

CORPORATE UPDATE

For Client Circulation Only

No. 01&02/2006

17th February, 2006

- ❖ BUDGET, 2006
- ❖ INCOME TAX
- ❖ FDI
- ❖ DATES TO REMEMBER

BUDGET, 2006

Income Tax

I. Individual / HUF Tax

- No change in the tax rates. The rates remaining same as below:-

Income Slab (Rs.)	Tax Rate
Upto 100,000	Nil
100,001 to 150,000	10%
150,001 to 250,000	20%
Above 250,000	30%

- Basic exemption limit for women upto Rs. 135,000 and for senior citizen upto Rs. 185,000.
- Surcharge @10% on income above Rs. 1,00,000/-.
- Education cess @2% .
- Investment in Fixed Deposits for a term of 5 years or more in a scheduled bank qualify for deduction under section 80C.
- Maximum amount of deduction u/s 80CCC for contribution to specified pension funds increased from Rs. 10,000 to Rs. 100,000, subject to overall limit of Rs. 100,000 prescribed u/s 80CCE.
- No return required to be furnished under one by six scheme w.e.f A.Y. 2006-07.

II. Corporate Tax

- No change in tax rates, effective tax rate for domestic companies / firms remaining same at 33.66% and for foreign companies at 41.82%.
- In the case of companies liable to Minimum Alternate Tax (MAT), rate increased from 7.5 % to 10%. Effective tax rate inclusive of surcharge and cess now at 11.22%. Carry forward and set-off of credit for tax paid under MAT extended from five to seven assessment years.
- Gains from transfer of long-term capital asset, being equity shares and equity oriented mutual fund units, and subject to Securities Transaction Tax (STT) to be included in calculating book profits for the purpose of MAT liability.
- MAT provisions amended with the purpose to increase the 'book profits' by the additional amount of depreciation on account of incremental amount of the assets, due to revaluation of the assets, debited to the Profit and Loss Account.
- Tax benefit available to industrial undertakings in the power sector i.e. undertakings involved in generation, distribution of power, setting up/modernization of distribution networks extended. Benefit now available to such undertakings upto 31st March, 2010.
- Tax benefit available to undertakings developing, operating, maintaining industrial parks extended. Benefit now available to such undertakings upto 31st March, 2009.
- Time limit for tax exemption on lease rentals paid to foreign government or foreign enterprise for leasing aircraft extended to agreements entered upto 31 March, 2007. Consequently, benefit of exemption from tax u/s 10 (6BB) on the tax borne by Indian Company on the lease rentals available for agreements entered into after 31.03.2007.
- The 100% Export Oriented Unit (EOU's) now required to file their return of income within due date in order to claim deduction of the eligible profits.

III. Tax Deduction at Source (TDS) / Tax Collection at Source (TCS)

- Mandatory quoting of PAN of the deductee and TAN of the deductors/collectors on all the quarterly statement of TDS/TCS w.e.f 01.06.2006.
- Requirement to furnish annual TDS/TCS statement in the prescribed form by the income tax authority or the authorized person delayed till 01.04.2008. Consequently, requirement to issue TDS/TCS certificates by the deductors / collectors extended upto 31.03.2008.
- Penalty of Rs. 10,000 levied for quoting false TAN in any prescribed document w.e.f. 01.06.2006.
- Requirement for filing annual TDS/TCS returns in respect of tax deduction / collection at source after 01.04.2005 deleted.

III. Miscellaneous Provisions

- A new scheme enabling taxpayers, other than a company or a person in whose case a tax audit is required, to prepare and furnish their returns of income through a "Tax Return Preparer" (TRP) introduced with effect from 1 June 2006.
- Time limit for completion of assessments (including FBT and Wealth Tax Assessment) reduced from two years to twenty one months (with effect from 1 June 2006).
- Time limit for completion of assessments, reassessments in response to reassessment notice (including FBT and Wealth Tax reassessment) reduced from one year to nine months, with effect from 1 June 2006.
- Time limit for completion of assessments (including FBT and Wealth Tax Assessment), pursuant to the appellate orders, reduced from one year to nine months (with effect from 1 June, 2006).
- Self assessment tax to be computed after reducing relief allowed for taxes paid in other countries and tax credit available against MAT paid on book profits, in addition to the existing credit for advance tax paid, TDS and TCS.
- Security transaction tax increased by 25% over previous year with effect from 1 June, 2006.
- With effect from 1 June 2006, a new section introduced to give statutory recognition to agreements entered into between specified Indian Association and a non resident specified Association for grant of double taxation relief, for avoidance of double taxation, for exchange of information for the prevention of evasion or avoidance of income tax or for recovery of income tax.

IV. Capital Gains

- Capital Gains exemptions arising on transfer of long-term capital assets available for investment in bonds issued on or after 1 April 2006 by National Highways Authority of India and Rural Electrification Corporation Limited. Re-investment in the bonds issued by National bank for Agriculture and Rural Development (NABARD), National Housing Bank (NHB) and Small Industries Development Bank of India (SIDBI) now not available.

All the above stated provisions are applicable from A.Y. 2007-08, unless specified otherwise.

Service Tax

1. **The rate of service tax increased from 10% to 12% (effective rate 12.24%) w.e.f the date of the enactment of the Finance Bill, 2006.**
2. Following 15 new services covered under the service tax net, from a date to be notified after enactment of Finance Bill, 2006:-
 - (i) Service provided by a Registrar to an issue;
 - (ii) Service provided by a Share Transfer Agent;
 - (iii) Automated Teller Machine operations, maintenance or management;
 - (iv) Service provided by a recovery agent;
 - (v) Sale of space or time for advertisement, other than in print media;
 - (vi) Sponsorship services provided to any body corporate or firm, other than services in relation to sponsorship of sports events;
 - (vii) Transport of passengers embarking on international journey by air, other than in economy class;
 - (viii) Transport of goods in containers by rail provided by any person other than Govt. Railways;
 - (ix) Business support services;
 - (x) Auctioneer's service, other than in relation to auction of property under directions or orders of a court of law or auction by the Govt.;
 - (xi) Public relation service;
 - (xii) Ship management service;
 - (xiii) Internet telephony service;
 - (xiv) Transport of persons by cruise ship; and
 - (xv) Credit card, debit card, charge card or other payment card related services.
3. Scope of the following services extended / enlarged from a date to be notified after the enactment of the Finance Bill, 2006: -

Sr. No.	Name of taxable service	Purpose of amendment
i.	Banking and other financial services.	To include services such as: (i) transfer of money through different modes, such as telegraphic transfer, mail transfer and electronic transfer by any person, and (ii) services provided as banker to an issue
ii.	Management consultancy services.	To specifically mention, consultancy in different areas of management such as financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources, or other similar areas of management.
iii.	General insurance services and Life insurance services	To include, services provided to a policy holder or any person by an insurer, including a re-insurer.
iv.	Insurance auxiliary services concerning general insurance business and insurance auxiliary services concerning life insurance business	To include services provided to a policy holder or any person or an insurer, including a re-insurer
v.	Maintenance or repair service	To rename as "management, maintenance or repair" service and to include management of movable property.
vi.	Erection, commissioning or installation service	To include erection, commissioning or installation of structures, whether prefabricated or otherwise.
vii.	Consulting engineers service	To include engineering consultancy services provided by ay firm or body corporate.
viii.	Business auxiliary service	To include computerized data processing.
ix. Reference to "commercial concern" in existing 17 services substituted with "person" to expand the scope of the service provider.		

4. Following exemptions withdrawn w.e.f 01.03.2006:
- (a) The exemptions in relation to general insurance where-
 - (i) Premium is received from re-insurance both domestic and overseas;
 - (ii) All business for which premium is booked outside India.
 - (b) Exemption for services, other than accounting, auditing and statutory certification services, provided by a practicing chartered accountant, company secretary or cost accountant in his professional capacity. Consequently all services provided by such persons in their professional capacity become taxable.
 - (c) Exemption for taxable services provided by a Call Centre or a Medical Transcription center;
 - (d) Exemption for taxable service provided in relation to Enterprise Resource Planning (ERP) software system provided by a management consultant in connection with the management of any organization;
 - (e) Exemption for catering services provided on a railway train by an outdoor caterer;
 - (f) Exemption for catering services provided within the premises of an academic institution or medical establishment by an outdoor caterer.
5. New exemption in respect of the following introduced w.e.f. 01.03.2006
- (a) Financial leasing services including equipment leasing and hire purchase, both for principal and interest portion of the installments paid;
 - (b) Testing and analysis services provided in relation to water quality testing by Govt. owned state and District level laboratories.
 - (c) All taxable services provided by RBI.

6. Other Changes

- (a) Determination of valuation of taxable services amended to include valuation of taxable services where consideration received is not wholly in money terms and where the consideration received in money terms is not known explicitly.
- (b) Service Tax on taxable services provided from outside India to a recipient in India levied on a 'reverse charge'.
- (c) Assessee to preserve records for minimum period of 5 years.
- (d) Adjudication proceedings to conclude through voluntary deposit of service tax demanded along with interest and penalties equal to 25% of the service tax specified in the demand notice.
- (e) Penalty enhanced for non- payment of service tax.
- (f) Authority for Advance Rulings empowered to determine the liability to pay service tax.

The above amendments are effective from the enactment of the Finance Bill, 2006.

Customs

Following amendments effective from 01.03.2006:-

- (i) Peak rate of custom duty on non-agricultural products reduced from 15% to 12.5%;
- (ii) Additional duty of customs @ 4% imposed on all goods imported into India, with some exceptions ;
- (iii) Effective customs duty on non-agricultural products (including additional duty of customs) increased from 34.44% to 36.71%.
- (iv) Pipelines projects for transportation of crude oil, petroleum products and natural gas notified under project imports under Head 98.01 of the Customs Tariff.
- (v) Presently 50% of applicable customs duty being paid on DTA clearances by EOU/STP units. These units now to pay 25% of basic customs duty and applicable excise duty on DTA clearances.

Central Excise

Following amendments effective from 01.03.2006:-

- (i) The excise duty structure on production cleared from EOU/EHTP/STP to DTA amended. 75% of Basic Customs Duty exempted but full CVD payable, with credit available to entire CVD.
- (ii). The Excise duty for small cars reduced from 24% to 16%.
- (iii). Computers to attract excise duty at 12%;

- (iv) Packaged software on electronic media to attract 8% excise duty. However, exemption provided to customized software;
- (v) The Authority for Advance Rulings now empowered to provide rulings on questions in respect of determination of the liability to pay excise duty on any goods.

INCOME TAX

I. Section 80IA – Clarification regarding effluent treatment and Conveyance System

It has been clarified vide Circular no. 1 dated 12.01.2006 that 'effluent treatment' and its 'conveyance systems' to a safe disposal point are part of 'water treatment systems' and would thus qualify for tax benefits u/s 80-IA of the Income Tax Act, 1961, subject to condition laid down therein.

II. National Tax Tribunal Rules, 2005

The Parliament enacted the "National Tax Tribunal Act, 2005" on 28.12.2005 constituting the National Tax Tribunal w.e.f. 06.01.2006. (Refer Corporate Update for the month of December, 2005).

In exercise of powers conferred by sub-section (1) read with the clause (b) of section 28(2) of the said Act, the Central Government has now notified the "National Tax Tribunal (Salary, Allowance and other Conditions of Service of the officers and Employees) Rules, 2005 vide notification no. GSR 9(E) dated 09.01.2006.

These rules prescribe the nature, categories employment terms, pay scales etc. of officers and employees of National Tax Tribunal.

II. Extension of due date for filing of quarterly return of payment of interest to residents without deduction of at source

The CBDT has extended the due date of filing of quarterly returns u/s 206A(1) of the Income Tax Act for the quarters ending 30.06.2005, 30.09.2005 and 31.12.2005 to 30.04.2006

FOREIGN DIRECT INVESTMENT

I. FDI in Retail Trade of "Single Brand" Products

- . The Govt. of India has on 10.02.2006 issued Press Note 3 (2006 series) allowing FDI up to 51%, with prior govt. approval in retail trade of 'single brand' products.

The relevant Press Note is reproduced below for information:-

No. 5(3)/2005-FC
Government of India Ministry of Commerce & Industry Department of Industrial Policy & Promotion
(FC Section)

Press Note 3 (2006 Series)

Subject: Guidelines for FDI in Retail Trade of 'Single Brand' Products

1. The Government has decided to allow FDI up to 51%, with prior Government approval, in retail trade of 'Single Brand' products. This is, inter alia, aimed at attracting investments in production and marketing, improving the availability of such goods for the consumer, encouraging increased sourcing of goods from India, and enhancing competitiveness of Indian enterprises through access to global designs, technologies and management practices.
2. FDI up to 51% in retail trade of 'Single Brand' products would be subject to the following conditions:
 - i. Products to be sold should be of a 'Single Brand' only.
 - ii. Products should be sold under the same brand internationally.

- iii. 'Single Brand' product-retailing would cover only products which are branded during manufacturing.
3. FDI would be allowed only with prior approval of the Government. Application seeking permission of the Government for FDI in retail trade of 'Single Brand' products would be made to the Secretariat for Industrial Assistance (SIA) in the Department of Industrial Policy & Promotion. The application would specifically indicate the product/ product categories which are proposed to be sold under a 'Single Brand'. Any addition to the product/ product categories to be sold under 'Single Brand' would require a fresh approval of the Government.
4. Applications would be processed in the Department of Industrial Policy & Promotion, to determine whether the products proposed to be sold satisfy the notified guidelines, before being considered by the FIPB for Government approval.
5. These guidelines would come into force with immediate effect.

(Umesh Kumar)

Joint Secretary to the Government of India

F. No. 5(3)/2005-FC dated 10-2-2006

II. Rationalization of the FDI Policy

The Govt. of India has issued Press Note No. 4 (2006 series) rationalizing/liberalizing the Foreign Direct Investment Policy and Procedures:-

Copy of the Press Note is attached herewith.

DATES TO REMEMBER

1. The last date for furnishing TDS/TCS statement for the quarter ending 31.03.2006 is 30th April, 2006.
2. Quarterly returns in Form 27 in respect of Tax Deducted at source from certain payments made to non residents for the quarter ending 31.03.2006 are to be filed by 14th April, 2006.
3. TDS certificates to employees in respect of salary paid for F.Y. 2005-06 are to be issued by 30th April, 2006.
4. Consolidated TDS certificates (other than salary) for F.Y. 2005-06 are to be issued by 30th April, 2006.
5. Consolidated TCS certificates for tax collected during the half year ended 31st March, 2006 for are to be issued by 30th April, 2006.
6. The last date for deposit of Service Tax for the quarter ending 31st March, 2006 / for the month ending March, 2006 is 31st March, 2006.