FINANCE BILL - 2010

The 2nd budget of the 2nd UPA Government for the year 2010 – 2011 was presented by the finance minister on 26th February 2010. The finance minister has attempted to balance his direct tax proposals by giving relief to middle and higher middle class sections of urban tax payers.

The proposals relating to Direct Taxes as introduced in the budget 2010 – 2011 i.e. the finance bill, 2010, are analysed and discussed hereunder.

1. Changes in Income Tax Rates:

1.1 For Individuals and H.U.F. :

For assessment 2011 - 12 the finance minister has proposed to give relief to all categories of Individual tax payers and H. U. F.

He has proposed to revise the tax slabs upwards as under:

Income Slab	**Tax rate**
Upto Rs. 1,60,000/=	No tax
Rs.1,60,001/= to Rs.5,00,000/=	10%
Rs.5,00,001/= to Rs.8,00,000/=	20%
Above Rs.8,00,000/=	30%

However, in case of every woman assessee, resident in India and below 65 years of age at any time during the previous year, a higher basic exemption limit of Rs. 1,90,000=00 will continue to be applicable for assessment year 2011-2012.

Similarly, for a senior citizen i e. every individual resident in India who is of the age of 65 years or more at any time during the previous year, a higher basic exemption limit of Rs. 2,40,000=00 will continue to be applicable for assessment year 2011-2012.

1.2 For Companies and Partnership Firms:

No change has been proposed in the tax rates applicable to companies, Partnership Firms (including Limited Liability Partnerships) and Cooperative societies.

However, the rate of Minimum Alternate Tax (MAT) payable on book profit of a company has been increased from 15% to 18% for assessment year 2011-2012.

1.3 Tax on Dividend / Income Distribution by Companies / Mutual Funds:

The finance minister has continued the levy of 15% Tax on Dividend / Income Distribution by companies / mutual funds, with certain relief in case of dividend distribution received by a domestic holding company from its subsidiary company.

1.4 Surcharge and Cess;

1.4.1 Surcharge :

There is no levy of surcharge on all tax payers except the corporates for assessment year 2011-2012.

However, in case of a company if its income exceeds Rs. One crore then it is proposed to continue the levy of surcharge on income tax calculated as under :

a) For Domestic company @ 7.5%
b) For a company other than Domestic company @ 2.5%

1.4.2 Cess :

The finance minister has continued the levy of Education Cess @ 2% and Secondary and Higher Education Cess @ 1%. for assessment year 2011-2012 for all assesses.

1.5 Revised Tax liability and Benefit:

As a result of the revision in the Tax Slabs for individual / HUF assessee the tax liability and tax benefit at various levels of income for the assessment year 2011 – 2012 will be as follows:

Taxable Income	Tax for the year ended 31-03-2010	Tax for the year ended 31-03-2011	Relief in tax	Additional relief for Infra bonds	Total relief
1,60,000	Nil	Nil	Nil	Not Required	Nil
2,00,000	4,120	4,120	Nil	2,060	2,060
2,50,000	9,270	9,270	Nil	2,060	2,060
3,00,000	14,420	14,420	Nil	2,060	2,060
5,00,000	55,620	35,020	20,600	2,060	22,660
6,50,000	1,01,970	65,920	36,050	4,120	40,170
8,00,000	1,48,320	96,820	51,500	4,120	55,620
9,00,000	1,79,220	1,27,720	51,500	6,180	57,680
10,00,000	2,10,120	1,58,620	51,500	6,180	57,680
11,00,000	2,41,020	1,89,520	51,500	6,180	57,680
12,00,000	2,71,920	2,20420	51,500	6,180	57,680
15,00,000	3,64,620	3,13,120	51,500	6,180	57,680

[Note: The tax payable for the year ending 31-03-2010 has been calculated for an assessee other than Senior Citizen / woman assessees.]

Further, for the assessment year 2011-2012 as a result of higher exemption limits, a Senior Citizen and a woman assessee will pay tax at various slabs as under:

Taxable Income	**Tax payable by a senior citizen**	**Tax payable by a woman assessee**
1,90,000	Nil	Nil
2,25,000	Nil	3,605
2,40,000	Nil	5,150
3,00,000	6,180	11,330
5,00,000	26,780	31,930
6,50,000	57,680	62,830
8,00,000	88,580	93,730
9,00,000	1,19,480	1,24,630
10,00,000	1,50,380	1,55,530
11,00,000	1,81,280	1,86,430
12,00,000	2,12,180	2,17,330
15,00,000	3,04,880	3,10,030

2. Major Tax Changes:

2.1 For all Individual / HUF Assessee:

2.1.1 The finance bill has introduced a new section (sec.80CCF) under which an individual/HUF assessee will be able to claim deduction upto Rs.20,000/- from his taxable income in respect of his subscription in long term infrastructure bonds to be notified by the Central Government.

This deduction will be available in respect of subscriptions made after 01-04-2010 i.e. assessment year 2011-2012.

2.1.2 The finance bill proposes to amend provisions relating to receipt of any property as gift or for inadequate consideration by an individual or HUF [Sec. 56 (2)].

It is now proposed as under :

a) The "Property" will now include "bullion".

This amendment will come in force from 1st June 2010.

b) To exclude transactions relating to stock in trade, raw materials and consumable stores of any business of the receiver from the definition of "Property".

c) The stamp duty value of any immovable property received without any consideration shall be deemed to be the taxable value of immovable property.

The amendments at b) and c) above will have retrospective effect from 1st October 2009.

It is also proposed to amend the provisions of sec.142A to authorize assessing officer to make a reference to Valuation Officer for estimating the value of property for the purposes of sec.56(2).

2.2 For Salaried Employees:

The finance bill 2010 has not proposed any new changes in the scheme of taxation of income from salaries.

The finance bill also proposes to introduce new Saral II form of return of income for salaried employees.

2.3 For House Property Owners:

No change is proposed in the finance bill 2010 for the house property owners. The limit of Rs.150000/= for deduction of interest paid on funds borrowed for purchase / construction of a self-occupied house property, is continued for assessment year 2011 – 2012.

2.4 Assessee having Income from Business and Profession:

2.4.1 Presumptive Tax for Small Business :

The finance (no.2) bill 2009 had introduced a new provision in the income tax under which a small businessman having an annual turnover / receipts of less than Rs.40 (forty) lakhs can pay tax on his business income determined on presumptive basis.

The finance bill 2010 proposes to raise this limit of Rs.40 (forty) lakhs to Rs.60 (sixty) lakhs.

This amendment will take effect from assessment year 2011-2012.

Except for this increase in threshold limit, there are no changes in the scheme of presumptive taxation of small business.

2.4.2 Tax Audit :

Hitherto the Income Tax Act required audit of accounts of a business or a profession if their turnover or gross receipts in year were more than Rs.40 lakhs or Rs.10 lakhs as the case may be.

The Finance bill 2010 proposes to raise these limits to Rs.60 lakhs and Rs.15 lakhs for business and profession respectively.

This amendment will take effect from assessment year 2011-2012.

2.4.3 Disallowance of Expenses for non deduction/payment of TDS :

The Income Tax Act vide section 40 (a) (ia) provides for disallowance of certain expenses for non deduction/non payment of TDS.

The finance bill 2010 now proposes to relax the provisions relating to disallowance of expenses for non-deduction/non payment of TDS.

It is proposed to allow the claim of such expenses if the deduction is made during the previous year i.e. on or before 31st March BUT the payment thereof is made subsequently on / or before the due date for filing of return of income.

This proposed amendment takes effect from 01-04-2010 i.e. assessment year 2010-2011.

2.5 Capital Gains:

2.5.1 The scheme of taxation of short term capital gains and long term capital gains arising from sale of equity shares and other securities on a listed stock exchange is continued.

2.6 Taxation of receipt of shares without / for inadequate consideration :

The finance bill 2010 proposes to introduce a new clause (viia) in Sec. 56(2).

Under this clause, if a private limited / unlisted public company or a firm receives any shares of another company (other than a listed company) from any person without consideration (as gift) or for inadequate consideration, then the aggregate value of such shares shall be deemed to be the income of the receiving company or firm.

However, an exception to this proposed deeming provision is made by way of exempting receipt of shares under a scheme of amalgamation, merger or demerger as provided under section 47 of the Act.

This proposal comes into effect from 1st June 2010 i.e. all such receipts of shares on or after 1st June 2010 will be treated as income of the receiving company / firm.

3. Major Changes in Tax Provisions :

3.1 Widening the scope of MAT provisions:

3.1.1 Hitherto, every company is liable to pay Minimum Alternate Tax (MAT) at the rate of 15% of its book profit if the normal income tax payable by it on its taxable income is less than 15% of the book profit.

3.1.2 The Finance bill now proposes to increase the MAT rate from 15% to 18% from the assessment year 2011-2012.

3.2.Taxation of Limited Liability Partnership (LLP) :

3.2.1 Capital Gains on conversion to Limited Liability Partnership (LLP):

The concept of LLP was introduced in India in the last year by the Limited Liability Partnership Act, 2008. With the introduction of LLP as a form of business entity, the Finance (No.2) Act, 2009 also provided for the taxation of LLP on the same footing as of a general partnership.

Sections 56 and 57 of the LLP Act allow conversion of a private / unlisted public company into an LLP. Such conversion was not tax neutral as transfer of assets on conversion attracted capital gains tax. Further, the benefits of carry forward of losses and unabsorbed depreciation were also not available to the successor LLP.

The Finance Bill 2010 proposes to make conversion of a company into LLP tax neutral by providing that the transfer of assets on conversion of a company into an LLP shall not be regarded as a transfer for the purposes of capital gains tax if certain conditions are fulfilled and cost of acquisition of the capital asset for the successor LLP shall be the cost to the predecessor company. The conditions are:

1. The total sales, turnover or gross receipts in the business of the company do not exceed Rs.60 lacs in any of the three preceding previous years.

2. The shareholders of the company become partners of the LLP in the same proportion as their shareholding in the company

3. No consideration other than share in profit and capital contribution in the LLP is given to partners

4. The erstwhile shareholders of the company continue to be entitled to receive at least 50% of the profits of the LLP for a period of 5 years from the date of conversion

5. All assets and liabilities of the company becomes the assets and liabilities of the LLP

6. No amount is paid either directly or indirectly to any partner out of the accumulated profit of the company for a period of 3 years from the date of conversion.

3.2.2 Carry forward and set off of unabsorbed depreciation and business loss:

The finance bill also proposes to allow carry forward and set-off of business loss and unabsorbed depreciation to the successor LLP fulfilling above conditions. However, credit in respect of Minimum Alternate Tax (MAT) paid by a company under section 115JB of the Income Tax Act will not be allowed to the successor LLP.

The finance bill also proposes that if the conditions prescribed above are not complied with then the benefit availed by the company will be deemed to be profits of the successor LLP liable to tax in the year in which conditions are violated.

The finance bill also proposes that the aggregate depreciation allowable to the Predecessor Company and successor LLP shall not exceed the depreciation calculated as if the conversion had not taken place.

It is further proposed that the actual cost of the block of assets in case of the successor LLP shall be the written down value of the block of assets in the hands of Predecessor Company on the date of conversion.

These amendments are proposed to take effect from 1st April 2011 i.e. assessment year 2011-2012.

3.3 Advance Tax :

The threshold limit for non payment of Advance tax continues to be Rs.10000/-

3.4 Changes in TDS provisions :

3.4.1 Rationalisation of TDS provisions :

The finance bill 2010 proposes to rational and revise upwards the prescribed threshold limits of various items of income from which tax is to be deducted at source. The proposed revision is as under :

Sl. No.	Section	Nature of Payment	Existing threshold limit of payment (Rupees)	Proposed threshold limit of payment (Rupees)
1.	194B	Winnings from lottery or crossword puzzle	5,000	10,000
2.	194BB	Winnings from horse race	2,500	5,000
3.	194C	Payment to contractors	(for a single transaction)	30,000 (for a single transaction)
			50,000 (for aggregate of transactions during financial year)	75,000 (for aggregate of transactions during financial year)
4.	194D	Insurance commission	5,000	20,000

5.	194H	Commission or Brokerage	2,500	5,000
6.	194I	Rent	1,20,000	1,80,000
7.	194J	Fees for professional or technical services	20,000	30,000

These proposed amendments will come as big relief to both the deductors and the deductees. This will reduce the procedural burden for the tax deductors and hassles of maintaining TDS certificates for the deductees.

These amendments will come into effect from 1st July 2010.

3.4.2 Interest on non deduction / non payment of TDS :

It is also proposed to amend the provisions of section 201A for charging of simple interest on tax not deducted at source or deducted but not paid on or before respective due date.

It is proposed to charge simple interest in two parts viz.

i) @ one percent per month or part thereof for delay in deduction of tax at source and

ii) @ one and half percent per month or part thereof for delay in payment of the tax deducted at source.

This amendment in sec.201A will take effect from 1st June 2010.

3.5 Deduction for Export Profits :

The extended sunset clause for deduction of export profits u/s.10A, 10AA and 10B by one more year i.e. upto 31-03-2011 introduced by the finance (no.2) bill, 2009, remains unchanged.

4. Changes in Wealth Tax and Gift Tax Act:

4.1 Wealth Tax Act :

The exemption limit for wealth tax continues to be unchanged at Rs.30 lakhs.

4.2 Gift Tax Act :

The Gift Tax Act, 1958 continues to be non-operative with effect from 1st October 1998.