not divested the power of the Tribunal to continue interim relief. Tribunal has power to extend the period of stay on good cause being shown if it is satisfied that the matter could not be heard and disposed off for reasons not attributable to the assessee. The Bombay High Court had held that the third proviso has to be read as a limitation on the power of the Tribunal to continue interim relief in case where the hearing of appeal has been delayed for the acts attributable to the assessee. It cannot mean that a construction be given that the power to grant interim relief is denuded even if the acts attributable are not of the assessee but of the Revenue or the Tribunal itself. The power of the Tribunal, therefore, to continue interim relief is not overridden by the language of the third proviso to section 254(2A). There would be power in the Tribunal to extend the period of stay on good cause being shown and on the Tribunal being satisfied that the matter could not be heard and disposed off for reasons not attributable to the assessee.

With effect from 1-10-2008, it seems that the above decision would be of little help to assessee.

### **G.9 Monetary limits for filing appeals before appellate authorities**

The Board has been following the practice of issuing instruction for not agitating the matters before the second and higher appellate forums if the tax effect of the concerned appeal was not beyond the monetary limits prescribed from time to time. Question was raised about the binding nature of such instructions issued and whether the courts need to take cognizance of such instructions.

Welcome amendments are proposed by insertion of section 268 A with retrospective effect from 1<sup>st</sup> April, 1999 giving authority to the Board to issue

instructions fixing monetary time limits. By the amendments they have also ratified the earlier instructions issued fixing the monetary limits.

As a natural corollary it has been provided that merely because appeal has not been filed by the department on the ground of monetary limits, the same may not be construed as acceptance of the order passed and the finality of the ratio decided in the order not appealed against.

In the case of Berger Paints India Ltd. v. CIT 266 ITR 99 (SC) it was held that if the Department decides not to file an appeal in one of the cases, the Department is precluded from filing appeal on the similar issue in any other case. Effect of this decision has been made not applicable where appeal has not been filed due to the reason of monetary limits.

## TAX DEDUCTED AT SOURCE / COLLECTED AT SOURCE

### H.1 Deduction of Tax At Source from Interest on Listed Securities

For countering the obvious difficulties faced in case of deducting tax at source in dematerialized listed securities, amendment is proposed in section 193 to exclude interest payable on dematerialized securities listed on the recognized stock exchanges from the purview of deduction of tax at source w.e.f. 1<sup>st</sup> June, 2008.

### H.2 Deduction of Tax At Source from Payment to Contractors U/s. 194C

Under the existing provisions no TDS was required to be deducted by the AOPs and BOIs, unless they were subjected to tax audit for the immediately preceding year. It is proposed that the AOPs and BOIs will be required to deduct tax at source from payments made to the contractors either at the time of credit or payment, whichever is earlier, w.e.f. 1<sup>st</sup> June, 2008. The provisions shall apply to AOPs and BOIs, irrespective of the fact that they are subjected to tax audit or not.

### H.3 Deduction of Tax At Source from Payment to Non-Resident U/s.195

The person who is required to deduct tax at source in case of payment specified u/s 195 is now required to furnish the information relating to payment of any sum in prescribed form and manner. As per the proposed amendment such information may be required to be given for the period ending on 31<sup>st</sup> March, 2008 itself.

### H.4 Credit for Tax Deducted U/s.199

Under the existing provisions, the credit for the TDS is given to the person in whose case the income liable to TDS is included. Special provisions have been included in existing provisions for allowing the credit for TDS in the name of person other than the person in whose name the income has been given. The provisions contained in the Act are found to be inadequate in several cases.

To make the provisions more dynamic, it is proposed that the powers to prescribe rules for giving credit in favour of person other than the name in which the Tax is deducted be given to the Board. The Board has also been authorized to prescribe the procedure for granting such credit including prescribing conditions for allowing credit in the year other than the year for which the TDS certificate is issued.

### H.5 Failure to Deduct or pay TDS U/s.201

Under the existing provisions the persons deducting the tax but failed to pay the same was covered as assessee in default under the Sec 201 it was doubtful whether the person who was required to deduct the tax but did not deduct the tax was covered.

By amending the section all the persons who are required to deduct the tax under the provision of the Act is now covered (including the persons who is liable to deduct tax on salary).

The proposed amendment is with retrospective effect from 1<sup>st</sup> June 2002

### H.6 Certificates for Tax Demanded U/s.203

As per the existing provisions the requirement to issue the TDS certificates and filing the same with the return of income was to discontinue with effect from the TDS deducted after 1<sup>st</sup> April, 2008. However, the said discontinuance has been delayed by a period of 2 years and accordingly, TDS certificate will have to be issued and will also have to be filed with the return of income for the TDS deducted on or before 31<sup>st</sup> March, 2010.

Similar amendment is proposed for TCS Certificates U/s. 206C.

## PENALTY PROVISIONS

### I.1 Penalty for concealment of Income U/s.271

Section 271 enables the AO to impose primarily penalty for concealment of income or for furnishing the inaccurate particulars of income. Presently it is necessary for the AO to record his satisfaction during the course of assessment proceedings. Failure to record his satisfaction would nullify the entire penalty proceedings and the order imposing penalty would be liable to be quashed.

Several disputes have been raised about the manner of recording such satisfaction. Decisions have been rendered by the courts holding that merely because the AO mentions that the notice be issued for concealment of income or furnishing of particulars of income would not amount to recording of satisfaction.

Sweeping amendments have been proposed with retrospective effect from 1<sup>st</sup> April, 1989. By this proposed amendment the requirement for recording the satisfaction of the AO has almost been done away with and it merely provides that mere mention about initiation of penalty would amount to recording of satisfaction. Accordingly, it is proposed that if the amount is disallowed or an addition is made and it is mentioned that penalty is initiated on this ground, it is deemed that the authority is satisfied for initiating penalty proceedings.

### I.2 Waiver of Penalty U/s. 273AA & 278AB

By sweeping amendment in the Finance Act, 2007, the provisions relating to the matters before the Settlement Commissions were modified. The said amendment provide that if the matter before the Settlement Commission is not finally settled within a period of 12 months from end of the month in which the application is filed, then such proceedings before the Settlement Commission shall abate. Accordingly, the AO would be empowered to act further in the said matter. This provision of abatement of the proceedings before the Settlement Commission U/s. 245 HA had raised serious doubts about the vulnerability of the Assessee in case where the matter is not proceeded with by the Settlement Commission.

To meet with these apprehensions, provisions have been introduced in Section 273 AA and 278 AB giving power to the Commissioner to grant immunity from the penalty and from prosecution. In respect of matters filed prior to 1<sup>st</sup> June, 2007, the said power to grant immunity has been extended also in respect of Indian Penal Code and also other Central Acts.

It has however been provided that the application for granting immunity from penalty has to be done prior to imposition of penalty and application for granting immunity from prosecution has to be done prior to institution of prosecution.

It is further provided that the Commissioner may grant the immunity from the penalty and prosecution subject to such conditions as he may deem fit, provided he is satisfied that the Assessee has made full and true disclosure of all material facts and has also co-operated with the proceedings after abatement.

The Commissioner has been given power to withdraw the immunity already given, if he is subsequently satisfied that the Assessee has concealed material particulars or has given false evidence. On such withdrawal of immunity given, the assessee would be liable to penalty and can be prosecuted as if no such immunity was granted.

### I.3 Validity of Proceedings under the Income Tax Act U/s.292BB

There are times when the Assessee objects to the proceedings on the ground that the notice required to be issued is either not served or is served beyond the time limit or is not served in proper manner. It has been held by several court that merely because the assessee participates in the proceedings, does not preclude the assessee from objecting to the validity of the notice or its service.

Amendments are proposed in the Act in the form of insertion of section 292BB, which take away this important right of the assessee to object to service of the notice merely on the ground that the assessee has co-operated in the assessment proceedings. The amendments are so sweeping that even where it is proved beyond doubt that the statutory notices required to be served has not even been issued, then also the assessee's right to object would be taken away merely because the assessee appears in the said proceedings.

After insertion of this section, it is to verify the legality of the notice received and before acquiescing with the proceedings or giving any submissions, necessary objections be placed on record. Where no objection is taken before appearance, the assessee would not be able to challenge the same before the AO as well as in any other appellate authority.

In fact, the amendments made are capable of being interpreted that even where the assessee after objecting appears in the matter, then also he actually loses the right to object to the validity of service of such notices.

It may be kept in mind that the amendment does not taken away the right to challenge the validity of the notice on the grounds other than the service thereof, even where the assessee has participated in the proceedings without raising any objections thereon. The amendment is likely to affect adversely cases where the assessee objected to service of notices of scrutiny U/s. 143 (2) or notice for re-assessment U/s. 148, etc. This amendment will take effect from 1<sup>st</sup> April, 2008.



#### I.4 Presumption about books etc. found extended to Survey Proceedings u/s. 292C

The Finance Act, 2007 had inserted section 292C. Vide the said provision a rebuttable presumption can be made with respect to ownership of books of accounts, other documents, money, bullion, jewellery, other valuable articles or things, truthfulness of the contents of the books and other document and signature of a person. The onus to disprove the same was shifted to the person who challenges the validity thereof. The said provision was applicable only in case of assets and documents and papers found in the search proceedings u/s. 132.

Amendments are proposed to bring within its purview the assets and documents found during the course of survey u/s. 133A of the Act.

Accordingly, even in respect of the assets, documents and other papers found during the course of survey can be presumed to be belonging to the person from whose possession and control the same were found, they could be presumed to be true and the it could be presumed that the handwriting and signature on such papers is that of the person from whose possession the same was found.

Similarly provisions have been also been extended to the assets, documents and papers requisitioned U/s. 132 A of the Act.

## FRINGE BENEFIT TAX

### J.1 Definition of Fringe Benefit ESOP

Clarificatory amendments are proposed in the definition of the Fringe Benefits contained in section 115WB(1) in so far as it pertains to the taxability of the Employee's Stock Options Plans (ESOPs) made taxable by Finance Act, 2007. In stead of referring merely to employee's stock option, it now refers to the securities offered under ESOP or ESOS. Since the taxable event is allotment of security and not granting of the option, the amendment is made for ensuring that the tax liability is not escaped.

The Amendment is made with effect from 1<sup>st</sup> April, 2008 and shall accordingly apply for A.Y. 2008-09 onwards.

### J.2 Scope of definition of Hospitality further restricted

20% of expenses incurred for providing hospitality of every kind to any person by the employer is deemed to be fringe benefits chargeable to FBT. It is proposed to exclude any expense on or payment through non-transferable pre-paid electronic meal card usable only at eating joints or outlets and which fulfils prescribed conditions shall not be chargeable to FBT.

It may be kept in mind that the food coupons (physical) were earlier excluded from the levy of the FBT. These food coupons were excluded without requirement for satisfying any terms and conditions.

### J.3 Scope of definition of Employee Welfare further restricted

The following exclusions are proposed to be made from employees' welfare expense chargeable to FBT:

- I Expenditure incurred to provide crèche facility for the children of the employee;
- I Expenditure incurred for sponsoring an employee who is a sportsman; and
- I Expenditure incurred for organizing sports events for employees.

Expenses for meeting statutory obligations, mitigating occupational hazards or provide first aid facilities were already excluded from the levy of FBT. These continues to remain outside the scope of FBT.

### J.4 Withdrawal of Guest House Expenditure

It is proposed to withdraw expenditure incurred for maintenance of any accommodation in the nature of guest house, from charge of FBT. Prior to exclusion, 20 % of expenditure on guest house were liable to FBT.

**J.5. Reduction in value of FBT in case of Festival Celebrations**

Under the existing provision of section 115WC, 50% of the expenses incurred on festival celebrations is chargeable to FBT. The deemed value of fringe benefit on festival celebrations is proposed to be reduced to 20% of the expenses incurred.

**J.6 Due date of Return of FBT**

The due date of filing return of FBT for companies and any other persons liable to get its accounts audited Act is proposed to be advanced to 30<sup>th</sup> September from existing 31<sup>st</sup> October. This shall be effective for A. Y. 2008-09 itself and accordingly the returns for the A.Y. 2008-09 for these assesseees will have to be filed on or before 30<sup>th</sup> September, 2008

**J.7 Amendment of Section 115WD related to assessment**

Powers similar to processing the return of income and making adjustments, bulk processing, issuance of intimation, etc. have also been made in respect of the return of Fringe Benefits.

**J.8 Introduction of Section 115WKB for giving benefit of tax recovered from employee**

By Finance Act, 2007, concept of transferring the burden of FBT to the employee was introduced, in respect of taxation of the ESOPs.

By way of proposed insertion of Section 115WKB, it is provided that when the employer has originally paid the FBT, but he later on recovers the said tax from the employee then the tax so recovered from the employee shall deemed to be the tax paid by the employee to the extent of tax attributable to the ESOPs provided to the employee.

Further Sub-section (2) of this section provides that the employee in no case shall be entitled for refund or any credit of tax against other tax liability.

**WEALTH TAX**

**K.1 Wealth escaping assessment U/s. 17 of the Wealth Tax Act**

Amendment is proposed to be made in section 17 of the Wealth Tax which is in line with the amendment made in section 147 of the Income tax Act. However explanation inserted regarding the issue of notice by Jt. Commissioner, Commissioner or the Chief Commissioner is restricted if the notice issued by the assessing officer on the basis of reason recorded by him about the fitness of the case.

**K.2. Time Limit for Completion of assessment or reassessment U/s.17A of the Wealth Tax Act**

Under the existing provision the period of limitation available to the A.O for making an order of assessment or reassessment as the case may be less than 60 days such remaining period shall be extended to Sixty days.

In section 17A of the Wealth Tax Act a second Proviso is inserted where a proceeding before the settlement commission abates under section 22HA and the period of limitation available to the assessing officer for making an order of assessment or reassessment after the exclusion of the period under sub section (4) of section 22HA is less than one year, It shall be deemed to have been extended to one year.

The above amendment is in line with section 153 of the Income Tax act.

The Finance Bill, 2008 also made similar changes in wealth tax Act with regard to penalty provision in line with Income Tax Act, 1961

## COMMODITIES TRANSACTION TAX (CTT)

[Sections quoted here are proposed Sections of Finance Bill, 2008 and not that of Income Tax Act, 1961]

Commodities Transaction Tax is introduced so as to bring the taxation of the transaction in commodity derivative in line with the derivative transactions in the securities. STT (Securities Transaction Tax) was introduced during October, 2004 for taxation of transactions of sale and purchase of securities. Commodities were not covered by the same. Now the same is covered within the ambit of CTT.

### Definition of CTT (Section 98) :

Taxable Commodities Transaction Tax means a transaction of purchase or Sale of:

1. Option in goods or
2. Option in commodity derivative or
3. any other commodity derivative, traded in recognized associations.

### Taxation and Rates of CTT (Section 99) :

Provisions identical with the Securities Transactions Tax has been made for the CTT and are therefore not repeated here. The rates of CTT has been provided in Table 2 on page 3.

It may be kept in mind that the transactions in the commodity derivatives not only cover the cases of recognized exchanges but also such transactions carried out in the associations.

## BANKING CASH TRANSACTION TAX

It is proposed that the no Banking Cash Transaction Tax would be levied in respect of transactions entered into on or after 1<sup>st</sup> April, 2009.

## CENTRAL SALES TAX

The Finance Minister in his speech vide para no. 183 announced that the CST rate will be reduced from 3% to 2%. However no corresponding Amendment has been made in Section 8 of the CST Act. In view of this the applicability of the new rate will be determined only after the necessary Amendment in Section 8.

## CORPORATE BONDS

The Corporate Debt Market in India is in its infancy, both in terms of the market participation and the structure required for efficient price discovery. Primary corporate debt market is dominated by NBFCs and relatively a very small amount of funds are raised by manufacturing and other service industries through this market.

Indian firms are still seeking bank finance as the path to fulfill the funding requirements. While, the secondary market activities in corporate bonds have just started picking up. Efforts of SEBI and the stock exchanges to bring the trading to electronic stock exchange platforms have not yielded desired results.

For creating robust corporate debt markets it is desirable that appropriate policy reforms are introduced to encourage building up of necessary market infrastructures that facilitate growth of an active primary market as also a vibrant and transparent secondary market.

The same kind of impetus as it exists for government securities and equities has been lacking in the corporate bond markets in India and as a result this major source of corporate funding is all but non-existent.

The US and other countries experience with corporate bonds clearly bears out that the Indian private corporate sector is adopting a myopic approach by overlooking the advantages of financial disintermediation achieved through accessing the bond markets directly rather than going down the loan path. Sooner it gets out of the habit of depending excessively on the banks, institutions, and the private placement market, the better it would be for it from a long-term point of view.

For expanding the market of corporate bonds, it is proposed in present budget to launch exchange-traded currency and interest rate futures. It is also proposed to develop transparent credit derivatives market with appropriate safeguards thereby enhancing tradability of domestic convertible bonds through the mechanism of enabling investors to separate the embedded equity option from the convertible bond, and trade it separately. The FM has also proposed the development of a market-based system for classifying financial instruments based on their complexity encouraging implicit risks.

To supplement these measures that it is proposed to exempt from TDS corporate debt instruments issued in demat form and listed on recognised stock exchanges. This will mean reduced administrative burden, reduced cost and increased cashflow.

**SERVICE TAX**

[Sections referred to in this Part refers to the Sections of Finance Act, 1994]

**P.1 Increase in Threshold Limit**

The threshold exemption limit is proposed to be raised from the existing level of Rs.8 lacs to Rs.10 lacs. The amendment shall come into force from 01/04/2008. However, a service provider has to register with Service Tax Department when the aggregate value of taxable services provided by him exceeds Rs. 9 lacs. This amount is Rs. 7 lacs at present.

**P.2 Service Tax on Works Contract**

Service tax on Works Contract is being increased from 2% to 4% with effect from 1<sup>st</sup> March 2008.

**P.3 Import of Services by Hotels**

Service received by hotels in India from person residing outside India and do not have any permanent establishment in India are exempt from 01-03-08.

**P.4 Introduction of new taxable Services**

- Services for customisation of software are now at par with packaged or off-the-shelf software, and will attract service tax. The packaged software is excisable now at 12% under the Central Excise Act effective from 1.3.08. These were excisable at 8% before that. Now to bring the customised or tailor made software into the tax net which hereto it was not, the finance bill is adding this as service to the list of the notified services. Meaning that all types of software manufacturing are now taxed at 12% uniformly. The other IT and ITeS services continue to be taxed in their respective categories.
- Services of Asset Management Company for management of segregated fund or investment, under a Unit Linked Life Insurance business, commonly known as Unit Linked Insurance Plan (ULIP) scheme is also introduced into the service tax net. The premium is already taxable under Insurance service, the additional charges for management etc are now to be taxed.
- Service provided by recognised stock exchange in relation to securities, this will be charged to the brokerage houses which are availing the above services.
- Services provided by a recognised association or a registered association (Commodity exchange) in relation to sale or purchase of any goods or forward contracts
- Services provided by a processing and clearinghouse in relation to processing, clearing and settlement of transactions in securities, goods or forward contracts. In all the entire gamut of the services provided by the Exchanges (Stock and Commodity) are brought under service tax.

- Services provided in relation to supply of tangible goods, without transferring right of possession and effective control of said tangible goods. This is introduced to cover use of equipments or service of supplying the equipments to the customer which is not covered under deemed sale in VAT/Sales Tax. Issue here will be whether a case involves transfer of possession or/and control is question open to debate.
- Services provided in relation to internet telecommunication. Internet telephony service is substituted with this service. At present there is only one head under which all the services are clubbed and it does create lot of complication, particularly when identifying a service as taxable or rather as not taxable. To further refine the services definition it is proposed that a separate service category by comprehensively defining Internet Telecommunication service and omit the internet telephony service. All services provided by ISPs are now defined and covered under this service.

**P.5 Amendment in Taxable services consequent upon levy of service tax on Information Technology Software Services**

- Business auxiliary service, so as to omit the reference to exclusion of information technology service
- Consulting Engineer service, so as to omit the exclusion of computer software engineering and advice, consultancy or technical assistance in the discipline of both computer hardware engineering and computer software engineering.
- Technical testing and analysis service including testing or analysis of information technology software.
- Technical inspection and certification service including inspection, examination and certification of information technology software.

**P.6 Expansion of Scope of Existing Services**

- The definition of Banking and other financial services and Foreign exchange broker services has been amended to include services provided by money changers. The law has been amended to provide for taxing the service of money changers on the gross amount. For determining the value the bill proposes that 0.25% of the gross amount be paid as service tax. If the provider is able to segregate the value of his services then it is at his option to value that service and pay service tax at normal rate.
- Business auxiliary service has been amended so as to include service provided in relation to promotion or marketing of game of chance, organised, conducted or promoted by the client. Lottery tickets selling agents and distributors have been brought under the service tax net by this provision.
- The scope of Cargo handling service has been increased to include services of

packing together with transportation of cargo or goods with or without one or more services like loading, unloading, unpacking. Now therefore if the provider invoices the client for packing separately, he will be liable to pay service tax on that amount as well.

- The service in relation to Tour operator has been amended to include any person engaged in the business of operating tours in a contract carriage and to provide that “tour” does not include journey organised or arranged for use by an educational body imparting skill or knowledge or lessons on any subject or field, other than a commercial training or coaching centre. The tour operators operating point to point service will now have to pay service tax on these point-to-point tours as well. The condition of taxability being that the vehicle must be registered as contract carriage under section 74 of the Motor Vehicles Act 1988.
- The scope of Renting of immovable property has been altered to include allowance or permission of use of space in an immovable property irrespective of the transfer of possession or control of the immovable property. It is more of clarificatory in nature. The amended section now includes the renting of places used for vending, displaying or dispensing in any commercial places without the need to transfer the possession or control of the immovable property.

#### **P.7 Service Tax Return Preparers**

Like in Income Tax, here to the concept of the Service Tax return preparers has been introduced. Section 71 has been inserted to empower the board to enable preparation and filing of service tax returns through a person or class of person known as Service Tax Return Preparer authorised to act for the said purpose.

#### **P.8 Power to Make Best Judgement Assessment**

A small but significant step towards tightening the control over the service providers and their disclosure standards. Section 72 has been inserted to authorise the Central Excise Officer to make Best Judgement Assessment after allowing assessee to represent his case in case of failure to file service tax returns or assess the tax by assessee.

#### **P.9 Transfer Pricing**

For the first time the transfer pricing provisions are introduced comprehensively in the Service Tax. Section 67 (c) has been amended to now include the transactions with associated enterprises. These transactions will not be eligible for the application of the concept of “payment of service tax on receipt basis”. This is brought in as an anti-avoidance measure considering that many providers were not paying service tax under the pretext of not having received any payment from their

associated enterprises. The definition of the Associated Enterprise is same as in Section 92A of Income Tax Act 1961 and section 92A(2) defines the situation under which two enterprises will be considered as associated enterprises. This is applicable to the service falling under Section 66A also.

#### **P.10 Penalty**

- The penalty to be levied is now levied for each type of default by amendment of section 77.
- Any person liable to pay service tax or require to take registration, fails to take registration shall be liable to pay a penalty which may extend to Rs.5,000/- or Rs.200/- per day during which such failure continues, whichever is higher.
- Any person who fails to keep, maintain or retain books of account and other documents or who is required to pay tax electronically fails to pay or who issues invoice with incorrect/incomplete details or fails to account for an invoice, shall be liable to pay a penalty which may extend to Rs.5,000/- .
- Any person who fails to furnish information or produce documents or appear before Central Excise Officer shall be liable to a penalty which may extend to Rs.5,000/- or Rs.200/- per day during which such failure continues, whichever is higher.
- Section 78 is amended to provide that section 76 (failure to pay service tax) will not apply where penalty under section 78 (suppression of value of taxable service) is leviable.

#### **P.11 Service Tax Rules**

- Where the service tax is paid in advance as per the The Service Tax Rules, 1994 it was provided that service providers who are eligible to make advance payment can do so upto Rs.50000/- under intimation to the commissioner. The amendment now allows all service tax providers to make advance payment and rule 6(1A) is incorporated to facilitate this. The amount upto Rs.1,00,000/- can be paid in advance.
- The excess amount of service tax paid in any month of quarter can be adjusted in the succeeding month or quarter. In normal circumstances the limit of Rs 1,00,000 will be applicable for the adjustment on a month or a quarter with an intimation to be made to the prescribed authority within 15 days of such adjustment.
- For filing a revised return so as to rectify any mistakes in the original return within 90 days of the submission of the original return. Previous time limit was 60 days.
- To provide the facility for payment of service tax in advance which is allowed to be self-adjusted towards service tax liable to be paid to the subsequent period.



- To empower the Central Excise Office to reduce or waive the penalty for the delayed filing of return, where the gross amount of service tax payable is nil.
- Rule 6(4B)(iii) provides for self adjustment of the excess service tax paid subject of the conditions.
- Rule 7B allows for rectification of mistakes and file a revised return within 90 days.
- Where service tax payable is nil, rule 7C allows Central Excise officer to reduce or waive the penalty for delayed filing of return.

#### **P.12 Cenvat Credit Rules 2004 (Service Tax)**

1. The service of GTA has been removed from definition of output service and hence no credit can be claimed for the same. This is consequential upon the amendment where the present scheme of taking abatement of 75% when the provider has not claimed any cenvat credit or at the option of assessee to claim cenvat credit and pay tax on 100% of the service value is being abolished. On and from 1<sup>st</sup>March 2008 the GTA service will be valued at 25% and the necessity of declarations as well claiming of cenvat credit have been removed. Effective from 1-3-08
2. Where the output service provider is providing a combination exempted and taxable service and has not maintained separate accounts for each, the at his option following alternatives are made available:
  - a. He can reverse the input credit on the inputs used in exempted service OR
  - b. Pay 8% of the value of the exempted service to be determined as per section 67 of Finance Act 1994
3. Capital goods taken out of the provider's premises for providing service at the premises of the customer is now exempt from the restriction of time limit under rule 3 to bring it back within the prescribed time.
4. Rule 7A is inserted to provide that a service provider can take credit of inputs or capital goods based on invoice, bill or challans issued by its other office. The provision at 2, 3 and 4 effective from 1-4-08

#### **P.13 Export of Service Rules 2005 and Taxation of Service (Provided from outside India and received in India) Rules 2006**

A proviso is inserted with effect from 1-03-08 to determine country of consumption or use, and the location will determine the taxability of the service provided.

Where the services are provided remotely through electronic network, computer network or any other means in relation to any goods or material or any immovable property which is situated in India at the time when the service was provided, then such service shall be treated to have been performed in India (whether wholly or

partly provided outside India) and leviable to service tax under reverse charge method. The services which are covered in this are;

1. management, maintenance and repair
2. Technical testing and analysis
3. technical inspection and certification

#### **P.14 Service Tax Dispute Resolution Scheme, 2008**

The new scheme called Service Tax Dispute Resolution Scheme, 2008 shall come into force from 1<sup>st</sup>July, 2008.

The salient features of this scheme are as follows:

- This scheme is applicable to any person against whom any tax arrear is pending, means service tax, cess, interest or penalty payable but not paid as on 1<sup>st</sup>March, 2008.
- This scheme is not applicable to a decision, an order of determination, a demand notice or show cause notice relating to tax arrear and such service tax amount is in excess of Rs,25,000/-.
- The settlement under this scheme is possible through declaration to the authorities on or after the 1<sup>st</sup>day of July, 2008 but on or before the 30<sup>th</sup>day of September, 2008.
- The amount payable under the scheme by declarant is as follows:  
Where tax arrear has arisen due to determination, assessment order of an adjudicating authority, show cause notice or demand notice, the amount payable by the declarant shall be as follows:
  - If tax arrears < 25000/- of service tax - 50% of service tax payable
  - If tax arrears consists only interest and/or penalty - 25% of tax arrears
  - If penalty exceeds service tax amount – service tax amount shall be considered to be the amount of penalty.
- Designated authorities shall determine the amount payable by an order within fifteen days from the date of receipt of the declaration. The declarant have to pay the amount payable within thirty days of the order by the designated authorities.
- Any amount paid in pursuance of the declaration, shall not be refundable under any circumstances.

#### **P.15 Service Tax (Publication of Names) Rules 2008**

These rules give the method and direction by which names of the defaulter service providers will be published in gazette.

## CENTRAL EXCISE

## Q.1 General Cenvat Rate

General rate of excise duty (CENVAT) has been reduced from 16% to 14%. The other ad valorem rates of 24%, 12% and 8% remain unchanged.

## Q.2 Fully Exempted Excise Duty

Particulars of products	Products
Drugs and Pharmaceuticals	Anti-AIDS drug ATAZANAVIR, and bulk drugs for its manufacture
Food Processing Sector	Packaged tender Coconut water, Paws, mudi (puffed rice) and the like, Milk containing edible nuts, Tea/ coffee pre-mixes
Food Processing Sector	Specified refrigeration equipment for the installation of a cold storage, cold room or refrigerated vehicle, Storage and transportation of agriculture products on end use basis.
Information Technology & Communication sector	Wireless data modem cards. Consequently: 4% additional duty of customs will, however, be applicable.
Paper and Paper Products	Paper and paper products, manufactured from non-conventional raw materials, up to clearance of 3500 metric tonne in a year from a unit.
Others	Composting machines, Menthol/ Menthol Flakes

## Q.3 Increase in rate of Excise Duty

Particulars of products	Rates
<b>Information Technology &amp; Communication sector</b> : Packaged software	From 8% to 12%
<b>CEMENT</b> : Bulk cement	from "Rs.400 per tonne" to " 14% or Rs. 400 per tonne, whichever is higher"
Cement clinkers	from Rs.350 per tonne to Rs. 450 per tonne

## Q.4 Reduction in rate of Excise duty

Particulars of products	Rates
<b>Drugs and Pharmaceuticals :</b>	
All drugs (formulations)	From 16% to 8%
Instant sterile dressing pads, Burn therapy pads, Corn removers, Sterile surgical catgut, Sterile absorbable surgical, Sterile tissue adhesive for wounds closure, First aid boxes and kits, Blood grouping reagents	From 16% to 8%
<b>Auto Sector :</b>	
Small cars	From 16% to 12%
Hybrid cars	From 24% to 14%
Electric cars	From 8% to Nil
Specified parts of electric cars	From 16% to nil on end-use basis
Buses and other vehicle for transport of more than 13 persons	from 16% to 12%, and on the chassis of such vehicles from 16% +Rs.10,000/- to 12% +Rs.10,000/-
Two-wheelers and passenger three-wheelers (upto 7 persons)	From 16% to 12%
<b>Food Processing Sector:</b>	
Muesli, corn flakes & similar breakfast cereals, Sharbats, Packaging material viz. Open Top Sanitary (OTS) cans, Aseptic packaging paper, Aseptic bags	From 16% to 8%
<b>Information Technology &amp; Communication sector :</b>	
Specified convergence products	From 16% to 8%
<b>Paper and Paper product</b>	
Writing paper, Printing paper and packing paper	From 12% to 8%
Paper and paper products, manufactured from non-conventional raw materials, beyond clearance of 3500 metric tonne per year from a unit (not having an attached bamboo/wood pulp plant)	From 12% to 8%.
<b>Other</b>	
Water filtration and purification devices Veneers & Flush doors, Heat resistant rubber tension tape, Inks for marker pens, highlighters etc.	From 16% to 8%
Pan masala, not containing tobacco, with betel nut content not more than 15%	From 16% to 8%

**Q.5 Other Changes**

a) Cigarettes

Non-filter cigarettes:

At present, cigarettes attract duty at varying rates depending upon whether they are filter or non-filter and their length. Excise duty rates on non-filter cigarettes have been enhanced to bring them at par with filter cigarettes of corresponding length. The revised rates of excise duty (basic + NCCD + health cess) on non-filter cigarettes are as under.

Particulars of products	Rates
Not exceeding 60 mm in length	Rs.819 per 1000
Exceeding 60 mm but not exceeding 70 mm in length	From Rs.168 to 1323 per 1000

b) Petroleum

The duty rates on MS/HSD sold without a brand name have been converted from 'ad valorem + specific rate' to pure 'specific rate' as under.

Particulars of products	Rates
Motor Spirit	6% + Rs.13 per litre to Rs.14.35 per litre
HSD	6% + Rs.3.25 per litre to Rs. 4.60 per litre

The duty rates on branded fuels would continue to attract the present ad valorem cum specific rates i.e. as under:

Particulars of products	Rates
Motor Spirit	6% + Rs.13 per litre
HSD	6% + Rs.3.25 per litre

**Q.6 National Calamity Contingent duty (NCCD)**

- a) National Calamity Contingent duty (NCCD) at the rate of 1% has been imposed on mobile phones. On imported mobile phones, this duty shall be levied as additional duty of Customs under section 3(1) of the Customs Tariff Act, 1975.

The CENVAT Credit Rules, 2004 are being amended to bring in the following changes:

- (a) Sub-rule (4) of Rule 3 is being amended to provide that in case of National Calamity Contingent duty (NCCD) payable on mobile phones, credit of any duty of excise other than NCCD will not be utilized for payment of the said NCCD. This change shall come into effect from 1st March, 2008.

- b) National Calamity Contingent duty of 1% currently leviable on Polyester filament yarn has been withdrawn.
- c) Pan masala, not containing tobacco, with betel nut content not more than 15% exempted from (NCCD).

**Q.7 Miscellaneous**

The General SSI exemption has been extended on HDPE/ PP tapes consumed captively in the manufacture of sacks/ bags. The change will come into effect from 1st April, 2008.

**Q.8 Export Oriented units EOU, Software Technology Parks( STPI), Electronic Hardware Technology parks (EHTP)**

The rate of duty applicable to clearances of goods to domestic tariff area from EOU,STPI, EHTP etc. has been revised from 25% of the basic customs duty + excise duty payable on like goods' to 50% of the basic customs duty + excise duty payable on like goods.

- a) Excise duty exemption on "shuttle-less looms" has been withdrawn. These goods will now attract 8% excise duty/CVD.
- b) Consequent upon reduction of excise duty rates on specified goods leviable to excise duty on retail sale price basis, abatement rates for such goods have been revised suitably.

**Q.9 CHANGES IN CENTRAL EXCISE ACT AND RULES DEFINITIONS.**

**Present:**

1](d) "Excisable goods" means goods specified in the First Schedule and Second Schedule to the Central Excise Tariff Act, 1985 (5 of 1986) as being subject to a duty of excise and includes salt;

**Revised**

In section 2 of the Central Excise Act, 1944 (hereinafter referred to as the Central Excise Act), after clause (d), the following Explanation shall be inserted, namely: 'Explanation. For the purposes of this clause, "goods" includes any article, material or substance which is capable of being bought and sold for a consideration and such goods shall be deemed to be marketable.'

**Q.10 Changes in Central Excise Act, 1944**

- 1] Section 3A is being inserted in the Central Excise Act, 1944 empowering the Central Government to charge excise duty on the basis of capacity of production in respect of notified goods, and to notify the procedure for the same.
- 2] Section 11B of the Central Excise Act, 1944 is being amended to provide for the refund of interest paid on any duty of excise, earlier there was provision for refund of excise duty only.

- 3] Section 11D the Central Excise Act, 1944 is being amended to enable the Central Government to recover any amount collected by any person as representing duty of excise in excess of the duty assessed or determined and paid on any excisable goods or any amount collected by any person as representing duty of excise on any excisable goods, which are wholly exempt or are chargeable to Nil rate of duty.  
Accordingly section 11DD has also been changed.
- 4] Section 35B of the Central Excise Act, 1944 is being amended to provide for referring the matter to the jurisdictional Chief Commissioner where the Committee of Commissioners of Central Excise differs in its opinion on the legality and propriety of the order passed in an appeal by the Commissioner (Appeals). Earlier such cases have to be referred to the Appellate Tribunal.
- 5] New Section 35FF is being inserted in the Central Excise Act, 1944 to provide for payment of interest on pre-deposit made by an appellant who succeeds in appeal, if the amount of pre-deposit is not refunded within three months from the date of communication of the order of the appellate authority to the adjudicating authority.

#### Q.11 CHANGES IN CENVAT CREDIT RULES, 2004

- 1] Rule 6 of the CENVAT Credit Rules, 2004 is being amended to provide following options to a manufacturer, using common inputs or input services for manufacture of dutiable as well as exempted goods and opting not to maintain separate accounts. Such manufacturers can,-
  - (i) either reverse the credit attributable (to be worked out in a manner prescribed in the rule) to the inputs and input services used in the manufacture of exempted goods; or
  - (ii) pay 10% amount of the value (to be determined in accordance with the provision of section 4/4A of the Central Excise Act, 1944) of the exempted goods.

This change shall come into effect from 1st April, 2008.

Earlier manufacturer had to pay an amount equivalent to the CENVAT credit attributable to inputs and input services used in the manufacturing for certain specified products.

Else, have to pay 10% of the total price, excluding sales tax and other taxes, if any, paid on such goods, of the exempted final product charged by the manufacturer for the sale of such goods at the time of their clearance from the factory.

- 2] A new rule 15A is being inserted to provide for general penalty upto Rs.5000/- in case of contravention of any of the provisions of the CENVAT Rules, 2004, for which no specific penal provision exists.  
This change shall come into effect from 1st March, 2008.
- 3] The Central Excise (Determination of Retail Sale Price of Excisable Goods) Rules, 2008 are being issued under section 4A(4) of the Central Excise Act,

- 1944 to provide the manner of determination of retail sale price, where the same is not declared on the packages or tampered or altered or obliterated. The detail rules are not available so the implication of the same is to taken care of in future. This change shall come into effect from 1st March, 2008.
- 4] Amendment to Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000  
New rule 10A has been inserted in the Central Excise Valuation (Determination of Price of Excisable Goods) Rules, 2000 to provide that where goods are manufactured by a job-worker on behalf of a person (commonly known as principal manufacturer), the value for payment of excise duty would be based on the sale value at which the principal manufacturer sells the goods as against the present provision where the value is taken as cost of raw material plus the job charges.

## CUSTOMS

### R.1 Other changes

- a) **Naphtha use in manufacture of Polymers :**  
Customs duty exemption on naphtha for manufacture of specified polymers has been withdrawn.
- b) **4% Additional Duty Of Customs :**  
Exemption from additional duty of customs of 4% levied under section 3(5) of Customs Tariff Act, 1975 has been withdrawn from power generation projects (other than mega power projects), transmission, sub-transmission and distribution projects, and goods for high voltage transmission projects.
- c) **Export duty :**  
Export duty rate on chromium ores and concentrates, all sorts, has been increased from Rs.2000 PMT to Rs.3000 PMT.

**R.2 Reduction in Rate of Custom Duty**

Particulars of products	Rates
<b>Project Imports</b>	From 7.5 % to 5%
<b>Chemical &amp; Petrochemicals</b>	
Crude oil and unrefined Sulphar	From 5% to 2%
Phosphoric acid	5 % of irrespective of its use
Un worked or simply prepared on corals	From 10% to 5%
Uneven cubic zirconia	From 5% to Nil
cubic zirconia (polished)	From 10% to 5%
Tuna bait Fish	From 30% to Nil
Specified Machinery use of Manufacturing of Sport goods	From 7.5% to 5%
Specified raw materials for manufacture of sports goods for export	From 10% to Nil up to 3% of FOB Value of export in the preceding year
<b>Dairy/Poultry</b>	
Bacto fuges	From 7.5% to Nil
Feed additives/pre-mixes	From 30% to 20%
<b>Information technology/electronic industry</b>	
Specified convergence products	From 10% to 5%.
Specified raw materials and inputs for use in IT/electronic hardware industry	From 10% to 7.5% to Nil, on end-use basis
Specified parts of set-top boxes	From 7.5% to Nil on end-use basis
<b>Drugs and kits</b>	
Six specified drugs/kits, and bulk drugs for their manufacture	From 10% to 5% with Nil CVD by way of excise duty exempted on the drugs are used in the treatment of cancer/diabetes/ asthma/HepatitisB etc
Specified raw materials for manufacture of ELISA kits	From 10%/7.5% to 5%
<b>Metals</b>	
Iron or steel melting scrap	From 5% to Nil
Aluminum scrap	From 5% to Nil
<b>Other relief measures</b>	
specified raw materials for tyre industry	From 10% to 5%
Helicopter simulators	From 10% to Nil
<b>Tobacco Products</b>	
cigars, cheroots and cigarillos	From 30% to 60%





*An Overview of*  
**THE FINANCE BILL 2008**

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The provisions contained in the Finance Bill, 2008 are the proposals and are likely to undergo amendments while passing through houses of Parliament before being enacted.