ACCRETIVE SDU

India Budget 2013-14

A Tax Update

For abridged version, refer our separate communique of even date
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DIRECT TAX PROPOSALS

CORPORATE TAX

Rates of Tax

There are no changes in the tax rates for corporates. However, the rates of surcharge have been increased. The effective rate of tax in light of this proposal is tabulated below.

Taxable Income (Rs)	Domestic Company	Foreign Company
Upto 1,00,00,000	30.90%	41.20%
1,00,00,001 to 10,00,00,000	32.45%	42.02%
Above 10,00,00,000	33.99%	43.26%

- Marginal relief for surcharge shall be allowed.
- In other cases, such as dividend distribution tax (DDT) or tax on distributed income (through share buy-backs), surcharge is increased to 10%.
- There are no changes in the rates of Education Cess and Secondary and Higher Education Cess, which continues at 3%.

Applicability of Tax

Tax on buy-back of shares of unlisted companies

With effect from 01.06.2013, a new levy of tax at 20% (exclusive of surcharge and cess) is proposed on an unlisted company buying back its shares. The difference between the consideration paid by the company to the shareholder and the sum received by the company at the time of issue of such shares would be liable to tax as distributed income in the hands of the domestic company. The above tax is in addition and irrespective of the tax payable by the domestic company on its profits for the year.

Where the company buying back the shares has discharged this tax liability, the gains derived by the shareholder on account of such buy-back would be exempt from tax.

The new levy has been proposed as a measure to curb tax avoidance schemes being adopted by taxpayers to avoid payment of DDT that would otherwise be applicable particularly where the capital gain arising on buy-back would be exempt from tax or chargeable at a lower rate.

Tax reliefs

- **Investment allowance for manufacturing sector:** An investment allowance has been proposed for taxpayers investing in excess of INR 100 crore in new plant and machinery. The allowance would be by way of an additional deduction amounting to 15% of the actual cost of the new assets. The assets need to be acquired and installed between 01.04.2013 and 31.03.2015.

  The investment allowance is in addition to the benefit of normal depreciation and the additional depreciation currently prevalent. The investment should be in new plant and machinery and specifically excludes computers/computer software.

  The amount allowed as deduction shall be chargeable to tax if the new asset is transferred within 5 years. However, if the transfer is in connection with an amalgamation or demerger, the benefit can be availed by the resulting or the amalgamated company.

- **Extension of sunset for certain companies in the power sector:** Undertakings in the power sector (involved in generation, distribution, transmission of power or substantial renovation / modernization of existing transmission networks) can claim a tax holiday in respect of specified income where they commence prescribed operations on or before 31.03.2014. Hitherto, such tax holiday could be claimed by undertakings that commence prescribed operations on or before 31.03.2013.

- **Extension of lower rate of taxation on dividends received from foreign subsidiaries of Indian companies:** The benefit of lower rate of taxation of 15% on dividend income earned by an Indian company from its specified foreign subsidiaries is proposed to be extended till 31.03.2014, which was hitherto available till 31.03.2013.

- **Cascading effect of DDT on dividends from foreign subsidiaries removed:** Presently, in computing dividends that are liable to DDT, dividend received from an Indian subsidiary on which DDT was paid could be excluded. Similar relief is extended on dividends received by an Indian company from a foreign subsidiary (i.e. shareholding of more than 50%) which is taxed at the lower rate of 15%. The dividend income earned and distributed should be within the same financial year to avail this benefit.

- **Tax on income distributed by mutual funds to individuals / HUF:** With effect from 01.06.2013, a uniform rate of 25% is proposed to be applied on income distributed by a Mutual Fund to its unit holders being individuals and Hindu Undivided Families.

- **Tax on income distributed by an Infrastructure Development Fund (IDF) set-up as a Mutual Fund (MF) to non-resident:** With effect from 01.06.2013, a lower rate of tax at 5% is proposed with respect to interest income of a non-resident from an IDF set-up as a MF.

- **Extension of pass-through to entities registered under SEBI AIF regulations**: The SEBI (Venture Capital Fund) Regulations 1996 (VCF Regulations) were replaced in May 2012 by the SEBI (Alternative Investment Funds) Regulations, 2012 (AIF Regulations). In light of this regulatory development, it is proposed to extend pass through status (i.e. income is taxable in the hands of investors instead of the fund) to:

  - all Venture Capital Companies (VCCs), Venture Capital Undertakings (VCUs) and VCFs that were registered under the erstwhile VCF Regulations;
  - all entities that are defined as VCUs under the AIF regulations; and
  - all VCFs and VCCs registered as a sub-category of Category 1 AIF under the AIF regulations.

  This provision would be applicable from FY 2012-13 onwards.

- **Deduction of additional wages paid to new regular workmen:** Indian companies engaged in the manufacture of goods in a factory can claim a relief of 30% of additional wages paid to new regular workmen employed during the financial year. This relief was hitherto available to 'industrial undertakings' whereby employees of non-manufacturing sectors (such as service sectors) were also making a claim for the relief. Given the intent of the relief, it is now proposed to limit the same to wages paid in a 'factory' that manufactures goods.

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Widening of Tax Base

- **Determination of sale value for immoveable property held as stock-in-trade:** Where land and/or building held as stock in trade is transferred for a value that is less than the value adopted for stamp duty purposes, the stamp duty value would be regarded as the sale consideration for the purpose of computing taxable business profits. Hitherto the valuation principle was provided only for transfer of land or building held as a capital asset.

  It is also proposed that in situations where the date of the agreement differs from the date of registration, the appropriate date for computing the value for stamp duty would be the date of the agreement. However this would apply only in cases where part consideration is at least received before the date of the agreement and in a mode other than cash.

- **Taxation of receipt of immovable properties for inadequate consideration:** Presently, where individuals and Hindu Undivided Families receive immoveable properties without consideration, the stamp duty value (where the same exceeds INR 50,000/-) of such immoveable properties is regarded as income. Now the provision is also proposed to apply in cases where the immovable property is received for inadequate consideration.

General Anti-avoidance Rule (GAAR)

A number of representations were made against the GAAR provisions introduced by the Finance Act, 2012. Pursuant to this, the Government constituted an Expert Committee (EC) to inter alia consult with stakeholders and finalize the GAAR guidelines with a road map for implementation. The major recommendations of the EC that were accepted by the Government, with some modifications have been proposed as law. The key highlights include:

- The new GAAR provisions will come into force with effect from FY 2015-16.

- GAAR would apply to arrangements (or a step in the arrangement) having the main purpose of obtaining a tax benefit.

- The GAAR Approving Panel would now consist of a Chairperson who is or has been a Judge of a High Court; one Member of the Indian Revenue Service of the rank of Chief Commissioner of Income-tax; and one Member who shall be an academic or scholar having special knowledge of matters such as direct taxes, business accounts and international trade practices.

- Taxpayer could approach the Authority for Advance Rulings to determine whether an arrangement qualifies as an impermissible avoidance arrangement prior to entering into the arrangement.

Select Cross-Border Measures

- **Taxation of royalty income and fees for technical services (FTS):** The withholding tax rate on royalty and FTS payments to non-residents is proposed to be increased to 25% from the erstwhile 10%. However, non-residents could seek relief of lower rates if any, provided for in the applicable double taxation avoidance agreement (DTAA).

- **Tax Residency Certificate (TRC):** Last year, the law was amended to mandate that a taxpayer claiming relief under the relevant DTAA would need to obtain a TRC. It is now proposed that obtaining the TRC shall be a necessary but not sufficient condition to claim relief under the DTAA. This provision is effective from FY 2012-13.

Withholding taxes / Tax Deduction at Source

- **Withholding tax on transfer of immovable property (other than agricultural land):** With effect from 01.06.2013, a withholding tax at the rate of 1% is proposed on consideration paid / payable to a resident for transfer of immovable property (other than agricultural land). The withholding tax is applicable only where the consideration exceeds INR 50 lakh.

- **Concessional rate of withholding tax on interest in case of certain rupee denominated long-term infrastructure bonds:** Under the existing provisions, any interest paid by an Indian company to a non-resident in respect of an approved foreign currency borrowing from sources outside India between 01.07.2012 to 01.07.2015, is subject to withholding tax at 5%. This benefit is now extended to interest on rupee-denominated long term infrastructure bonds subject to certain conditions.

- **Surcharge on withholding tax in respect of payments to non-resident individuals and foreign companies:** Withholding tax in respect of payments to non-resident individuals would include surcharge of 10% where the payments made or likely to be made exceed INR 1 crore.

  Withholding tax in respect of payments to foreign companies would include surcharge of:
  - 2%, for payments made or likely to be made exceed INR 1 crore but not INR 10 crore.
  - 5%, for payments made or likely to be made exceed INR 10 crore.

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Tax Administrative Measures

- **Defective return:** With effect from 01.06.2013, a return would be defective if the tax and interest due at the time of filing of the return has not been paid.

- **Directions for special audit:** Currently for the purpose of directing a taxpayer to undertake an audit of its accounts, the tax officer is required to consider only the nature and complexity of the accounts of the taxpayer. With effect from 01.06.2013, the tax officer should consider the following parameters:
  - Nature and complexity of accounts;
  - Volume of the accounts;
  - Doubts about the correctness of the accounts;
  - Multiplicity of transactions in the accounts; or
  - Specialized nature of business activity of the taxpayer.

- **Penalty for non-filing of Annual Information Return (AIR):** Where the AIR is not furnished within the time prescribed in a notice requiring the same from the tax officer, a penalty of INR 500/- per day would be applicable for every day beyond the day prescribed in the notice upto the day of filing the AIR. Hitherto the penalty was INR 100/- per day.

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Other proposals

- **Taxation regime for securitization trusts:** A new taxation regime is proposed to be introduced for trusts established to undertake securitization activities. The salient features of the proposed regime are:

  - Exemption of tax on income of such trusts from the activity of securitization.

  - Requirement of the trust to pay income-tax on income distributed to investors at:
    (i) 25 percent in case of individual or HUF;
    (ii) Zero percent in cases of persons who are exempt from tax.
    (iii) 30 percent in any other case.

  - The distributed income received by the investor would accordingly be exempt from tax.

- **Rationalization of definition of urban land:** The scope of urban land to be regarded as a 'capital asset' has been rationalized. Accordingly, land situated within the jurisdictions of a municipality or cantonment board with reference to the population of such area and within the specified distance, as measured aerially would be regarded as 'capital asset':
  - Land situated not more than 2 kms., from the local limits of any municipality or cantonment board and having a population of more than 10,000 but not exceeding 1 lakh; or
  - Land situated not more than 6 kms., from the local limits of any municipality or cantonment board and having a population of more than 1 lakh but not exceeding 10 lakh; or
  - Land situated not more than 8 kms., from the local limits of any municipality or cantonment board and having a population of more than 10 lakh.

PERSONAL TAXES

Rate of tax

There has been no change in the tax slabs for individuals and HUFs. There is a marginal respite for resident individuals having a total income not exceeding Rs 5 lakh, who would be allowed a tax rebate of 100% of the tax, not exceeding INR 2,000.

A surcharge on income-tax would be applicable at 10% if the total income of the individual exceeds INR 1 crore.

Tax reliefs

- **Deduction of interest on housing loan**: A deduction would be available upto INR 1 lakh in respect of interest on housing loan subject to the following conditions:
  - The housing loan is sanctioned by a financial institution in FY 2013-14
  - The loan does not exceed INR 25 lakh
  - The value of the residential house property does not exceed INR 40 lakh
  - The taxpayer does not own any house property on the date of sanction of housing loan
  - In case of short fall in the above deduction, the balance can be carried forward to the FY 2014-15.

- **Tax exemption on sum received by a person with disabilities under a life insurance policy:** Currently any sum received under a life insurance policy by a person with disabilities or a person suffering from specified diseases is exempt subject to the condition that the premium paid for such policy does not exceed 10% of the actual capital sum assured. The premium threshold is increased to 15% for life insurance policy issued on or after 01.04.2013.

- **Deduction in respect of health insurance premium extended:** Any contribution made by an individual taxpayer to the Central Government Health Scheme or any schemes of state and central governments, which are similar to the Central Government Health Scheme would be eligible for a tax deduction.

- **Deduction in respect of investment in equity savings scheme extended to investments in units of equity oriented fund:** In order to incentivize capital market investments by new retail investors, a deduction would be available to individual taxpayers in respect of investments in units of equity oriented funds to the extent of 50% of the investments or INR 25,000, whichever is less. Hitherto, the benefit was limited to investments in equity shares.

  The deduction would be available for a period of three consecutive years beginning with the year in which the listed equity shares or listed units were first acquired by the new retail investor. The deduction would now be available to a taxpayer whose gross total income for the relevant year does not exceed INR 12 lakh.

- **Deduction in respect of contribution to the National Children Fund:** It is proposed to allow 100% deduction in respect of any sum contributed to the National Children's Fund vis-à-vis the earlier limit of 50% of the contribution.

Tax rationalization

- **Rationalization of provisions in respect of keyman insurance policy:** A keyman insurance policy which has been assigned to any person during its term, with or without consideration, would be treated as a keyman insurance policy and any sum received under such policy would not be exempt from tax in the hands of the assignee.

OTHER TAXES

Commodities transaction tax (CTT)

- A new tax called CTT would be levied on transactions of sale of derivatives in respect of commodities, other than agricultural commodities, traded in recognized associations. The tax would be levied at 0.01% on the commodities transaction.

- Such tax would be allowed as a deductible expenditure to the taxpayer (who has paid the CTT) if the business income of such taxpayer includes income from taxable commodities transactions.

Wealth Tax

- It is proposed to facilitate electronic filing of annexure-less wealth tax returns along the lines of the income-tax return.

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Securities Transaction Tax (STT)

- STT on transactions of specified securities would be reduced effective from 01.06.2013. The proposed rates of STT are as follows:

Nature of taxable securities transaction	Payable by	Rates (in %)[1]
Delivery based purchase of units of an equity oriented fund entered into in a recognised stock exchange	Purchaser	Nil *(0.1)*
Delivery based sale of units of an equity oriented fund entered into in a recognised stock exchange	Seller	0.001 *(0.1)*
Sale of a futures in securities	Seller	0.01 *(0.017)*
Sale of a unit of an equity oriented fund to the mutual fund	Seller	0.001 *(0.25)*

[1] Rates in brackets refer to existing rates

INDIRECT TAX PROPOSALS

SERVICE TAX

The mean rate of service tax remains unchanged at 12.36% (including education cess).

Negative list

- **Medicinal or toilet preparations:** Manufacture or processing of medicinal or toilet preparations liable to duty under Medicinal and Toilet Preparations (Excise Duties) Act, 1955 is proposed to be included under the negative list. Hitherto, only such processing liable to duty under Central Excise Act, 1944 and State Excise Acts was included.

- **Vocational Educational Course:** Specified courses run by an industrial training institute or an industrial training centre affiliated to the State Council for Vocational Training is proposed to be included under the negative list. Hitherto, only courses affiliated to National Council were covered.
  Further, the exemption in respect of courses run by institute affiliated to National Skill Development Corporation is withdrawn.

- **Agriculture Testing:** The exclusion of testing service from levy of service tax is extended to all agriculture or agricultural produce. It was hitherto restricted only to seeds.

Abatement

- **Construction of complex:** The deemed deduction for computation of service tax in respect of residential units which is currently at 75% is reduced to 70% where service tax is paid on the total value including the value of land. The increased rate would be applicable only in respect of residential units measuring 2000 sft or more of carpet area and which are charged at more than INR 1 Crore.

  Consequently, the effective rate of service tax in such cases is increased to 3.708% from 3.09%.

  The current rate of 3.09% would continue in respect of units measuring upto 2000 sft or which are charged at INR 1 Crore or less.

Exemptions

- Auxiliary Education Services and Renting of Immovable Property Services provided by an educational institution is proposed to be taxed. The exemption hitherto available would be withdrawn.

- Temporary transfer or permitting the use / enjoyment of **copyrights with respect to cinematograph films** is proposed to be exempt only if the transfer is for exhibition in a cinema hall or cinema theatre. Hitherto, such transactions were exempted irrespective of the purpose of transfer.

- Service tax is proposed to be extended to **restaurant, eating joint or mess** if it has a facility of air conditioning or central air heating facility wholly or partly. Hitherto, it was liable to service tax only if it had the license to serve liquor in addition to air conditioning or air heating facility.

- Exemption to services by way of **transportation of the following goods by rail or vessel** in India is withdrawn.
  - Petroleum and petroleum products
  - Postal mail or mail bag
  - Household effects

- Exemption to **services provided by a goods transport agency** by way of transport in a goods carriage is extended to the following:
  - all agricultural produce *(hitherto, it was applicable only for fruits, vegetables, eggs, milk, food grains or pulses)*
  - foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages
  - chemical fertilizer and oilcakes
  - newspaper or magazines registered with the Registrar of Newspapers
  - relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap
  - defence or military equipment

- **Services provided by Indian Railways:** A retrospective exemption is provided to all taxable services provided by the Indian Railways prior to the 01.07. 2012 to the extent show cause notices have been issued upto 28.02.2013.

- Exemption is withdrawn in respect of the following services. Consequently, the same would be liable to service tax.
  - Vehicle parking provided to general public
  - Repair or maintenance services provided to Government, local authority or a governmental authority
  - Services of advancement of any object of general public utility (as charitable activities) up to INR 25 lakhs

Amnesty Scheme

The Government has proposed to introduce a scheme called the Service Tax Voluntary Compliance Encouragement Scheme, 2013, to encourage service providers to file returns and pay taxes. The salient features of the scheme are as follows:

- Application to be made before 31.12.2013

- All interest, penalties and other proceedings otherwise applicable would be waived

- Any person may opt for the scheme in respect of transactions where no notice is issued or order passed upto 28.02.2013

- Service tax dues for the period 01.10.2007 to 31.12.2012 not paid as on 01.03.2012 may be paid and returns filed

- The scheme may be opted even by persons who have filed returns if the returns do not disclose the true liability, subject to conditions

- Cases where inquiry or investigation or audit has begun may also opt for the scheme, subject to conditions

- The scheme would not be applicable to:

  - Cases where a best judgement assessments made or notice is issued for recovery of service tax on or before 01.03.2013
  - Similar transactions in subsequent periods where best judgement assessment is made or notice is issued for recovery of taxes in any earlier period/s
  - Cases where the return is filed and appropriate disclosures made but where the tax liability is not discharged

- Total tax liability to be discharged in two equated installments, (i) before 31.12.2013 and (ii) before 30.06.2014.

- Upon declaration, if the taxes are not paid as prescribed, the same would be liable to be paid along with interest starting from 01.07.2014 on or before 31.12.2014

- The amount of tax so paid shall not be refundable under any circumstances.

- It is provided that no matter shall be reopened before any authority or court in respect of declaration made under this scheme. However, if the Commissioner has reason to believe that the declaration made is substantially false, normal recovery proceedings may be initiated.

The Rules with respect to the Form and manner of filing is yet to be issued.

Others

Changes in penalty provisions:

Offence	Proposed penalty	Existing penalty
Person liable to pay service tax or required to take registration, fails to take registration *WEH – whichever is higher*	Upto INR 10,000	Upto INR 10,000 or INR 200 per day of default WEH
Penalty on the director, manager, secretary or any other person responsible for conduct of business and was knowingly concerned with specified offences	Upto INR 1,00,000	NA
Imprisonment in case of failure to pay any amount collected as service tax beyond a period of 6 months where the amount exceeds INR 50 lakhs (including subsequent offences)	May extend upto 7 years	May extend upto 3 years

Notes:

- Any officer above the rank of a Superintendent and authorized by the Commissioner may arrest the concerned person with respect to the imprisonment indicated above.

- An offence involving imprisonment indicated above is cognizable. It is further provided that all other offences would be non-cognizable and bailable.

  Relevant procedural provisions have been introduced.

- **Recovery of tax:** Where the appellate authority or tribunal or court concludes that extended period of limitation of 5 years is not applicable against a person to whom notice was issued, it is provided that the recovery of such tax dues may be initiated for the prescribed period of 18 months.

- **Filing of memorandum of cross objections:** Appellate tribunal can admit an appeal or permit the filing of memorandum of cross objections after the expiry of the relevant period for assessee if sufficient cause is shown. Hitherto, the provision to file memorandum of cross objections after the due date was available only to the revenue department.

- **Advance Ruling:** The facility of advance ruling is proposed to be extended to 'resident public limited companies'.
  Similar amendment is made under the Central Excise provisions

CENTRAL EXCISE

Rate of duty

- The peak rate of Central Excise Duty remains unchanged at 12% (effective rate at 12.36%).

- Rate of duty on **mobile handsets** including cellular phones, having retail sale price more than INR 2000, is increased to 6% from 1%. However, the rate of duty where the retail sale price is upto INR 2000, remains unchanged at rate of 1%.

- **Readymade garments** and made ups of cotton, not containing any other textile materials, is wholly exempted from duty.

  However, the manufacturer has the option to pay central excise duty at rate of 6% and avail CENVAT credit in lieu of claiming the said exemption. The position as existed prior to Budget 2011-12 is restored.

- Units availing area based exemption in the State of Himachal Pradesh and Uttarakhand would be exempted from central excise duty on **intermediate goods** which are manufactured and captively consumed.

- **Compounded rate of Central Excise Duty** on each cold rolling machine of stainless pattis / pattas is increased to INR 40,000 from INR 30,000.

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Changes in duty rates on certain specific goods:

Description	w.e.f. 01.03.2013	Upto 28.02.2013
Diesel motor vehicles chassis for transport of goods	13%	14%
Motor vehicle > 1500 cc*	30%	27%
Ships, tugs, pusher craft , dredgers and other vessels	NIL	6%
Heena powder or paste not mixed with any other ingredient	NIL	6%
Handmade carpets, Carpets & other textile floor coverings of coir & jute whether or not handmade	NIL	2%
Silver produced during the process of zinc or lead from the stage of zinc or lead or concentrate	4%	12%
Marble slabs and tiles per sqmt	INR 60	INR 30
Tapioca Starch**	NIL	6%
Tapioca Sago (sabudana)	NIL	6%

* If solely used as taxis additional duty of excise shall be exempt.

** Manufactured and consumed captively in the manufacture tapioca saga (sabudana).

Levy of Central Excise Duty Based on MRP

- Medicaments exclusively used in Ayurvedic, Unani, Sidha, Homeopathic or Bio-Chemic systems and sold under a brand name are notified for levy Central Excise duty based on Maximum Retail Price (MRP). The Central Government has notified 35% as abatement for the said goods. Accordingly, Central Excise Duty would be payable on 65% MRP and the effective rate would be 8.034% (@ 12.36%).

Penalties

- **Threshold for initiating prosecution enhanced:** The Government is empowered to initiate prosecution proceedings in respect of offences involving evasion of duty exceeding INR 50 lakhs. Hitherto, the threshold was at INR 30 lakhs. The terms of imprisonment which is prescribed as upto 7 years remains changed.

- **Specific offences to be cognizable and non-bailable:** It is proposed that an offence involving evasion of Central Excise Duty *(non-payment or utilization of CENVAT credits)* of over INR 50 lakhs shall be cognizable and non-bailable.

- **In view of the above** only those persons who are arrested under non-cognizable offences can be released on bail on executing a personal bond with or without sureties. Hitherto, the provisions of release of arrested persons on bail were applicable to both, cognizable or non-cognizable offences.

Similar provisions relating to penalties and offences are introduced under the Customs provisions.

- **Issue of statement shall be deemed to be notice:** Mere issue of a statement containing the details of non-levy, short-levy, non-payment, short payment or erroneous refund would constitute the requirements of issue of show cause notice. This would be applicable to cases where a show cause notice is already issued for similar matters for earlier period if the grounds relied upon are the same.

- **Service of documents:** Presently the notices and other documents should be served under registered post with the acknowledgement due. It is proposed to include the following additional modes of delivery to suffice 'service':

  - Speed post with proof of delivery
  - Courier as approved by the CBEC

Advance Ruling

- **Advance Rulings:** The expression 'activity' is redefined to include any new business of production or manufacture proposed to be undertaken by an existing manufacturer. Accordingly, manufacturers may apply for an advance ruling for such new businesses.

  Additionally, it is proposed to extend the provisions and enable the manufacturers to seek an advance ruling on questions relating to admissibility of credit of service tax paid on input services used in relation to manufacture of excisable goods. Hitherto, the provisions of advance ruling were applicable only to admissibility of credit of excise duty paid on inputs.

Appeals

- **Validity period for stay granted by CESTAT:** Every appeal filed before the CESTAT in respect of which a stay is granted is required to be disposed-off within 180 days from the date of stay order.
  However, with respect to appeals which are not disposed-off within the said period due to reasons not attributable to the appellant, the CESTAT, on application, may extend the stay granted by another 185 days, aggregating 365 days, within which the CESTAT should dispose the appeal.

  By virtue of Section 86(7) of the Finance Act, 1994, the same will be applicable to service tax. Further, similar amendment is proposed under the Customs law.

- **Enhancement of monetary limit of the single bench:** It is proposed to increase the monetary limit of the Single Bench of the Tribunal to hear and dispose-off appeals to INR 50 lakhs from INR 10 lakhs.

  By virtue of Section 86(7) of the Finance Act, 1994, the same will be applicable to service tax. Further, similar amendment is proposed under the Customs law.

Others

- **Interest payable by the Government on finalization of provisional assessment:** Where upon finalization of provisional assessment, Central Excise Duty becomes payable to the manufacturer, it is provided that interest shall be payable at the prescribed rate after expiry of 3 months from the date of application.

  Hitherto, it was provided that interest is payable from the first day of the month for which the refund is determined.

Additional modes of recovery

- In line with the provisions contained under the Service Tax law, it is proposed to empower the jurisdictional central excise officers to initiate the following modes of recovery of any sum due to the Government:

  - May require any other Central Excise or Customs Officer to deduct such sums out of the amounts due to such person;

  - May require any other person from whom any amount is due to such person or who may be holding money for or on his account, to the extent, as is sufficient to pay the arrears of revenue.

    In this regard, it is provided that the person to whom the notice is issued is bound to comply with the same.

CENVAT CREDIT

Recovery of CENVAT credit

- CENVAT credit is repayable in cases where capital goods / inputs are removed as such; or where the capital goods are removed after being used; or where the inputs / capital goods are partially / fully written off.

  In this regard, it is provided that in case of failure to repay the above CENVAT credits, the same shall be recoverable as CENVAT wrongly taken and utilized together with interest.

CUSTOMS

Duty rates

The mean rate of basic customs duty remains unchanged at 10% on non-agricultural goods.

Changes in duty rates on certain specific goods:

Description	Proposed rate	Current rate
Agriculture/Agro Processing/plantation Sector		
Dehulled oat grain	15%	30%
Hazel nuts	10%	30%
Metals		
Stainless steel wire cloth stripe for use in manufacture of catalytic convertors and their parts	5%	10%
Wash coat for use in manufacture of catalytic convertors and their parts	5%	7.5%
Precious Metals		
Pre-forms of precious and semi-precious stones	2%	10%
Capital Goods/Infrastructure		
Steam coal BCD / CVD	2% /2%	Nil /1%
Bituminous coal BCD/ CVD	2%	5% /6%

Description	Proposed rate	Current rate
Specified machinery for leather and footwear industry	5%	7.5%
Aircrafts and Ships		
Yachts and motor boats	25%	10%
Environment Protection		
Lithium ion automotive battery for manufacture of lithiumion battery packs for supply to the manufacturers of hybrid and electric vehicles	Nil	10%
Textiles		
Raw silk (not thrown) of all grades	15%	5%
Textile machinery and parts	5%	7.5%
Electronics/Hardware		
Set top boxes for TV	10%	5%
Automobiles		
Import of cars with CIF value more than US $ 40,000 for petrol car and engine capacity exceeds 3000cc and diesel car engine capacity exceeds 2500cc	100%	75%
Motor cycle with engine capacity 800cc or more	75%	60%

Description	Proposed rate	Current rate
Agriculture/Agro Processing/Plantation Sector		
De-oiled rice bran oil cake	Nil	10%
Metals		
Unprocessed ilmenite	10%	Nil
Ilmenite	5%	Nil
Bauxite	10%	Nil

Exemptions

- Import of parts for **maintenance, repair and overhaul or testing of aircrafts** is allowed without payment of import duty, subject to the condition that such goods are consumed / installed with 3 months. It is now increased the time limit of consumption / installation to 1 year from 3 months.

  Similar enhancement in time limit is made in respect of consumption of imported goods for the purpose of repair of ocean going vessels by ship repair units.

- Import of specified **parts of electric and hybrid vehicles** is exempt from basic customs duty, special additional duty and countervailing duty upto 01.04.2013. This date is extended upto 31.03.2015.

- Export **flat rolled products of iron or non-alloy steel**, plated or coated with zinc are exempted from export duty with retrospective effect from 01.03.2011.

- **Withdrawal of exemption:** Exemption from education cess and secondary & higher education cess is withdrawn on aeroplanes, helicopters and their parts.

Administrative

- **Provisional attachment of property:** Where any duty is not levied, short levied, erroneously refunded or interest is not paid, it is proposed that the property belonging to the person on whom notice was issued may be provisionally attached. However, it may be noted that this would be applicable only if the above is due to reasons involving collusion, willful mis-statement or suppression of facts.

- **Refund claim and Show Cause Notice:** In cases where the refund of customs duty or duty demand is less than INR 100, it is proposed that the claim of refund or serving of show cause notice, as the case may be, would not be entertained.

- **Landing of Vessels and Aircrafts:** It is proposed to empower the CBEC to permit landing of vessels and aircrafts at any place other than customs port and customs airport.

- **Electronic filing of import and export manifest:** It is proposed that the import or export manifest should be filed electronically. However, in circumstances where the electronic filing is not feasible, the Commissioner of Customs would be empowered to allow filing of the same in any other manner.

- **Restriction on storage of imported goods in warehouse:** It is proposed to restrict the general period of storage of imported goods in a public or private warehouse, pending clearance, to 30 days. However, the same may be extended by the Commissioner of Customs by not more than 30 days at a time.

- **Payment of duty upon assessment of BoE:** It is proposed to reduce the number of days to 2 from 5 (excluding holidays) within which the importer is required to pay the import duty once the BoE is returned for payment.

  Any delay beyond 2 days would be liable for payment of interest.

- **Threshold for punishment increased:** For an offence involving evasion or attempted evasion of duty, the threshold for imposing punishment is increased to INR 50 lakhs from INR 30 lakhs.

- **Exemption of duty on goods removed as samples:** The whole of the import duties payable on goods removed as samples for testing or examination and which are consumed or destroyed as part of the process is exempt. Hitherto, the exemption was applicable only if the duties payable on such goods was less than INR 5.

Others

- **Advance Rulings:** With reference to importers and exporters, the expression ‘activity’ is redefined to include any new business of import or export proposed to be undertaken by the existing importer or exporter. Accordingly, the importers or exporters may apply for an advance ruling for such new businesses.

- **Baggage Rules:** The duty free allowance is amended as follows:

Description	WEF 01.03.2013	Upto 28.02.2013
Jewellery by Gentlemen*	50,000	10,000
Jewellery by Ladies*	1,00,000	20,000
Crew member of vessel / aircraft	1500	600
Note: * Applicable to an Indian passenger who has been residing abroad for atleast one year or a person who is transferring his residence to India		

- **Export of goods imported by post:** The provisions enabling export of warehoused goods without payment of duties is proposed to extended to goods imported by post. Accordingly, based on the label or declaration accompanying the postal imports, the importer may export the goods without payment of duties.

- **Re-designate customs house agents:** It is proposed that “customs house agents” shall be re-designated as “customs brokers”.

- **Representation before the office of Customs:** It is proposed that any person who is convicted for any offence under the Service Tax provisions would not be qualified to represent any other person before the customs authorities.

- **Prohibition of imports and exports:** With a view to regulate the import or export of “designs and geographical indications”, it is proposed to include the same under the list of prohibited goods. Accordingly, it follows that import and export of such goods would be subject to conditions as may be specified.

GOODS AND SERVICE TAX (GST)

- State Finance Ministers and the GST Council to draft the GST Law
- Draft Bills on the Constitutional Amendment and the GST Law to be placed before the Parliament in the next few months;

> *Hon'ble Finance Minister:* Hope inspires courage. I propose to take the first decisive step by setting apart, in the Budget, a sum of `9,000 crore towards the first instalment of the balance of CST compensation. I appeal to the State Finance Ministers to realise the serious intent of the Government to introduce GST and come forward to work with the Government and bring about a transformational change in the tax structure of the country.

CENTRAL SALES TAX

The rate of CST remains unchanged at 2% when goods are sold against declaration in Form C.

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EFFECTIVE DATES

The **Direct Tax** proposals are effective for the FY 2013-14 unless alternatively provided therein.

Service Tax:

<table>
<tr><th>Particulars</th><th>Effective Date</th></tr>
<tr><td>Change in abatement for residential unit</td><td>01.03.2013</td></tr>
<tr><td>Exemptions</td><td>01.04.2013</td></tr>
<tr><td>Service Tax Voluntary Compliance Encouragement Scheme 2013</td><td rowspan="2">Date of enactment of Finance Bill, 2013</td></tr>
<tr><td>Amendment to Finance Act, 1994</td></tr>
</table>

Central Excise:

Particulars	Effective date
CENVAT Credit Rules	01.03.2013
Central Excise Rules	01.03.2013
Amendments in Central Excise Act, 1944	Upon enactment of Finance Bill, 2013
Notifications	01.03.2013
Other Rules	01.03.2013

Customs:

Particulars	Effective date
Notifications	01.03.2013
Amendments in Customs Act, 1962	Upon enactment of Finance Bill, 2013

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