

CORPORATE UPDATE

FOR CLIENT CIRCULATION ONLY

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CONTENTS

• Income Tax	1-6
• Excise / Customs	6-7
• Central Sales Tax	7
• Service Tax	8-10
• Dates to Remember	10

INCOME TAX

I. Budget, 2005 - Highlights

Individual / HUF Tax

- Tax Rates for Individual / HUF revised as under, effective from AY 2006-07:

<u>Income slabs</u>	<u>Tax Rate</u>
Upto Rs.1,00,000/-*	Nil
1,00,001 to 1,50,000	10%
1,50,001 to 2,50,000	20%
Above 2,50,000/-	30%

* Basic exemption limit for women up to Rs.1,25,000/- and for Senior citizen up to Rs.1,50,000/-

- Surcharge- @ 10% on income above Rs.10,00,000/-
- Education Cess @ 2% continues.
- Standard Deduction from salary under section 16(i) withdrawn from A.Y 2006-07

- Rebate for specified investments etc. (u/s 88), for working women (u/s 88C), for senior citizens (u/s 88B) withdrawn from A.Y. 2006-07. Individual and HUF assesses now allowed deduction upto Rs. 1,00,000 from gross total income of the aggregate of the sums paid or deposited into specified categories. Categories specified are as under:

- Life insurance premium
- Deferred annuity premium
- Amounts deducted by Central govt. for deferred annuity premium
- PF contribution
- NSC subscription
- Contribution to Approved Superannuation fund
- LIC Mutual Fund
- Participation in unit linked insurance plan
- Units of Mutual Fund
- Contribution to Pension fund setup by Mutual Fund
- Tuition Fees
- Repayment of loan taken for residential house
- Subscription to equity shares or debentures of any eligible issue of capital

<ul style="list-style-type: none"> • Contribution to Unit Linked Insurance Plan of UTI • Subscription to deposit schemes of PSU engaged in long term financing <ul style="list-style-type: none"> • Aggregate of deductions u/s 80C(specified contributions), 80CCC (pension fund) and 80CCD (pension scheme under central govt.) not to exceed Rs.1 lac. <ul style="list-style-type: none"> • Return of income to be filed based on the Gross Total income i.e. before giving effect to deductions/exemptions under section 10A, 10B, 10BA or Chapter VIA. <ul style="list-style-type: none"> • Deduction in respect of Bank Interest and certain specified securities u/s 80L withdrawn from AY 2006-07. <ul style="list-style-type: none"> • W.e.f. AY 2006-07, deduction u/s 88E available only on the amount of interest paid during a year on loan taken for pursuing higher education. The deduction to be allowed for 8 years or until the interest is paid, whichever is earlier without any upper limits. Benefit in respect of principal repayment withdrawn. <p style="text-align: center;">Corporate / Firm Taxation</p> <ul style="list-style-type: none"> • Tax Rates for Domestic Companies / Firms revised as under, effective from AY 2006-07: 	<ul style="list-style-type: none"> ○ Income tax reduced from 35% to 30%; ○ Surcharge enhanced from 2.5% to 10%. Consequent effect on dividend distribution tax and MAT; ○ Education Cess of 2% to continue; ○ Effective rate 33.66%. <ul style="list-style-type: none"> • Tax rates for foreign companies remain unchanged at 40% plus 2.5% surcharge. Education cess of 2% to continue, effective rate 41.82%. <ul style="list-style-type: none"> • W.e.f. AY 2006-07, all partnership firms mandatorily required to file their Income Tax Return irrespective of the level of Income. <ul style="list-style-type: none"> • General rate of depreciation on Plant and Machinery reduced to 15% from the existing 25% w.e.f. A.Y. 2006-07. By a separate notification depreciation rates on other assets have also been revised. <ul style="list-style-type: none"> • All new Plant and Machinery (Other than Ships and Aircrafts) acquired and installed after 31st March, 2005 eligible for an additional initial depreciation @ 20% without any condition as to the increase in the installed capacity. <ul style="list-style-type: none"> • Time limit for availing weighted deduction u/s 35(2AB) in respect expenditure incurred on scientific
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<p>research or in-house R&D by companies engaged in the business of biotechnology, pharmaceuticals, electronic equipments, computers, telecommunication equipments, chemicals or other notified articles extended by two more years i.e up to 31st March, 2007</p> <ul style="list-style-type: none">• Each part payment of any sum to an employee at any time in connection with the Voluntary Retirement Scheme to be considered separately for amortisation in 5 years.• W.e.f. A.Y. 2006-07, pro-rata deduction for discount on zero coupon bond allowed having regard to the period of life of such bonds calculated in the manner as may prescribed.• Banking cash transaction tax paid to be allowed as deduction from Business income.• Eligible transaction under section 43(5) in respect of trading in derivatives carried out in recognized stock exchange deemed to be a Non Speculative Transaction, w.e.f A.Y. 2006-07.• W.e.f. A.Y. 2006-07, credit for Minimum Alternate Tax (MAT) paid under section 115JB allowed for 5 succeeding assessment years,.	<ul style="list-style-type: none">• Exemption u/s 10A available only to undertakings which begin to manufacture or produce, articles or things or computer software in any Special Economic Zones before 1st April, 2010. <p><i>Non Resident Taxation</i></p> <ul style="list-style-type: none">• Income tax on income of non residents from Royalty and Fees for Technical Services reduced from 20% to 10% in respect of all agreements made on or after 1st day of June, 2005.• Income tax on lease payments received in respect of lease of an aircraft or an aircraft engine by a Foreign Govt.. or a Foreign Enterprise from an Indian company engaged in the business of operation of aircraft, continue to be exempt in respect of all contracts entered on or before 30th September, 2005.• No grossing up of tax in respect of tax paid by Indian Company engaged in operation of Aircraft, on lease rentals received by Govt. of Foreign State or Foreign Enterprise, with regard to agreements entered on or after 1st October 2005.
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- Interest paid or credited to Non resident (External) account in any bank in India continue to be exempt in the hands of an individual
- Interest payable by Scheduled Banks to Non Resident or to a person who is not ordinarily resident on approved deposits in Foreign Currency continue to be exempt.

Fringe Benefit Tax – New Section 115W – Chapter XII-H

Levy of a new fringe benefit tax @ 30% on employers on the value (specified percentage of the expense) of certain benefits provided or deemed to be provided to the employees (other than perquisites on which tax is paid by the employee and any benefit or amenity in the nature of free/subsidized transport for commuting between residence to office and vice-versa)

Fringe benefit would mean any privilege, facility, benefit or amenity, reimbursements, free/concessional tickets for private journeys of the employee and his family, contributions to approved superannuation funds, by employer. It also includes expenses incurred by employers on entertainment, festival celebrations, gifts, use of club facilities, guest house maintenance, conference, employee welfare, health and sport facilities, sales promotion, conveyance and travel

Fringe benefit tax and provisions relating to

expenses, repair & running expenses of motor car and aircrafts, hotel, boarding and lodging, telephone, fuel (other than industrial fuel) and scholarships to children of employees.

Fringe Benefit Tax and provisions relating to returns, assessment etc. to apply even in cases of persons not liable for tax and return under the other provisions of Income Tax Act. Sums paid by way of fringe benefit tax by the employer will not be allowed as deduction for computing profits & gains from business or profession.

Capital Gains Taxation

- No capital gain chargeable to tax from AY 2006-07, on transfer of capital asset in scheme of amalgamation of a banking company with banking institution under a scheme sanctioned by Central Govt.
- W.e.f. AY 2006-07, Capital gains tax on zero coupon bond to be calculated at the minimum of the following, at the option of the assessee:
 - 10% of capital gain before giving effect of indexation.
 - 20% of capital gain after giving effect of indexation.

Miscellaneous Provisions

- W.e.f. A.Y. 2006-07, speculation loss allowed to be carried forward only for four years instead of eight years.
- Securities Transaction Tax (STT) rate increased from 0.015% to 0.02%.
- Tax rates for Co-operative Societies and Local Authorities remain unchanged. Surcharge @ 2.5 % removed, education cess of 2% to continue.

Tax Compliance

- Cell phones removed from 1/6 criteria for filing Income Tax Returns.
- Persons incurring an expense of Rs. 50,000/- or more in a year towards electricity consumption to fall in the 1/6 criteria for filing Income Tax Return.
- Employers required to furnish return of fringe benefits under section 115WD shall also be required to obtain PAN.

**Tax Deduction at Source (TDS)/
Tax Collection At Source (TCS)**

- TDS and TCS certificates to be issued by persons responsible for deduction/collection of tax for AY 2006-07. Return for AY 2006-07 to accompany these certificates to claim credit. New procedure last year notified postponed to next year.
- Provisions of TDS u/s 194A not to apply to income paid / payable by an infrastructure capital company / fund or a Public Sector Company in relation to a zero coupon bond issued on or after 01.06.2005
- W.e.f. from 01.06.2005, TDS u/s 194C not required to be deducted on any sums paid/credited to a subcontractor in the course of plying, hiring or leasing goods carriage if such sub contractor is an individual not owning more than 2 goods carriage at any time during the previous year.
- W.e.f 01.06.2005, all banks, co-operative societies and public sector companies specified in section 194, paying interest (other than interest on securities) not exceeding Rs.5000/-, to residents required to prepare and file quarterly returns (June, September, December

and March) in computerized media. In case of failure by banks in furnishing such returns penalty of Rs. 10,000/- leviable u/s 272A.

Banking Cash Transaction Tax

Tax @ 0.1% to be levied on the following bank transactions w.e.f. 01.06.2005:

- Cash withdrawals exceeding Rs. 10,000/- on any single day from any scheduled bank; or
- Purchase of bankers cheque or draft or any other financial instrument on payment of cash exceeding Rs. 10,000/- on any single day from any schedule bank; or
- Receipt of cash from any scheduled bank exceeding Rs. 10,000/- on any single day encashment of term deposit.

New Bill

The Finance Minister, in his budget speech promised to place a revised and simplified 'Income Tax Bill' before the Parliament.

II. Changes in Depreciation

The CBDT has vide notification no. 67/2005, dated 28.2.2005 revised depreciation rates under the Income Tax Act, 1961 for certain assets. The new depreciation rates are applicable from AY 2006-07. Comparison of old rates with new rates, wherever revised, is given in the Table on page no. 11.

EXCISE/CUSTOMS

I. Excise – Budget 2005 – Highlights

- Ceiling for SSI exemption based on turnover raised from 3 crores to 4 crores.
- Withdrawal of exemption scheme providing for concessional rate of 60% of normal rate with cenvat credit for clearances upto Rs. 1 crore.
- Excise duty on LPG for domestic consumption and on kerosene for public distribution system fully exempt.
- Cess on petrol, diesel raised by 50 paise per liter.

<ul style="list-style-type: none">• Excise duty of Re. 1 / Kg on refined edible oil and Rs. 1.25 / Kg on vanaspati exempted.• Excise duty on iron and steel increased from 12% to 16%.• Additional excise duty, by way of surcharge levied on pan masala and certain tobacco products.• Excise duty reduced from 24% 16% on air conditioners, tyres, tubes and flaps.• Tea and tea waste exempted from excise duty of Re. 1 / Kg.• Basic Excise duty on petrol diesel and certain other petroleum products revised. <p>II. <u>Customs – Budget 2005 - Highlights</u></p> <ul style="list-style-type: none">• Peak rate of customs duty on non-agricultural products reduced from 20% to 15% with few exceptions.• Additional value of custom duty @ 4% levied on ITA bound items and on specified inputs/raw materials for manufacture of electronics/IT items, which are exempt from custom duty.• Additional duty of customs on high speed diesel oil increased from Re 1.50 per liter to Rs. 2 per liter.	<ul style="list-style-type: none">• Custom duty on crude petroleum reduced from 10% to 5% and High Speed Diesel Oil from 15% to 10%.• Custom duty on LPG for domestic consumption and on kerosene for public distribution system fully exempt.• Custom duty on passenger baggage reduced from 40% to 35%. <p>CENTRAL SALES TAX</p> <p><u>Budget 2005 - Highlights</u></p> <ul style="list-style-type: none">• Definition of works contract tax introduced under the CST Act, 1956. The manner of determination of sale price in relation to such contract laid down.• The requirement of furnishing declaration imposed on the dealer who is engaged in last sale or purchase of goods preceding the export of such goods. The declaration is to be signed by the exporter of goods.• Purchase of aviation turbine fuel for international flights to be deemed to take place in the course of export of goods.
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SERVICE TAX

I. Export of Services

According to the present regulations governing levy of service tax on export of services, if the amount received for providing taxable services is in convertible foreign exchange and is not repatriated outside India, such amount is exempt from service tax.

The Central Government has now issued rules called Export of Service Rules, 2005 which would become effective from 15th March 2005. Simultaneously, the Govt. has also issued notification withdrawing the exemption granted for receipt in foreign exchange, with effect from 15th March 2005.

The exemption on export of taxable services will now be governed by the Export of Service Rules, 2005 with effect from 15th March, 2005. The new rules define export of taxable services in three categories. These categories of services are listed on page no. 13.

According to these rules, any service which is taxable under the service tax regulations may be exported without payment of service tax subject to the terms and conditions as prescribed.

Budget, 2005 & Other Consequential Amendments

- a. 9 new services have been brought under the service tax net.
- b. The scope of 12 services have been extended.
- c. Various other amendments have been made to the Finance Act, 1994, and the Service Tax Rules.

Details of the above are given in the file attached.

III. Note on Applicability of Service Tax on Composite contracts / works contracts on turnkey basis

The execution of such contracts would involve providing services and undertaking activities of various nature such as:

- Design and engineering services;
- Manufacture and supply of plant/equipment/components/spares;
- Procurement services;
- Erection, installation, testing and commissioning and/or supervision thereof;

Some of the above activities / services, if undertaken / rendered separately would have attracted service tax as applicable.

For example, design and engineering services would have been subject to service tax as applicable, under consulting engineer services.

The issue of applicability of service tax in case of such contracts has been considered by the Tribunal and decisions made, as per details given below:

1. Daelim Industrial Co. Ltd Vs. Commissioner of C.Ex., Vadodara-2003(155) E.L.T. 457 (Tri-Del)

In this case, Daelim Industrial Co. Ltd was awarded a contract for construction of a diesel hydro-desulphurisation plant and utilities/Off-Gujarat Refineries by Indian Oil Corporation Ltd. The contract involved “residual process design, detailed engineering procurement, supply, construction, fabrication, erection, installation, testing, commissioning and mechanical guarantee”.

It was held by Commissioner (Appeals) that Daelim was liable to pay service tax on residual process design and detailed engineering, commissioning of plant applicable to “consulting engineers”.

It was argued in appeal before the Tribunal by Daelim that the primary objective of contract was construction of desulphurisation plant and design, drawing were incidental to the execution of

works contract. Separate element of works were costed individually as per the contract terms, only for the purpose of facilitating periodic installments of payment. It was also pointed out that each component of the project including design, drawing, procurement, supply, fabrication etc. cannot be vivisected and considered as different transactions.

The Tribunal held that this contract was a works contract on turnkey basis and not a consultancy contract and that a works contract cannot be vivisected and part of it subjected to service tax. Accordingly, the Tribunal decided in favour of Daelim.

2. Larsen & Toubro Ltd. Vs. Commissioner of Central Excise, Cochin-2004(174) E.L.T. 322 (Tri-Del)

Larsen & Toubro Ltd. executes engineering projects on works contract terms. The issue was raised whether Larsen & Toubro Ltd. was liable to service tax under category of consulting engineer in relation to projects like DHDS contract, Optic Fibre contract, KSEB contract, Traction contract. The Commissioner (Appeals) held that design element of these works contract would be liable to service tax.

The Tribunal in this case relying on the decision of the Tribunal in Daelim Industrial Co. Ltd held that design element of works contract is not liable to service tax.

The above two decisions dealt mainly with the incidence of service tax as applicable to consulting engineer services.

Installation and commissioning services which would form part of such turnkey contracts have been subject to service tax from 1st July 2003 and erection services from 10th September 2004. Even though the two cases referred to above, dealt with design and drawing, following the ratio in these decisions, erection/installation/commissioning services including supervision thereof cannot be subject to service tax.

DATES TO REMEMBER

1. The final installment of Advance Tax for Financial Year 2004-05 for all assesseees is to be deposited on or before 15th March, 2005.
2. The last date for deposit of service tax on the value of taxable services received during the month of March, 2005 or the quarter ending March, 05 is 31st March, 2005.

(Continued from page no. 6)

APPENDIX I

[See rule 5]

**AMENDMENT IN RATES AT WHICH DEPRECIATION IS
ADMISSIBLE UNDER INCOME TAX RULES 1962.**

S.No.	Block of Assets	Depreciation allowance as percentage of Written down value	
		(Effective from Assessment Year 2006-07)	Effective up to Assessment Year 2005-06
1.	Furniture and Fittings Furniture and fittings including electrical fittings	10%	15%
2.	Machinery & Plant Machinery and plant other than covered by sub-items (2), (3) and (8)	15%	25%
	Motor cars, other than those used in a business of running them on hire, acquired or put to use on or after the 1 st day of April, 1990	15%	20%
	Motors buses, motor lorries and motor taxis used in a business of running them on hire	30%	40%
	Moulds used in rubber and plastic goods factories	30%	40%
	Machinery and plant, used in semi-conductor industry covering all Integrated Circuits (ICs) (excluding hybrid integrated circuits) ranging from Small Scale Integration (SSI) to Large Scale Integration/Very Large	30%	40%

	Scale Integration (LSI/VLSI) as also discrete semi-conductor devices such as diodes, transistors, thyristors, triacs, etc., other than those covered by entries (viii), (ix) and (x) of this sub-item and sub-item (8) below.		
	Gas cylinders including valves and regulators	60%	80%
	Glass manufacturing concerns-Direct fire glass melting furnaces	60%	80%
	Plant used in field operations (below ground), but not including kerbside pumps including under ground tanks and fittings used in field operations (distribution) by mineral oil and concerns	60%	80%
3.	SHIPS		
	Ocean-going ships including dredgers, tugs, barges, survey launches and other similar ships used mainly for dredging purposes and fishing vessels with wooden hull	20%	25%
	Vessels ordinarily operating on inland waters, not covered by sub-item (3) below	20%	25%
	Vessels ordinarily operating on inland waters being speed boats	20%	25%

(Continued from page no. 8)

EXPORT OF SERVICES

Category I

Taxable services, as are provided in relation to an immovable property which is situated outside India.

Sub-clauses to Sec.65(105)	Taxable Services
(d)	General Insurance Business
(p)	Architect
(q)	Interior Decorator
(v)	Real Estate Agent
(zzq)	Commercial or industrial construction service

Category II

Taxable Services as are performed outside India, partly or wholly:

Sub-clauses to Sec.65(105)	Taxable Services
(a)	Stock Broker
(f)	Courier Agency
(h)	Custom House Agent
(i)	Steamer Agent
(j)	Clearing and Forwarding Agent
(l)	Air Travel Agent
(m)	Mandap Keeper
(n)	Tour Operator
(o)	Rent – A- Cab Scheme Operator
(s)	Practicing Chartered Accountant
(t)	Practicing Cost Accountant
(u)	Practicing Company Secretary
(w)	Security Agency
(x)	Credit Rating Agency
(y)	Market Research Agency

(z)	Underwriter
(zb)	Photography Studio or Agency
(zc)	Commercial concern holding a convention
(zi)	Video Production Agency
(zj)	Sound Recording Studio or Agency
(zn)	Port (under Major Port Trusts Act)
(zo)	Authorised Service Station in relation to any service or repair, reconditioning or restoration of motorcars, light motor vehicle.
(zq)	Beauty Parlour
(zr)	Cargo Handling Agency
(zt)	Drycleaner
(zu)	Event Manager
(xv)	Fashion designer
(zw)	Health Club and Fitness Centre
(zza)	Storage or Warehouse Keeper
(zzc)	Commercial Training or Coaching Centre
(zzd)	Commissioning and Installation Agency
(zzf)	Internet Café
(zzg)	Maintenance or Repair
(zzh)	Technical testing and analysis
(zzi)	Technical inspection and certification
(zzj)	Omitted by Finance Bill 2005 <i>(Authorised Station in relation to service or repair of any light motor vehicle).</i>
(zzl)	Other Port or any person authorized by that Port in relation port services
(zzm)	Airport or a civil enclave
(zzn)	Aircraft Operator in relation to transport of goods by Aircraft
(zzo)	Business Exhibition
(zzp)	Goods Transport Agency in relation to transport of goods by road.
(zzs)	Opinion Poll Agency
(zzt)	Outdoor Caterer
(zzv)	Survey and Exploration of mineral
(zzw)	Pandal or Shamiana Contractor
(zzx)	Travel Agent in relation to the booking of passage for travel.
(zzy)	Forward Contract

Category III

Other taxable services:

- (i) Such taxable services which are provided and used in or in relation to commerce or industry and the recipient of such services is located outside India;

Provided that if such recipient has any commercial or industrial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of services only if-

(a) order for provision of such services is made by the recipient of such service from any of his commercial or industrial establishment or any office located outside India;

(b) service so ordered is delivered outside India and used in business outside India; and

(c) payment for such service provided is received by the service provider in convertible foreign exchange;

- (ii) Such taxable services which are provided and used, other than in or in relation to commerce or industry, if the recipient of the taxable service is located outside India at the time when such services are received.

Sub-clauses to Sec.65(105)	Taxable Services
(b)	Telegraphic authority in relation to telephone connection
(c)	Telegraphic authority in relation to Pager.
(e)	Advertising Agency
g)	Consulting Engineer
(k)	Manpower Recruitment Agency
(r)	Management Consultant
(za)	Scientist or a Technocrat or any science or technology institution or organization.
(zd)	Telegraph authority in relation to a leased circuit
(ze)	Telegraph authority in relation to a communication through telegraph
(zf)	Telegraph authority in relation to a communication

MOHINDER PURI & COMPANY

	through telex
(zg)	Telegraph authority in relation to a fax communication
(zh)	Commercial concern in relation to on-line information and database access or retrieval or both in electronic form through computer network
(zk)	Broadcasting Agency or organization in relation to broadcasting in any manner
(zl)	Insurance auxiliary services concerning general insurance business
(zm)	Banking company or a financial institution including non-banking financial company.
(zp)	Omitted (<i>Body corporate other than Body corporate in relation to banking and other financial services</i>)
(zs)	Cable Operator
(zx)	Life Insurance business in relation to risk cover in life insurance.
(zy)	Insurance auxiliary services concerning life insurance business.
(zz)	Rail travel agent
(zzb)	Business auxiliary services.
(zze)	Franchise.
(zzk)	Foreign Exchange Broker
(zzr)	Intellectual Property Service
(zzu)	Programme Producer
(zzz)	Transport of goods other than water through pipeline or other conduits.
(zzza)	Site preparation and clearance, excavation, earth moving and demolition services, other than those provided to agriculture, irrigation and watershed development.
(zzzb)	Dredging services of rivers, ports, harbours, backwaters and estuaries.
(zzzc)	Survey and map making other than by Government Departments
(zzzd)	Clearing services other than in relation to agriculture, horticulture, animal husbandry or dairying
(zzze)	Membership of clubs or associations
(zzzf)	Packaging services
(zzzg)	Mailing list compilation and mailing
(zzzh)	Construction of residential complexes having more than twelve residential houses or apartments together with common areas and other appurtenances.