

# INDIA BUDGET, 2011

## An analysis

7<sup>th</sup> March'11 [Budget presented on 28<sup>th</sup> February'2011]



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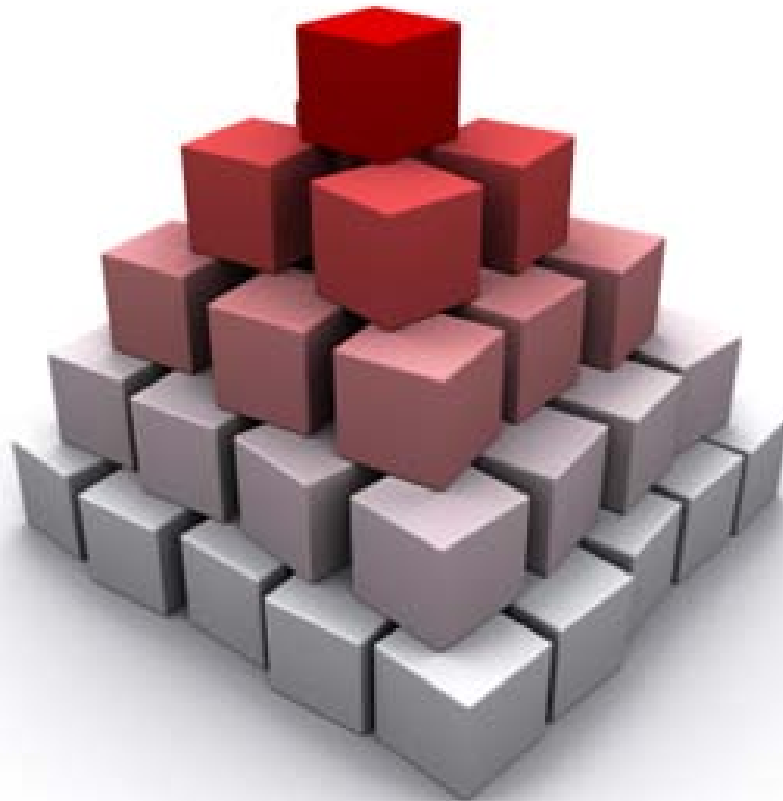


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# INCOME TAX

# 1. Corporate tax



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Title	Section /Chapter	Changes proposed	Effective from
Surcharge on domestic companies reduced		Surcharge on domestic companies, having total income of more than Rs. 1 crore, has been proposed to be <b>reduced from 7.5% to 5%.</b>	Assessment Year 2012-13
Surcharge on Foreign companies reduced		Surcharge on foreign companies, having total income of more than Rs. 1 crore, has been proposed to be <b>reduced from 2.5% to 2%.</b>	Assessment Year 2012-13
MAT rate increased	115 JB (1)	<p>Basic rate of MAT has been proposed to be <b>increased from 18% to 18.5%.</b></p> <p>The effective MAT rates of Domestic companies (after considering the reduction in surcharge rate) are as below:</p> <p>Total Income &lt; Rs. 1 Crore    <b>19.06%</b> (18.54%)</p> <p>Total Income &gt; Rs. 1 Crore    <b>20.02%</b> (19.93%)</p> <p>Note :Tax rates in bracket relates to A.Y. 2011-12</p>	Assessment Year 2012-13
MAT exemption to SEZ Developer and Unit withdrawn	115 JB (6)	It has been <b>proposed to sunset the exemption</b> from MAT in the case of SEZ developers and Units in SEZs. Industry was expecting it from the date of introduction of Direct Tax Code but Government has proposed to implement it from AY 2012-13 itself.	Assessment Year 2012-13

Title	Section /Chapter	Changes proposed	Effective from
Alternate Minimum Tax (AMT) on Limited Liability Partnerships (LLP)	New Chapter XII-BA	<p><b>Alternate Minimum Tax @ 18.5%</b> has been proposed on LLPs.</p> <p>All the basic provisions, including carry forward and set off provisions are same as of MAT.</p> <p>AMT is calculated on Adjusted Total Income and not on Book Profit as in the case of MAT. Calculation of <b>Adjusted Total Income</b> is quite simple which is as below:</p> <p style="padding-left: 40px;">Total Income of LLP ( a per the provisions of Income Tax Act before giving effect to this chapter XII-BA)</p> <p>Add: Deductions claimed, if any, under any Section in Chapter VI-A</p> <p>Add: Deduction claimed, if any, under Section 10AA</p>	Assessment Year 2012-13
Effective rate of Dividend Distribution Tax (DDT) stands reduced	115 O	As a result of reduction in the surcharge rate applicable to domestic companies, the effective DDT rate would get <b>reduced to 16.223%</b> from 16.608%.	Assessment Year 2012-13
DDT exemption to SEZ developers withdrawn	115 O(6)	<b>DDT exemption to SEZ developers</b> is being <b>withdrawn</b> for dividends declared, distributed or paid on or after 1 <sup>st</sup> June'2011.	1 <sup>st</sup> June'2011

## 2. Tax Incentives



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Title	Section	Changes Proposed	Effective From
Tax exemption to STPI & EOU Units etc.	10A & 10B	<ul style="list-style-type: none"> <li>Extension issue of tax holiday period for STPI &amp; EOU units did not find any mention in the Finance Bill, 2011.</li> <li>Exemption under section 10A &amp; 10B is allowed only up to Financial Year 2010-11 (Assessment Year 2011-12).</li> </ul>	Not applicable
Income of notified Infrastructure Debt Fund to be exempt	10(47)	<ul style="list-style-type: none"> <li>In order to augment long term and low cost funds from abroad for the infrastructure sector, tax exemption is being granted to Infrastructure debt funds.</li> <li>Income of notified Infrastructure Debt Fund shall be exempt provided the Fund is set up in accordance with prescribed Central Government guidelines.</li> </ul>	1 <sup>st</sup> June'2011
Weighted deduction for contributions made for approved scientific programme	35 (2AA)	<ul style="list-style-type: none"> <li>Weighted deduction for contributions to a National Laboratory or a University or an IIT or a specified person for the purpose of an approved research programme is being <b>increased to 200%</b> from the earlier deduction of 175% .</li> </ul>	Assessment Year 2012-13

## ...contd. (Tax Incentives)



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Title	Section	Changes proposed	Effective from
Investment linked deduction extended to two new businesses	35AD	<p>Presently, <b>100% deduction</b> is allowed in respect of Capital Expenditures (other than on Land, Goodwill and financial instrument) to some specified businesses. This incentive is being <b>extended</b> to following <b>two new businesses</b>:</p> <ul style="list-style-type: none"> <li>▪ Developing and building a housing project under a notified scheme for affordable housing on or after 1 April 2011.</li> <li>▪ Production of fertilisers in India on or after 1 April 2011</li> </ul>	Assessment Year 2012-13
Extension of sunset clause for tax holiday for power sector	80-IA(4)(iv)	<b>Commencement date</b> for tax deduction <b>extended to 31 March 2012</b> from 31 March 2011 for undertaking which starts generation or distribution of power or undertakes substantial renovation of an existing network of transmission or distribution lines.	Assessment Year 2012-13
Sunset of tax holiday for certain undertakings engaged in commercial production of mineral oil	80-IB(9)	<b>Tax deduction</b> for an undertaking engaged in commercial production of mineral oil will <b>not be available</b> for blocks licensed under contracts <b>awarded after 31 March 2011</b> under NELP or any other law.	Assessment Year 2012-13

### 3. Non-resident related provisions



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Title	Section	Changes proposed	Effective from
Anti-avoidance measures in respect of transactions with persons located in notified jurisdictional area	New Section 94A	<p>In order to discourage transactions by a resident assessee with persons located in any country or jurisdiction which does not effectively exchange information with India, following anti-avoidance measures have been proposed through insertion of a new section 94A:</p> <ul style="list-style-type: none"> <li>Resident assessee and person located in such notified jurisdictional area shall be <b>deemed to be associated enterprises</b> and transaction shall be deemed to be an international transactions and accordingly, <b>transfer pricing regulations shall apply</b>.</li> <li>Restrictions on payments / expenditure to financial institutions in notified jurisdiction unless an authorization for seeking information is provided to tax authorities.</li> <li>Restrictions for any other expenditure (including depreciation) unless prescribed documents and information maintained and furnished to tax authorities.</li> <li>Any amount received or credited from persons located in notified jurisdiction deemed as income if the taxpayer fails to offer explanation about source or beneficial owner or provides unsatisfactory explanation in this regard.</li> <li>Payments to persons in notified jurisdiction on which tax is deductible are being subjected to withholding tax at the <b>higher of the following</b>: <ul style="list-style-type: none"> <li>a. Rates in force; or</li> <li>b. Rates provided under the relevant provisions of the Act or</li> <li>c. <b>30%</b></li> </ul> </li> </ul>	1 <sup>st</sup> June'2011



Title	Section	Changes proposed	Effective from
Income of Non-residents from Infrastructure Debt Fund at a lower rate of tax	115A & <b>New Section 194LB</b>	<ul style="list-style-type: none"> <li>The interest received by non-residents from an infrastructure debt fund notified by the Central Government under section 10 (47) shall be <b>taxed at the rate of 5% on gross basis.</b></li> <li>Further, a new section 194LB has been proposed to provide that tax at the rate of 5% shall be deducted by such infrastructure debt fund on any interest paid to the non-residents.</li> </ul>	1 <sup>st</sup> June'2011
Annual income tax filing by a Liaison Office	<b>New section 285</b>	<ul style="list-style-type: none"> <li>Presently, a non-resident having a Liaison Office in India, is not required to file a return of income on the ground that no business activity is allowed to be carried out in India by a Liaison Office.</li> <li>To seek regular information from non-residents regarding the activities of their Liaison Offices in India, a new section 285 has been proposed to be inserted.</li> <li>This section requires a <b>Liaison Office to file an Annual Information Statement</b> in a prescribed Form with in <b>60 days from the end of the Financial Year.</b></li> </ul>	1 <sup>st</sup> June'2011

## 4. Transfer Pricing



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Title	Section	Changes proposed	Effective from
Fixed margin of +/- 5% done away	92C (2)	<ul style="list-style-type: none"> <li>The <b>arm's length range of +/- 5 percent</b> of the value of an international transaction has been proposed to be <b>replaced</b> by such percentage(s) as may be notified by the Central Government.</li> </ul>	Assessment Year 2012-13
Jurisdiction of TPO enlarged over International Transactions	<b>New sub section 92(2A)</b>	<ul style="list-style-type: none"> <li>Presently, the Transfer Pricing Officer (TPO) can determine the Arms Length Price (ALP) only in relation to an international transaction , which has been referred to the TPO by the assessing officer.</li> <li>A new sub section has been proposed to <b>enlarge the jurisdiction of TPO to other international transactions</b> which are noticed by him subsequently, in the course of proceedings before him.</li> </ul>	1 <sup>st</sup> June'2011
Power of survey to TPO	92CA(7)	<ul style="list-style-type: none"> <li>In order to enable <b>TPO to conduct on the spot enquiry and verification</b>, TPO shall be able to exercise the power of survey conferred upon an income tax authority under section 133A of the Act.</li> </ul>	1 <sup>st</sup> June'2011
Return filing date extended	139	<ul style="list-style-type: none"> <li>Due to practical difficulties in accessing contemporaneous comparable data, the <b>due date for filing a return of income</b> for companies required to furnish an Accountant's Report in respect of international transactions under Section 92E <b>extended to 30 November</b> from 30 September.</li> </ul>	1 <sup>st</sup> April'2011

## 5. Other Important Changes



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Title	Section	Changes proposed	Effective from
Contribution to New Pension System allowed as deduction	36 (1) (iva)	<ul style="list-style-type: none"> <li>Currently, contributions made by an employer under New Pension System (NPS) is not allowed as deduction like contributions to a recognized provident fund, approved gratuity fund etc which are allowed as deduction.</li> <li>It has been proposed to <b>allow the employer's contribution</b> under NPS up to a <b>maximum of 10% of the salary</b> of the employee in the pervious year.</li> </ul>	Assessment Year 2012-13
Tax on foreign dividend reduced	New Section 115BBD	<ul style="list-style-type: none"> <li>Currently, dividend received by an Indian company from its foreign subsidiary is taxable at normal rate of 30% plus applicable surcharge and cess.</li> <li>To encourage Indian Companies to bring back <b>dividend from their foreign subsidiaries</b>, a <b>special rate of tax @ 15%</b> (plus applicable surcharge and cess) has been proposed in this budget <b>on gross basis</b>.</li> <li>No expenditure in respect of such dividends shall be allowed under the Income tax Act.</li> <li>This special rate of tax is applicable only for Assessment Year 2012-13.</li> </ul>	Only for Assessment Year 2012-13
Collection of information for tax authorities outside India	New sub section 131(2)	In order to facilitate prompt collection of information on requests received from Tax Authorities outside India under the tax treaties, the <b>notified income-tax authorities</b> will have <b>powers vested in a Civil Court</b> as well as the power to call for information for the purpose of making an enquiry or investigation in respect of any person or class of persons.	1 <sup>st</sup> June'2011

## ...contd. (Other Important Changes)



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Title	Section	Changes proposed	Effective from
Extension of time limit for assessments in case of exchange of information	153	<ul style="list-style-type: none"> <li>While determining the time limit for completion of assessment or reassessment (including search cases), <b>time taken</b> in obtaining / exchanging of information from <b>foreign tax authorities</b> or a period of six months, whichever is less, will be excluded.</li> </ul>	1 <sup>st</sup> June'2011
Requirement of Document Identification Number ( <b>DIN</b> ) omitted	282B	<ul style="list-style-type: none"> <li>This provision was introduced in Finance Act (no.2) ,2009 which required quoting of <b>DIN on every document, notice, order, letter, or any other correspondence issued or received</b> by the Department.</li> <li>Now, due to non-availability of requisite infrastructure to implement this provisions on all India basis, the provision under this section has been proposed to be withdrawn.</li> </ul>	Retrospectively from Assessment Year 2011-12
Direct Tax Code (DTC)		<ul style="list-style-type: none"> <li>Direct Tax Code is expected to be effective from 1<sup>st</sup> April'2012.</li> </ul>	

## 6. Personal Taxation



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Title	Section	Changes proposed	Effective from
Basic exemption limit increased		<ul style="list-style-type: none"> <li>▪ <b>Basic exemption limit marginally increased</b> to benefit individual tax payers from Rs. 160,000 to Rs. 180,000</li> <li>▪ <b>No change</b> in exemption limit for <b>women tax payers</b>.</li> <li>▪ <b>Qualifying age</b> for <b>resident senior citizens reduced to 60 years</b> from 65 years and the <b>basic exemption limit increased</b> to Rs. 250,000 from Rs. 240,000</li> </ul>	Assessment Year 2012-13
Special Category of 'Very Senior Citizens'		A <b>special category</b> of 'Very Senior Citizens' has been <b>introduced</b> for resident individuals of <b>80 years or more</b> . The basic exemption limit for such individuals is Rs. 500,000	Assessment Year 2012-13
Exemption from filing of tax return	New sub section 139 (1C)	<b>A notified class or class of persons shall be exempted from filing of tax return.</b> These persons shall include the individuals whose income is only from salary and tax liability is discharged by the employer through deduction of tax at source	1 <sup>st</sup> June'2011
Deduction of Rs. 20,000 extended by one year	80CCF	<b>Additional deduction</b> of up to <b>Rs. 20,000</b> for investments in notified long-term infrastructure bonds u/s <b>80CCF</b> for Individuals and Hindu Undivided Families <b>to continue for one more financial year</b> (FY 2011-12)	Assessment Year 2012-13

## ....contd. (Personnel taxation)



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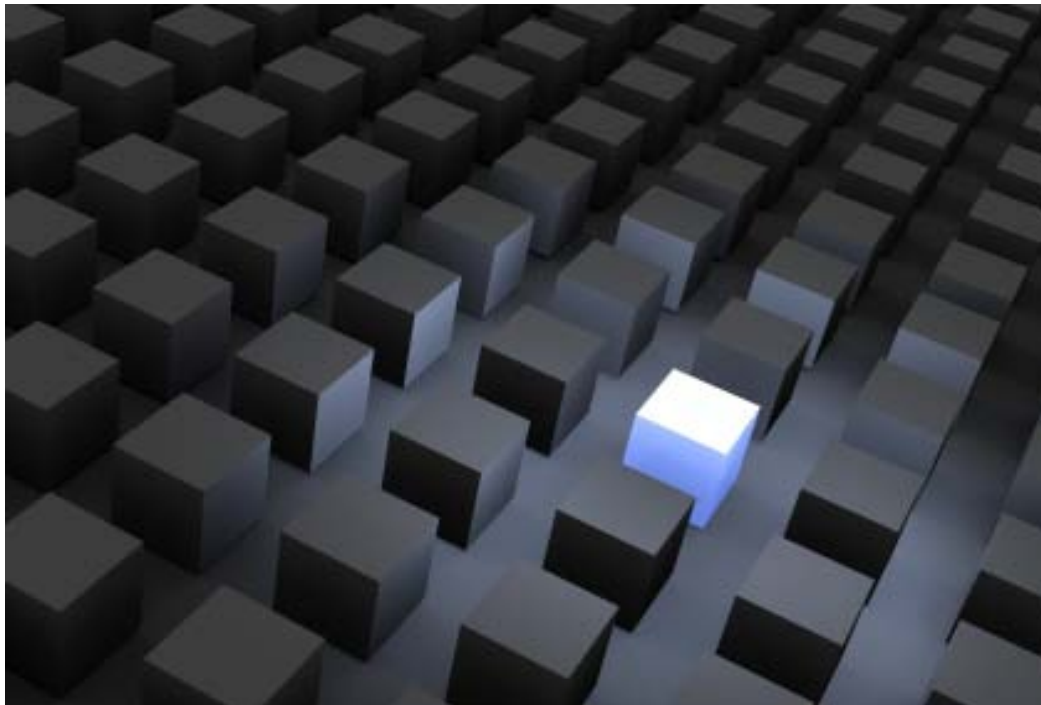
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Title	Section	Changes proposed	Effective from
Employer Contribution to pension scheme to be excluded	80CCE	Employer contribution towards pension scheme shall be <b>excluded</b> from the limit of Rs.1 lac provided under <b>Section 80CCE</b>	Assessment Year 2012-13



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# SERVICE TAX

# 1. New Services



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Title	Rule or Section	Changes proposed	Effective from
2 New services under service tax net	Sub-clauses (zzzzv) to (zzzzw) in Clause (105) of Section 65 of the Finance Act, 1994	<ul style="list-style-type: none"><li>Services provided by <b>air-conditioned restaurants having a license to serve alcoholic beverages</b> in relation to serving of food and/or beverages. Other restaurants are out of coverage.</li><li>Tax on renting of immovable property specifically excluded tax on accommodation in hotels, etc. Now service of <b>short-term accommodation in hotels/inns/clubs/guest houses</b> etc. is proposed to be charged to service tax provided <b>continuous period of stay is less than three months</b>.</li></ul>	Effective from a date to be notified, after enactment of Finance Bill, 2011



## 2. Changes in scope of existing services



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Title	Rule or Section	Changes proposed	Effective from
Commercial Training or Coaching Services	Clause (27) of Section 65	The scope has been expanded to <b>cover all courses that are not recognised by law</b> even if the institute provides any other course recognised by law.	Effective from a date to be notified, after enactment of Finance Bill, 2011
Support Services of Business or commerce	Clause (104c) of Section 65	<ul style="list-style-type: none"> <li>The scope has been expanded <b>to include “operational or administrative assistance in any manner”</b> as compared to the existing phrase “operational assistance for marketing”.</li> <li>This amendment would have wider scope and thus services of routine administration, even if not related to marketing would be chargeable to tax.</li> </ul>	
Authorised Service Station Services	Sub clause (zo) in Clause (105) of Section 65	<ul style="list-style-type: none"> <li>Definition of service provider has been <b>expanded from the existing “authorised service station” to “any person”</b>.</li> <li>Cover all motor vehicles other than those meant for goods carriage and three wheeler scooter auto-rickshaws.</li> <li><b>Services of decoration</b> in respect of vehicles also gets covered.</li> <li><b>Parts</b> if any sold would remain <b>out of the charge</b> in view of Notification 12/2003.</li> </ul>	

## ...contd. ( Existing services...)



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Title	Rule or Section	Changes proposed	Effective from
Life Insurance Services	Sub clause (zx) in Clause (105) of Section 65 <b>and</b> Rule 6(7A) of Service Tax Rules, 1994	<ul style="list-style-type: none"> <li>▪ <b>Currently</b>, in case of non-ULIP life insurance policies, service tax is chargeable <b>only on the risk portion</b> of the premium. Now, it has been proposed <b>charge service tax</b> on the total amount of <b>premium which is not invested</b>. It means amount retained for risk cover , commission and expenses for management of investment shall also be chargeable to tax.</li> <li>▪ The composition rate is also being increased from 1% to 1.5%</li> </ul>	Effective from a date to be notified, after enactment of Finance Bill, 2011
Club or Association services	Sub clause (zzze) in Clause (105) of Section 65	<ul style="list-style-type: none"> <li>▪ The scope has been <b>expanded</b> to cover services <b>provided to non-members</b> as well.</li> </ul>	
Legal services	Sub clause (zzzm) in Clause (105) of Section 65	<p>The scope has now been <b>expanded</b> to cover:</p> <ul style="list-style-type: none"> <li>▪ Services provided by <b>business entities to individuals</b>.</li> <li>▪ Representational services before any Court, Tribunal or an authority, to be provided by any person to a business entity.</li> <li>▪ Services provided by arbitrators to business Entities.</li> </ul> <p>Services provided by individuals to other individual will remain outside the levy.</p>	

## ...contd. ( Existing services...)



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Title	Rule or Section	Changes proposed	Effective from
Health services	Sub clause (zzzzo) in Clause (105) of Section 65	<ul style="list-style-type: none"> <li>▪ Currently, the levy covers health services provided in relation to health check-ups or preventive care to an employee of a business entity or health check-ups or treatment of a person covered by a health insurance scheme under certain specific circumstances.</li> <li>▪ This has been substituted by the following: <ul style="list-style-type: none"> <li>○ Service provided by hospitals, maternity/ nursing home, dispensary, clinic, etc. with central air-conditioning (wholly or partially) and more than 25 beds</li> <li>○ Diagnostic services with the aid of a laboratory or medical equipment</li> <li>○ Services provided by doctors from the premises of such hospitals, maternity/ nursing homes, dispensaries, clinics, etc. who are not employees of such establishments</li> </ul> </li> </ul> <p>Establishments owned or controlled by the Government or Local Authority have been kept out of the purview of this service.</p>	Effective from a date to be notified, after enactment of Finance Bill, 2011
Money changing services	Notification No. 2/2011 dated 1 <sup>st</sup> March'2011	Rule 2B has been introduced in Valuation Rules to provide that value of service would be the difference between the buy / sell rate (as the case may be) charged by the money changer and the reference rate declared by RBI. However, the assessee shall have option to pay tax @ 1% of the rupee value of the transaction.	1 <sup>st</sup> April'2011

...contd. ( Existing services...)



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Title	Rule or Section	Changes proposed	Effective from
Air Travel Service	Notification No. 4/2011 dated 1 <sup>st</sup> March'2011	<ul style="list-style-type: none"><li>Domestic Travel – Economy class<ul style="list-style-type: none"><li>Service tax has been <b>increased to Rs. 150</b> from Rs. 100.</li></ul></li><li>International Travel - Economy class<ul style="list-style-type: none"><li>Service tax has been <b>increased to Rs. 750</b> from Rs. 500.</li></ul></li><li>Service tax on air travel other than Economy Class shall be @10.3% (including cess)</li></ul>	1 <sup>st</sup> April'2011

### 3. Point of Taxation Rules, 2011



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Title	Particulars
Introduction	<ul style="list-style-type: none"><li>▪ The Point of Taxation Rules, 2011 have been introduced to determine the point in time when the services shall be deemed to be provided.</li><li>▪ Currently, point of taxation is when payment is received by the service provider. As per the provision of these rules, it shall result in a <b>hybrid system of taxation</b>.</li></ul>
Applicability	<ul style="list-style-type: none"><li>▪ The Point of Taxation Rules, 2011 have been notified vide <b>Notification No. 18/2011</b> dated 1<sup>st</sup> March'2011 and these rules are <b>applicable from 1<sup>st</sup> April'2011</b>.</li><li>▪ <b>Billings done prior to 1<sup>st</sup> April'2011 shall not be governed by these rules.</b></li></ul>
Point of taxation	<ul style="list-style-type: none"><li>▪ As a general rule, the time of charging tax shall be <b>earliest of the following</b>:<ul style="list-style-type: none"><li>○ Date on which service is provided</li><li>○ Date of invoice</li><li>○ Date of receipt of payment (including advance)</li></ul>In majority of the cases (specifically where services are provided by corporate entities), the charging mechanism will shift to the <b>accrual system</b>.</li></ul>
New services	As per Rule 5 of the above Rules, when a service is taxed for the first time, no tax shall be payable if the service tax provider has issued the invoice and received the payment prior to introduction of a new services even though service is provided after its introduction.

## B

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Title	Particulars
Introduction	<ul style="list-style-type: none"> <li>▪ Export of Services Rules have been amended to incorporate some <b>re-categorization</b> of services.</li> <li>▪ <b>Corresponding changes</b> have been carried <b>out in Taxation of Services (Provided from Outside India and Received in India), Rules, 2006.</b></li> </ul>
Applicability	<ul style="list-style-type: none"> <li>▪ The amendment in the above mentioned rules have been notified <b>vide Notification No. 12/2011 &amp; 13/2011</b> dated 1<sup>st</sup> March'2011 and these changes are <b>applicable from 1<sup>st</sup> April'2011.</b></li> </ul>
Re-categorization of services	<ul style="list-style-type: none"> <li>▪ Following services has been <b>shifted from</b> Category <b>(iii)</b> – Place of recipient <b>to</b> Category <b>(i)</b> – Situation of Immovable property:               <ul style="list-style-type: none"> <li>- Preferential location and similar services</li> </ul> </li> <li>▪ Following services has been <b>shifted from</b> Category <b>(iii)</b> – Place of recipient <b>to</b> Category <b>(ii)</b> – Place of performance:               <ul style="list-style-type: none"> <li>- Rail Travel Agent                                      - Health services</li> </ul> </li> <li>▪ Following services has been <b>shifted from</b> Category <b>(ii)</b> – Place of performance <b>to</b> Category <b>(iii)</b> – Place of recipient :               <ul style="list-style-type: none"> <li>- Credit rating agency                                      - Market research agency                      - Opinion poll</li> <li>- Technical testing and analysis                      - Goods transport agency                      - Transport of goods by air</li> </ul> </li> </ul>

# 5. Cenvat Credit Rules, 2004

(changes related to Service Tax)



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Title	Rule	Changes (w.e.f. 0 1 <sup>st</sup> April'2011) vide Notification No. 3/2011 –Central Excise (N.T.)
Definition of 'Input Services'	Rule 2 (I)	<ul style="list-style-type: none"> <li>▪ <b>Definition of 'Input Services'</b> has been <b>changed</b> with a view to bring <b>greater clarity</b> to minimize the litigations.</li> <li>▪ <b>Expression "activities relating to business"</b> has been <b>deleted</b> from the definition.</li> <li>▪ <b>Following exclusions</b> have been <b>incorporated in the definition</b>: <ul style="list-style-type: none"> <li>○ Certain services meant for personal consumption by employees have been specifically excluded .</li> <li>○ Certain services used in building construction and laying down foundation for support of capital goods like construction of complex services and works contract services have been specifically excluded except under specific circumstances.</li> <li>○ Certain services used in relation to motor vehicles like authorised service stations, general insurance services, etc. have been specifically excluded except under specific circumstances.</li> </ul> </li> </ul>
Payment of tax when inputs or capital goods are written off before being put to use	Rule 3(5B)	<ul style="list-style-type: none"> <li>▪ Currently, a service provider is required to pay the equivalent amount of Cenvat Credit when the Inputs or Capital goods (on which Cenvat Credit has been availed) are written off <b>fully</b> or <b>provision</b> has been made to write off <b>fully</b>, before being put to use.</li> <li>▪ Now, this provision has been amended to trigger even in case Inputs or capital goods are written off <b>partially</b> or provision has been made to write off partially.</li> </ul>

Title	Rule	Changes (w.e.f. 0 1 <sup>st</sup> April'2011) vide Notification No. 3/2011 –Central Excise (N.T.)
Obligation of provider of taxable and exempted services	Rule 6	<ul style="list-style-type: none"> <li>▪ <b>Rule 6(5)</b>, which allowed full credit of 17 specified services, has been <b>deleted</b>.</li> <li>▪ Option to maintain separate accounts only in respect of inputs (and not for input services) has been given and consequential changes in credit reversal formula have been made.</li> <li>▪ <b>Under Rule 6(3)</b>, the amount payable under ad hoc payment/ reversal scheme in respect of services has been <b>reduced to 5 percent</b> from 6 percent of exempt turnover.</li> <li>▪ For the purpose of applying the formula under <b>Rule 6(3A)</b>, the <b>value of trading services</b> as well as value of services covered by composition schemes has been <b>specifically included</b>.</li> <li>▪ As per <b>newly inserted Rule 6(3B)</b>, a <b>banking company or a financial institution</b> would be required to <b>pay</b> an amount equal to <b>50 percent of the credit availed</b>. Similarly, <b>as per Rule 6(3C)</b> , in case of services relating to <b>life insurance or management of ULIPs</b>, prescribed <b>percentage is 20</b>. However, they cannot opt for other methods which have been prescribed under Rule 6.</li> </ul>



## 6. Interest and Penalties



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Title	Section /Rule	Changes proposed	Effective from
Interest rate increased	Section 75 & Notification No. 14/2011 dated 1 <sup>st</sup> March'2011	<ul style="list-style-type: none"> <li>▪ <b>Interest rate</b> for delayed payment of service has been <b>increased to 18%</b> per annum from 13% per annum.</li> <li>▪ However, in case of an <b>assessee</b> with a <b>turnover of up to Rs. 60 lacs</b>, there shall be a <b>reduction of 3%</b> and the effective interest rate <b>shall be 15%</b>.</li> </ul>	1 <sup>st</sup> April'2011
Penalty for delay in filing of return increased	Section 70 and Rule 7C of ST Rules, 1994	<ul style="list-style-type: none"> <li>▪ Maximum penalty for delay in filing of returns has been <b>increased to Rs. 20,000</b> from Rs. 2,000.</li> <li>▪ However, this change will have no impact if <b>delay</b> in filing of service tax return is <b>only for 40 days</b> which means maximum <b>penalty amount shall be Rs. 2000</b> only, if delay is for 40 days.</li> <li>▪ This is <b>because</b> old formula of calculating penalty under <b>Rule 7C</b> has <b>not</b> been <b>changed</b>.</li> </ul>	Effective from a date to be notified, after enactment of Finance Bill, 2011
Penalty for failure to pay service tax	Section 76	<ul style="list-style-type: none"> <li>▪ Penalty for delayed payment has been proposed to be <b>reduced to 1%</b> from 2% of tax <b>OR to Rs. 100</b> from Rs. 200 per day, whichever is higher.</li> <li>▪ Further, <b>maximum penalty</b> has also been proposed to be <b>reduced to 50%</b> from 100% of tax amount.</li> </ul>	

Title	Section /Rule	Changes proposed	Effective from
General Penalty	Section 77	<ul style="list-style-type: none"> <li>Maximum penalty u/s 77 for contravention of any other provisions has been increased to Rs. 10,000 from Rs. 5,000 .</li> </ul>	Effective from a date to be notified, after enactment of Finance Bill, 2011
Penalty for suppressing value of services	Section 78	<ul style="list-style-type: none"> <li>Where taxpayer has not captured the true and complete information in the specified records – Penalty has been reduced to “an amount equal to the tax” <b>[100%]</b> from “an amount up to twice the amount of tax” [200%] and</li> <li>Where taxpayer has <b>captured the true and complete information</b> in the specified records – Penalty has been prescribed <b>at 50%</b> of the tax amount.</li> <li>Further, as per existing provisions also, this penalty gets reduced to 25% if the tax dues are paid with in 30 days together with interest and penalty. This period of 30 days is being <b>enhanced to 90 days</b> in the case of a service provider whose value of taxable services does not exceed Rs. 60 lacs during any of the years covered by the notice <b>OR</b> during the last preceding financial year.</li> </ul>	

Title	Section /Rule	Changes proposed	Effective from
Prosecution for offences	Section 89	<ul style="list-style-type: none"> <li>▪ Prosecution provisions have been <b>re-introduced</b> in this Finance Bill.</li> <li>▪ The prosecution shall apply in the following situations: <ul style="list-style-type: none"> <li>○ Provision of service without invoice</li> <li>○ Availment and utilization of Cenvat Credit without receipt of inputs or input services</li> <li>○ Submitting false information; and</li> <li>○ Non-payment of collected amount of services tax for a period of more than six months</li> </ul> </li> <li>▪ The service provider who commits the above offences shall be punishable as below: <ul style="list-style-type: none"> <li>○ In the case of an <b>offence</b> where amount <b>exceeds Rs. 50 lacs</b>, with <b>imprisonment</b> for a term which <b>may extend to three years</b>.</li> <li>○ In any <b>other case</b>, with <b>imprisonment</b> for a term, which <b>may extend to one year</b>.</li> </ul> </li> </ul>	Effective from a date to be notified, after enactment of Finance Bill, 2011

## 7. Other important changes

Title	Section /Rule	Changes proposed	Effective from
Limit of self adjustment of service tax increased	Rule 6(4b)(iii) of ST Rules	<ul style="list-style-type: none"> <li><b>Limit of self adjustment</b> of service tax has been <b>raised to Rs. 2,00,000</b> from Rs. 1,00,000.</li> </ul>	1 <sup>st</sup> April'2011
Changes in Work Contract Composition Scheme	Notification No. 1/2011 dated 1 <sup>st</sup> March'2011	A <b>new sub-rule (2A)</b> has been added in <b>rule 3</b> in the Works Contract Composition Scheme in terms of which availment of <b>Cenvat credit has been restricted to a limit of 40 percent</b> of the tax paid on services relating to erection, commissioning and installation; commercial or industrial construction; and construction of residential complexes, if tax has been paid without availing exemption notification 1/2006-ST dated 1 March 2006.	1 <sup>st</sup> March'2011
Goods and Service Tax (GST)		<ul style="list-style-type: none"> <li><b>No date for implementation of GST</b> was <b>announced</b> in this budget .</li> <li>A <b>Constitutional Amendment Bill for introduction of GST</b> is expected to be tabled in the current session of Parliament.</li> </ul>	

# About us

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For any professional advice regarding budget provisions, we welcome your queries.

## Chandan Goyal

Chief Executive Officer

chandan.goyal@blueconsulting.co.in

+91 98104 10421

+91 120 4230649

Delhi

Pune

*"A dream is not that  
which you see in sleep  
A dream is that  
which does not let you sleep"*

### Disclaimer

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