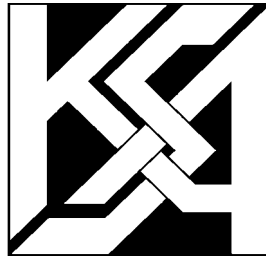


# UNION BUDGET 2005 – AN OVERVIEW



## K. S. AIYAR & CO

CHARTERED ACCOUNTANTS

### MUMBAI

☎ 022-2202-8252

*fax* 022-2202-8229

### CHENNAI

044-2436-4357

044-2432-2249



### KOLKATA

☎ 033-2281-7652/3

*fax* 033-2281-7654



### GOA

☎ 0832-222-3812

*fax* 0832-222-3812

### BHUBANESHWAR ☐ BANGALORE ☐ COIMBATORE

0674-255-2190

0674-255-2190



☎ 080-2334-7171

*fax* 080-2331-1221



☎ 0422-254-0972

*fax* 0422-254-4690

Web: [www.KSAiyar.com](http://www.KSAiyar.com)



## **CONTENTS**

	<b>PAGE NO.</b>
<b>1. INTRODUCTION</b>	<b>3</b>
<b>2. BUDGET HIGHLIGHTS</b>	<b>5</b>
<b>3. DIRECT TAX PROPOSALS</b>	
3.1 TAX RATES	7
3.2 NEW TAX INCENTIVES AND RELIEFS	8
3.3 ADDITIONAL TAX BURDEN	11
3.4 CHANGES IN TAX PROCEDURES	15
<b>4. INDIRECT TAX PROPOSALS</b>	
4.1 CUSTOMS	16
4.2 CENTRAL EXCISE	17
4.3 SERVICE TAX	18
<b>5. OTHER MAJOR CHANGES</b>	<b>20</b>



## ① INTRODUCTION

The Hon'ble Finance Minister, Shri P. Chidambaram presented the Union Budget for the Financial Year 2005-06 and the Finance Bill, 2005 before the Parliament (Lok Sabha) on 28<sup>th</sup> February, 2005. This is the second budget of the United Progressive Alliance (UPA) Government since it assumed power in India in May 2004. The economic objectives laid down in the National Common Minimum Programme (NCMP) of the UPA Government provided the foundation in formulating this budget. While presenting the maiden budget of the UPA Government last year, the Finance Minister had clearly indicated that due to the time constraint he was unable to address various issues in greater depth, and, therefore, he had assured that, in the next budget the concerns of the people and the needs of the Indian economy will be appropriately addressed. In this backdrop, there were many expectations from this year's budget.

The natural calamity of Tsunami also had its own impact on the formulation of this budget, as the Government is compelled to allocate large resources for relief and rehabilitation of the affected people.

The Hon'ble Finance Minister focused this budget on issues like agriculture, rural development, education, health and employment which were also the basic factors taken into account while formulating the last budget. It also addressed the needs of the core sectors of the economy like infrastructure, manufacturing, banking and services. The political compulsions of the coalition government have significantly narrowed down the ideological differences concerning the economic policies of the different constituents of the UPA.

The Indian economy has continued to show good performance in the fiscal year 2004 – 05 with industrial growth expected to be at 8.9 %. The Government has been successful in controlling the inflation which touched a high level of 8.7% in August 2004 to 5.01% at the time of presenting the budget in February, 2005. The estimated rate of the economic growth in the current fiscal is 6.9%. The service sector is growing at an accelerated pace; thanks to the outsourcing in the areas of ITES and pharma research, which is at the peak. The common man started realizing the benefits of improved roads and railway network. The benefits of liberalization are reaped by people in small towns, and expected to further percolate down to rural areas in the near future.

This budget has focused on the following objectives:

- ❖ Sustained GDP growth of around 8 %;
- ❖ Empowering the people with education and employment;
- ❖ Development of rural infrastructure;



- ❖ Investment for infrastructure development, mainly in roads, railways, airports, sea ports and power.
- ❖ Focus on traditional sectors like agriculture, textiles and sugar

In a nutshell the focus is on all the elements that are required for **Bharat Nirman** (To build India) as indicated by His Excellency, The President of India.

To fulfill the above objectives, this Budget has proposed the following major initiatives:

- ⇒ Increased budgetary support to the Rural Infrastructure Development Fund, Department of Health & Family Welfare.
- ⇒ Provision for continuous budgetary support for NE region, Bihar and Jammu & Kashmir.
- ⇒ Increased focus on infrastructure investments through public and private participation and liberalized policies for service sector.
- ⇒ Proposal to increase the financial support to micro finance development and equity fund.
- ⇒ Proposal for permitting NGO's to raise External Commercial Borrowings.
- ⇒ Reduction in customs and excise duties.
- ⇒ Provisions for debt restructuring of textile and sugar industries.
- ⇒ Financial sector reforms through amendment of Banking Regulation Act, Reserve Bank of India Act.
- ⇒ Implementation of Value Added Tax in place of Sales tax.

The budget estimate of the fiscal deficit for the fiscal year 2005 – 06 stands at 4.3 % of GDP as against 4.4 % as per the revised estimate for the fiscal year 2004 – 05. In absolute terms the total fiscal deficit is estimated at Rs.151,144 crores (US \$ 34.75 billions ) for the year 2005 – 06.

Finally it is very touching to “Mumbaikars” (Citizens of Mumbai City) to hear from the FM that Mumbai is a regional financial hub and a lot more needs to be done to improve the image of the city.

This booklet is meant to apprise our esteemed clients of the important budget proposals mainly in the field of direct taxes while an attempt has been made to cover indirect taxes also. We offer a broad outline of the major proposals.

The changes proposed in the Finance Bill become effective from the Assessment Year (A.Y.) 2006 – 07, i.e. the financial year beginning on 1<sup>st</sup> April, 2005, unless otherwise stated.



## ② BUDGET HIGHLIGHTS

### Direct Taxes

- ✓ Increase in the threshold exemption limit from Rs.50,000 to Rs1,00,000; for women it is Rs.1,25,000/- and for senior citizen – Rs.1,50,000/-
- ✓ Corporate and firm's tax rate reduced from 35 % to 30 %.
- ✓ Abolition of deduction u/s.80-L and rebates u/s 88, 88B and 88C.
- ✓ Full deduction from total income for eligible investments up to Rs.1 lakh.
- ✓ Elimination of standard deduction for salaried taxpayers.
- ✓ Introduction of Fringe Benefit Tax on employers at 30%.
- ✓ Compulsory filing of returns by partnership firms and persons incurring more than Rs. 50,000 on consumption of electricity.
- ✓ Cellular phone subscribers excluded from the one-by-six criteria for compulsory filing of return.
- ✓ Sunset clause introduced for tax benefit in respect of undertaking established in Special Economic Zone.
- ✓ Proposal to allow MAT credit in the subsequent years.
- ✓ Exemption of interest on NRE A/c. and Foreign Currency A/c. to continue even after 31<sup>st</sup> March, 2005
- ✓ Reduction in tax rate on royalties and fees for technical services payable to foreign companies from 20 % to 10 %.
- ✓ Reduction in the depreciation rate for General Plant & Machinery from 25 % to 15 %.
- ✓ Increase in the initial depreciation on new Plant and Machinery from 15 % to 20 %; the condition of increase in installed capacity removed.
- ✓ Derivative transactions to be treated as non - speculative transactions.
- ✓ Return of income not to be accompanied by TDS certificate.
- ✓ Extension of time limit for weighted deduction of expenditure incurred on in house scientific research & development.
- ✓ Increase in the Securities Transaction Tax
- ✓ Introduction of new Banking Cash Transaction Tax at 0.1% of the value of cash transactions.



### **Indirect Taxes**

- ✓ Peak rate of customs duty reduced from 20 % to 15 %
- ✓ Additional duty of customs @ 4 % to be levied on import of inputs for manufacture of electronic and information technology items with a provision for credit for such additional duty against excise duty on finished products.
- ✓ Customs duty on stainless steel, ferrous alloy, aluminum, copper and certain other metals reduced from 15 % to 10 %.
- ✓ Customs duty on input for manufacture of steel like refractories and graphite electrodes reduced from 15 % to 10 %
- ✓ Customs duty on refrigerated goods transport vehicles has been reduced from 20 % to 10 %
- ✓ Customs duty on certain specified equipments of biotech and pharma sector have been reduced from 20 % to 5 %.
- ✓ Customs duty on Information Technology related goods is completely abolished.
- ✓ Customs duty on crude petroleum reduced from 10 % to 5 % and similar reduction on other petroleum products.
- ✓ Customs duty on textile machinery has been reduced from 20 % to 10 %.
- ✓ Extension of levy of National Calamity Contingency Duty without any time limit.
- ✓ Customs duty on passenger baggage has been reduced from 40 % to 35 %.
- ✓ Imposition of excise duty on mosaic tiles, road tractors & branded jewelry.
- ✓ Reduction of excise duty on air – conditioners, tyres, tubes, imitation jewelry, cakes and pastries.
- ✓ Excise duty on polyester filament yarn reduced from 24 % to 16 %.
- ✓ Limit of turnover for eligibility as SSI increased from Rs. 3 crores to Rs. 4 crores.
- ✓ Excise duty on cement clinkers increased from Rs. 2 per metric ton to Rs. 3.50 per metric ton.



## Service Tax

- ✓ Small service providers with annual revenue from taxable services up to Rs.4 lacs exempt from payment of service tax.
- ✓ Extension of Service tax to 9 more categories of services
- ✓ Contract manufacturing which attracts excise duty, to be exempt from service tax.
- ✓ Extension of definition of services in respect of 12 services.
- ✓ Taxable services to include services provided from outside India to a recipient in India.
- ✓ Advance received against provision of services to attract service tax.

## ③ DIRECT TAX PROPOSALS

### 3.1 TAX RATES :

The Finance Bill 2005 has proposed rationalization of tax structure for all assesseees across the board. In the case of individuals, Hindu Undivided Families (HUF's), Association of Persons, etc. the new tax rate structure applicable for the financial year 2005 – 2006, relevant to the assessment year 2006 – 2007 is as follows:

EXISTING		PROPOSED	
Income Slab (Rs.)	Rates applicable for FY 2004 – 05 (AY 2005 - 06)	Income Slab (Rs.)	Rates proposed for FY 2005 – 06 (AY 2006 – 2007)
Upto 50,000	NIL	Upto 1,00,000 **	NIL
50,001 to 60,000	10 %	1,00,001** to 1,50,000	10 % ***
60,001 to 1,50,000	20 %	1,50,001 to 2,50,000	20 %
Above 1,50,000	30 % *	Above 2,50,000 ****	30 %

\*Persons having income exceeding Rs. 8,50,000 in this slab would be required to pay 10 % surcharge on the total income tax payable after rebate under Chapter VIII-A.

\*\*In the case of a resident woman below 65 years of age at any time during the previous year, for the figures Rs. 1,00,000 and Rs. 1,00,001; the figures Rs. 1,25,000 and Rs. 1,25,001 shall be respectively substituted.

\*\*\*In the case of a resident individual of the age of 65 years or more at any time during the previous year, the figure 10 % shall be read as NIL.

\*\*\*\*Persons in this slab having income exceeding Rs. 10,00,000 would be required to pay 10 % surcharge on the total income tax payable after rebate, if any, under Chapter VIII-A.

Note: Education cess @ 2 % on surcharge and income tax continues to be levied in proposed rate structure.



In the case of domestic companies, the tax rate has been reduced from 35 % to 30%. However, the surcharge is proposed to be increased from 2.5 % to 10 % of the tax. Further, the education cess of 2 % on tax and surcharge will also continue to be charged for the FY 2005 – 06. Thus, the effective corporate tax rate would be 33.66 % as against the present rate of 36.59 %.

Due to increase in surcharge from 2.5% to 10% on Dividend Distribution Tax, effective rate thereof stands increased to 14.025% from the existing rate of 13.07% although there is no change in the basic rate of Dividend Distribution Tax.

For foreign companies, there is no change in the income tax rate, which is presently 40 %. The surcharge on income tax would continue to be 2.5 % with further education cess of 2 % of tax and surcharge as in the FY 2004 – 05. Thus, the effective tax rate works out to 41.82 % (unless a special rate is provided for specific kind of income either in the domestic law or in the relevant tax treaties).

In the case of firms, the tax rate has been reduced from 35 % to 30 %. However, the rate of surcharge is proposed to be increased from 2.5% to 10 %; while the education cess continues @ 2 % on tax payable inclusive of surcharge. The effective tax rate in the case of firms works out to 33.66 % as against the present rate of 36.59 %.

In the case of co – operative societies and local authorities, there has been no change in the rates of income tax. However, it is proposed to withdraw surcharge which is presently charged @ 2.5 %.

The withholding tax rate on royalties and fees for technical services payable to foreign companies is proposed to be reduced from 20 % to 10 % where such income is received in pursuance of an agreement made on or after 1st June, 2005. However, a beneficial rate provided in a treaty shall prevail over these rates.

### **3.2 NEW TAX INCENTIVES AND RELIEFS:**

#### **a) *Exemption of interest on Non Resident (External) Account / Foreign Currency Deposit Account:***

The income by way of interest on money standing to the credit of an individual in an NRE account in any bank in India is exempt from income tax upto 31<sup>st</sup> March, 2005. In fact this sunset clause was inserted in the last budget. It is now proposed to remove this sunset clause and allow the exemption even after 31<sup>st</sup> March, 2005. This is a welcome amendment, and will encourage inflow of foreign exchange from Non

Resident Indians. Similarly, interest payable by a scheduled bank to a non resident or a person who is not ordinarily resident, on deposits in foreign currency, where the acceptance of such deposits by the bank is approved by the Reserve Bank of India is exempt upto 31<sup>st</sup> March, 2005. It is now proposed to extend this exemption beyond 31<sup>st</sup> March, 2005



**b) *Exemption of lease rentals of aircraft / aircraft engines:***

Section 10 (15A) provides for exemption from income tax on the lease payment received in respect of lease of an aircraft or an aircraft engine by government of a foreign state or a foreign enterprise from an Indian company engaged in the business of operation of an aircraft. This exemption is available subject to the condition that the agreement for such lease is entered into prior to 1<sup>st</sup> April, 2005. It is now proposed that the exemption will be available in respect of such lease rentals if the lease agreement is entered into before 1<sup>st</sup> October, 2005.

**c) *Additional depreciation on new plant and machinery:***

Under the existing provisions additional depreciation is allowed on new machinery and plant @ 15 % of their actual cost if the same has been acquired and installed in the business of manufacture or production of any article or thing, subject to certain restrictions. This allowance is subject to a condition that there should be a substantial expansion by way of increase in the installed capacity by at least 10 %. It is now proposed to increase the rate of additional depreciation from 15 % to 20 %, and further the condition of substantial expansion of at least 10 % of the installed capacity is withdrawn. The proposed changes would encourage the assesses to acquire and install new plant & machinery from time to time even though there is no significant increase in the installed capacity.

**d) *Deduction for in house scientific research and development – Section 35(2AB):***

The company engaged in the business of bio-technology or in the business of manufacture or production of any drugs, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or such other notified article or thing, is entitled to claim a weighted deduction of 150 % of the expenditure (not being expenditure on any land or building) incurred on in house research and development facility as approved by the prescribed authority. Under the present law this benefit is available in respect of the expenditure incurred upto 31<sup>st</sup> March, 2005. It is now proposed to extend this benefit upto 31<sup>st</sup> March, 2007.

**e) *Tax treatment of trading in derivatives:***

It is now proposed to treat an eligible transaction in respect of trading in derivatives referred to in Section 2(aa) of the Securities Contracts (Regulations) Act 1956 , carried out in a recognized stock exchange to be outside the definition of a speculative transaction. However, it is necessary that such transaction is carried out



electronically on screen based system through a stock broker or sub broker or such other intermediary registered under Section 12 of the Securities & Exchange Board of India Act, 1992 or by banks or mutual funds on a recognized stock exchange and is supported by a time stamped contract note issued by such stock broker or sub broker or such other intermediary indicating in the contract note, the unique client identity

number and the Permanent Account Number. The implication of this amendment is that the trading in derivatives will now not be considered as a speculation business, and therefore, the restrictions applicable in the case of set off and carry forward of losses of a speculative business will not apply to trading in derivatives. This proposal will provide relief to derivative traders, and thereby encourage in a big way, the derivative segment of the stock market

**f) *Deduction in respect of certain specified savings – Section 80 C:***

At present, rebate u/s 88 is allowed to individual and HUF in respect of the specified investments. It is now proposed to omit Section 88, and instead allow a deduction from the total income upto maximum of Rs. 1,00,000 in respect of such specified investments without any internal sectoral caps. It may be noted that the rebate u/s 88 is not allowable in case of assesses where the gross total income exceeds Rs. 5,00,000. No such limitation has been prescribed for claiming deduction under the new section 80 C and therefore, the assesses in the higher income group will also be significantly benefited by these changes

**g) *MAT credit:***

Under the existing provisions of Section 115 JB where the income tax payable by a company in a previous year is less than 7.5 % of its book profit, the company is liable to pay tax @ 7.5 % of its book profits, which is popularly known as MAT. No credit for such tax is allowed against the tax liability which arises in subsequent years under the other provisions of the Act. It is now proposed to provide that where any such tax is paid u/s 115 JB(1) by a company for any assessment year beginning on or after 1<sup>st</sup> April, 2006, the company will be entitled to claim credit in respect of the taxes so paid to the extent of the difference between the MAT and the amount of tax payable by the company on its total income computed in accordance with the other provisions of the Act. The amount of tax credit so determined shall be allowed to be carried forward and set off in a year when the tax becomes payable on the total income computed under the regular provisions. The set off in respect of the brought forward tax credit will be allowed to the extent of the difference between the tax on the total income computed in accordance with the normal provisions and the tax which should have been payable u/s 115JB for that assessment year. The assessee can carry forward the tax credit upto 5 assessment years immediately succeeding the assessment year in which such tax credit is allowable.



### **3.3 ADDITIONAL TAX BURDEN**

#### **a) *Fringe Benefit Tax:***

The Finance Bill, 2005 has proposed to levy a new direct tax called 'Fringe Benefit Tax' on employer. A new Chapter XII-H, comprising sections 115W to 115 WL, is proposed to be added in the existing Income-tax Act, 1961, for the purpose of levy, assessment and collection of this new tax. The salient features of the new tax are as under:-

1. The tax is proposed to be levied at 30% on the value of fringe benefits provided or deemed to have been provided by an employer to his employees (including former employee or employees) during the financial year beginning from the financial year 2005-06. This tax is subject to the surcharge at the applicable rate.
2. Fringe benefits means –
  - a. any privilege, service, facility or amenity, directly or indirectly provided by an employer to his employees (including former employees) by reason of their employment;
  - b. any reimbursement, directly or indirectly, made by the employer to his employees for any purpose;
  - c. any free or concessional ticket provided by the employer for private journey of the employees and their family members;
  - d. any contribution by the employer to an approved superannuation fund;  

Further, fringe benefit shall be deemed to have been provided if the employer has, in the course of his business or profession (including any activity whether or not such activity is carried on with the object of deriving income, profits or gains) incurred certain specified expenses.
  - e. By and large the taxable value of the fringe benefits is to be calculated with reference to the actual cost incurred for providing such benefit, and in case of the fringe benefits deemed to have been provided; the same is to be determined with reference to specified percentage of various business expenses, ranging from 5% to 50%.



However, such benefits on which tax is paid or payable by the employees are to be excluded from the ambit of the taxable fringe benefits for the purpose of levy of the fringe benefit tax. Similarly, any transport facility provided or any allowance paid to the employees for journeys between their residence and the place of work is to be excluded.

- f. 'Employer' is defined to mean – any individual or Hindu undivided family engaged in a business or profession; a company; a firm; an association of person or a body of individuals, whether incorporated or not; a local authority; and every artificial juridical person not falling under any of the preceding categories.
- g. Every employer is required to submit a separate return for the fringe benefit tax on or before the due date for filing his income-tax return. The fringe benefit tax is to be paid during the relevant financial year by way of advance- tax on quarterly basis within 15 days of the end of the relevant quarter. However, for the quarter ending the same is to be paid on or before the 15<sup>th</sup> March. The other procedures, including assessment, appeal, levy of interest, etc. are similar to that applicable for income-tax.
- h. The fringe benefits tax is payable by the employer even if income-tax is not payable by him on the total income computed in accordance with the provisions of the Income-tax Act, 1961.
- i. Interestingly, the fringe benefit tax payable by the employer is not deductible in computing his business income since it is proposed to disallow the same under section 40(a)(ic) of the Income-tax Act, 1961.

The idea of introducing this tax is to shift the burden from employees to employers. Presently, there is a provision for payment of the tax by the employers on non-monetary perquisites provided to the employees. However, this tax is payable at the rate applicable to the individual employees which may not necessarily be 30% in all cases. Further, the proposed provision for determination of deemed fringe benefits to be calculated with reference to prescribed percentages of various specified business expenses appears to be unfair. This virtually amounts to disallowance of those legitimate business expenses to the extent they are deemed taxable fringe benefits attracting tax at 30%. This provision is a sort of reversal of various provisions of disallowances of business expenses which were removed a few years ago with a view to dispense with artificial disallowances. This view is further fortified because the fringe benefit tax is not deductible in computing business income.



**b) Banking Cash Transaction Tax:**

As a measure to combat the menace of tax evasion, the Finance Minister has introduced a new tax called 'Banking Cash Transaction Tax'. The primary objective of this levy is not generation revenue; but it is an anti-evasion tax. Considering the colossal impact of the "black money" on the economy, it is felt necessary that there should be a trail of the cash withdrawn from the banking system, and that is the stated rationale underlying the proposed levy. Though it is difficult to visualize as to how such a levy would lead to the expected trail of the cash. The Government desires to discourage cash transactions and wants to push the people to adopt cashless system. The salient features of the proposed tax are as under:-

- ❖ The new tax is proposed to be levied at 0.1% of the value of the taxable banking transaction to be entered into on or after 1<sup>st</sup> June, 2005. The provisions of the proposed new tax are applicable to the whole of India except to the state of Jammu & Kashmir
- ❖ The taxable banking transaction means –
  - Withdrawal of cash (by whatever mode) exceeding Rs.10,000/- on any single day by a person from any scheduled bank;
  - Purchase of a bank draft or banker's cheque or any other financial instrument on payment of cash exceeding Rs.10,000/- on any single day by a person from any scheduled bank; and
  - Receipt of cash from any scheduled bank exceeding Rs.10,000/- on any single day by a person on encashment of term deposit, whether on maturity or otherwise.
- ❖ Every scheduled bank carrying on the aforesaid taxable banking transaction will be responsible to collect the tax from the person entering into the above transactions, and the said tax is to be borne by such persons. The tax so collected is to be paid on monthly basis within 15 days from the end of the month.
- ❖ Every scheduled bank is required to submit a return in respect of taxable banking transactions after the end of each financial year within the prescribed time.

Though the proposed tax is envisaged as an anti-tax evasion measure; it really penalizes the honest taxpayers because the money withdrawn from the banking system is tax-paid money declared by the concerned person. There is no exception provided where in uncertain unavoidable circumstances it is absolutely necessary to withdraw cash from bank, e.g. emergency medical treatment, etc. Further, even the business organizations are not spared who have to draw huge cash for meeting legitimate and necessary business expenses.



**c) Abolition of certain tax concessions:**

As a measure of rationalization of tax rate structure, the threshold limit for exemption is significantly increased from the existing level of Rs. 50,000 to Rs. 1,00,000. Consequently it has been proposed to abolish various tax concessions / deductions hitherto available under different sections of the Income Tax Act. E.g., standard deduction u/s 16 in the case of salaried employees, deduction u/s 80 L in respect of bank interest, interest on securities etc.

**d) Increase in the rates of Securities Transaction Tax:**

In the last budget, a new tax called “Securities Transaction Tax “(STT) was introduced in respect of certain securities transaction entered into in a recognized stock exchange, It is now proposed to increase the rates of the STT w. e. f 1<sup>st</sup> June, 2005 for different categories of transactions as under:

<b>Type of Security transaction</b>	<b>Existing rate</b>	<b>New rate</b>
Delivery based purchase of equity shares in a company or a unit of an equity oriented fund – tax to be paid by the buyer.	0.075 %	0.1 %
Delivery based purchase of equity shares in a company or a unit of an equity oriented fund – tax to be paid by the seller	0.075 %	0.1 %
Non- Delivery based purchase of equity shares in a company or a unit of an equity oriented fund – tax to be paid by the seller	0.015 %	0.02 %
Derivative trading	0.01 %	0.0133 %
Sale of units of an equity oriented fund to the mutual fund.	0.15 %	0.2 %



**3.4 CHANGES IN TAX PROCEDURES:**

**a) *Compulsory filing of tax return:***

At present, every company whether or not it has any taxable income is required to file its income tax return. It is now proposed to extend this provision to all partnership firms from the Assessment year 2006 – 07.

Under proviso to Sec 139(1) of the Income Tax Act, 1961, a person falling under any one of the six prescribed norms is required to compulsorily file his tax return whether or not he has a taxable income. This provision is popularly known as one – by – six scheme introduced to widen tax base a few years back. A cellular phone subscriber is one of the six categories specified for the purpose. It is now proposed to exclude this category. However, it is proposed to add one more category viz., a person who incurs an expenditure of atleast Rs. 50,000 during a previous year on consumption of electricity. Such persons are, therefore, required to submit the income tax return under one – by – six schemes even if there may not be taxable income.

Every assessee, if his total income, without giving effect to tax exemption u/s 10A or 10B or 10BA or deductions available under Chapter VI-A, exceeded the threshold limit of the income which is not chargeable to income tax, is now required to submit income tax return. In other words, in such cases even if the ultimate total income after claiming the above referred exemptions / deductions, is less than the threshold limit of taxable income, still the assessee has to compulsorily submit his tax return.

**b) *Concession to certain truck operators regarding TDS u/s 194C:***

Under the existing provisions of Section 194 C, tax is required to be deducted where the amount of any sum credited or paid or likely to be credited or paid exceeds Rs. 20,000 or the aggregate of the payments made by one person exceeds Rs. 50,000 during the year. Considering the fact that the provision for deduction of tax at source causes hardship to persons who own upto 2 trucks, it is now proposed that if the individual truck owner owning not more than 2 goods carriers at any time during the previous year furnishes the prescribed declaration to the person responsible for payment, no tax u/s 194 C will be required to be deducted.

**c) *Furnishing of quarterly returns giving details of non deduction of tax***

A new section 206A is proposed to provide that any banking company or co – operative society or specified public company responsible for paying to a resident, any interest exceeding Rs. 5,000 without deduction of tax, will be required to prepare quarterly returns giving details in the prescribed form on a computer readable media.



## ④ **INDIRECT TAX PROPOSALS**

### **4.1 CUSTOM DUTIES**

- ✓ Peak rate of customs duty reduced from 20% to 15%
- ✓ Enabling provisions made in Customs Tariff Act, 1975 giving powers to the Government to levy an additional duty not exceeding 4% ad valorem on imported articles, to counter balance the sales tax, value added tax, local taxes and other charges, leviable on such articles or like articles on their sale or purchase or transportation in India. To begin with, this additional duty will be charged on Information Technology items which are now completely exempt from duty excluding software. This additional tax will not be taken into account while computing the education cess payable. The credit for this levy is allowed against the excise duty payable on final product.
- ✓ Ad valorem component of customs duty on textile fabrics and garments has been reduced from 20% to 10%.
- ✓ Customs duty has been reduced from 15% to 10% on primary and semi-finished forms of stainless steel, other alloy steel and ferro-alloys, aluminum, copper, zinc, tin, base metals.
- ✓ Customs duty on lead has been reduced from 15% to 5%, on articles of lead from 20% to 10% and on battery separators from 20% to 5%.
- ✓ Customs duty on calcined alumina has been reduced from 20% to 10%
- ✓ Customs duty has been reduced from 15% to 10% on Refractories and graphite electrodes, raw materials for refractories namely, graphite powder, alumina cement, boron carbide, reactive alumina, silicon metal, micro/fumed silica, brown fused alumina, fused zirconia, silicon carbide, sodium hexameta phosphate, phenolic resin, sintered, tabular alumina and fused silica.
- ✓ Customs duty has been reduced from 15% to 10% on ashes and residues of copper and zinc and certain catalysts.
- ✓ Concessional rate of 5% custom duty and nil CVD presently available to specified plantation machinery upto 30<sup>th</sup> April, 05 has been extended by one more year.
- ✓ Customs duty on cut flowers including orchids has been increased from 30% to 60%.



- ✓ Customs duty on cloves reduced from 70% to 35%
- ✓ Customs duty on refrigerated goods transport vehicles reduced from 20% to 10%.
- ✓ Customs duty on some specified equipment for biotech and pharmaceutical sectors has been reduced from 20% to 5%.
- ✓ Customs duty exemption presently available to capital goods and raw materials to a company for any R & D project funded by Government or CSIR has been extended to projects funded by CSIR, ICMR, ICAR, UCG, DRDO, AICTE also.
- ✓ Customs duty exemption to all goods imported covered under Information Technology Agreement and certain electronic components.
- ✓ Customs duty has been reduced from 20% to 10% on optical fibres and optical fibre cables.
- ✓ Customs duty exemption to specified telecom network equipment to continue without any time limit.
- ✓ Crude petroleum custom duty reduced from 10% to 5%, kerosene from PDS system and LPG for domestic use from 5% to nil, motor spirit, HSD from 15% to 10%, and other petroleum products from 20% to 10%. Additional duty of customs duty on motor spirit and HSD has been increased from Re. 1.50 per liter to Rs. 2 per liter.
- ✓ Customs duty has been reduced from 15% to 10% on Polymers of Ethylene, Polypropylene, propylene copolymers, polymers, copolymers of styrene, polymers of vinyl chloride, industrial ethyl alcohol and molasses. Custom duty on ethyl vinyl acetate has been reduced from 20% to 10%.
- ✓ Customs duty on specified textile machinery and raw materials and parts of manufacture of such machinery has been reduced from 20% to 10%.
- ✓ Customs duty on passenger baggage has been reduced from 40% to 35%.

#### **4.2 CENTRAL EXCISE:**

- ✓ Additional Surcharge of 10% has been levied on pan masala and tobacco products excluding bidis.
- ✓ 8% excise duty with cenvat credit has been imposed on mosaic tiles.



- ✓ Excise duty of 16% levied on road tractors.
- ✓ Excise duty of 2% has been imposed on branded articles of jewellery.
- ✓ Excise duty has been reduced from 24% to 16% on air conditioners, tyres, tubes and flaps.
- ✓ Excise duty on imitation jewellery, cakes and pastries reduced from 16% to 8%
- ✓ Excise duty of Re. 1 per kg. on refined edible oils and Rs. 1.25 per kg. on vanaspati, bakery shortening and inter-esterfued, re-esterfied, elaidinised fats has been exempted.
- ✓ Tea and tea waste have been exempted from additional duty of excise of Re. 1 per kg.
- ✓ Excise duty on polyester filament yarn, including textured yarns has been reduced from 24% to 16%.
- ✓ The value of clearance in the preceding financial year, for determining eligibility for the exemption, is being increased from Rs. 3 crore to Rs. 4 crore.
- ✓ Excise duty on Petrol revised from 23% to 8%+Rs. 5/litre, Diesel 8% to 8%+Rs.1.25/litre, Kerosene for PDS and LPG for domestic use to 0%. LDO from 16%+1.50/litre to 16%+2.50/litre
- ✓ Additional duty of excise on motor spirit and high speed diesel oil has been increased from Rs. 1.50/litre to Rs. 2per litre.
- ✓ Excise duty on cement clinkers has been increased from Rs. 250 per metric tonne to Rs. 350 per metric tonne.

#### **4.3 SERVICE TAX:**

An exemption scheme for small service providers has been prescribed. Service providers whose aggregate value of taxable services provided during the preceding financial year was up to Rs. 4 lakhs, have been exempted from service tax up to an aggregate value of taxable services of Rs. 4 lakhs in a financial year. This exemption scheme would be applicable from 1<sup>st</sup> April, 2005.



Contract manufacturing (only labour/processing) if covered under excise duty will not be again covered under service tax regulations.

Following new services brought under service tax net:

1. Transport of goods through pipeline or other conduit
2. Site preparation and clearance, excavation, earth moving and demolition services, other than those provided to agriculture, irrigation and watershed development
3. Dredging services of rivers, ports, harbours, backwaters and estuaries.
4. Survey and map making other than by Government Departments.
5. Cleaning services other than in relation to agriculture, horticulture, animal husbandry and dairying.
6. Membership of clubs or associations
7. Packing services
8. Mailing list compilation and mailing, and
9. Construction of residential complexes having more than twelve residential houses or apartments together with common areas and other appurtenances.

The services will get covered from the date to be notified after the enactment of the Finance Bill, 2005.

Scope of certain existing services is being extended as follows:

1. Commercial or industrial construction service to include:
  - \* renovation of such building or civil structure
  - \* post construction completion and finishing services for such building or civil structure
  - \* construction, repair, alteration, renovation or restoration of pipelines or conduits.
2. Erection, commissioning or installation services to include specified installation services.
3. Maintenance or repair services to include:
  - \* Maintenance or management of immovable properties
  - \* Maintenance or repair including reconditioning or restoration undertaken as part of any contract or agreement.
4. Broadcasting services to include charges recovered by broadcasting agencies from multisystem operator and provision of direct to home signals to the customers.



5. Sound recording to include recording of sounds on any media and includes post production services such as sound mixing and re-mixing.
6. Video tape production to include recording of any programme, event or function on any media and included post production services.
7. Taxable services provided by authorized service station to include reconditioning or restoration of motor-cars, two wheeled and light motor vehicles.
8. Beauty parlours service to include all services provided by the beauty parlours.
9. Manpower recruitment service to include supply of manpower, temporary or otherwise
10. The franchisee service to cover all agreements by which the franchisor grants representational rights to franchisee to sell or manufacture goods or provide services identified with the franchisor.
11. Business auxiliary service to include production or processing of goods for or on behalf of the client,
12. Outdoor catering services to include catering from a place or premises provided by way of tenancy or otherwise by the person receiving such services.

The above changes will come in to effect from a date to be notified after the enactment of the Finance Bill, 2005.

The taxable services definition will include the services to be provided. In short, advance received against provision for taxable services will attract service tax. Further, services rendered from outside India to a recipient in India is liable to service tax. The burden of service tax obviously will fall on service receiver if the service provider fails to pay the tax. The provision for advance ruling facility extended to joint venture in India.



⑤ **OTHER MAJOR CHANGES**

- ❖ Proposal to permit mutual funds to create “Gold Traded Exchange Fund”. SEBI to make necessary guidelines in this respect.
- ❖ Proposal to remove statutory limit or CRR and SLR required to be maintained by banking sector which will give greater freedom to RBI to draw up the monetary policy.
- ❖ Proposal to allow banks to raise preference capital.
- ❖ Foreign banks allowed to form 100 % owned subsidiaries with minimum capital of Rs.300 crores, convert their existing branches into subsidiaries and look for acquisition for weaker banks.
- ❖ Proposal to create SPV’s for infrastructure funding by utilization of forex reserves.



This booklet is for the exclusive use of clients and staff of K. S. Aiyar & Co. and Baker Tilly Aiyar India Pvt Ltd. and their associate firms and is available only upon request. While all due care has been taken for accuracy in preparing this booklet, the contents of this booklet cannot substitute any professional advice, and therefore, the readers are advised not to take any decision based on the contents of this booklet, without proper professional advice.