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INDIA BUDGET – 2012

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Ladderup

Engineering Growth

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This document summarizes the proposals of the Union Budget 2012 and recent key policy announcements

Expert guidance may be sought before acting upon the proposals

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FOREWORD

The Union Budget 2012 was a sincere workman like document which presented a realistic assessment of the current eco-political scenario. Though the Honourable Finance Minster did not spring any surprises, he has really tried to re-establish credentials of sound fiscal management by targeting a fiscal deficit at 5.1% of GDP for FY2012-13 and 4.5% of GDP for the next 2 years thereafter. It obviously needs to be seen whether he can achieve the deficit target given the challenging high oil prices and subsidy costs. The FM has aimed to attain this target by increasing indirect taxes, both excise and service tax and capping the subsidies at 2% of the GDP for the ensuing FY 2012-13. He has focused on optimization of subsidies by leveraging the UID initiative. In the current budget also he has made significant allocation to the UID Program. Proposed amendments to the FRBM Act will also make fiscal consolidation mandatory.

In the middle of his budget speech the FM said "I must be cruel to be kind", quoting Shakespeare's Hamlet. The tax proposals mentioned in the Budget aims to increase the gross tax to GDP ratio to 10.6% with increased tax buoyancy from higher indirect tax, widening tax net and accelerated economic reforms acting as key enablers. The one percent TDS on the sale proceeds of immovable property will have far reaching effect in widening the tax base.

While, increase in excise duty and service tax by 2% is in line with our expectations, definitive timelines on GST and DTC implementation was also eagerly awaited. The Honourable Finance Minister did mention August 2012 when GST would be implemented, subject to all states concurrence. However he is still unsure on time lines for DTC implementation.

There were no major changes to direct taxes save the retrospective changes in tax laws relating to Vodafone like transactions, which could have larger repercussions on cross border M&A transactions. The corporate taxes have been left unchanged and there is a marginal increase in tax benefits for individuals.

The Budget has tried to be equity friendly and has introduced pro-capital market measures, including Rajiv Gandhi Equity Saving Scheme to attract new investors to equity markets, streamlining the IPO process and a modest reduction in STT. The FM has proposed to permit two-way fungibility in Indian Depository Receipts and allowing qualified foreign investors to invest in specified Indian Mutual Funds, Indian Corporate Bonds and directly in equities.

He has also proposed a corpus of ₹ 15,888 crores for bank capitalisation and further proposed a financial holding company to raise resources to meet capital requirements of PSU banks. This is seen as positive for the banking industry, especially SBI, which has been demanding this for long.

The Budget also paves way for steady course by continuing to focus on reinforcing infrastructure. The FM has reiterated the Government's commitment and increased the investment in Infrastructure in the 12th Five Year Plan to ₹ 50 Lakh crores. He has increased the Tax free bonds issuance limit to ₹ 60,000 crores which is a 100% jump from the previous year limits. Further, additional sectors have been included for Viability Gap Funding under "Support to PPP in Infrastructure" Scheme. Reduction of withholding tax from 20% to 5% on interest payable on ECB for infrastructure sector is a welcome change.

The Economic Survey states that in the short term you need to improve sentiment (Well Sachin did his bit, by improving national sentiment on the day of the budget)…. but that alone will not get us to 8% GDP growth. The FM pegged the FY2012-13 GDP growth at 7.6% (+/– or minus 0.25%) with the GDP seen moderating to 6.9% in FY2011-12. It is only economic reforms and industry friendly policies that are going to help in the long run.

To summarize, though the Union Budget has fallen short of any big ticket reforms, it is broadly seen as credible as the key assumptions on growth and projections on tax revenue appear realistic. The thrust of the Budget has been to induce growth. However, the FM kept one check box unmarked - "inflation". A 2% increase in service tax and with services accounting for 59% of the GDP might lead to inflationary pressures.

Overall the Budget had little surprises and was on expected lines, being grounded in reality of a moderating Indian economy. However, the Budget clearly was not a game changer that could have heralded the revival of the faltering investment cycle and transformed the economic growth trajectory.

If the Budget assumptions are validated with the revenue and expenditure on targets, fiscal policy should be on path of consolidation while also helping to revive growth.

On balance it was a workmanlike budget high on pragmatism, perseverance, persistence and patience - the qualities that helped Sachin attain his landmark 100th century.

We do hope that our readers find this booklet insightful and we would surely welcome your feedback.

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BUDGET HIGHLIGHTS

GENERAL

- GDP growth for the FY2012-13 targeted at 7.6%, +/- 0.25%
- Economy has recorded a GDP growth of 6.9% in FY2011-12
- Exports and Imports for the economy has grown by 23% and 29% respectively
- Actual fiscal deficit for the FY2011-12 has been at 5.9%
- Whitepaper on black money will be placed in the Parliament in the current session
- Tax free bonds of ₹ 60,000 crores to be issued for financing infrastructure projects in FY2012-13
- External Commercial Borrowings (ECB) to be allowed to part finance rupee debt of existing power projects
- Allocation to the ministry of Road Transport and Highways enhanced by 14%, to ₹ 25,360 crores.
- ₹ 30,000 crores to be raised through disinvestment of Public Sector Units
- ₹ 10,000 crores allocated for National Skill Development Corporation for the FY2012-13
- ₹ 20,822 crores earmarked to National Health Mission for the FY2012-13 as against ₹ 18,115 crores in FY2011-12
- Allocation of ₹ 15,850 crores for Integrated Child Development Scheme for the FY2012-13 as against ₹ 10,000 crores in FY2011-12
- ₹ 5,000 crores venture fund for MSME Sector through SIDBI to be setup
- Allocation of ₹ 14,000 crores for rural drinking water and sanitation for the FY2012-13 as against ₹ 11,000 crores in FY2011-12
- Allocation of ₹ 15,888 crores for capitalisation of Public Sector & Rural Regional Banks and NABARD
- 8,800 km. of highways to be developed under National Highway Project for the FY2012-13
- Allocation for Defence increased to ₹ 1,93,407 crores for the FY2012-13 as against ₹ 1,64,415 crores in FY2011-12

- Allocation of ₹ 20,000 crores for Rural infrastructure Development, which includes ₹ 5,000 crores for creating warehousing facilities
- Additional 3% interest subvention to the farmers who make timely repayment of loans
- Allocation of ₹ 3,915 crores for National Rural Livelyhood Mission for the FY2012 -13
- Agricultural credit target raised by ₹ 1,00,000 crores to ₹ 5,75,000 crores in FY2012-13
- Initial Public Offers above ₹ 10 crores will now mandatorily required to be made through electronic form
- Efforts to arrive at broad based consensus with State Governments on allowing FDI in multi-brand retail upto 51%
- Bills on Micro Finance Institutions, National Land Bank and Public Debt Management to be introduced in FY2012-13
- ECB to be permitted in low cost housing sectors and upto US$1 bn is permitted for Airline sector

DIRECT TAX

- Basic exemption limit raised to ₹ 2 lakhs from ₹ 1.8 lakhs
- Income tax rate on income between ₹ 5 lakhs to ₹ 10 lakhs is 20%
- Interest on saving bank account upto ₹ 10,000 will be allowed as deduction
- Deduction upto ₹ 5000 will be allowed for preventive health check-up within the limit of sec. 80D
- Vodafone effect–Gain on selling of shares of company incorporated outside India deriving its value substantially from the assets located in India, be taxed in India
- Turnover limit for tax audit & presumptive taxation raised from ₹ 60 lakhs to ₹ 100 lakhs for business and from ₹ 15 lakhs to ₹ 25 lakhs for profession
- STT on cash delivery segment reduced to 0.10% from 0.125%
- Rajiv Gandhi Equity Saving Scheme to be introduced to allow 50% deduction on investment upto ₹ 50,000 to retail investors having annual income below ₹ 10 lakhs
- Weighted deduction at the rate of 200% for approved in-house R&D expenditure to be continued for 5 more years

- Deduction u/s. 35AD extended to 3 more notified businesses
- Cascading effect of DDT removed in case of multi layer corporate structure
- Relief from Long term capital gain tax on transfer of residential property if invested in manufacturing small or medium enterprise company
- Share premium in excess of FMV to be treated as income
- Scope of alternate minimum tax to be extended on all persons (other than company) with income over ₹ 20 lakhs
- 1% tax deduction at source on transfer of specified value of immovable properties
- New fees and penalty mechanism for default in TDS procedures
- 1% TCS to be levied on cash sale of bullion and jewellery exceeding ₹ 2 lakhs and certain minerals
- Stringent General Anti Avoidance Rules introduced
- Advance Pricing Mechanism introduced in case of Transfer Pricing
- Taxation of unexplained money, credits, investments, expenditures etc., at the highest rate of 30% irrespective of the slab of income.
- Penalty on undisclosed income found during search increased
- Direct Tax Code (DTC) implementation delayed
- Provisions of Transfer Pricing extended to related parties transactions over ₹ 5 crores between resident assesseses.

EXCISE

- General excise rate to be increased from 10% to 12%
- Excise imposed on unbranded jewellery also; measures to minimize impact on small artisans and goldsmiths; branded silver jewellery exempted from excise duty
- Study team to examine possibility of common tax code for Excise and Service tax
- Relief in indirect taxes to sectors under stress; agriculture, infrastructure, mining, railways, roads, civil aviation, manufacturing, health and nutrition, and environment get duty relief
- Excise duty on all processed food brought down to merit rate of 6%

- Installation of solar plants exempted from CVD
- Cars to attract ad valorem rate of 27%

CUSTOMS

- No change in peak customs duty rates
- Baggage allowance for people of Indian origin increased from ₹ 25,000 to ₹ 35,000
- 5% customs duty exempted on equipment for fertilizer plants
- Automated shuttle looms exempted from customs duty
- Customs duty on standard gold bar and coins exceeding 99.5% purity, platinum and non-standard gold raised
- Customs duty reduced from 7.5% to 2.5% for iron ore equipments
- Customs duty cut on rail equipments to 7.5% from 10%
- Full exemption from basic customs duty for equipments for road and highway construction
- Increased customs duty on gold and platinum to 4% from 2%
- LCD and LED panels exempted from custom duty
- Mobile phone parts exempted from basic customs duty
- Thermal power companies exempted from customs duty for 2 years
- Full exemption from basic customs duty on natural gas, LNG, uranium for generation of electricity for 2 years

SERVICE TAX

- Rate of service tax hiked from 10% to 12%
- Taxation of services based on negative list concept introduced (17 services exempt)
- Abatement rates of certain taxable services varied
- Provision relating to settlement commission & special audit brought under service tax
- Rules pertaining to point of taxation rationalized Existing Export of Services Rules, 2005 and Taxation of Services (provided from outside India and received in India) Rules, 2006 replaced
- Significant amendments in both service tax rules and valuation rules.

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ECONOMIC OUTLOOK

Economic Survey 2011-12

In FY2011-12, managing the pace of growth along with price stability were the major challenges for macroeconomic policymaking.

Growth of 9% (± 0.25%) was anticipated for FY2011-12 in Economic Survey of 2010-11. The optimism was driven in part by the fact that the economy had achieved a growth rate of 8.4% in FY2010-11. However, current estimate as per survey FY2011-12 reveals that Indian economy is expected to grow at 6.9% in FY2011-12.

GDP Growth Rate (Factor Cost of 2004-05 Prices) (in%)		
Sector	**2010-11Qck Est**	**2011-12Adv Est**
Agriculture	7.0	2.5
Manufacturing	5.0	-2.2
Services	9.3	9.4
Overall GDP	**8.4**	**6.9**

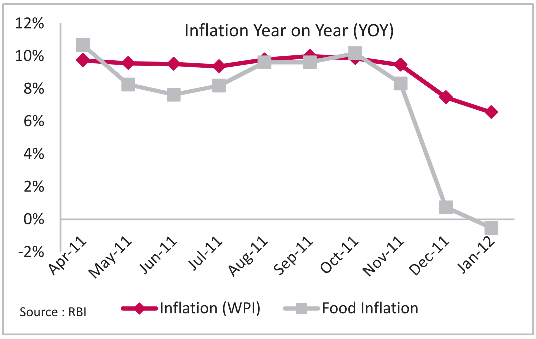
Primary reason for dip in GDP in FY2011-12 has been slowdown in Manufacturing and Agriculture Sectors though the Service Sector growth is estimated at 9.4% in FY2011-12 as compared to 9.3% in FY2010-11.

Reflecting the weak manufacturing activity and rising costs, revenues of the Centre have remained less than anticipated; and with higher than budgeted expenditure outgo, a slippage is expected on the fiscal side.

The global economic environment, which has been weak throughout the year, turned sharply unfavourable in Sept-2011 owing to the turmoil in Eurozone and questions about the outlook on US economy provoked by rating agencies. However, for Indian economy, the outlook for growth and price stability at this juncture looks more promising. There are visible signs that the weakness in economic activity has bottomed out and a gradual upswing is imminent. Though Inflationis still a concern and needs to be monitored closely.

Prices and Monetary Management

The FY2011-12 started with a headline inflation of 9.7% which touched 10% in Sept-2011 before declining to 6.6% in Jan-2012. Consumer Price Index (CPI) inflation for the major indices declined to below 7% in Dec-2011.



The RBI hiked repo rate 13 times during Mar-2010 and Jan-2012, cumulatively by 375 basis points. The sustained rate increases have, to an extent, impacted growth negatively. However, the period from Dec-2011 to Mar-2012 marked a reversal of the cycle with RBI keeping the repo and reverse repo rates unchanged at 8.5% and 7.5% respectively in the Third Quarter Review of Monetary Policy. The Cash Reserve Ratio (CRR), however, has been reduced initially from 6% to 5.5% and later to 4.5% in order to ease liquidity situation and aid revival of growth.

Fiscal Developments

Following 2 years of purposeful fiscal expansion, the Budget for FY2010-11 resumed fiscal consolidation with a partial rollback of stimulus. The outcome was substantial, with fiscal deficit declining to 4.8% of GDP in FY2010-11 from 6.5% in FY2009-10.

Balance of Payments

The highlight of BoP developments during FY2011-12 was merchandise exports of US$ 150.9 bn in first half of year, which represented an increase of around 40% over the corresponding period in FY2010-11.

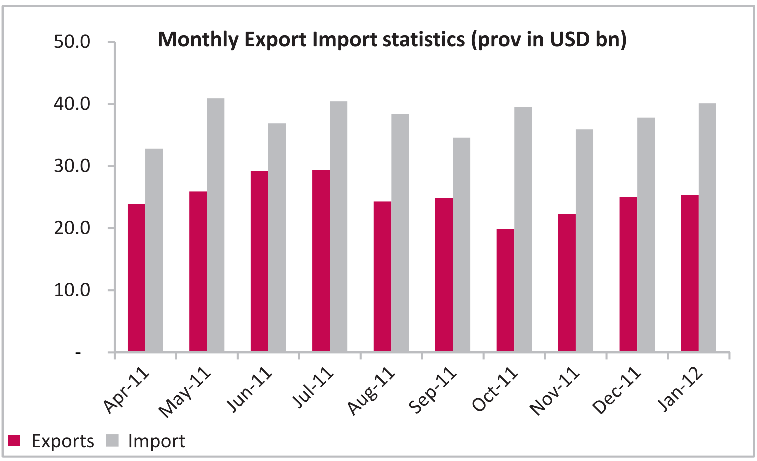
Imports of US$ 236.7 bn during Apr-Sept 2011 recorded an increase of 34.3% as compared to corresponding period in FY2010-11.

The trade deficit was higher at US$ 85.8 bn (9.4% of GDP) during the first half of FY2011-12 vis-à-vis US$ 68.9 bn (8.9% of GDP) in the first half of FY2010-11. Increase is mainly on account of increase in international prices of commodities imported, viz crude oil, gold and silver.

The rupee depreciated by 12.4% from ₹ 44.97 per US$ in Mar-2011 to ₹ 51.34 per US$ in Jan-2012. It reached a peak of ₹ 43.94 on 27-Jul-2011 and touched low of ₹ 54.23 per US$ on 15-Dec-2011.

India's external debt stock stood at US$326.6 bn at the end of Sept-2011, recording an increase of US$20.2 bn or 6.6% over estimates of US$306.4 bn as on 31-Mar-2011. This increase was primarily due to higher commercial borrowings and short-term debt, which together contributed over 80% of total increase in India's external debt.

The long-term external debt was at US$255.1 bn at the end of Sept-2011, accounted for 78.1% of total external debt, while remaining 21.9% was short-term debt. Government (sovereign) external debt stood at US$79.3 bn, while Non-Government debt amounted to US$247.3 bn at the end of Sept-2011. India's external debt has remained within manageable limits as indicated by the external debt to GDP ratio of 17.8% and debt service ratio of 4.2% in FY2010-11.



Trade Deficit

Trade deficit (on customs basis) increased by 8.2% to US$118.6 bn in FY2010-11 from US$109.6 bn in FY2009-10. However, trade deficit for FY2011-12 (Apr-Jan) at US$148.7 bn was 40.4% higher than trade deficit of the corresponding period of FY2010-11.

Industrial Sector

The Industrial growth, measured in terms of the Index of Industrial Production (IIP), shows fluctuating trends. Fragile economic recovery in the US and Europe and moderately subdued expectations at home affected the growth of industrial sector in current year. Overall growth during Apr-Dec 2011 downed to 3.6% compared to 8.3% in the corresponding period of previous year. It is expected that this decline will gradually get reversed, starting in FY2012-13.

There was a contraction in production in mining sector, particularly coal and natural gas. Contraction in output also resulted in growth turning negative. Growth moderated in the manufacturing sector, from 9% in Apr-Dec 2010 to 3.9% during the same period in 2011, which, given its large share in the IIP, led to a slowdown in the industry sector as a whole.

Infrastructure, Communication and Energy

Production in eight core industries grew by 0.5% in Jan-2012 as compared to 6.4% in Jan-2011. Cumulative growth during period of Apr-Jan of FY2011-12 has been 4.1% as compared to 5.7% during the corresponding period of the previous year. While four sectors, namely coal, fertilizer, cement and power; showed positive growth during Jan-2012, whereas the other four sectors i.e. oil, natural gas, refinery products and steel registered negative growth. Growth in power generation during Apr-Jan of FY2011-12 was 8.6% as compared to 5.2% during the corresponding period of the previous year.

Service Sector

The share of services in India's GDP at factor cost (at current prices) increased from 33.5% in FY1950-51 to 55.1% in FY2010-11 and 56.3% in FY2011-12 as per Advance Estimates. Trade, hotels and restaurants as a group, with 16.9% share, is the largest contributor to GDP among various services sub-sectors, followed by financing, insurance, real estate, and business services with 16.4% share.

Agriculture

Agriculture including allied activities accounted for 13.9% of GDP at 2004-05 prices in FY2011-12 as compared to 14.5% in FY2010-11.

The average annual growth in agriculture and allied sectors realized during the Eleventh Plan Period was 3.3% against the targeted growth rate of 4%. The sector recorded slightly lowergrowth than targeted in the Eleventh Plan period due to severe drought experienced in mostparts of the country during 2009-10 and drought/deficient rainfall in some states in FY 2010-11.

Exports and Imports

During the first half of FY2011-12, India's exports witnessed a high growth of 40.6%. However, since Oct-2011 there has been a deceleration as a result of the crisis originating in the periphery and spreading to the core economies in the euro zone. Cumulative exports were at US $242.8 bn, registering a growth of 23.5% during FY2011-12 (Apr - Jan). During Apr - Dec 2011, the export sector that have done well are petroleum and oil products, gems and jewellery, engineering goods, cotton fabrics, made ups, electronics, readymade garments, and drugs. Imports in 2011-12 (Apr-Jan) at US$391.5 bn registered a growth of 29.4%.

Economic Outlook for 2012-13

The Economic Survey speaks of higher GDP growth rates in the coming years (7.6% in FY2012-13 and 8.6% in FY2013-14) and also talks of foreign trade emerging as a key determinant of GDP growth. For this to happen, India needs to get its act together on the domestic front and at the same time have to deal with the global economic turmoil.

The Indian economy has been adversely affected and its GDP growth is expected to decline to 6.9% during FY2011-12, and the pressure is on the nation to improvise policies to revive growth. There is no doubt that a part of India's slowdown is rooted in some extent to domestic causes. The persistent inflation that remained over 9% for during most part of year is one of the significant contributor. But to think of it, food inflation had been a major contributor to the overall inflation. Structural bottlenecks in terms of lack of warehousing & cold storage facilities, inadequate connectivity to markets, colossal wastage of food grains among others, kept fuelling food inflation. Monetary actions have their limitations in terms of addressing these structural problems.

With the easing of inflationary pressures in the months to come, and also the indication from RBI that the monetary tightening phase is now over, we would see increasing investment activity that could have a positive impact on growth. The major investment is expected in the infrastructure sector which will address the infrastructure bottlenecks. These factors, along with the fact that India's investment rate is 35.1%, should result in consolidationof growth in FY2012-13 and picking up rapidly thereafter.

DIRECT TAX PROPOSALS

(Unless specified, proposals shall take effect from A.Y.2013-14)

■ Thresh-hold Limit / Rates of Tax

a. Individual, HUF, Association of Persons or Body of Individuals:

- Basic exemption for individuals (male / female) increased to ₹ 2 Lakhs
- Upper limit of tax slab of 20% increased from ₹ 8 Lakhs to ₹ 10 Lakhs
- No changes proposed in education cess (2%) and secondary & higher secondary education cess (1%)
- The effective tax rate shall be as under subject to Alternative Minimum Tax (AMT):

Taxable Income Slab (₹)	Tax Rates		
	General	Senior Citizen	Very Senior Citizens
Up to 2,00,000	NIL	NIL	NIL
2,00,001 to 2,50,000	10.30%	NIL	NIL
2,50,001 to 5,00,000	10.30%	10.30%	NIL
5,00,001 to 10,00,000	20.60%	20.60%	20.60%
10,00,001 and above	30.90%	30.90%	30.90%

b. Firm/LLP/ Corporates

- No change proposed in tax rates.
- No changes proposed in education cess (2%) and secondary & higher secondary education cess (1%)
- Effective tax rate shall continue to be same subject to AMT or MAT.

c. Alternative Minimum Tax (AMT)

It is proposed to bring every person other than Company (already under MAT) within purview of AMT chargeable @18.50% on adjusted total income which is income before claiming deductions under Chapter VIA relating to income and section 10AA deduction. AMT is not applicable in case of an individual or a HUF or an AOP or BOI or an artificial judicial person whose adjusted total income does not exceed ₹ 20 Lakhs.

d. Dividend Distribution Tax (DDT)

It is proposed to remove the cascading effect of DDT u/s 115-O in multi-tier corporate structure by allowing adjustment of dividend paid by holding company against dividend received from subsidiary company in the same year if such subsidiary has discharged the liability to pay DDT. (w.e.f. 01-Jul-2012)

■ Business Income

a. Benefit of additional depreciation

It is proposed to widen the scope of Section 32(1)(iia) for benefit of additional depreciation @ 20% of actual cost of new machinery or plant (other than ships and aircraft) to the assessees engaged in business of generation or generation and distribution of power.

b. Extension of weighted deduction u/s 35(2AB)

It is proposed to extend benefit of weighted deduction for scientific research and development u/s 35(2AB) @ 200% for a further period of five years i.e. up to 31-Mar-2017.

c. Weighted deduction of expenditure

It is proposed to allow weighted deduction of 150% of expenditure incurred on notified agricultural extension projects and notified skill development projects in manufacturing sector.

d. Deduction of capital expenditure

- It is proposed to include certain new businesses within the ambit of deduction u/s 35AD for 100% deduction of capital expenditure (other than land, goodwill and financial instruments), subject to certain conditions.
- It is also proposed to increase the deduction of certain specified businesses from 100% to 150%:

e. Provisions in relation to Audit of Accounts

It is proposed to increase the threshold limit of total sales, turnover or gross receipts, specified u/s 44AB and 44AD, from ₹ 60 Lakhs to ₹ 1 crore in case of business and from ₹ 15 Lakhs to ₹ 25 Lakhs in the case of profession.

f. Transfer Pricing to Domestic Transactions

It is proposed to expand the ambit of transfer pricing regulations to domestic transactions between resident related parties exceeding ₹ 5 crores aggregate in a year.

Measures for Unaccounted Money

a. Cash Credit u/s 68

It is proposed to put the onus to prove source on the assessee being a closely held company, for amount received by way of share application money, share capital and share premium from residents. It is also proposed to exclude shareholders like Venture Capital Fund or Venture Capital Company etc. from the ambit of this amendment.

b. Unexplained Incomes/Investments/Expenditure

Section 115BBE is proposed to tax, any addition made in respect of unexplained income / investments / expenditure u/s 68, 69, 69A, 69B, 69C and 69D respectively at flat rate of 30% ignoring the tax slab rates applicable to the assessee. It is also proposed that deduction of expenses shall not be allowed against this income.

c. Share Premium in excess of fair market value

It is proposed that in case of a closely held company, consideration received for allotment of shares over and above the fair market value of shares shall be treated as income under the head "Income from Other Sources" u/s 56(2)(viib) subject to certain prescribed conditions.

d. General Anti Avoidance Rules

It is proposed to provide General Anti Avoidance Rules by way of introduction of Chapter X-A in the Act to deal with aggressive tax planning. The conditions prescribed are very stringent and any tax planning mechanism shall have to pass these rigorous tests.

e. TDS on transfer of certain immovable properties

It is proposed that every transferee shall withhold tax at source @1% on consideration for transfer of immovable properties other than agricultural land, if the consideration exceeds ₹ 50 lakhs for property situated in a specified urban agglomeration and ₹ 20 lakhs for property situated in any other area. Provisions for replacement of market value adopted by stamp value authorities are also provided. (w.e.f. 01-Oct-2012)

f. TCS on cash sale of bullion and jewellery

It is proposed to provide that seller of bullion and jewellery shall collect tax @ 1% of sale consideration from every buyer on cash sale of bullion and jewellery exceeding ₹ 2 Lakhs. (w.e.f. 01-Jul-2012)

g. TCS on sale of certain minerals

It is proposed that tax @ 1% shall be collected on sale of Coal, Lignite and Iron Ore if the same is not for personal consumption or use or for the purpose of manufacturing, processing or producing articles or things. (w.e.f. 01-Jul-2012)

h. Reopening of cases u/s 148

It is proposed to amend the provisions so as to increase the time limit for issue of notice for reopening an assessment up to 16 years, where the income is in relation to any asset located outside India. Amendments are also proposed to be made to provide that income shall be deemed to have escaped assessment where a person is found to have any asset located outside India. Similar amendments have also been made in Wealth Tax. (w.e.f. 01-Jul-2012)

i. Penalty and prosecution on undisclosed income

- Stringent penalty provisions proposed for undisclosed income unearthed during search by providing for;
  - (a) penalty @ 10% of undisclosed income, if undisclosed income is admitted and offered to tax during the course of search,
  - (b) penalty @ 20% of undisclosed income, if not admitted but disclosed in the return of income filed after the search,
  - (c) penalty @ 30% to 90% of undisclosed income, in any other case.
- Similarly, provisions regarding prosecution proceedings are also proposed to be made stringent by way of introduction of new sections viz. 280A, 280B, 280C and 280D. (w.e.f. 01-Jul-2012)

International Taxation / Taxation of Non Resident

a. Taxation of sale of Offshore Assets

- In the recent past, the Apex Court of India has held that the scope of source rule should not be extended to sale of assets located outside India having an indirect interest in asset located in India. Budget 2012 appears to overturn the said decision of the Apex Court and proposes to tax all such transactions where underlying assets are in India and having nexus with such underlying assets. Numerous amendments have been proposed with retrospective effect to ensure taxability of such transactions in India.
- Necessary amendments have also been proposed to provide that Non-Residents are required to withhold taxes on payment made

to another Non-Resident, if the same is taxable in India. (w.r.e.f. 01-Apr-1962)

b. Widening scope of Royalty payments

Presently, taxation of payment for use of, or right to use computer software has been a subject matter of litigation in India. Budget 2012 proposes to clarify the intent of legislation & proposed various clarificatory amendments with retrospective effect to tax the payments made for royalty for use of computer software, for transmission by satellite, cable, optic fibre or by any other similar technology regardless of whether such process is secret or not. (w.r.e.f. 01-Jun-1976)

c. Denying benefit of DTAA

Indian Government has entered into DTAAs with other countries for granting relief from double taxation/exchange of information/ recovery of taxes. Certain terms used in DTAA are not defined either in DTAA or tax laws. Now, Budget 2012 proposes to empower the government to issue notification assigning meaning to such terms.

d. Restriction on claim of DTAA benefit

It is proposed to deny the benefit of provisions of DTAA, if the arrangement or agreement or transaction is subject to the provisions of GAAR.

e. Tax Residence Certificate for claiming tax relief

It is proposed that resident of a foreign country is required to obtain a certificate of residency in order to claim DTAA benefit. (w.e.f. AY 2013-14)

f. Mandatory filling of return by resident having assets outside India

It is proposed for every resident tax payer having any assets including any financial interest in any entity, located outside India or signatory to any bank account located outside India to mandatorily furnish the return of income.

g. Issue of Notice to Agent of a Non-Resident

It is proposed to extend the time limit for issue of notice to an agent of a Non-Resident, to 6 years from existing 2 years. (w.e.f. 01-Jul-2012)

h. Advance pricing agreement

It is proposed to provide a mechanism to determine the Transfer Price for controlled transactions in advance through Advance Pricing Agreement.

i. Definition of term 'International Transactions'

The scope of definition of international transaction is proposed to be expanded by inclusion of 5 more categories of transactions.

j. Determination of ALP

It is proposed to reduce tolerance range for determination of ALP from existing 5%. Now the Central Government is empowered to determine the same at rates not exceeding 3% (w.e.f. 01-Apr-2012)

k. Power of Transfer Pricing Officer (TPO)

It is proposed to empower TPO to determine ALP of an International Transaction noticed by him during the assessment proceedings even not referred by AO and / or not reported by tax payer. (w.r.e.f. 01-Jun-2002)

l. Penal Provisions

The scope of penalty u/s 271AA has been widened to include the default on account of failure to report an international transaction and furnishing of incorrect information or documents. The above penal provisions would also apply to specific domestic transactions. (w.r.e.f. 01-Apr-2012)

m. Income Escaping Assessment

It is proposed that non filing of report or otherwise by not including any international transaction in such report would be considered a case of deemed escapement of Income and such case can be reopened u/s 147. (w.e.f. 01-Apr-2012)

n. Appeal against the Direction of Dispute Resolution Panel (DRP)

It is proposed to provide the right to the tax officer to file an appeal before ITAT against direction of DRP. (w.e.f. 01-Jul-2012)

o. Interest received by Non Resident u/s 115A

It is proposed that any interest earned by a non-resident from specified Indian companies in respect of lending made in foreign currency between 01-Jul-2012 to 01-Jul-2015 shall be taxable at reduced rate of 5% instead of 20%. Similar amendments have been made for withholding tax provisions in this respect.

p. Due Date of furnishing audit report in case of international transaction

The time limit prescribed for furnishing tax audit report by corporate assessees subject to transfer pricing audit is proposed to be made in line with due date for furnishing return of income u/s 139 i.e. 30-Nov-2012 (w.r.e.f. AY 2012-13)

Tax Incentives and Reliefs

a. Dividend from Foreign Company

It is proposed to extend the benefit of lower rate of tax @ 15% u/s 115BBD in respect of dividend received by an Indian Company from a specified Foreign Company for one more year i.e. upto AY 2013-14.

b. Capital gain on sale of agricultural land by HUF

Benefit u/s 54B in respect of capital gains arising from transfer of agricultural land reinvested in any other agricultural land is proposed to be extended to HUF assessee also.

c. Relief from LTCG on transfer of residential property (Section 54GB)

It is proposed that long term capital gain arising from sale of residential property or plot of land to an individual or HUF will not be taxed if the entire sale consideration is re-invested in equity of a new start-up Small and Medium Enterprise Company in manufacturing sector provided the company utilises the money for purchase of new plant and machinery subject to certain further conditions. The relief is available for transfer of such property on or before 31-Mar-2017.

d. Expenditure on preventive health check-up

It is proposed to provide for deduction of expenditure on preventive health check-up upto ₹ 5,000/- within the overall ceiling of deduction u/s 80D.

e. Deduction of interest on saving a/c (Sec 80TTA)

It is proposed to allow deduction up to ₹ 10,000/- to individual and HUF, in respect of any income by way of interest on saving account with bank, post office and co-operative society.

Rationalization of TDS and TCS Provisions

a. Provisions for non-payment of TDS / TCS

It is proposed that if payee has filed its return of Income after payment of due taxes, the payer shall not be treated as "assessee in default" in respect of tax not deducted subject to certain conditions. Similar amendments are made in provisions relating to TCS. (w.e.f. 01-Jul-2012)

Further it has been proposed that in such a case, disallowance u/s 40(a)(ia) shall not be attracted.

b. Penalty for defaults in TDS returns

Stringent penalty provisions have been proposed by separating late filing fees from penalty which is prescribed at ₹ 200 per day. It is also proposed that penalty ranging from ₹ 10,000 to ₹ 1,00,000 may not be levied subject to certain conditions including suo-moto payment of late filing fees. (w.e.f. 01-Jul-2012)

c. TDS on Remuneration to a Director

It is proposed that remuneration paid to a director which is not in the nature of salary shall be liable to TDS u/s 194J. (w.e.f. 01-Jul-2012)

Other Proposals:

a. Extension of time limit for completion of assessments and reassessments

The time limit for completion of assessments and reassessments u/s. 153 and 153B are proposed to be extended by three months. (w.e.f. 01-Jul-2012)

b. Presumptive taxation not applicable to certain professions (w.r.e.f. AY 2011-12)

It is proposed to exclude following from the ambit of presumptive taxation u/s 44AD;

1. Person carrying on legal, medical, engineering or architectural or profession of accountancy or technical consultancy or any other profession as notified;
2. Persons earning income in the nature of commission or brokerage income;
3. Person carrying on any agency business.

c. Fair Market Value to be full value of consideration in certain cases (sec 50D)

It is proposed that where the computation machinery fails due to indetermination of sales consideration, the fair market value of the asset shall be taken to be the full market value of consideration.

d. Prohibition of cash donations

It is proposed that deduction u/s 80G and 80GGA in respect of donation exceeding ₹ 10,000/- shall be allowed only if such sum is paid by any mode other than cash.

e. Conditions for exempt life insurance policies & deduction under Chapter VIA

It has been proposed to reduce the threshold limit for premium payable from 20% to 10% of the actual sum assured for life insurance policies issued on or after 01-Apr-2012, in order to be eligible for exemption u/s 10(10D).

INDIRECT TAX PROPOSALS

CENTRAL EXCISE

(Note: Changes comes into effect immediately unless otherwise specified)

1. The standard rate of Central Excise duty for non-petroleum products has been enhanced from 10% to 12% ad valorem. The merit rate of excise duty for non petroleum goods has been increased to 6%. The rate of duty of 1% imposed on 130 items in the last budget has been increased to 2%. The exceptions to this increase are:

- Goods of Heading No. 2701, i.e. coal;
- All goods of Chapter 31, other than those clearly not to be used as fertilizers;
- Articles of Jewellery of Heading 7113; and
- Mobile handsets and cellular phones of Heading 8517

a. Cement:

The graded excise duty structure based on RSP slabs applicable to cement manufactured and cleared in packaged form is removed for both mini-cement plants and non-mini cement plants. The excise duty rates on such cement as well as cement cleared other than in packaged form, and cement clinkers is also being revised.

b. Readymade garments, made-up articles and textiles:

The excise duty is increased to 12% on readymade garments & made-up articles bearing a brand name or sold under a brand name. The rate of abatement is increased from 55% to 70%. Hence, the tariff value for purposes of charging duty would be @ 30% of the retail sale price.

c. Precious metals and jewellery:

Excise duty is increased on serially numbered gold bars, other than tola bars, starting from the gold ore or concentrate/gold dore bar stage in the same factory from 1.5% to 3%

Excise duty is increased on serially numbered gold bars, other than tola bars and gold coin of purity not below 99.5% manufactured during the process of copper smelting from 2% to 3%

Full exemption from excise duty is provided for gold coins of purity 99.5% and above and silver coins of purity 99.9% and above.

Excise duty of 1% without CENVAT credit facility is imposed on all articles of jewellery other than silver jewellery. Such duty is to be paid on tariff value which is fixed at 30% of the transaction value as declared in the invoice

Excise duty rate is increased on the DTA [Domestic Tariff Area] clearances of plain gold jewellery manufactured by an EOU (Export Oriented Units) from 5% ad-valorem to 10% ad-valorem.

Full exemption from excise duty is provided for all articles of precious metals not bearing a brand name.

2. Withdrawal of Exemptions/Concessions

a. The concessional Excise duty rate of 2% without CENVAT credit is extended to parts, components and specified accessories viz. Battery chargers, PC Connectivity cables, Memory cards and Hands-free headphones of mobile phones.

b. The rates of Excise duty on Pan Masala and Guthka classified under 2106 90 20 and 2403 99 90 respectively and notified under section 3A is enhanced.

c. The rates of Excise duty on Chewing tobacco classified under tariff item 2403 99 10, unmanufactured tobacco classified under Heading 2401 and Jarda scented tobacco classified under 2403 99 30, notified under section 3A is enhanced.

d. The rate of cess levied on indigenous crude under the Oil Industry (Development) Act, 1974 is enhanced to ₹ 4500 per ton

3. Other Relief Measures/Concessions

Full exemption/concession from Excise duty has been provided in the following cases:

a. Six specified life saving drugs/vaccines and bulk drugs for their manufacture are being fully exempted from Excise duty.

b. Excise Duty is reduced to Nil on specified raw materials viz. stainless steel tube and wire, cobalt chromium tube, Hayness Alloy-25 and polypropylene mesh required for manufacture of coronary stents/ coronary stent system and artificial heart valve on actual user basis.

c. Refills and inks in bulk packs (not meant for retail sale) used for manufacture of pens of value not exceeding ₹ 200 per piece is fully exempted.

d. BED on processed food products of soya is reduced from 10% to 6% ad valorem.

e. BED on Iodine is reduced from 10% to 6%.

f. Excise duty rate on Matches manufactured by semi-mechanized units is reduced from 10% to 6%.

g. Excise duty on replacement batteries for supply to electric vehicle manufacturers who are registered with IREDA or any State Nodal Agency notified for the purpose by the Ministry of New & Renewable Energy for Central Finance Assistance (CFA) is reduced from 10% to 6% till 31st March, 2013.

h. Excise duty on specified parts of hybrid vehicle is reduced from 10% to 6%.

i. Excise duty is reduced to 6% on parts of Blood pressure monitors and Blood glucose monitoring systems (Gluco-meters) on actual user basis.

j. Central Excise duty is been reduced to 6% on LED Lamps. LEDs required for manufacturing of such lamps will also attract excise duty @ 6%

k. Exemption limit available to non-leather footwear is increased to MRP ₹ 500. For footwear exceeding ₹ 500, the applicable duty would be 12%

4. Amendments to First Schedule of Central Excise Tariff Act:

The First Schedule to the Central Excise Tariff is amended to effect following changes:

a. Omitting the words "or polishing" in Note 6 of Chapter 25 so as to remove doubts about the correct classification of polished marble;

b. Revised the description of tariff items 2601 11 10 to 2601 11 90 covering iron ore and concentrates based on FE content;

c. Inserted a note in Chapter 48 to provide that notwithstanding anything contained in Note 12, if the paper and paper products of Heading 4811, 4816 or 4820 are printed with any character, name, logo, motif or format they shall remain classified under Chapter 48 as long as such products are intended to be used for further printing, to avoid classification disputes;

d. Inserted a note in Chapter 71 to provide that for the purposes of Headings 7113 and 7114, the process of affixing or embossing trade name or brand name on articles of jewellery or on articles of goldsmiths or silversmiths wares of precious metal or of metal clad with precious metal, shall amount to "manufacture";

e. Aligned the entries relating to copper scrap, brass scrap, nickel scrap, aluminium scrap, lead scrap and zinc scrap with the revised ISRI classification.

5. Amendments in Central Excise Rules

a. Rule 12AA has been amended to provide that every person who gets articles of jewellery of Heading no. 7113 produced or manufactured on job-work shall obtain registration, maintain accounts, pay duty leviable on such goods and comply with the procedural requirements, as if he is the manufacturer. In other words, those artisans or goldsmiths who only manufacture jewellery for others on job-work need not obtain registration. The option to the job-worker to register, if he so desires, has been deleted.

b. Rule 22 (3) is amended to empower the officers of audit, cost accountants and chartered accountants appointed under section 14A or 14AA to prescribe the time limit within which the units being audited will produce the documents.

6. Amendment in CENVAT Credit Rules:

a. Rule 3(5) and 3(5A) are being amended to prescribe that in case the capital goods on which CENVAT credit has been taken are cleared after being used then the amount payable shall be either the amount calculated on the basis of CENVAT credit taken at the time of receipt reduced by a prescribed percentage or the duty on transaction value whichever is higher.

b. Existing Rule 5 to be replaced with a new rule to simplify the procedure for refund of unutilized credit on the account of exports;

c. Credit of insurance and service station service is allowed to:-

    1. Insurance companies in respect of motor vehicles insured and re-insured by them; and

    2. Manufacturers in respect of motor vehicles manufactured by them.

d. At present, credit on goods can be taken only after they are brought to the premises of the service provider. Rule 4(1) and 4(2) are being amended to allow a service provider to take credit of inputs or capital goods whenever the goods are delivered to him, subject to specified conditions.

e. Rule 7 for input service distributors is amended to provide that credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit and that the credit of service tax attributable to service used in more than one unit shall be distributed prorata on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.

f. Rule 9(1)(e) is amended to allow availment of credit on the tax payment challan in case of payment of service tax by the service receiver on reverse charge basis.

g. CENVAT Credit Rules are being amended to permit transfer of unutilized credit of SAD lying in balance at the end of each quarter to other registered premises of the same manufacturer.

CUSTOMS DUTY

(*Note: Changes comes into effect immediately unless otherwise specified)*

Automobiles:

- The Basic Customs Duty (BCD) on imports of new cars has been raised from 60% to 75%.
- BCD on bicycle in fully built condition as well as in form of CKD/ SKD kits is increased from 10% to 30%.
- BCD on bicycle parts & components is increased from 10% to 20%.

Agro/Food Processing:

- BCD is reduced from 7.5% to 2.5% on specified agriculture machinery viz. sugarcane planter, root or tuber crop harvesting machines and rotary tiller/ weeder.
- BCD on power weeding machine for coffee plantations, coffee grinder, coffee processing machine is reduced from 7.5% to 5%
- Project import status is granted for Green Houses set up for protected cultivation of horticulture and floriculture produce
- BCD is reduced to Nil for initial setting up as well as substantial expansion of all fertilizer projects for a period of 3 years i.e. upto of March-31-2015.

Chemicals & Allied Industries:

- BCD on Iodine is reduced to 2.5%.
- BCD on Titanium dioxide is reduced from 10% to 7.5%
- BCD on Boric Acid is enhanced from 5% to 7.5%
- BCD on all goods falling under Chapter 27011100, 27011200, 270119 (coal) in being increased from 2.5% to 5%
- BCD on specified water soluble and liquid fertilizers is reduced from 7.5% to 5% and from 5% to 2.5% respectively

- BCD on organic / inorganic coating material for manufacture of electrical steel is reduced to 5% on actual user basis
- BCD on nickel ore & concentrate is fully exempted.

Textiles:

- BCD on woolen waste and woolen top is reduced from 10% & 15% to 5%.
- BCD on hydrophilic non–woven, hydrophobic non –woven imported for use in the manufacture of adult diapers is reduced from 10% to 5%.
- Full exemption from BCD exemption is provided to shuttle less looms, parts/components of shuttle less looms by actual users and manufacture of specified silk machinery.

Gems and Jewellery:

- BCD is increased on gold ores and concentrates for use in the manufacture of gold from 1% to 2%
- BCD is increased on gold dore bars having gold content not exceeding 95%, imported for refining and manufacturing serially numbered gold bars in India from 1% to 2%.
- BCD is increased on standard gold bars/ gold coins of purity exceeding 99.5% and platinum from 2% to 4%.
- BCD on non standard gold in increased from 5% to 10%.
- BCD is prescribed @ 2% on cut & polished, coloured gems at par with diamonds.

Metals:

- BCD on flat-rolled products of non-alloy steel whether or not clad, plated or coated is increased from 5% to 7.5%.
- BCD on pipes and tubes for use in manufacture of boilers has been reduced from 10% to 7.5%.

Capital Goods/ Infrastructure:

- BCD is reduced to 2.5% for the capital goods/equipments required for setting up or substantial expansion of iron ore pellet plants & iron ore beneficiation plants.

Health Sector:

- BCD is reduced to 2.5% with 6% CVD and Nil SAD on parts of blood pressure monitors and blood glucose monitoring systems (Gluco-meters) on actual user basis

- Full exemption from BCD, CVD and SAD is provided to specified raw materials viz. stainless steel tube and wire, cobalt chromium tube, Hayness Alloy-25 and polypropylene mesh required for manufacture of coronary stents/ coronary stent system and artificial heart valve on actual user basis

Exemptions withdrawn:

- The customs duty exemption provided for specified raw materials for use in Electronics/IT industry is withdrawn
- The exemption from BCD on poly laminated aluminum tapes and poly laminated steel tapes is withdrawn

Relief Measures:

- Full exemption of BCD is provided on-
  - a) Nickel ore & concentrate
  - b) Steam Coal is fully exempted from BCD along with 1% CVD.
  - c) Full exemption from BCD and additional duty of customs is extended to parts, components and sub-parts required for manufacture of memory cards for mobile phones
  - d) LCD and LED TV panels for 20 inches and above
  - e) Coal Mining Projects
  - f) Dredgers are being fully exempted from Special Additional customs duty

SERVICE TAX

Amendments in Rates - Effective from 01-Apr-2012

1) Rate of service tax restored to the statutory rate of 12% rescinding the notification No. 8/2009-ST

2) Consequent changes have also been made in composition rates as follows:

- For life insurance: 3% for first year premiums while retaining rate @ 1.5% for subsequent years (simultaneously restoring full CENVAT credit);
- Money Changing: raising existing rates proportionately by 20%;
- For works contracts from 4% to 4.8%.

3) The rate for CENVAT reversal for exempt services has been revised likewise from 5% to 6% in Rule 6(3) of CENVAT Credit Rules (CCR), 2004.

4) The dual tax structure for air transportation: partly specific, partly ad-valorem - is replaced with a uniform ad-valorem levy at standard rate with an abatement of 60% on all sectors and all classes.

Draft Guidance Paper: A Taxation of Services based on Negative List

'Service' is defined in clause (44) of the new section 65B and is taxable under section 66B unless specified in the Negative list, comprising 17 heads listed in proposed new section 66D, or otherwise exempted by a notification issued under section 93 of the Act.

Negative List of Services :

1. Services by Government or a Local Authority excluding the following services to the extent they are not covered elsewhere i.e. services by department of posts, services in relation to an aircraft or a vessel, transport of goods or passengers; or support services, other than services covered above, provided to business entities.

2. Services by the Reserve Bank of India.

3. Services by a Foreign Diplomatic Mission located in India.

4. Services relating to agriculture as specified.

5. Trading of goods.

6. Any process amounting to manufacture or production of goods.

7. Selling of space or time slots for advertisements other than advertisements broadcast by radio or television.

8. Service by way of access to a road or a bridge on payment of toll charges.

9. Betting, gambling or lottery.

10. Admission to entertainment events or access to amusement facilities.

11. Transmission or distribution of electricity by an electricity transmission or distribution utility.

12. Services related to education as specified.

13. Services by way of renting of residential dwelling for use as residence.

14. Banking services like extending deposits, loans or advances, inter-se sale or purchase of foreign currency.

15. Service of transportation of passengers as specified.

16. Services by way of transportation of goods as specified

17. Funeral, burial, crematorium or mortuary services including transportation of the deceased.

Declared Services

The following 9 activities have been specified in section 66E as declared services presently been taxed except sr.no. 5 below. This list of services have been treated as declared services with a view to remove any ambiguity for the purpose of uniform application of law all over the country:

1. Renting of immovable property;

2. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of certificate of completion by a competent authority;

3. Temporary transfer or permitting the use or enjoyment of any intellectual property right;

4. Development, design, programming, customization, adaptation, up gradation, enhancement, implementation of information technology software;

5. Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;

6. Transfer of goods by way of hiring, leasing, licensing or any such manner without transfer of right to use such goods;

7. Activities in relation to delivery of goods on hire purchase or any system of payment by installments;

8. Service portion in execution of a works contract;

9. Service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any manner as part of the activity.

Major Proposed Exemption under Mega Notification:

1. Health care services by a clinical establishment, an authorized medical practitioner or para-medics;

2. Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;

3. Services provided to any person other than a business entity by an individual as an advocate or a representation on arbitral tribunals;

4. Services by way of training or coaching in recreational activities relating to arts, culture or sports;

5. Services provided to a recognised sports body;

6. Services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of road, bridge, tunnel, or terminal for road transportation for use by general public;

7. Services by way of erection or construction of original works pertaining to airport, port or railways; single residential unit ,low- cost houses up to a carpet area of 60 sq mt.;

8. Temporary transfer or permitting the use or enjoyment of a copyright covered under section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;

9. Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a room below one thousand rupees per day or equivalent;

10. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and which has a licence to serve alcoholic beverages;

11. Services provided by a goods transport agency by way of transportation of agricultural produce or goods where gross amount charged on a consignment transported in a single goods carriage does not exceed ₹ 1500 or single consignee in the goods carriage does not exceed ₹ 750;

12. Services by way of giving on hire:-

    a. to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers;

    b. to a goods transport agency, a means of transportation of goods;

13. Transport of passengers, with or without accompanied belongings, as specified;

14. Services by way of motor vehicle parking to general public excluding leasing of space to an entity for providing such parking facility;

15. Services provided by an incubatee (as defined) subject to the fulfillment of specified conditions in the notification.

16. Service by an unincorporated body or an entity registered as a society to own members by way of reimbursement of charges or share of contribution:–

    a. as a trade union;

    b. for the provision of exempt services by the entity to third persons; or

    c. up to an amount of ₹ 5,000 per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;

17. Services by a sub-broker or an authorized person , mutual fund agent, asset management company, distributor of lottery tickets, sim cards or business facilitator in the capacity agent of the principal;

18. Carrying out an intermediate production process as job work in agriculture, printing or textile processing; cut and polished diamonds and gemstones; any goods on which appropriate duty is payable by the principal manufacturer;

19. Services received from a service provider located in a non-taxable territory by the Government, a local authority or an individual in relation to any purpose other than industry, business or commerce; or an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) for the purposes of providing charitable activities.

Amendment to Act / Rules / Notifications:

1. Since the Export Rules will cease to apply, the required provisions will be incorporated in Service Tax Rules. A transaction will qualify as export when it meets following requirements:

    a. The service provider is located in taxable territory;

    b. Service recipient is located outside India;

c. Service provided is a service other than in the negative list.

d. The place of provision of the service is outside India; and

e. The payment is received in convertible foreign exchange

2. Under Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 the value for works contract shall be ascertained as total contract value reduced by

   a. value of property transferred in goods for State VAT purpose

   b. the actual value of goods so deduced

   c. if actual value cannot be deduced the value shall be at specified percentage of the total value

3. New simplified one page common return form for Central Excise and Service Tax to be called Excise & Service Tax Return (EST for short), is introduced. It is also being proposed that the cycles for the payment of service tax and filing of return should coincide. To this end the tax payment requirement is proposed to be revised as follows:

   a. Assessees who paid tax of ₹ 25 lakhs or more in previous year and new assessees other than individuals and firms: Monthly

   b. Others: Quarterly

   This will improve cash flow for small businesses registered as companies or other corporate bodies while making large non-corporates pay tax on monthly business.

4. The restrictions in Rule 6(4B) are being omitted allowing unlimited amount of permissible adjustments.

5. As a measure of added facilitation, an option has been provided to determine the point of taxation in respect of small advances up to ₹ 1000, in excess of the amount indicated in the invoice, on the basis of invoice or completion of service rather than payment. Such provision is expected to address the accounting problems faced by service providers in telecommunications, credit card businesses who regularly receive minor excess payments from their customers

6. The small scale exemption has also been amended recognizing that the first clearances up to ₹ 10 lakhs will be in terms of invoices and not mere payments received

Changes in the Reverse Charge Mechanism

(Applicable on enactment)

1. In case the service provider is located in the state of J&K but the service is provided in taxable territory, in terms of the stated rules, the tax will be collected from the service receiver.

2. A new reverse charge mechanism has been introduced in which both service provider and service receiver will be considered as persons liable to pay the tax on notified taxable services and to the extent specified against each one of them. The scheme is introduced for three services where the service provider is either an individual or a firm or a LLP and the recipient is a body corporate. The three services and the portion of tax payable are as follows:

Sl. No.	Description of service	Service recipient	Service provider
1.	Hiring of a motor vehicle designed to carry passengers:		
	(a) with abatement	100%	NIL
	(b) without abatement	40%	60%
2.	Supply of manpower for any purpose	75%	25%
3.	Works contract service	50%	50%

Service provider is allowed CENVAT credit of tax paid by him on inputs and input services.

Abatements

Certain changes are proposed to be introduced in abatements along with negative list.

Changes in Penalties and Interest Rates

(Effective from the date when Bill is passed)

1. The period for issue of demands in normal situations is raised from 12 months to 18 months (section 73).

2. The periods for filing appeals in Service Tax are being aligned

with Central Excise and captured by relevant amendments in sections 85 and 86. New limitations will apply to decisions or orders passed after the date on which Finance Bill, 2012, receives the assent of the President.

3. Mere non issuance of invoice will not be considered as an offence punishable with prosecution under clause (a) of section 89

4. Recently High Courts have upheld the constitutional validity of renting service & against this backdrop it is proposed that penalty may be waived for those taxpayers who pay the service tax due on the renting of immovable property service (as on 06-Mar-2012), in full along with interest within 6 months.

Retrospective changes

(Effective from the date when Bill is passed)

1. Exemption relating to roads is extended for the earlier period commencing from 16-Jun-2005;

2. Neutralize the investigations or demands for reversal of credits in respect of services provided to SEZs for the past by introduction of CENVAT Credit Rules

3. Exemption for the setting up of common facilities for treatment and recycling of effluents and solid wastes.

CAPITAL MARKET

Capital Market

Despite of all on-going global economic woes, high inflation and interest rates, weakening rupee and volatile stock market, FY2011-12 saw only a slight dip in M&A and PE deal values. However, there was a noticeable drop in the funds mobilised through IPOs and QIPs.

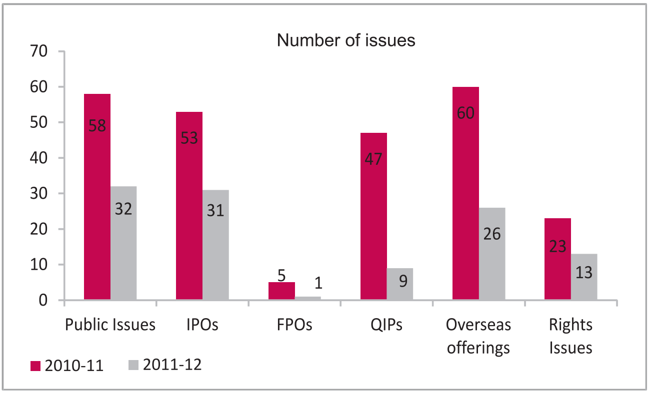
M&A and PE deals saw a dip of 5.50% in deal value in first 11 months of FY 2011-12 (₹ 2,49,000 crores in FY2011-12 as against ₹ 2,62,500 crores in FY2010-11) though the number of deals increased by 13% (912 in FY 2011-12 as against 809 in FY2010-11). The average deal size declined from approximately ₹ 324 crores to ₹ 273 crores during this period.

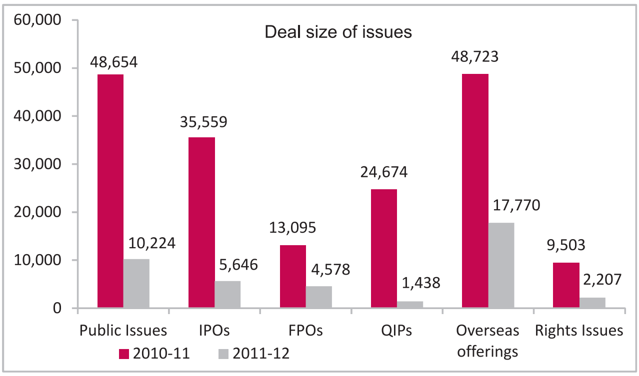
There was a notable reversal in the cross border M&A activity with the focus shifting from outbound to inbound acquisitions in FY 2011-12. The backdrop of fears over the dynamics of euro zone and its impact globally as well as growing domestic market making Indian targets a safer bet could have contributed to the trend reversal. Oil & Gas and Telecommunications were the sectors which saw a good traction in terms of inbound M&A activity, whereas Shipping and Mining witnessed greater activity in terms of outbound M&A deals.

Primary Equity Market

PE activity continued the growth momentum in face of sluggish IPO and QIP activity and sublime secondary market performance. A healthy increase of 39% in number of PE deals (376 deals) recorded in 11 months period of FY2011-12 as compared to FY2010-11. The amount invested by PE investors grew 56% to ₹ 35,450 crores in 11 months period of FY2011-12.

QIP and IPO market has slowed down significantly in FY2011-12.The QIP placements value reduced to merely ~6% of placement value of FY 2010-11 where as the IPO investments reduced to ~16% of investments of FY2010-11.





Source: Prime Database
Overseas Capital market - Upto 15-Mar-2012
Public Issue – Upto 29-Feb-2012
Right Issues - Upto 07-Mar-2012

Secondary Market - Equity

The equity capital markets have been subdued since the beginning of current financial year. At the beginning of the year the Sensex opened at 19463 (01-Apr-2011) and closed at 17466 (16-Mar-2012), down 10.26%. In addition, the markets were also volatile, as the current financial year saw the Sensex at a high of 19811 (06-Apr-2011) & a low of 15135 (20-Dec-2011) a swing of about 23.60% downside and an upswing thereafter of 15.40%.

The beginning of FY2011-12 was laden with high inflation, crude prices and interest rates with tightened monetary policy. These domestic fundamental concerns together with the political drama and crisis, weakening euro zone, lower growth indicator in US and overall slowdown in the global economy saw a very sublime FII activity. The FII's cumulative investment in the first 11 months of FY2011-12 was ₹ 36,634 crores, down by 68% from investments of ₹ 1,14,707 crores in corresponding period of FY2010-11.

Debt Capital Market

The benchmark 5 year and 10 year treasury yield have notched up a tad in the FY2011-12 and the FIMMDA (Fixed Income Money Market and Derivatives Association of India) credit spreads also widened. As on 29-Feb-2012, the G Sec – 5 year and 10 year increased by 10 basis points and 8 basis points respectively from 31-Mar-2011.

Particulars	5 year		10 year	
	Mar-11	Feb-12	Mar-11	Feb-12
G-Sec	8.23%	8.33%	8.13%	8.21%
AAA Spread (bps)	128	119	119	104
AA+ Spread (bps)	155	146	147	132
AA Spread (bps)	180	171	172	157

Source: FIMMDA and Business Standard

Corporates,FIs and DFIs have traditionally relied on bank treasuries, insurance companies and retirement funds to raise long term borrowings. However, government's agenda to increase depth of secondary bond market yielded results. In FY2011-12, money raised through secured NCDs by Corporates, FIs and DFIs increased by more than 3.5 times to ₹ 33,308 crores as compare to ₹ 9,451 crores in FY2010-11.

Cumulative borrowings of ₹ 2,02,834 crores were mobilised through debt capital market in FY2011-12 (11 months), an increase of 4% from FY2011-12.

Budget Proposals

The proposals announced relating to capital markets are intended to broad base the market participation, both primary and secondary. Measures proposed to encourage flow of savings in financial instruments and improve depth of domestic capital market. Key proposals are:

- Rajiv Gandhi Equity Savings Scheme - Allowing income tax deduction on 50% of ₹ 50,000 invested directly in equities by new retail investors, having annual income below ₹ 10 lakhs. Details of the scheme are yet to be notified

- Raising of FII investment limit in long-term infrastructure bonds, corporate bonds and government securities
- Relaxation on guidelines for end use of External Commercial Borrowings (ECB)
- Qualified foreign investors allowed to invest in specified Indian Mutual Funds, Indian Corporate Bonds and directly in equities
- Companies raising funds in excess of ₹ 10 crores through IPOs to mandatory issue forms in electronic mode through nationwide broker network of stock exchanges\
- Permitting two-way fungibility in Indian Depository
- Receipts subject to a ceiling with objective of encouraging greater foreign participation in Indian capital market
- Reduction in Securities Transaction Tax (STT) from 0.125% to 0.10% on cash delivery transactions.

The disinvestment target set for FY2012-13 is ₹ 30,000 crores. In FY2011-12 ₹ 14,000 crores were raised as against the disinvestment targeted of ₹ 40,000 crores.

₹ 15,888 crores is proposed to provide for capitalisation of banks and financial institutions. These would include Public Sector Banks, Regional Rural Banks and other Financial Institutions including NABARD. To finance the infrastructure projects, an Infrastructure Debt Fund proposed to be setup with an initial outlay of ₹ 8,000 crores.

Tax-free infrastructure bonds issuance proposed at ₹ 60,000 crores in FY2012-13. This includes ₹ 10,000 crores each for NHAI, IRFC and IIFCL & ₹ 5,000 crores each for HUDCO, National Housing Bank, SIDBI. Balance ₹ 5,000 crores for ports and ₹ 10,000 crores for power sector.

Capital Market Reactions

For markets, this was just another day and most market participants feel that this Budget would be forgotten and global market conditions and liquidity would now drive the market with higher significance. Though the market reacted to some of the proposals, but it stayed within a narrow range. This indicates two things: one, the Budget was expected to be a non-event, and two, most negatives are already priced in.

G-Sec yields and overnight indexed swap rates rose sharply after the fiscal deficit target was set at 5.1% for FY2012-13 of the GDP. The 10 year benchmark rose to 8.42%, up 9 basis point.

SECTORAL ANALYSIS

Banking & Finance — Positive

Budget Proposals

- ₹ 15,888 crores for recapitalization of PSU Banks, RRBL, NABARD
- Target of agriculture credit increased to ₹ 5.75 lakh crores
- Interest income up to ₹ 10,000 from saving banks accounts exempted
- Credit guarantee trust funds for financing housing and educational loans

Impact

- Fresh infusion of equity will help Banks to meet Basel III norms and fund future growth
- More loans have to be disbursed to farming sector
- Positive for Banks with high no. savings accounts / demat accounts base
- Credit guarantee trust would help in protecting asset quality

FMCG & Consumer Durables — Positive

Budget Proposals

- Excise duty increased from 10% to 12%
- Increased allocation for rural and farm development by 18%
- LCD, LED panels and mobile phone parts exempted from customs duty

Impact

- Hike in standard excise duty may hurt consumerism
- Higher outlay for rural development is expected to improve rural prosperity
- LCD, LED TVs and mobile will get cheeper to boost demand

Education — Neutral

Budget proposals

- Increased allocation on education by around 21% to ₹ 74,100 crores
- ₹ 1,000 crores provided to National Skill Development Council (NSDC)
- Education Institutes exempted from service tax

Impact

- Increased allocation towards skill development will entice private firms to enter the segment in affiliation with NSDC
- Exemption from service tax will ensure education to remain affordable

Gems & Jewellery — Negative

Budget Proposals

- Increase in customs duty on gold and platinum from 2% to 4%
- Custom duty on non-standard gold is increased from 5% to 10%
- Customs duty of 2% is imposed on cut and polished coloured gemstones
- BED levied on Unbranded gold jewellery though Branded silver jewellery fully exempt from BCD
- TCS provision to cover on cash sales of jewellery above ₹2 lakhs

Impact

- Jewellery will be expensive
- Demand will decrease due to higher costs

Pharmaceutical & Healthcare — Neutral

Budget Proposals

- Allocation for NRHM proposed to be increased to ₹20,822 crores
- Weighted deduction of 200% on R&D expenditure on in-house activities extended for 5 years
- Excise duty increased from 10% to 12% on bulk drugs
- Excise duty increased from 5% to 6% on formulations

Impact

- Increase in excise duty most likely to be passed on to the consumer thereby not impacting the Pharma companies

Real Estate Neutral

Budget Proposals

- Increase in priority lending limit and increase in provision under Rural Housing Fund
- ECB for affordable housing projects with reduction in the withholding tax on ECB interest
- Credit Guarantee Trust fund for affordable housing
- Imposition of 1% withholding tax on transfer of immovable properties

Impact

- Increase in priority lending would help boost demand
- ECB would help in reduce cost of raising funds
- Credit Guarantee Trust would encourage investment in affordable housing
- Introduction of withholding tax and increase in service tax rates would increase the overall cost

Textiles Positive

Budget Proposals

- BCD on shuttleless looms and automatic silk-reeling and processing machinery is reduced from 5% to Nil. The exemption would apply only to new machinery
- Since concessional rate of BCD of 5% is being restricted only to new textiles machinery, second hand machinery would now attract BCD of 7.5%
- 12% excise duty imposed on branded retail garments

Impact

- Exemption from custom duty for new automated shuttleless looms a positive for weaving industry
- Though budgetary allocation to the ministry has been increased by 27%, the allocation towards the TUF scheme is reduced to ₹ 2,914 crores from ₹ 3,100 crores

Infrastructure Positive

Budget Proposals

- Tax free bonds doubled at ₹ 60,000 crores in FY2012-13
- The estimated investment in infrastructure to go up to ₹ 50 lakh crores in the 12th Plan
- More sectors added as eligible sectors for Viability Gap Funding (VGF) under the scheme for support to PPP in infrastructure
- ECB for capital expenditure for roads and highways
- Withholding tax on interest payments on ECB proposed to be cut from 20% to 5% for 3 years

Impact

- Tax free bonds would help in resource mobilization for the infrastructure development
- Boost in Government spending will translate to healthy order book to infrastructure Companies.
- Newly included infrastructure sectors for VGF would help in initiating more projects
- Bond issues, ECB to increase funding options for road construction
- Withholding move would help few sectors to have access to low cost funds.

Power Positive

Budget Proposals

- Proposal to allow ECB to part-finance the rupee debt for existing projects
- Full exemption of customs duty on import of steam coal for a period of 2 years
- Extension of sunset clause for setting up power sector undertaking by 1 year
- Additional 20% depreciation in the first year for the power generation projects
- Reduction in with-holding tax from 20% to 5% in interest payments on ECBs

Impact

- Funds available at low costs will help in improving performance
- Exemption of custom duty on imported steam coal will reduce power generation cost
- Extending tax holiday and depreciation will improve profitability and cash flow

Steel Positive

Budget Proposals

- BCD raised on non-alloy flat rolled steel from 5% to 7.5%
- BCD reduced on imported machinery for iron ore pellet and beneficiation plant
- Imported steam coal exempted from BCD and concessional CVD

Impact

- Increased duty on flat steel to provide a cushion to domestic flat steel prices
- Lower duty on imported equipment to benefit domestic steel firms

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