

CORPORATE UPDATE BUDGET SPECIAL

FOR CLIENT CIRCULATION ONLY

No. 06/04

12th July, 2004

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FINANCE (NO. 2) BILL, 2004-HIGHLIGHTS

New Levy

Education cess of 2% is proposed to be levied on income tax, including corporate income tax (inclusive of applicable surcharge), excise duty, customs duty and service tax. This cess will take effect as under:

In Respect of Income Tax

From 1.4.2004, after the Finance (No. 2) Bill, 2004 is passed.

In Respect of Service Tax

From the date of passing of the Finance (No.2) Bill of 2004.

In Respect of Excise Duty/Customs Duty

With effect from 9th July, 2004.

Direct Taxes

Individual / HUF Tax

- 100% rebate of income tax allowed to resident individual having total taxable income upto Rs. 100,000/-.
- No other change in Income tax slabs & rates.
- Set off of loss under the head "Profit & gains of business or profession" " not allowed against Income under the head "Salaries".
- Tax exemptions on interest earned from a Non-Resident (External) Account and interest paid by banks to a Non-Resident or to a Not Ordinarily Resident on deposits in foreign currency to cease from 01.09.2004.
- W.e.f. 01.09.2004, gifts from unrelated persons, above the threshold limit of Rs. 25,000 with a further sum of Rs. 100,000 on the occasion of marriage, to be taxed as 'other' income.

- Infrastructure capital companies which were hitherto exempted from Minimum Alternate Tax (MAT), will now be covered under MAT.

Corporate Tax

- No change in Tax rates.
- Benefit under Section 80 IA to be extended to projects, undertaking substantial renovation and modernization of the existing transmission or distribution lines in power sector.
- Benefits to the telecom sector under Section 80IA for services extended to 31.03.2005.
- Deduction of 100 percent of profits for 5 years and 25 percent of profits for the next 5 years allowed in the case of new agro-processing industries setup to process, preserve and package fruits and vegetables.
- Benefit of Section 80IB to be extended to new hospitals with 100 beds or more setup in rural areas; such hospitals to be entitled to a 100 percent deduction of their profits for a period of five years.
- Benefits to the housing industry under Section 80IB extended to 31.03. 2007 from 31.03.2005.
- 100 percent deduction of profits for 10 years under section 80IB available to companies carrying on scientific

research and development and approved by the Department of Scientific and Industrial Research extended from 31.03.2004 to 31.03.2005.

- Benefit u/s 80IB available to industrial undertakings in Jammu & Kashmir extended till 31.03.2005.
- Additional depreciation of 15 percent allowed on new plant and machinery acquired or installed in an existing undertaking resulting in increase in installed capacity of at least 10 percent instead of 25 percent as hitherto applicable.
- Automobile industry entitled to 150 percent deduction of expenditure on in-house R&D facilities.
- Tax exemptions on payment made by an Indian company to acquire an aircraft or an aircraft engine on lease from a foreign state or a foreign enterprise, to cease from 01.09.2004.
- New chapter introduced in the Income Tax Act, 1961 containing provision for levy of tonnage tax for the shipping industry. This gives an option to the Shipping Industry either to opt for tonnage tax or continue to be taxed under the normal procedure. The option, however as to be exercised between 1st October, 2004 and 31st December, 2004.

<ul style="list-style-type: none"> • Equity oriented mutual funds to continue to be exempt from tax on dividends; rate of dividend tax on corporate unit holders of debt-oriented mutual funds to be raised to 20 percent with no change for individual and HUF unit holders. <p><u>Capital Gains(Applicable to individuals /HUF/Companies etc.)</u></p> <ul style="list-style-type: none"> • Tax to be abolished on long-term capital gains from securities transactions entered into in a recognised stock exchange in India on or after the date on which Finance (No. 2) Act, 2004 comes into force and from the same date transaction tax at 0.15% will be levied on all purchases of securities and Short-term capital gains tax will be reduced to 10%. • Compensation received by an individual or HUF, for compulsory acquisition of agricultural land in urban agglomerations is exempt from capital gains tax in cases where the compensation is received on or after 01.04.2004 <p><u>Tax deduction at source (TDS) /Tax collection at source(TCS)</u></p> <p>Interest, commission or brokerage, fees for professional technical services payable to a resident or amounts credited or paid to a resident contractor or subcontractor, on which tax has not been deducted or, after deduction, has not been paid, to be disallowed .</p>	<p>Deduction to be allowed in the year in which tax has been paid.</p> <ul style="list-style-type: none"> • W.e.f 01.10.2004 TDS to be deducted where amount credited or paid to a contractor or sub-contractor exceeds Rs. 20,000 in a single payment or Rs. 50,000 in aggregate during a financial year, whether under single contract or various contracts. • W.e.f 01.10.2004 TDS to be deducted @ 10% on payments made on account of compensation/enhanced compensation or consideration/enhanced consideration for compulsory acquisition of any immovable property (other than agricultural land), where aggregate payments made in a financial year exceed Rs. 100,000. • Under the existing provisions of Income Tax Act, returns of income required to be filed under section 139 are to be accompanied by TDS/TCS certificates for claiming credit of tax deducted or collected. Computerisation of TDS/TCS functions will eventually dispense with this requirement and will also pave way for filing of returns through the internet. The Finance Bill incorporates necessary legislative amendments required to facilitate the above process of computerization. The Bill propose to provide that: <ul style="list-style-type: none"> ○ No TDS and TCS certificates required to be issued by persons responsible for deduction/ Collection of tax on or after 01.04.2005.
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<ul style="list-style-type: none">○ Credit for tax deducted or collected shall be given to the assessee without production of Certificate;○ Returns will not deemed to be defective if they are not accompanied by such Certificates;○ Every person deducting and collecting tax shall be required to furnish quarterly statements to be prescribed income –tax authority who will in turn furnish an annual statement of tax deducted or collected to the assessee;○ All assesses, including non-residents, will be required to intimate the PAN to the person deducting or collecting tax as otherwise credit for TDS/TCS cannot be given.○ Penalty shall be levied in case quarterly statements are not furnished in time. <p>The amendments will take effect from 1st April 2005.</p> <ul style="list-style-type: none">● Provisions of TCS extended in respect of persons who grants lease, licence or enters into a contract or otherwise transfers any right or interest in any parking lot, toll plaza or a mine or a quarry to persons other than public sector companies.	<p><u>Indirect Taxes</u></p> <p><u>Customs & Excise</u></p> <ul style="list-style-type: none">● No change in Peak rate of Customs duty.● Intention to align the tariff structure to those of ASEAN countries.● Eventually there should be a uniform rate of tax on goods and services.● Removal of exemption from CVD enjoyed by some imported goods where there is no corresponding exemption from excise duty on Indian made goods.● Customs duty on non-alloy steel to be reduced from 15 percent to 10 percent and the excise duty on steel to be increased from 8 percent to 12 percent so that the countervailing duty will also be applicable to imports.● Peak rate on Alloy steel, copper, lead, zinc and base metals to be reduced to 15 percent; customs duties on refractory raw minerals and mineral products like graphite, asbestos, mica and gypsum to be reduced to 15 percent; customs duty on all catalysts also to be 15 percent.
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<p><u>Service Tax</u></p> <p>Note: Unless otherwise indicated herein, the following provisions will take effect from the date when the Finance (No. 2) Act, 2004 comes into force.</p> <ol style="list-style-type: none"> 1. The rate of service tax is being raised from 8% to 10%. 2. An education cess @ 2% is being levied on services subjected to service tax. Such education cess so paid on input services shall be available as credit for payment of cess on output services. 3. Credit of service tax is being extended to duties paid on goods used for providing taxable services, which are exported out of India. 4. Service tax is being imposed on the following additional services: <ol style="list-style-type: none"> a) Business Exhibition services b) Airport Services c) Transport of goods by road in a goods carriage (by a goods transport agency) d) Transport of goods by aircraft by an aircraft operator e) Survey and exploration of minerals f) Opinion poll services g) Intellectual property services other than copyrights h) Forward contract service Pandal or shamiana service i) Outdoor catering j) TV or radio programme production 	<ol style="list-style-type: none"> k) Construction services in respect of commercial or industrial buildings or civil structures l) Travel agents in relation to booking of passage for travel (other than air/rail travel agents) <p>5. Scope of certain existing services is being extended as follows:</p> <ol style="list-style-type: none"> a) Commission and installation of plant, machinery or equipment to include 'erection' thereof. b) Stock brokers to include 'sub-brokers' c) Cable operator service to include 'Multi System Operators (MSO)' d) Business auxiliary service also to include service relating to procurement of inputs, production of goods or provision of services on behalf of client. However activities amounting to manufacture are specifically excluded from the scope of the service tax. e) Financial services also to include other specified financial services, namely lending, issue of pay order, demand draft, cheque, letter of credit, bill of exchange, providing a bank guarantee, overdraft facility, bill discounting, safe deposit, lockers or safe vaults and operation of bank accounts. The interest amount would, however, remain excluded from the
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<p>purview of service tax. In addition to banking company, financial institutions including a non-banking financial company, body corporate, any other commercial concern providing financial services will also be covered.</p> <p>f) Tour operator services will include such package tour operators also who organize tours involving any mode of transport.</p> <p>6. Following service tax exemptions are being removed (w.e.f. 9th July 2004):</p> <p>a) Exemption to services in relation to safe deposit lockers and vaults</p> <p>b) Maintenance or repair of computers under a maintenance contract or by the manufacturer</p> <p>c) Mandap Keeper services provided by hotels. However 40% abatement will be allowed if catering is also provided.</p> <p>d) Commission agents, other than those dealing in agricultural produce under business auxiliary service</p> <p>e) Broadcasting service provided by cable operators</p> <p>f) Reduction of abatement from 90% to 60% for non-package tours.</p> <p>7. Exemptions (w.e.f. 9th July 2004)</p> <p>a) 40% abatement in convention service when catering is also provided</p> <p>b) 60% abatement to rent-a-cab scheme operators</p>	<p>8. Changes in Act and Rules</p> <p>a) Compulsory verification of assessment by departmental officers is being done away with.</p> <p>b) Mandatory penalty for non-registration is being removed. In all cases of bona fide procedural infringements, no penalty will be imposed.</p> <p>c) Rule 6 of service tax Credit Rules has been amended. If the input service supplier has not paid service, the service tax credit cannot be recovered from the person availing the credit if he had taken reasonable steps in terms of rule 5 (w.e.f. 9th July 2004).</p> <p>d) The present rate of interest of 15% per annum on delayed payment of service tax is being replaced by a range, from 10% to 36% per annum. The Central government will have the power to notify the rate of interest on delayed payment of service tax within this range.</p> <p>e) Section 67 of the Finance Act, 1994 is being amended to provide that where the gross amount charged or received by a service provider is inclusive of service tax payable, the value of taxable service shall be such amount as with the addition of service tax payable thereon, is equal to the gross amount charged or received.</p> <p>f) Sections 71 and 72 of the Finance Act, 1994, relating to verification of assessment and best judgment assessment respectively are being omitted.</p>
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Indian Stamp Act, 1899

It is proposed to raise the threshold level above which stamp duty in the form of revenue stamp of rupee one is charged on receipts from the current level of Rs.500/-to Rs.5000/-.

DATES TO REMEMBER

The last date for, filing of income tax return for financial year 2003-04, in respect of persons other than those mentioned below is 31st July, 2004.

- a. A Company
- b. A Person whose accounts are required to be audited.
- c. A working partner of a firm whose accounts are required to be audited.