

# India Budget 2009



# India Budget 2009

Information in this publication is intended to provide only a general outline of the subjects covered. It should neither be regarded as comprehensive nor sufficient for making decisions, nor should it be used in place of professional advice. Ernst & Young accepts no responsibility for loss arising from any action taken or not taken by anyone using this publication.

This copy belongs to \_\_\_\_\_

# Contents

Foreword .....	5
At a glance .....	7
Key performance indicators .....	15
Budget financials .....	23
Budget proposals.....	25
▶ Direct tax .....	25
▶ Indirect tax .....	47
▶ Other key policy initiatives .....	55
Recent policy changes .....	59
Global tax update.....	85
Glossary.....	89
Notes.....	94

# Foreword

The Union Budget 2009, which marks the first budget after the new Government assumed office, was presented by the Finance Minister in Parliament today.

The growth rate of the Indian economy decelerated in 2008-09 to 6.7%. This represents a decline of 2.1% from the average growth rate of 8.8% in the previous five years. A decline in all major elements of demand, including exports and consumption, necessitated a compensating deviation from the fiscal deficit targets set under the FRBM legislation. The global financial meltdown and consequent economic recession in developed economies have been a major factor in India's economic slowdown. Given the origin and dimension of the crisis in the advanced countries, every developing country has suffered to varying degrees. No country, including India, has remained completely immune to the global economic outlook. Despite a slowdown in growth, investment has been relatively buoyant, growing at a rate higher than the GDP. This reflects the resilience of Indian enterprise in the face of a massive increase in global uncertainty, risk aversion and freezing of highly developed financial markets. However, given the possibility of the economic downturn persisting in the current year, the estimated gross tax receipts for 2009-10 are likely to be lower than 2008-09. The fiscal deficit, as a percentage of GDP, is projected at 6.8%, which is a matter of concern.

The Economic Survey of 2008-09 had suggested that tax policy initiatives since the economic reforms of the 1990s have helped in considerably simplifying the tax system and broadening the tax base. The Survey pointed out that imposition of surcharges and a number of new taxes had partly reversed the move towards a simpler system. The Survey also suggested the need to introduce a new Direct Taxes Code, rationalize DDT, phase out surcharges and transaction taxes and implement GST from 1 April 2010. Given the need to balance the fiscal deficit constraints and sustain the growth momentum through tax measures, the Finance Minister has proposed several measures, including some suggested in the Survey, which should cheer taxpayers.

Removal of surcharge on personal income-tax and increasing a few personal tax allowances is expected to promote consumption by increasing disposable income. The proposals to abolish FBT and CTT indicate a move towards a simpler tax system by removing multiple taxes. Corporate India is expected to be relieved by the proposal to abolish FBT, even in the absence of a reduction in corporate tax rate and increase in MAT rate. The extension of tax holiday for STPs and EOUs is expected to promote the growth of exports, along with other measures relating to procedures for quicker service tax refunds. To provide added incentive for companies to maintain their investment in innovation, and to attract new research and development activity, the proposals seek to extend the scope of the current provision for weighted deduction. The proposals to introduce an alternative dispute resolution mechanism and transfer pricing safe harbors are innovative and are expected to be welcomed by multinational enterprises doing business in India and improve the investment climate in the country.

The Finance Minister has rightly recognized that tax reform is a process and not an event. The proposed structural changes to the tax system are expected to follow as part of the Direct Taxes Code and introduction of GST.

Much of the decline in the corporate tax collections is cyclical and will tend to be reversed when growth accelerates. The expected introduction of GST provides an opportunity for setting the indirect tax system on the path to producing a sustained increase in revenues. The budget proposals are expected to lead the economy back to the high GDP growth rate, deepen and broaden the agenda for inclusive development, reenergize the Government and improve delivery mechanism.

06 July 2009

Ernst & Young

# At a glance

## Income-tax

- ▶ Rates of corporate tax remain unchanged for both domestic and foreign companies.
- ▶ Basic exemption limit for individuals increased to INR 160,000 (INR 190,000 for resident women below the age of 65 years and INR 240,000 for senior citizens).
- ▶ MAT rate increased from 10% to 15% (plus applicable surcharge and education cess) of book profits.
- ▶ Surcharge on personal income-tax will be deleted.
- ▶ Definition of higher education for deduction in respect of interest paid on loan for purposes of higher education widened.
- ▶ Definition of “manufacture” introduced to mean a change in non-living physical object/ article/ thing which results in transformation or bringing into existence a new and distinct object/ article/ thing.
- ▶ The definition of charitable purpose will be amended to include preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest.
- ▶ Anonymous donations received by partly charitable and partly religious institutions and anonymous donations received by wholly charitable institutions shall be taxable only to the extent such donations exceed 5% of total income of such trust or institution or sum of INR 100,000 whichever is more.
- ▶ Extension of time limit for making an application for exemption under section 10(23C) to 30 September following the end of the financial year.
- ▶ Exemption of income of a mutual fund set up by a bank included in the category “other public sector banks” by the RBI.
- ▶ Exemption will not be available for compensation received on voluntary retirement or termination, if relief

from income-tax has already been claimed on such compensation and vice-versa.

- ▶ Voluntary contributions received by an electoral trust shall be exempt subject to certain conditions; deduction allowed to the contributor other than local authority or artificial juridical person wholly or partly funded by the Government.
- ▶ Threshold amount for liability to pay advance tax increased from INR 5,000 to INR 10,000.
- ▶ Allotment or transfer of specified securities or sweat equity shares taxable as perquisite in the hands of employees.
- ▶ Perquisite valuation to be based on difference between FMV (as per prescribed method) of securities as on the date of exercise of option and the amount actually paid/ recovered from the employee.
- ▶ FMV considered for computing perquisite value in the hands of employee shall be considered as cost of acquisition on sale of specified security or sweat equity shares.
- ▶ Employer contribution to approved superannuation fund in excess of INR 100,000 considered taxable in the hands of employee.
- ▶ In computing the taxable income for non-life insurance business, profit or loss on revaluation or realization of investments to be included or deducted.
- ▶ Presumptive profits for taxpayers engaged in business of plying, hiring or leasing goods carriages increased.
- ▶ Presumptive tax regime will now also be available to specified taxpayers from any business other than the business of plying, hiring or leasing goods carriages subject to fulfilment of certain conditions.
- ▶ Tax holiday sunset clause in case of STP/ EHTP undertakings and 100% EOUs extended by one year.
- ▶ Method of computation of profits eligible for tax holiday in case of SEZ undertakings streamlined.
- ▶ Weighted deduction for expenditure on in-house scientific research and development extended to companies engaged in the business of manufacture or production of

all articles or things, except those specified in the Eleventh Schedule.

- ▶ Investment linked tax deduction will be available in respect of specified businesses.
- ▶ Deduction of pro rata amount of discount allowed to zero coupon bonds issued by scheduled banks.
- ▶ For the purpose of granting tax holiday to undertakings engaged in commercial production of mineral oil or natural gas, definition of “undertaking” will be introduced with effect from 1 April 1999 to mean all blocks awarded under a single contract.
- ▶ Seven year tax holiday extended to undertakings engaged in commercial production of natural gas in blocks licensed under NELP-VIII.
- ▶ Tax holiday available to undertakings engaged in refining of mineral oil provided the undertaking begins refining before 1 April 2012.
- ▶ Deduction for developing and building housing projects will not be available to undertakings which execute the housing project as a works contract.
- ▶ Conditions introduced to prevent misuse of deduction available for developing and building housing projects.
- ▶ Deduction in respect of any special reserve created and maintained by specified entities engaged in providing long-term finance for development of housing in India.
- ▶ Eligible undertakings claiming specified export oriented tax holidays will not be permitted to claim deduction for such profits and gains under any other provisions. Deduction cannot exceed the profits and gains of the eligible undertaking and will be allowed only if claimed in the return of income.
- ▶ Profits and gains of businesses eligible for tax holidays will be computed after adopting market value of the goods and services transferred to or from other businesses of the taxpayer.
- ▶ Ten year tax holiday for power sector extended to undertakings which will become operative by 31 March 2011.

- ▶ Retrospective explanation introduced to clarify that tax holiday on infrastructure is not available for execution of any works contract.
- ▶ Revised uniform deduction in respect of partner's remuneration paid by firms.
- ▶ Limit for payments, otherwise than by an account payee cheque or an account payee bank draft to transporters raised from INR 20,000 to INR 35,000.
- ▶ Written down value for assets used in a business which is part agricultural and part chargeable to tax to be computed by deducting the full depreciation attributable to the composite income.
- ▶ Where value assessable for stamp duty purposes is higher than the actual consideration for transfer of land or building or both, such enhanced value shall be full value of consideration for computing capital gains.
- ▶ Immovable property or any other property received without consideration or for inadequate consideration by an individual or HUF shall be taxed.
- ▶ Interest received on compensation and enhanced compensation will be taxable on a cash basis after allowing a deduction of 50%.
- ▶ Deduction enhanced in respect of maintenance of dependent with severe disability from INR 75,000 to INR 100,000.
- ▶ Benefit of deduction in respect of contribution to NPS extended to all individuals.
- ▶ Receipts/ withdrawals from NPS utilized for purchase of annuity plan not taxable.
- ▶ Time limit for availing MAT credit increased from seven years to ten years.
- ▶ For the purpose of MAT computation, book profits shall be increased by provision for diminution in value of any asset.
- ▶ Taxability of LLPs and partners in an LLP put on par with general partnership firm.
- ▶ Where the tax cannot be recovered from the LLP, partners of the LLP shall be jointly and severally liable for the payment of tax due from the LLP.

- ▶ Clarification in respect of reassessment proceedings to enable the Revenue authority to assess/ reassess income in respect of issues not included in reasons for reopening.
- ▶ Additional Director/ Additional Commissioner has the power to issue warrant of authorization for search and seizure provisions.
- ▶ Penalty provisions in search cases amended.
- ▶ Withholding tax rate on rental payments reduced to 2% for the use of any plant, machinery or equipment and 10% for the use of any land, building, furniture or fittings, for all persons.
- ▶ Withholding tax rate on contractual payments revised to 1% where the payee is an individual or HUF and 2% where the payee is any other entity.
- ▶ No taxes required to be withheld on payments made to transporters engaged in the business of plying, hiring or leasing goods carriage.
- ▶ Statements of taxes withheld at source will be processed electronically. An intimation will be issued to the deductor, granting a refund or intimating any taxes payable.
- ▶ Time limit introduced for passing an order for failure to withhold taxes at source.
- ▶ Statement of taxes withheld/ collected at source to be filed within the time limit and in a form and manner as prescribed by the CBDT.
- ▶ Statement in respect of payments of interest to residents without withholding taxes to be filed within the time limit and in a form and manner as prescribed by the CBDT.
- ▶ Quoting of PAN made mandatory. Where PAN is not quoted, higher withholding tax rate would apply.
- ▶ Exemption from withholding tax now extended to interest on zero coupon bonds issued by scheduled banks.
- ▶ Arm's length price amended to be the arithmetic mean of prices determined under the most appropriate method. Where the variation does not exceed 5% of the price declared by the assessee, the transfer price declared by the assessee is deemed to be at arm's length.

- ▶ The determination of arm's length price to be subject to safe harbour rules.
- ▶ Creation of a dispute resolution panel to deal with disputes pertaining to transfer pricing and taxation of foreign companies.
- ▶ The orders passed by the Revenue authority pursuant to directions of the dispute resolution panel appealable directly before the ITAT.
- ▶ The dispute resolution panel ascribed same powers as vested in the court under Code of Civil Procedure.
- ▶ Levy of FBT withdrawn.
- ▶ The Government will be given additional power to enter into an agreement for avoidance of double taxation with the Government of any specified territory outside India.
- ▶ Introduction of provisions empowering the Revenue authority to withdraw approvals granted previously.
- ▶ Revenue authority to allot and quote DIN for every notice, letter, order or correspondence.
- ▶ Service of notice, summon, requisition, order or any other communication may be made in a prescribed manner including electronic mode.
- ▶ The period during which assessment/ reassessment is stayed by a court shall be excluded in calculating the validity period of the order for provisional attachment of asset.
- ▶ Relief to NPS for income-tax on its income, DDT on dividends received, STT on transactions and withholding tax on payments received.
- ▶ Commodity transaction tax, introduced last year, will be withdrawn.
- ▶ Exemption for income of SUUTI extended from 31 March 2009 to 31 March 2014.
- ▶ Time limit for satisfaction of specified conditions for recognition of provident funds extended to 31 December 2010.

# Customs duty

- ▶ No change in the overall rate structure of customs duty.
- ▶ Peak rate of customs duty for industrial goods retained at 10% and major ad-valorem rates of 7.5% and 5% also retained.
- ▶ AAR constituted under the Income-tax Act to be notified as an authority eligible to adjudicate advance rulings for customs duty, excise duty and service tax.

# Excise duty

- ▶ Duty rate on several items presently attracting 4% increased to 8%.
- ▶ Manufacturer of excisable and exempted goods granted option to pay 5% (reduced from 10%) on value of exempted goods and avail full CENVAT credit.
- ▶ Definition of "inputs" will exclude cement, angles, channels and other items used for construction of factory sheds, building or laying of foundations or making structures for support of capital goods.
- ▶ Power granted to HC to condone delay in filing of appeals/ applications/ memorandum of cross objections, with retrospective effect.

# Service tax

- ▶ No change in effective service tax rate of 10.3%.
- ▶ Service tax extended to transport of coastal goods, goods through national waterways and inland waters, legal consultancy services and cosmetic and plastic surgery services.
- ▶ Definition of stock broker to exclude "sub-broker". Transport of goods by rail to include Government railways.
- ▶ Definition of "India" for service tax extended to installations, structures and vessels in the Continental Shelf and Exclusive Economic Zone of India.

- ▶ Provider of taxable and exempted output services granted option to pay 6% (reduced from 8%) on value of exempted services and avail full CENVAT credit.
- ▶ For works contract composition scheme, gross value to include value of goods used in works contract, whether supplied for consideration or otherwise under any other contract. This is not applicable to ongoing works contracts.
- ▶ Exemption from service tax on road transportation services and foreign commission agency services, where liability to pay service tax is on the exporter of goods. Refund to exporter on service tax charged on terminal handling charges.

## Sales tax

- ▶ No change in CST rate.
- ▶ GST proposed to be adopted with effect from 1 April 2010.

# Key performance indicators

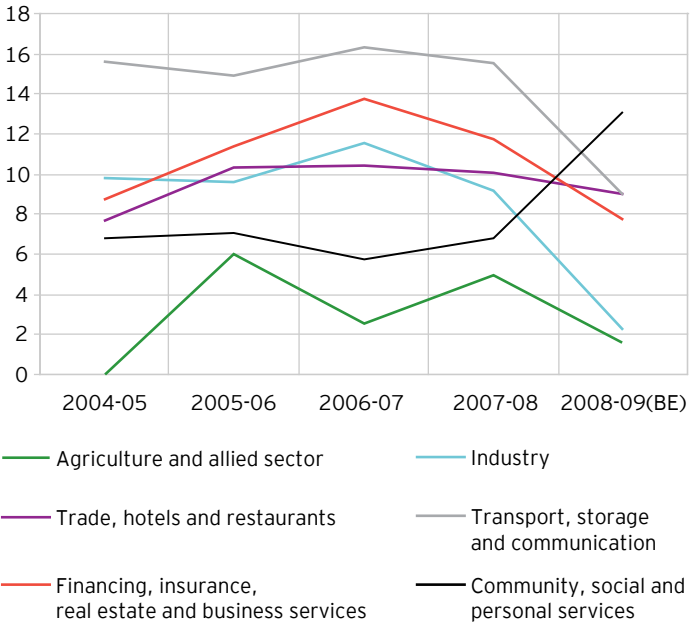
The Economic Survey 2008-09 reports the GDP growth for this year at 6.7% as against 9% in 2007-08. The deceleration in the growth rate is primarily on account of the global financial meltdown and consequent economic recession in developed economies.

**Agriculture and allied sector:** The sector has grown at 1.6% in 2008-09 as against a growth of 4.9% in 2007-08 mainly on account of the high base effect of 2007-08.

**Industry:** The growth of the industrial sector has decelerated in the current year. The index of industrial production for the year 2008-09 points towards a sharp slowdown with growth being placed at 2.4%. Manufacturing growth was placed at 2.3% in 2008-09 as against a growth of 9% in 2007-08. Mining grew at 2.3% in 2008-09 as against a growth of 5.1% in 2007-08 while electricity grew at 2.8% in 2008-09 as against a growth of 6.4% in 2007-08.

**Services:** The growth in the sector has been mixed. Trade, hotels, restaurants, transport and communication (together) grew at 9% in 2008-09. Community services grew at 13.1% in 2008-09 as against a growth of 6.8% in 2007-08. Construction services grew at 7.2% in 2008-09 as against a growth of 10.1% in 2007-08. Likewise, financial, insurance, real estate and business services grew at 7.8% in 2008-09 as against a growth of 11.7% in 2007-08.

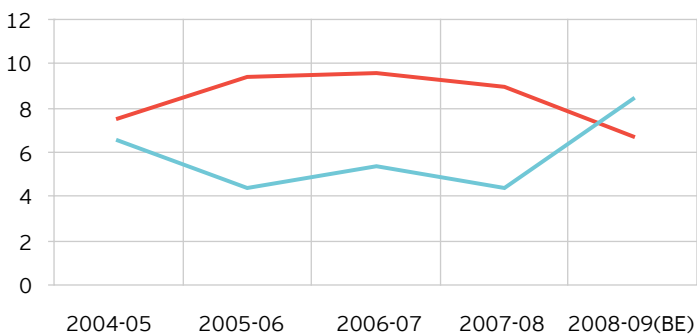
### Sectoral growth rate (%)



Other key economic indicators are summarized below:

- ▶ The annual average rate of inflation (in WPI terms) increased from 4.4% in 2007-08 to 8.4% in 2008-09. Inflation, which was rising but was in single digit up to end of May 2008, reached double digits between June and October 2008 and remained above 8% up to end of November 2008. This was largely due to the developments in the global economy, with the prime movers being the spurt in the prices of crude oil, minerals and metal related products, testifying the growing connectivity between the domestic and world economies. In other periods, inflationary pressures were contained below 7%, facilitated not only by the liberalized domestic and foreign trade which served to foster greater competition, but also due to the reduction and rationalization of the tax structure, which gave a fillip to cost efficiency.

## GDP growth and inflation (%)

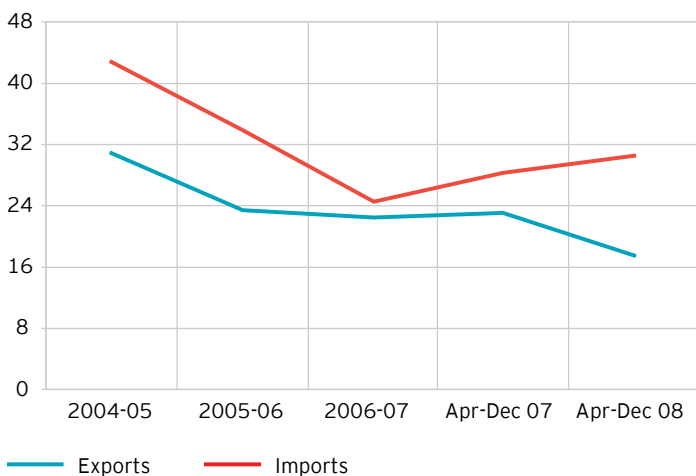


— GDP growth

— Inflation

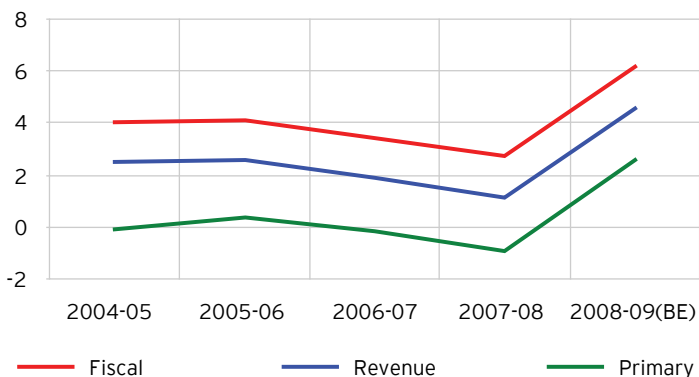
- ▶ Net capital flows rose from a level of USD 45.2 billion in 2006-07 to USD 108 billion in 2007-08, indicating a growth of 139%, attributable to a significant rise in foreign investment in terms of direct and portfolio investment, large inflow of banking capital and a quantum jump in loans, particularly short term credit and external commercial borrowings. The net capital inflow from April to December 2008 was USD 15.3 billion. Foreign exchange reserves declined by USD 57.7 billion from USD 309.7 billion in 2007-08 to USD 252 billion in 2008-09.
- ▶ Merchandise export growth decreased from 23% during April to December 2007 to 17.5% in the corresponding period of 2008. Imports increased from 28.2% during April to December 2007 to 30.6% in the corresponding period of 2008. The higher growth rate was mainly due to a sharp rise of 43.3% in oil imports during April to December 2008.

## Foreign trade (%)



- ▶ Fiscal deficit increased from 2.7% in 2007-08 to 6.2% of GDP in 2008-09. Primary deficit increased from -0.9% of GDP in 2007-08 to 2.6% of GDP in 2008-09. Revenue deficit is estimated to increase from 1.1% of GDP in 2007-08 to 4.6% of GDP in 2008-09.

## Fiscal, revenue and primary deficit (% of GDP)



- ▶ The Indian capital markets began the year 2008 on a bullish note, with the BSE and NSE indices touching new peaks of 20,873 points and 6,288 points, respectively, on 8 January 2008 but was affected adversely thereafter reflecting the impact of global financial crisis. The movement in equity prices in Indian capital market was in tandem with trends in major international equity markets. The Indian equity market weakened further between September and December 2008, following sharp decline in stock markets across the globe and perceptible shift in

investor preferences. Having regard to these trends, the regulatory measures initiated during the year were aimed at ensuring the soundness and stability of the Indian capital markets.

## Recommendations of the Economic Survey 2008-09

The Economic Survey 2008-09 has recommended the following key initiatives:

- ▶ **Agriculture:** The agriculture sector faces challenges on various fronts. On the supply side, the yield of most crops has not improved significantly and in some cases has fluctuated downwards. There is a need for a renewed focus on improving productivity and to step up the growth of allied activities and non farm activities that can help improve value addition. The current focus should be on developing rural infrastructure particularly rural roads, providing an impetus to the irrigation sector, innovative institutional mechanisms that provide credit and financial products (including insurance products) specifically designed to meet the needs of the farm sector. Also, the consequences of climate change on Indian agriculture also need to be factored in the strategy for the development of this sector.
  
- ▶ **Industry:** The year 2008-09 has been marked by a very strong downturn in growth from 8.5% to 2.4% due to a multitude of factors, the most important being the global financial shock that not only impacted the financing of industries but also their domestic and external demand. There are positive signs that the Indian industry may have weathered the most severe part of the shock and is now moving towards a recovery. Some of the positive signs are the recent upturn in the generation of electricity, the improvement of cement despatches and rise in the off-take of bank credit. The sustained inflow of FDI also points to foreign investor confidence in the Indian economy, especially the Indian industry. The decline in crude prices, input prices and interest rates should help the industry to improve their profit margins that have been under pressure. At this juncture, when the prospects for industrial output and prices in most industrial economies seem to be grim, the configuration of prices, output and market size makes the Indian industry one of the few attractive destinations for investment.

- ▶ **Finance:** The monetary policy during 2008-09 has been responsive to the emergent situation as a consequence of global conditions. The measures initiated on the monetary front were in the nature of an accommodative policy to ensure that there were no liquidity constraints in the economy. Coupled with the expansionary fiscal policy, the initiatives have had a favourable impact on domestic monetary, real and financial sectors. As compared to developed countries which are presently facing recessionary trends, the Indian economy has merely had a moderation in growth during 2008-09. On a preliminary assessment, the economy evinces early signs of turnaround. The flexibility in the policy framework and initiatives taken provide the environment for the resumption of sustained high growth path in the near term. The growth in credit for meeting the critical needs of the productive sectors are high on the agenda.

Net investment by FIIs in equity instruments amounted to USD 5.4 billion from April to May 2009. A turnaround has also been noticed in the performance of mutual fund industry, which had remained subdued during 2008.

Also, the development of corporate bond and securitization markets in India has been an important area, which has received policy attention in the recent past. A reasonably well developed bond market is required to supplement the banking system in meeting the requirements of the corporate sector for long term capital investment besides raising resources for infrastructure development in the country.

- ▶ **Taxes:** The compositional shift in the tax structure in favor of direct taxes continued in 2008-09 with direct taxes forming 54.9% of the total tax revenue. As a proportion of GDP, total gross tax revenue declined to 11.8% and direct taxes were at 6.5%. The decline in tax-GDP ratio was partly on account of the operation of automatic stabilizers and tax cuts implemented. Specifically, the decline in indirect taxes also owed to the policy of cuts in customs and excise duties and the continuance of the exemptions. It would also be relevant to note that since June 2008, basic customs duty on crude petroleum, which was a major contributor earlier to customs revenue, was reduced to zero level.

The uncertainty surrounding the global macro economic developments in 2009-10 and the need for minimizing the second round impact of the global shock call for a

continued fiscal policy stimuli. In 2008-09, fiscal expansion in an overall sense helped arrest the decline in growth. Given the relatively weaker automatic stabilizers in operation in the country, a more selective discretionary fiscal policy was used to address the affected sectors and sections of work force in a sustainable manner and promote investments that would not only boost demand in the short run but yield long run growth dividends. Within the proposed fiscal expansion, the mix of expenditure and tax cuts would be critical in the context of its impact on overall macro economic fundamentals like growth, interest rates and exchange rates. The long term fiscal policy stance beyond 2010-11 would emerge later this year when the Thirteenth Finance Commission presents its report.

- ▶ **FDI policy reforms:** The Economic Survey 2008-09 offers following FDI policy reform options:
  - ▶ Frame rules for foreign entry up to 49% in nuclear power;
  - ▶ Raise foreign equity share in insurance to 49%. In addition, consider allowing 100% foreign equity in a special category of insurance companies that provide all types of insurance (e.g. health, weather) to rural residents and for all agricultural related activities including agro processing;
  - ▶ Allow FDI in multi-format retail, starting with food retailing; and
  - ▶ Raise FDI in defence industries from 26% to 49%; allow FDI up to 100% on a case by case basis in high technology, strategic defence goods, services and systems that can help eliminate import dependence.
- ▶ **External trade:** The subdued global economic outlook calls for efforts at both national and international levels to revive growth. For the merchandise trade sector, besides the short term relief measures and stimulus packages, some fundamental policy changes are needed such as continuation of the reduction in customs and excise duty, streamlining of existing export promotion schemes, giving special attention to export infrastructure along with rationalization of port service charges, weeding out unnecessary customs duty exemptions, rationalizing the tax structure, checking the proliferation of SEZs. In the services sector, a road map of specific

policies needs to be drawn not only to overcome the impact of the current global crisis, but also to accelerate the growth of the economy and total exports.

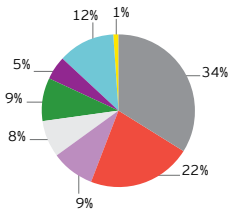
- ▶ **Inflation:** In the first half of the financial year 2008-09, the inflationary pressure was on account of the momentum in the international commodity prices and the domestic prices of food items like cereals and pulses. The continued food inflation, though moderating of late, could undermine inclusive growth, in particular, the efforts to combat poverty. The focus in the coming months will continue to be on having a calibrated approach to using monetary policy measures for an early return to the high growth path and preserve financial stability in the economy. It would require strengthening the resilience of the banking sector, ensuring well functioning financial markets, proactive liquidity management and institutional reforms to make regulatory oversight systems more effective.
- ▶ **Social sector programs:** The Government in recent years has launched several ambitious programs focused on the development of rural areas and population, in furtherance of its strategy of inclusive growth and raising the quality of life of the rural people. While some innovative steps taken in the implementation of these programs have brought in some transparency, much more needs to be done in this direction. More emphasis is required on better governance and improved service delivery so that the targeted groups of people are actually benefitted from the schemes implemented by the Centre and the States. There is also a need to involve local communities and Panchayati Raj Institutions to the maximum possible extent so that local people have a stake in planning for their welfare and upliftment. This will also help in preventing leakages as well as wastages in the form of implementation of schemes with overlapping objectives and beneficiaries.

Note: All figures are as per the Economic Survey 2008-09

BE: Budget Estimates

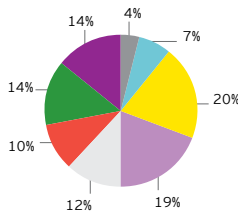
# Budget financials

Where the rupee comes from



- Borrowings and other liabilities
- Corporation tax
- Income-tax
- Customs
- Union excise duties
- Service tax and other taxes
- Non-tax revenues
- Non-debt capital receipts

Where the rupee goes to



- Non-plan assistance to state and UT Governments
- State and UT plan assistance
- Central plan
- Interest payment
- Defence
- Subsidies
- Other non-plan expenditure
- States' share of taxes and duties

- ▶ The annual financial statements of the Government for 2008-09 are set to reflect a fiscal deficit of 6% of GDP, considerably higher than the budget estimate of 2.5%. The target fiscal deficit for 2009-10 is 6.8%. Revenue deficit for 2009-10 is estimated at 4.8% as against the revised estimate of 4.4% for 2008-09. While from the medium-term fiscal perspective, the recommendations of the Thirteenth Finance Commission are awaited, to bring the fiscal deficit under control, the Government intends to initiate institutional reform measures encompassing all aspects of the budget such as subsidies, taxes, expenditure and disinvestment, during the current year itself. The Government intends to return to the FRBMA target for fiscal deficit at the earliest and as soon as the negative effects of the global crisis on the Indian economy have been overcome.
- ▶ Market borrowings are expected to finance 98% of the Government's fiscal deficit in 2008-09. As per the revised estimates, the interest outgo as a percentage of the revenue receipts is set to increase to 34.28% in 2008-09 from 31.56% in 2007-08 and is estimated to be 36.70% in 2009-10.

- ▶ The Union Budget 2009-10 has estimated:
  - ▶ Gross tax revenues at INR 6,411 billion representing an increase of approximately 2.1% over the revised estimates of INR 6,279 billion for 2008-09.
  - ▶ Plan expenditure at INR 3,251 billion representing an increase of approximately 14.88% over the revised estimates of INR 2,830 billion for 2008-09. As a proportion of the total expenditure, plan expenditure is estimated at 31.85% against the revised estimate for 2008-09 of 31.41%. Non-plan expenditure is estimated to increase to INR 6,957 billion representing an increase of 12.57% over the revised estimates for 2008-09. The increase in non-plan expenditure is mainly on account of the implementation of the Sixth Central Pay Commission recommendations, increased food subsidy and higher interest payment arising out of the larger fiscal deficit in 2008-09.
  - ▶ As a part of counter-cyclical measures to minimize the impact of global recession and economic slowdown, State Governments will be permitted to borrow additional 0.5% of their GSDP through relaxation of fiscal deficit target under FRBMA from 3.5% to 4% of their GSDP. This would enable them to raise additional open market loans of about INR 210 billion this year.

# Budget proposals

This section summarises significant proposals and direct and indirect taxes and policy initiatives announced in the Union Budget 2009. Most direct tax proposals in the Finance Bill are effective from the financial year commencing on 1 April 2009, unless otherwise specified. Most indirect tax proposals are effective immediately. Further, policy initiatives are expected to be implemented by the Government through the legislative announcements over the ensuing months.

The Finance Bill is discussed in the Parliament before enactment, and is subject to amendment resulting from these discussions.

## Direct tax

### Income tax

#### Rates of tax

##### Personal tax rates

Existing		Proposed	
Income (INR)	Rate (%) <sup>@</sup>	Income (INR)	Rate (%) <sup>@</sup>
0-150,000	Nil	0-160,000*	Nil
150,001-300,000	10	160,001-300,000	10
300,001-500,000	20	300,001-500,000	20
500,001 and above	30 <sup>#</sup>	500,001 and above	30

<sup>@</sup> Education cess of 3% is leviable on the amount of income-tax and surcharge, if any.

\* The exemption limit is INR 190,000 (earlier INR 180,000) in case of resident women below the age of 65 years and INR 240,000 (earlier INR 225,000) in case of resident individuals of the age of 65 years or more.

<sup>#</sup> Presently, surcharge of 10% of the total tax liability is applicable where the total income exceeds INR 1,000,000. This surcharge will be deleted.

## Tax rates for partnership firm

Rates of tax for partnership firm remain unchanged. Existing surcharge of 10% will be deleted.

## Corporate tax rates

Rates of corporate tax remain unchanged for both domestic and foreign companies. MAT will be increased from 10% to 15%. The corporate tax rates including surcharge and education cess have been summarized below:

Description	Rate (%)
<b>A) Domestic company</b>	
Regular tax	33.99 <sup>@</sup>
DDT	16.995
<b>B) Foreign company</b>	
Regular tax	42.23 <sup>#</sup>

MAT is chargeable at 15% of book profits (plus applicable surcharge and cess).

@ 30.9% where the total income is equal to or less than INR 10 million

# 41.2% where the total income is equal to or less than INR 10 million

## Definitions

Amendment to the definition of “higher education”

- ▶ Presently, an individual is allowed a deduction for interest on loan for the purpose of pursuing higher education. “Higher education” is defined as full-time studies for any graduate or post graduate course in engineering, medicine, management or for post graduate course in applied sciences or pure sciences including mathematics and statistics.

Now, the definition “higher education” will be amended to mean any course of study pursued after passing the senior secondary examination or its equivalent from recognized institutions.

## Insertion of definition of “manufacture”

- ▶ A definition for the term “manufacture” (along with grammatical variations) will be inserted to mean a change in a non-living physical object/ article/ thing which -
  - ▶ Results in transformation of the object/ article/ thing into a new and distinct object/ article/ thing having a different name, character and use; or
  - ▶ Brings into existence a new and distinct object/ article/ thing with a different chemical composition or integral structure.

## Amendment to the definition of “charitable purpose”

- ▶ The definition of “charitable purpose” will be amended with retrospective effect from 1 April 2008 to also include preservation of environment (including watersheds, forests and wildlife) and preservation of monuments or places or objects of artistic or historic interest.

## Amendment to definition of “income”

- ▶ The definition of “income” will be amended to include voluntary contributions received by an electoral trust.

## Amendment to the definition of “zero coupon bond”

- ▶ The definition of “zero coupon bonds” will be amended to include scheduled banks as an issuer.

## Definition of the term “block of assets” streamlined

- ▶ The definition of the term “block of assets” appeared at two places, viz. under the definitions section and an explanation under the depreciation provisions. These definitions were not identical. Now, only the one under the definitions section will be retained.

## Exempt income

### Receipt of anonymous donations

- ▶ Presently, anonymous donations received only by wholly religious entities are exempt from tax. Partly religious and partly charitable entities are also exempt from taxation of anonymous donations except where the anonymous donation is made to an educational or medical institution run by such an entity in which case donations are taxed at the rate of 30%. In case of wholly

charitable entities, all anonymous donations are taxed at the rate of 30%.

- ▶ Now, in case of partly religious and partly charitable institutions, anonymous donations towards a medical or educational institution run by such entities shall be taxable only to the extent such donations exceed 5% of total income of such institution or sum of INR 100,000, whichever is more.
- ▶ In case of wholly charitable institutions, anonymous donations shall be taxable to the extent such donations exceed 5% of total income of such institution or sum of INR 100,000 whichever is more.

Exemption of income of a mutual fund set up by a bank included in the category "other public sector banks" by the RBI

- ▶ Presently, an exemption is available in respect of income of a mutual fund set up by a public sector bank. The exemption has now been extended to include mutual funds set up by banks categorized as "other public sector banks".

Extension of time limit for making an application for exemption under section 10(23C)

- ▶ Presently, funds, institutions, universities/ educational institutions, hospitals/ medical institutions, etc, having receipts of more than INR 10 million need to make an application for exemption under section 10(23C) at any time during the financial year for which exemption is sought. The time limit for making the application has now been extended to 30 September following the end of the financial year.

Exemption on voluntary retirement or termination of service

- ▶ Presently, an exemption is available for income received by an employee from specified employer at the time of voluntary retirement or termination of service up to INR 500,000. Now, the said exemption would not be available if the employee has already claimed relief under section 89 from tax on compensation received at the time of voluntary retirement or termination of service and vice-versa.

Voluntary contributions received by an electoral trust

- ▶ Voluntary contributions received by an electoral trust shall be exempt subject to specified conditions.

## Advance tax

Increase in the threshold amount for payment of advance tax

- ▶ Presently, a taxpayer is liable to pay advance tax if the tax payable during a financial year is INR 5,000 or more. The threshold amount of INR 5,000 will be increased to INR 10,000.

## Salary income

Consequent to the withdrawal of FBT, following changes have been introduced in taxation of salary income:

- ▶ Presently, FBT is levied on the employer in respect of any allotment or transfer (directly or indirectly) of any specified securities or sweat equity shares to its employee (including former employee). Now, such benefit will be subject to tax as a perquisite only in the hands of the employee as under:
  - ▶ The perquisite value taxable in the hands of the employee will be the difference between the FMV of the specified security or sweat equity shares on the date on which the option is exercised and the amount actually paid by/ recovered from the employee.
  - ▶ FMV will be computed in accordance with the method to be prescribed.
  - ▶ Presently, in case of shares/ debentures/ warrants acquired under an ESOP prior to enactment of FBT, the value considered for computing perquisite in the hands of the employee is considered as cost of acquisition on sale. Now, FMV considered for computing the perquisite value will be considered as cost of acquisition on sale of such specified security or sweat equity shares.
- ▶ Presently, contribution by the employer to an approved superannuation fund for employees in excess of INR 100,000 for each employee is subject to FBT in hands of the employer. Now, such excess will be a taxable perquisite in the hands of the employee.

- ▶ Presently, prescribed fringe benefits (other than those subject to FBT) are taxable as perquisites in the hands of the employee. Now, all prescribed fringe benefits would be subject to tax in the hands of employee.

## Business income

Profit or loss on revaluation or realization of investments

- ▶ Presently, profit or loss on revaluation or realization of investments of non-life insurance companies is exempt from income-tax. Now, in computing the taxable income of the said taxpayer, the profits on revaluation or realization of investments would be included and similarly a deduction will be allowed for the losses on revaluation or realization of investments.

This provision will be applicable with effect from 1 April 2010.

## Presumptive taxation

Presumptive profit from business of plying, hiring or leasing goods carriages

- ▶ Presumptive profit in respect of heavy goods vehicle/ other vehicles increased.

The above amendment will be applicable with effect from 1 April 2010.

Deduction for taxpayers engaged in a business other than the business of plying, hiring or leasing goods carriages

- ▶ Now, presumptive tax regime will be available to an individual, HUF, or a partnership firm who is a resident but not a LLP firm for any business other than the business of plying, hiring or leasing goods carriages.
- ▶ The taxable profits shall be calculated at the rate of 8% of total turnover subject to specified conditions.

## Deductions from business income

Extension of the tax holiday sunset clause in case of STP/ EHTP undertakings and 100% EOUs

- ▶ Presently, the tax holiday in respect of profits derived from exports by STP/ EHTP undertakings and 100% EOUs is not available beyond 31 March 2010. Now, the tax

holiday will be available in respect of profits derived from exports up to 31 March 2011.

Computation of profits eligible for tax holiday in case of SEZ undertakings

- ▶ Presently, profits eligible for tax holiday in case of SEZ undertakings are computed with reference to the total turnover of all the businesses of the taxpayer.
- ▶ Now, profits eligible for tax holiday in case of SEZ undertakings will be computed as follows:

Profits of the business of the SEZ undertaking	X	Export turnover of the SEZ undertaking
		Total turnover of the SEZ undertaking

Extension of weighted deduction for expenditure incurred on in-house scientific research and development

- ▶ Presently, a weighted deduction of one and one-half times of the expenditure incurred on in-house scientific research and development is allowed to companies engaged in the specified activities. Now, the weighted deduction will be available to companies engaged in the manufacture or production of any article or thing, except those specified in the Eleventh Schedule of the Income-tax Act.

Deduction for capital expenditure on certain specified businesses

- ▶ As an incentive, the Government has introduced an investment linked tax deduction for the following specified businesses:
  - ▶ Setting up and operating a cold chain facility;
  - ▶ Setting up and operating a warehousing facility for storage of agricultural produce; and
  - ▶ Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network.
- ▶ The specified business should commence its operations from the following prescribed dates:

- ▶ On or after 1 April 2007 in case the specified business pertains to laying and operating cross country natural gas pipeline.
- ▶ On or after 1 April 2009 in case of other specified businesses.
- ▶ Where the specified business pertains to laying and operating cross country natural gas pipeline and the operations commence during 1 April 2007 to 31 March 2009, deduction in respect of capital expenditure incurred (other than expenditure on the acquisition of any land or goodwill or financial instrument) during any earlier financial year, would be allowed in the financial year 2009-10, provided no deduction for such expenditure has been allowed or is allowable in earlier financial years.
- ▶ 100% of capital expenditure incurred (other than expenditure on acquisition of any land or goodwill or financial instrument), wholly and exclusively for the purposes of any specified business would be allowed as a deduction in computing business income.
- ▶ No other deduction will be available in respect of capital expenditure (other than expenditure on the acquisition of any land or goodwill or financial instrument).
- ▶ The specified business should not be set up by:
  - ▶ Splitting up or reconstruction of an existing business; and
  - ▶ Transfer to the specified business of any previously used plant or machinery, the value of which exceeds 20% of the total value of the plant and machinery used in the specified business.
- ▶ In case the specified business pertains to natural gas crude or petroleum oil pipelines, additional conditions are required to be fulfilled.

Deduction of pro rata amount of discount on a zero coupon bonds

- ▶ Presently, a deduction is allowed to specified issuers of zero coupon bonds on a pro rata basis for the amount of discount. Such deduction will also be allowed to scheduled banks in respect of zero coupon bonds issued by them.

## Tax holiday for undertakings engaged in commercial production of mineral oil or natural gas

- ▶ An explanation will be introduced to provide that all blocks awarded under a single contract will be treated as a single undertaking.

This provision will be applicable retrospectively with effect from 1 April 1999.

- ▶ Presently, a seven year tax holiday is allowed to undertakings engaged in commercial production of mineral oil. Availability of tax holiday for commercial production of natural gas has been a subject matter of litigation.

The provisions have been amended to provide tax holiday for natural gas production from blocks licensed under the NELP-VIII round.

## Tax holiday for undertakings engaged in refining of mineral oil

- ▶ Presently, a tax holiday is allowed to undertakings engaged in refining of mineral oil provided the undertaking commences refining before 1 April 2009. However, certain undertakings are allowed the tax holiday provided the refining commences before 1 April 2012.

Now, all undertakings will be eligible for the tax holiday as long as the undertaking commences refining before 1 April 2012.

## Deduction for undertakings engaged in developing and building housing projects

- ▶ It is now clarified that for availing 100% deduction, an undertaking engaged in developing and building of housing projects will be required to fulfill the following conditions in addition to the existing conditions:
  - ▶ Not more than one residential unit in the housing project is allotted to any person other than an individual.
  - ▶ Where a residential unit is allotted to any individual, no other residential unit in such housing project is allotted to the spouse and minor child of such individual, HUF in which such individual is the karta, any person representing such individual, the spouse

or the minor child of the individual or the HUF in which such individual is karta.

- ▶ It is clarified that the deduction will not be available to any undertaking which executes the housing project as a works contract awarded by any person (including the Central or State Government).

This clarification will be applicable retrospectively with effect from 1 April 2000.

Deduction to specified entities providing long-term finance for development of housing in India

- ▶ Presently, a deduction is available in respect of any special reserve created and maintained by financial corporations, banking companies and co-operative banks engaged in construction or purchase of houses in India for residential purpose. Now, the words "construction or purchase of houses in India" is substituted with "development of housing in India".

Deductions for certain eligible undertakings

- ▶ To avoid multiple claims of deduction for the same profits, the following amendments have been made with retrospective effect from 1 April 2003:
  - ▶ For profits and gains of eligible export oriented undertaking (sections 10A, 10AA, 10B or 10BA, or Part C of Chapter VI A), no further deduction in respect of and to the extent of such profits and gains shall be allowed under any other provisions of the Income-tax Act.
  - ▶ The deduction for an eligible undertaking shall not exceed the profits and gains of the undertaking.
  - ▶ No deduction under the above sections will be allowed if the taxpayer fails to make a claim for any deduction in the tax return.
- ▶ Where goods or services are transferred by the taxpayer between the eligible undertaking and any other business carried on by the taxpayer and the consideration for transfer does not correspond with the market value, then, for the purpose of deduction, the profits of gains of the undertaking will be computed by adopting the market value on the date of the transfer.

The term “market value” will be defined to mean the price which the goods and services will fetch or cost in an open market, subject to regulatory restrictions.

- ▶ Ten year tax holiday will be extended to power sector undertakings which commence operations by 31 March 2011.
- ▶ It has been further clarified that tax holiday (section 80-IA) not to be allowed for profits and gains from any works contract awarded by any person (including Central or State Government) and executed by the undertaking or enterprise.

This amendment will be effective retrospectively from 1 April 2000.

- ▶ Presently, an undertaking carrying on the business of laying and operating a cross country natural gas distribution network (including pipelines and storage facilities being an integral part of such network) is eligible for an infrastructure tax holiday subject to certain conditions. With the introduction of an investment linked tax deduction, the deduction under this section will not be available with effect from 1 April 2010.

#### Deduction in respect of contribution made to political parties

- ▶ Presently, a deduction is allowed in respect of any sum contributed to any political party by an Indian company or any person, except a local authority or an artificial juridical person wholly or partly funded by the Government. This deduction is now available for contributions to electoral trusts.

#### Amendment to ineligible list for tax holiday in Himachal Pradesh and Uttaranchal

- ▶ The list of items relating to the paper industry which are ineligible for the tax holiday granted to new units located in Himachal Pradesh and Uttaranchal will be replaced with a revised list.

#### Upward revision and uniform deduction in respect of partner’s remuneration

- ▶ Presently, the deduction available to a partnership firm in respect of the remuneration paid to its partners is based on the nature of its activity being business/ profession.

Now, this differentiation will be removed. The revised uniform limits will be as follows:

Book profit/ (loss) of the firm	Deductible partner's remuneration
Up to the book profit of INR 300,000, or in case of a loss	INR 150,000 or 90% of the book profit, whichever is higher
On the book profit above INR 300,000	60% of the book profit above INR 300,000

#### Expenses not deductible in certain circumstances

- ▶ Presently, expenditure incurred in respect of payments or aggregate of payments made to a person, in a day, in excess of INR 20,000, otherwise than by way of an account payee cheque drawn on a bank or an account payee bank draft, is not allowed as a deduction. Now, an exception will be made in case of payments made to a person for plying, hiring or leasing goods carriages, for which the limit will be raised to INR 35,000.

This amendment will be applicable with effect from 1 October 2009.

Written down value of assets used in a business which is partially agricultural and partially chargeable to tax

- ▶ As per the new provisions, the written down value of assets used in a business, which is part agricultural and part chargeable to tax, will be determined by reducing the total depreciation that would have been allowed from the actual cost of the assets if the entire income was chargeable to tax. This results in a reversal of a decision of the Apex Court.

## Capital gains

Full value of consideration shall not be less than the assessable value under stamp duty legislation

- ▶ Presently, value adopted or assessed under stamp duty legislation could be considered as full value of consideration for computing capital gains on transfer of land or building or both. Now, the value which stamp duty valuation authority would have adopted or assessed if referred to, would be considered as full value of consideration, if the same is higher than the actual consideration.

This amendment will be applicable with effect from 1 October 2009.

## Income from other sources

Taxation of transactions without consideration or for an inadequate consideration by individuals and HUF

- ▶ Where immovable property or any other property is received without any consideration and the stamp duty value (in case of immovable property)/ fair market value (in case of any other property) of such property exceeds INR 50,000, the entire stamp duty value or fair market value (as the case maybe) of such property would be taxable as income from other sources.
- ▶ Where immovable property or any other property is received for a consideration and such consideration is less than the stamp duty value (in case of immovable property)/ fair market value (in case of any other property) of the property by an amount exceeding INR 50,000, the stamp duty value/ fair market value reduced by the consideration received, would be taxable as income from other sources.
- ▶ The above provisions will not be applicable where property is received from a relative or on occasion of marriage of the individual or under a will or inheritance or contemplation of death of the donor or from local authority, approved fund or trust.

The above amendment will take effect from 1 October 2009.

Provision introduced for taxability of interest received on compensation and enhanced compensation

- ▶ Interest received on compensation or enhanced compensation will be deemed to be income under the head income from other sources for the year in which it is received, irrespective of the method of accounting followed.

Further, a deduction of 50% of such amount will be allowed.

## Other deductions under Chapter VIA

Deduction in respect of maintenance of a severely disabled dependent

- ▶ Presently, a deduction of INR 75,000 is available to an individual/ HUF for maintenance, including medical

treatment, of a dependent with severe disability. Now, a deduction of INR 100,000 will be available.

#### Deduction in respect of contribution to NPS extended

- ▶ Presently, a deduction in respect of contribution to NPS is available only to individuals where there is an “employer-employee” relationship.

Now, this deduction will be extended to include all individuals who contribute to NPS.

This amendment will take effect retrospectively from 1 April 2008.

#### Benefit on purchase of annuity plan from receipts of NPS

- ▶ Presently, an amount received on account of closure or withdrawal from the pension scheme is taxable in the hands of the employee in the year of receipt.

Now, such receipts/ withdrawals will not be taxable where they are used for purchasing an annuity plan in the same financial year.

This amendment will take effect retrospectively from 1 April 2008.

## MAT

#### Increase in MAT rate

- ▶ Presently, the rate prescribed for MAT is 10% of book profits (plus applicable surcharge and education cess). Now, the MAT rate will be increased to 15% of book profits (plus applicable surcharge and education cess).

#### Enhancement of period of MAT credit

- ▶ Presently, credit for MAT paid is available for carry forward and set off for a period of seven years succeeding the year in which tax credit becomes allowable. Now, credit for MAT paid shall be allowable for carry forward and set off for a period of ten years succeeding the year in which tax credit becomes allowable.

#### Clarification for MAT computation

- ▶ Provision for diminution in value of any asset will now be added back for computing book profit for the purposes of MAT.

The above amendment will take effect retrospectively from 1 April 1997.

## Taxation of LLPs

Taxability of LLPs and partners in an LLP has been placed on par with general partnership firm by amending the definition of the terms “firm”, “partner” and “partnership”:

- ▶ Definition of the terms “firm” and “partnership” will be widened to include an LLP as defined in the LLP Act, 2008.
- ▶ Definition of the term “partner” will be widened to include a partner of an LLP as defined in the LLP Act, 2008.
- ▶ A new section with regard to the recoverability of tax due from an LLP will be introduced. Every partner of the LLP shall be jointly and severally liable for the payment of any tax due from an LLP which cannot be recovered, unless the partner proves that the non-recovery cannot be attributed to any gross neglect, misfeasance or breach of duty on his part in relation to the affairs of the LLP.

## Assessment procedures

Clarification in respect of reassessment proceedings

- ▶ A clarification will be issued that the Revenue authority may assess/ reassess income in respect of any issue, which comes to its notice during the course of reassessment proceedings, even though no reasons for reopening were recorded in respect of such issues.

The above amendment will be applicable retrospectively with effect from 1 April 1988.

Amendment in respect of search and seizure provisions

- ▶ Additional Director/ Additional Commissioner has the power to authorize other Revenue authorities to issue warrant of authorization for search and seizure provisions. Similar amendment made in respect of cases for requisition of books of accounts.

The above amendment will be applicable retrospectively with effect from 1 June 1994.

- ▶ Now, no authorisation shall be issued by the Joint/ Additional Director or Joint/ Additional Commissioner unless empowered by the CBDT.

The above amendment will be applicable with effect from 1 October 2009.

## Penalty

### Rationalisation of penalty provisions

- ▶ Presently, in search cases, if the taxpayer is found to be the owner of specified assets/ income based on book entry for any financial year, which has ended before date of search and the due date of return of income has expired and the taxpayer has not filed the return of income, he would be deemed to have concealed the particulars of its income. Now, the scope of penalty provisions will extend to cases where the taxpayer has filed the return of income for any financial year and the income found during the course of search is not disclosed in such return of income.

The above amendment will be applicable retrospectively with effect from 1 June 2007.

## Withholding tax

### Provisions relating to withholding tax on rental payments

- ▶ Withholding tax rate on rental payments have been reduced as follows:

Particulars	Existing rate (%)	Proposed rate (%)
Use of any plant, machinery or equipment	10	2
Use of any land, building, furniture or fittings where the payee is an individual or HUF	15	10
Use of any land, building, furniture or fittings where the payee is other than an individual or HUF	20	10

This amendment will take effect from 1 October 2009.

## Provisions relating to withholding tax on contractual payments

- ▶ Presently, the withholding tax rate for contractual payments vary for payments made to contractors and sub-contractors. Now, the withholding tax rate will be revised to 1% where the payee is an individual or HUF and 2% where the payee is any other entity.
- ▶ Definition of “work” will be expanded to include manufacture or supply of a product according to the requirements or specifications of a customer by using material purchased from the customer. However, where the material is not supplied by the customer, such contract shall be excluded from the definition of “work”.
- ▶ In case of works contract, taxes shall be withheld on the invoice value excluding the value of material purchased from the customer, where such value is separately mentioned on the invoice. Where no reference is made, taxes shall be withheld on the entire invoice value.
- ▶ No taxes are required to be withheld on payments made to transporters engaged in the business of plying, hiring or leasing goods carriage, subject to the transporter furnishing its PAN to the deductor.

This amendment will be applicable to all transactions entered into from 1 October 2009.

## Processing of statements of taxes withheld

- ▶ Processing of statements of taxes withheld to be done electronically to make the following adjustments:
  - ▶ Arithmetical errors in the statement; or
  - ▶ Incorrect claims apparent from information in the statement of taxes withheld.
- ▶ Based on the above, an intimation will be issued to the deductor, granting the deductor a refund or advising him on the amount of tax and interest payable.
- ▶ Time limit for issue of intimation will be one year from the end of the financial year in which the statement of taxes withheld is filed.
- ▶ Scheme for centralised processing of statements of taxes withheld may be introduced.

## Time limit introduced for passing an order for failure to withhold taxes

- ▶ Presently, no time limit has been prescribed for passing an order, holding a person to be taxpayer in default, for failure to withhold appropriate taxes. Now, the following time limits have been prescribed for passing an order where the deductee is a resident taxpayer:
  - ▶ Two years from the end of the financial year in which the statement of taxes withheld is filed by the deductor;
  - ▶ Four years from the end of the financial year in which payment is made or credit is given, where no such statement is filed.
- ▶ Order for withholding tax proceedings for the financial year beginning 1 April 2007 and earlier years can be completed by 31 March 2011.
- ▶ The above time limits shall be subject to the time limits prescribed for the order giving effect to the orders of the various appellate authorities, to the extent applicable.

## Filing of statements of taxes withheld/ collected

- ▶ Presently, statements of taxes withheld/ collected are required to be filed quarterly for each financial year. Now, such statements will be required to be filed within the time limit and in a form and manner as prescribed by the CBDT.
- ▶ Corresponding amendments in other relevant sections have been made.

The above amendment will take effect from 1 October 2009.

## Filing of statements in respect of payment of interest to residents without withholding taxes

- ▶ Presently, statements are required to be filed quarterly in respect of interest payments made to residents, where taxes have not been withheld. Now, such statements will be required to be filed within the time limit and in a form and manner as prescribed by the CBDT.

The above amendment will take effect from 1 October 2009.

## Quoting PAN mandatory

- ▶ Where the deductee fails to furnish its PAN/ furnishes an incorrect PAN to the deductor, the deductor will be required to withhold taxes, at higher of the following:
  - ▶ At the rate specified under the Income-tax Act; or
  - ▶ At the rates in force; or
  - ▶ At the rate of 20%.
- ▶ No certificate for lower rate of withholding taxes shall be issued by the Revenue authorities to the deductee, unless the PAN of the deductee is mentioned on the application.
- ▶ PAN to be indicated in all correspondence, bills, vouchers and other documents exchanged between the deductor and deductee.

## No withholding tax on interest on zero coupon bond

- ▶ Presently, interest on zero coupon bonds issued by an infrastructure capital company or infrastructure capital fund or a public sector company is not subject to withholding tax. The exemption from withholding tax is now extended to zero coupon bonds issued by scheduled banks.

## Transfer pricing

### Determination of arm's length price

- ▶ Presently, where more than one price is determined by the most appropriate method, the arm's length price is the arithmetical mean of such prices, or at the option of the assessee, a price which may vary from the arithmetical mean by an amount not exceeding 5%. Now, the arm's length price will be the arithmetical mean of such prices determined by the most appropriate method.
- ▶ It is provided that if the variation between the arm's length price and the price at which the international transaction is undertaken does not exceed 5% of the latter, the price at which the international transaction is undertaken will be deemed to be the arm's length price.

The above amendment will take effect from 1 October 2009.

## Safe harbor rules

The determination of arm's length price in respect of an international transaction will be subject to safe harbour rules.

- ▶ The CBDT will be empowered to draft the safe harbour rules.
- ▶ An explanation will be inserted to define "safe harbour" as circumstances in which the income-tax authorities shall accept the transfer price declared by the taxpayer.

## Dispute resolution panel

New provisions introduced to deal with disputes pertaining to transfer pricing and taxation of foreign companies

- ▶ A dispute resolution mechanism outlining a detailed procedure for dispute redressal will be introduced to deal with disputes pertaining to transfer pricing and taxation of foreign companies.
- ▶ The dispute resolution panel comprising of three Commissioners of Income-tax is proposed to be constituted by the CBDT.
- ▶ Orders passed by the Revenue authority in accordance with the direction of the dispute resolution panel will be directly appealable before the ITAT.

The above amendment will take effect from 1 October 2009.

## Powers of dispute resolution panel

- ▶ The dispute resolution panel will be given powers as vested in the court under Code of Civil Procedure while trying a suit in respect of discovery and inspection, enforcing the attendance of any person compelling production of books of accounts and issuing commissions

## Fringe benefit tax

### Fringe Benefit tax withdrawn

- ▶ Presently, every employer is required to pay FBT at the rate of 30% (plus applicable surcharge and education cess) on the value of fringe benefits provided to its employees. Now, the levy of FBT is withdrawn.

## Others

Power to enter into agreement for avoidance double taxation extended

- ▶ Presently, the Government is empowered to enter into an agreement with the Government of any other country for, inter alia, avoidance of double taxation on same income. Now, the Government will also be additionally empowered to enter into agreement with the Government of any such specified territory outside India (ie non sovereign jurisdiction).
- ▶ A similar amendment has also been proposed in the Wealth Tax Act.

The above amendment will take effect from 1 October 2009.

New provision introduced for withdrawal of approvals

- ▶ An authority granting approvals will also be empowered to withdraw such approvals, at any time, after giving a reasonable opportunity of being heard to the taxpayer.

The above amendment will be applicable with effect from 1 October 2009.

Revenue authority to allot and quote a DIN

- ▶ Now, every Revenue authority will allot and quote a DIN in respect of every notice, order, letter or any correspondence issued to any person including any other Revenue authority. Similarly, every notice, order, letter or any correspondence received by the Revenue authority or on their behalf will be accepted and valid only after allotting and quoting a DIN.

The above amendment will take effect from 1 October 2010.

Additional modes for service of notice including electronic mode

- ▶ Presently, a notice or requisition may be served on a person either by post or as if the same were summons issued by a court. Now, a notice, summon, requisition, order or any other communication may be served by delivering the same by post, courier, by electronic record or in any other prescribed manner. Further, the CBDT may prescribe rules in connection with the addresses for communication.

The above amendment will be applicable with effect from 1 October 2009.

#### Rationalization of provisions relating to provisional attachment of assets

- ▶ Presently, every order for provisional attachment of asset ceases to have effect after an expiry of six months (extendable to two years) from the date of such order. In certain cases, the taxpayers obtain a stay from courts of the assessment proceedings, while the order for provisional attachment of asset may expire. Now, the period during which assessment/ reassessment is stayed by a court will be excluded in calculating the validity period of such an order.

The above amendment will be applicable retrospectively with effect from 1 April 1987.

#### Benefits to NPS

- ▶ Income received by NPS will be exempt from income-tax.
- ▶ Dividends paid to NPS will not be subject to DDT.
- ▶ STT will not be applicable to transactions entered by NPS.
- ▶ Any payment to NPS will not be subject to withholding tax.

#### Commodity transaction tax

- ▶ The provisions for levy of commodities transaction tax introduced last year, have now been withdrawn.

#### Exemption to SUUTI extended to 31 March 2014

- ▶ Exemption to SUUTI from income-tax or any other tax on any income, profits or gains derived or any amount in relation to the specified undertaking, which was available until 31 March 2009, has now been extended up to 31 March 2014.

#### Extension of time limit for recognition of provident funds

- ▶ Presently, recognition accorded to provident funds which did not satisfy specified conditions till 31 March 2009 were to be withdrawn. An extension will be granted to provident funds till 31 December 2010 to satisfy the conditions.

# Indirect tax

## Customs duty

### Policy changes

- ▶ Peak rate of basic customs duty remains unchanged.
- ▶ Refund of customs duties on imported goods to be allowed, if the goods are found to be defective or not conforming to the specifications of the buyer and the seller, subject to specified conditions.
- ▶ AAR constituted under the Income-tax Act to be notified as an authority eligible to adjudicate advance rulings for customs duty.
- ▶ Retrospective amendment granting power to HC to condone delays in filing of appeals/ applications/ memorandum of cross objections.
- ▶ Offences such as dealing in narcotics, arms, wild life excluded from the scope of the provisions of compounding of offences.
- ▶ The tariff value fixed by the Central Government under CETA for manufacture of similar goods in India will be deemed to be the value for the imposition of CVD on imports.
- ▶ The machinery provisions of the Customs Act have been made applicable retrospectively to safeguard duties, CVD on subsidized articles and anti-dumping duty under the CTA.
- ▶ Classification criteria in relation to textile materials consisting of a mixture of two or more textile materials falling under Chapter 50 to 55 and Chapter heading 5809 or 5902 of CTA to be aligned with CETA.

### Other changes

- ▶ Parts imported for manufacture of mobile phones and accessories exempted from SACD up to 6 July 2010.
- ▶ BCD on specified machinery for tea, coffee and rubber plantation reduced to 5% up to 6 July 2010.
- ▶ Partial exemption equivalent to CVD computed on that portion of the consideration paid or payable for transfer

of the right to use packaged/ canned software on physical import of such software.

- ▶ For arriving at the margin of dumping for anti-dumping duty, the records maintained by the exporter would be relied on. In case of exporter's non-cooperation, the margin of anti-dumping would be arrived on the basis of available information.
- ▶ Rebate of duty paid in respect of locally procured material used in manufacture and export of goods under DFIA scheme will be allowed retrospectively.
- ▶ The officers of DGCEI have been granted power of customs officers with all India jurisdiction with retrospective effect.

## Rate movement

- ▶ Changes in the basic rates of customs duty on some key items are set out below:

Items	Rate movement (%)		
	Basic Duty		Movement
	From	To	
Artificial heart (left ventricular assist device)	7.5	5	↓
Bio-diesel	7.5	2.5	↓
Cotton waste	15	10	↓
Concrete batching plants of capacity 50 cum per hour	Nil	7.5	↑
Gold coins and manufacturer's serial number gold bars (other than tola bars)	INR 100 per 10 gram	INR 200 per 10 gram	↑
Gold in any form (other than specified above) including liquid gold and tola bars	INR 250 per 10 gram	INR 500 per 10 gram	↑
Inflatable rafts	10	Nil	↓
LCD panels for manufacture of television	10	5	↓
Mechanical harvester for coffee plantation	7.5	5	↓

Items	Rate movement (%)		
	Basic Duty		Movement
	From	To	
Patent ductus arteriosus/ Atrial septal defect	7.5	5	↓
Permanent magnets for wind electricity generators above 500 kilowatt	7.5	5	↓
Rock phosphate	5	2	↓
Set top box	Nil	5	↑
Silver in any form	INR 500 per kilogram	INR 1,000 per kilogram	↑
Snow skis and other snow ski equipment	10	Nil	↓
Specified life saving drugs/ vaccine and their bulk drugs	10	5	↓
Water skis, surf boats, sail boards and other water sports equipments	10	Nil	↓
Wool waste	15	10	↓

## Excise duty

### Policy changes

- ▶ Duty rate on several items presently attracting 4% will be increased to 8%.
- ▶ Abatement from RSP for vitrified tiles, glazed tiles, LPG gas stoves, MP3 player or MPEG player and toothbrush increased by 5%.
- ▶ Presently, a manufacturer of excisable and exempted goods has an option of payment of 10% on value of exempted goods and avail full CENVAT credit. Now the rate will be reduced to 5%.
- ▶ Definition of "inputs" will exclude cement, angles, channels and other items used for construction of factory sheds, building or laying of foundations or making structures for support of capital goods.

- ▶ Blending of duty paid high speed diesel and alkyl esters (commonly referred to as bio diesel) up to 20% by volume will be exempted from basic, additional and special additional duties of excise.
- ▶ Exemption from excise duty will be extended to specified goods, falling under Chapter 68 of CETA, manufactured at the site for use in construction work at site.
- ▶ Cotton textile and smart card manufacturers have been granted option to pay duty to enable them to avail cenvat credit.
- ▶ Compounded levy scheme for steel induction furnace unit and re-rolling mills amended with retrospective effect to regularize fixation of rates of duty.
- ▶ Records seized and not relied upon to be returned by the Revenue authority within 30 days of issuance of the SCN.
- ▶ Certain offences like dealing in narcotics, repeat offences, have been excluded from the scope of the provisions of compounding of offences.
- ▶ CCEX may also nominate a Chartered Accountant for conducting special audits.
- ▶ AAR constituted under the Income-tax Act to be notified as an authority eligible to adjudicate advance rulings for excise duty.
- ▶ Power granted to HC to condone delays in filing of appeals/ applications/ memorandum of cross objections, with retrospective effect.

## Rate movement

- ▶ Changes in the basic rates of excise duty on some key items are set out below:

Items	Rate movement (%)		
	Basic duty		Movement
	From	To	
Branded motor spirit	6 plus INR 5 per litre	INR 6.5 per litre	NA
Branded high speed diesel	6 plus INR 1.25 per litre	INR 2.75 per litre	NA

Items	Rate movement (%)		
	Basic duty		Movement
	From	To	
Naphtha	16	14	↓
Textile intermediates - PTA, DMT, polyester chips and acrylonitrile	4	8	↑
Ink used in writing instruments	4	8	↑
Plywood, veneered panels, laminated wood, fibre board, flush doors and articles of wood	4	8	↑
Office stationery items like folders, file covers and manifold business forms	4	8	↑
Manmade fibre/ yarn	4	8	↑
Solid/ hollow building blocks, ceramic tiles and articles of mica	4	8	↑
Branded jewellery	2	Nil	↓
LPG stove without other functions such as grills or oven	4	8	↑
MP3/ MP4 or MPEG4 players	4	8	↑
Value of packaged/ canned software representing transfer of right to use	8	Nil	↓
Motor vehicle of engine capacity of 2,000 cc and above	20 plus INR 20,000 per unit	20 plus INR 15,000 per unit	↓
Petrol driven goods transport vehicles except specified dumpers	20	8	↓
Chassis fitted with petrol engines for specified goods transport vehicles	20 plus INR 10,000 per unit	8 plus INR 10,000 per unit	↓
Contact lenses	4	8	↑
Playing cards	4	8	↑

# Service tax

Effective service tax rate to remain unchanged

- ▶ Effective service tax rate remains unchanged at 10.3%.

The key changes mentioned below will take effect from a date to be notified after the enactment of the Finance Bill:

- ▶ Service tax will be levied on the following three additional services:
  - ▶ Transport of coastal goods, goods through national waterways and inland waters;
  - ▶ Advice, consultancy or assistance in any branch of law, excluding services provided by or received by an individual and appearance before court, tribunal or authority; and
  - ▶ Cosmetic and plastic surgery services excluding specified reconstructive surgery.
- ▶ The scope of key existing taxable services will be amended as follows:
  - ▶ Transport of goods in any manner by rail, including Government railways;
  - ▶ Exclusion under business auxiliary service restricted to production or processing resulting in manufacture of "excisable goods";
  - ▶ Definition of stock broker will exclude "sub-broker". Notification exempting commission earned by sub-broker under business auxiliary services to be issued;
  - ▶ Under information technology service, "providing" right to use software and not "acquiring" right to use software is a taxable service. This amendment will be applicable with retrospective effect from 16 May 2008.

The key changes mentioned below will take effect on enactment of the Finance Bill:

- ▶ Power granted to enact rules with respect to the date for determination of rate of service tax and place of provision of taxable services.
- ▶ Notification providing exemption to specified taxable services received by a goods transport agency will be

applicable with retrospective effect from 1 January 2005.

- ▶ Provision related to revision of orders by Commissioner of Central Excise will be substituted. Commissioner of Central Excise will now direct, wherever deemed appropriate, filing of departmental appeals before Commissioner of Central Excise (Appeals).
- ▶ AAR constituted under the Income-tax Act to be notified as an authority eligible to adjudicate advance rulings for service tax.

The following changes will be effective from 7 July 2009:

- ▶ Presently, "India" as defined for service tax extends to specified designated areas in the Continental Shelf and Exclusive Economic Zone of India. Now, the definition of "India" will be extended to installations, structures and vessels in the Continental Shelf and Exclusive Economic Zone.
- ▶ Similar amendment will be made to the definition of "India" under Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.
- ▶ Presently, a provider of taxable and exempted output services has an option of payment of 8% on value of exempted services and avail full CENVAT credit. Now, the rate will be reduced to 6%.
- ▶ For availment of CENVAT credit, definition of "inputs" will exclude cement, angles, channels and other items used for construction of factory shed, building or laying of foundation or making of structures for support of capital goods.
- ▶ Presently, manufacturers pay an amount equal to CENVAT credit taken if the inputs or capital goods are written off before use. Now, this provision will be extended to service providers.
- ▶ For works contract composition scheme, gross value to:
  - ▶ Include value of goods used in works contract whether supplied for consideration or otherwise under any other contract;
  - ▶ Include value of all services that are required for execution of works contract;

- ▶ Exclude cost of machinery and tools used in execution of works contract except for charges for obtaining them on hire.

This is not applicable to works contracts where execution has commenced or payment has been made on or before 7 July 2009.

- ▶ Exemption from service tax will be provided to a tour operator having contract carriage permit for transportation of passengers, excluding tourism, conducted tours, charter or hire services.
- ▶ Exemption from service tax on clubs or association services provided by Federation of Indian Export Organisations and specified export promotion councils till 31 March 2010.
- ▶ Exemption from service tax on purchase and sale of foreign currency between scheduled banks.
- ▶ Exemption from service tax on road transportation services and foreign commission agency services, where liability to pay service tax is on the exporter under reverse charge mechanism.
- ▶ Presently, refund of service tax allowed to exporter of goods for specified input services. Now, refund extended to service tax charged on terminal handling charges.
- ▶ Procedures simplified for refund of service tax to exporter of goods including self declaration and extension of time limit to file refund claims from six months to one year.

## Central sales tax

- ▶ No change in CST rate.

## Goods and service tax

- ▶ Dual GST regime proposed to be adopted with effect from 1 April 2010 after due consultation with all stakeholders.
- ▶ The Centre and States will separately legislate, levy and administer the Central GST and State GST respectively.

# Other key policy initiatives

The Government has proposed various policy initiatives in Budget 2009. Some of the key initiatives are as follows:

## Industry

- ▶ For the fertilizer industry, the Government has announced its intention to move towards a nutrient based subsidy regime instead of the current product based pricing regime. This is expected to lead to availability of innovative fertilizer products in the market at reasonable prices and unshackle the fertilizer manufacturing sector which is expected to attract fresh investments.
- ▶ The adjustment assistance scheme initiated in December 2008 to provide enhanced ECGC cover to sectors hit badly under the current economic crisis, will be extended up to March 2010.
- ▶ The budgetary allocation to the Market Development Assistance Scheme introduced to support exporters in developing new markets will be enhanced by 148% over the budgetary estimates in 2008-09 to INR 1.2 billion.
- ▶ The interest subvention of 2% on pre-shipment credit for textiles including handlooms, handicrafts, carpets, leather, gems and jewellery, marine products and small and medium exporters is proposed to be extended beyond the deadline of 30 September 2009 to 31 March 2010.
- ▶ The stimulus package announced in February 2009 for the Print Media, will be extended by another six months from 30 June 2009 to 31 December 2009.
- ▶ The Government will set up an expert group to advise on a viable and sustainable system of pricing petroleum products.

## Infrastructure

- ▶ IIFCL which was set up to stimulate public investment in infrastructure, to be given greater flexibility to provide long term financing mechanism for infrastructure projects. IIFCL to evolve, in consultation with banks, a

“takeout financing” scheme to facilitate incremental lending to the infrastructure sector. IIFCL will refinance 60% of commercial bank loans for PPP projects and along with banks support infrastructure projects involving a total investment of INR 1000 billion.

- ▶ The Government will increase allocation during the year to NHA for the National Highways Development Program by 23% over the 2008-09 estimates (allocation in 2008-09 was INR 129.66 billion).
- ▶ For Railways, the budget allocation has been increased from INR 108 billion made in the interim budget to INR 158 billion for 2009-10.
- ▶ For the Accelerated Power Development and Reforms Project, aimed at reducing the gap between power demand and supply, the budgetary allocation has been increased by 160% to INR 20 billion.
- ▶ To facilitate transportation of gas across the length and breadth of the country, the Government proposes to develop a blueprint for long distance gas highways leading to a National Gas Grid.

## Banking sector

- ▶ A sub-committee of State Level Bankers Committee will be formed to identify areas remaining unbanked or underbanked and formulate an action plan for providing banking facilities to all such areas in the next 3 years. An amount of INR 1 billion will be set aside to ensure provision of at least one centre for banking services in each of the unbanked blocks in the country.

## Capital markets

- ▶ To raise the average public float (currently less than 15%) in Indian listed companies, the Government will raise the threshold for non-promoter public shareholding in a phased manner.

## Urban development

- ▶ Budgetary allocation to the Jawaharlal Nehru National Urban Renewal Mission, aimed at developing urban infrastructure, will be increased by 87% from INR 68 billion to INR 128.87 billion.

- ▶ The budgetary allocation for housing and provision of basic amenities to urban poor including for Rajiv Awas Yojana (a new scheme announced for making the country slum free), is increased to INR 39 billion.
- ▶ To expedite the completion of Brihan Mumbai Storm Water Drainage Project, a project initiated to address the problem of flooding in Mumbai, an additional amount of INR 5 billion will be provided by the Central Government in 2009-10.

## Rural development

- ▶ To increase the employment opportunities under the National Rural Employment Guarantee Scheme, the Government will increase the budgetary allocation by 144% to INR 391 billion.
- ▶ The Government will increase the budgetary allocation to Bharat Nirman program, aimed at building rural infrastructure (roads, houses, irrigation) and bringing basic amenities (water supply, electricity, telecom) to rural India, by 45% over the budget estimates of 2008-09.
- ▶ The Government will allocate a sum of INR 20 billion for Rural Housing Fund in the National Housing Bank to broaden the pace of rural housing.
- ▶ A new scheme with an allocation of INR 1 billion called Pradhan Mantri Adarsh Gram Yojana will be launched on a pilot basis, for the integrated development of 1000 villages where the population of scheduled castes is above 50%.
- ▶ An amount of INR 3.5 billion will be added to Rashtriya Swasthya Bima Yojna wherein biometric smart cards will be issued to families below the poverty line. The scheme provides freedom of choice to poor families for using health care services from an extensive list of hospitals including private hospitals. The budgetary allocation for the National Rural Health Mission is also proposed to be increased by INR 20 billion over and above INR 120 billion provided in the interim budget for 2009-10.
- ▶ The budgetary allocation for the Accelerated Irrigation Benefit Programme and Rashtriya Krishi Vikas Yojna, will

be increased by 75% and 30% respectively over the estimated budgetary allocation in 2008-09.

## Others

- ▶ To enable a job seeker to register online and approach any employment exchange, the Government will launch a new project for modernization of the Employment Exchanges in PPP. A national web portal will be developed with common software which will contain data regarding availability of skilled persons on one hand and requirements of skilled persons by the industry on the other.
- ▶ The Unique Identification Authority of India will set up an online database for storing identity and biometric details of Indian residents and provide enrolment and verification services across the country with the first set of unique identity numbers being rolled out in 12 to 18 months. The Government will allocate INR 1.2 billion for the project.
- ▶ The Government will allocate INR 8.27 billion for setting up one Central University in each uncovered state. The Government will allocate INR 21 billion for IITs and NITs which includes a provision of INR 4.5 billion for new IITs and NITs. The overall plan budget for higher education is proposed to be increased by INR 20 billion over the interim budget estimates.

# Recent policy changes

Significant policy initiatives during the period 1 February 2008 to 15 June 2009 have been summarized in the following paragraphs. Some of these initiatives may be impacted by the proposals announced in the Budget speech of the Finance Minister.

## Foreign investment policy

With a view to further liberalize India's foreign investment policy, the following key changes have been made:

- ▶ FDI up to 49% allowed in credit information companies with prior FIPB approval and clearance from the RBI. In case of a listed company, FII investment would be restricted up to 24% within the overall limit of 49% subject to specified conditions.
- ▶ FDI up to 49% allowed in commodity exchanges with prior FIPB approval. In case of investment in a listed company, FII investment would be restricted up to 23% within the overall limit of 49% subject to specified conditions. An existing company having FDI in excess of 49% is required to comply with these conditions by 30 September 2009.
- ▶ FDI up to 100% allowed in industrial parks under the automatic route subject to specified conditions. The policy has clarified that industrial parks are outside the purview of construction development guidelines, which include inter alia minimum capitalization norms and area requirements.
- ▶ FDI in civil aviation sector has been liberalized as follows:
  - ▶ FDI up to 100% in greenfield airport projects allowed under the automatic route. However, FDI up to 74% allowed in existing airports under the automatic route and with prior FIPB approval for FDI beyond 74%.
  - ▶ FDI up to 49% allowed in scheduled air transport services/ domestic scheduled passenger route under

the automatic route. NRIs allowed to invest up to 100% under the automatic route.

- ▶ FDI up to 74% allowed in non-scheduled air transport services/ non scheduled airlines, chartered airlines and cargo airlines under the automatic route. NRIs allowed to invest up to 100% under the automatic route.
- ▶ FDI up to 100% allowed for helicopter services/ seaplane services under the automatic route, subject to DGCA approval.

The above investments are permitted subject to the condition that no foreign airline is allowed to invest directly or indirectly in the equity of an air transport undertaking engaged in operating scheduled, non scheduled and chartered airlines.

- ▶ FDI up to 74% allowed in ground handling services under the automatic route. NRIs allowed to invest up to 100% under the automatic route.
- ▶ FDI up to 100% allowed in maintenance and repair organizations, flying training institutes and technical training institutes under the automatic route.
- ▶ FDI up to 100% allowed in trading and marketing of petroleum products without the condition of divesting up to 26% equity within a period of 5 years in favor of Indian partner/ public.
- ▶ FDI up to 49% allowed with prior FIPB approval in petroleum refining by PSUs without involving any divestment of domestic equity in the existing PSUs.
- ▶ FDI up to 100% allowed with prior FIPB approval in mining and mining separation of titanium bearing minerals and ores, its value addition and integrated activities subject to Mines & Mineral (Development & Regulation) Act, 1957 subject to fulfillment of prescribed conditions. FDI not permitted in mining of "prescribed substances" as listed in a notification issued by the Department of Atomic Energy.
- ▶ FDI up to 100% allowed in publication of facsimile edition of foreign newspapers, with prior FIPB approval, provided the investment is by the owner of the original newspaper whose facsimile edition is proposed to be published in India.

- ▶ FDI, including investment by NRIs/ FIIs, allowed up to 26% in publication of Indian editions of foreign magazines dealing with news and current affairs subject to guidelines framed by Ministry of Information & Broadcasting.
- ▶ The guidelines for calculating indirect foreign investment have been streamlined. Indirect foreign investment in an Indian company would be determined depending upon ownership and control. In case of a company owned and controlled by a resident Indian, for any downstream investment by such entity, sectoral guidelines shall not apply. However, in case a company is owned or controlled by a non-resident, any downstream investment by such entity needs to comply with the sectoral guidelines. Ownership has been defined as more than 50% of equity interest and control has been defined as power to appoint majority of directors.
- ▶ The guidelines for transfer of shares and control have been revised for sectors having sectoral caps. Any transfer of shares or ownership from a resident to a non-resident in such sectors resulting in change in ownership/ control would require prior FIPB approval irrespective of whether the sector is under the approval route or automatic route.
- ▶ FDI up to 100% allowed under the automatic route in an operating cum investing company, so long as such company invests in a sector in which the investment is allowed under the automatic route. Investment in a pure investing company would require prior FIPB approval irrespective of the quantum of foreign investment.

## Foreign exchange regulations

### FEMA

- ▶ In order to develop the derivatives market in India and add to the existing list of foreign exchange hedging tools available to residents, the RBI has allowed residents to participate in currency futures to be introduced by recognized stock exchanges or new exchanges recognized by SEBI, subject to guidelines issued by SEBI

from time to time and the directions contained in Currency Futures (Reserve Bank) Directions, 2008.

- ▶ Individuals have been allowed, subject to prescribed conditions, to use debit cards/ credit cards/ prepaid cards for the purpose of purchase of foreign exchange for travel abroad (for private visit or for any other purpose), in addition to other modes of payment such as crossed cheque, bankers' cheque.
- ▶ In order to provide greater flexibility to residents who have payment obligations related to commodities derivative contracts, AD Category-I banks have been permitted, subject to prescribed conditions, to issue guarantees/ standby letters of credit only where the remittance is covered under the delegated authority to specific AD Category-I banks or under the specific approval granted for overseas commodity hedging.
- ▶ Effective 1 November 2008, all EEFC accounts can be opened and maintained only in the form of non interest bearing current accounts. The earlier facility (introduced as temporary measure) of earning interest on the balances in EEFC accounts of up to USD 1 million per exporter has been discontinued.
- ▶ AD Category-I banks have been permitted to open two (increased from one) foreign currency accounts for each project office provided that both the foreign currency accounts are maintained with the same AD Category-I bank.
- ▶ Domestic crude oil refining companies have been permitted to hedge their price risk on domestic purchases of crude oil and sale of petroleum products on the basis of underlying contracts linked to international prices on overseas exchanges/ markets, subject to prescribed conditions.

Further, domestic crude oil companies are permitted to hedge their commodity price risk on the crude oil imports in overseas exchanges/ markets, on the basis of their past performance up to higher of the following:

- ▶ 50% of the volume of imports during the previous financial year; or
- ▶ 50% of the average volume of imports during the previous three years.

- ▶ AD Category-I banks to approve commodity hedging and hedging of freight risk by domestic oil refining companies and shipping companies subject to prescribed conditions.
- ▶ Scheduled commercial banks have now been allowed to set up off-site ATMs without obtaining prior RBI approval subject to reporting requirements.
- ▶ Persons resident in India have been permitted to incur liability in foreign exchange and to make or receive payments in foreign exchange in India, in respect of global bids for projects to be executed in India without obtaining prior approval of the concerned administrative ministry for the international competitive bidding.

## Inbound investments

- ▶ The RBI has clarified that deferment of consideration for the transfer of the equity shares/ mandatorily convertible preference shares/ debentures by residents to non-residents would require prior approval of the RBI.

## ECBs and FCCBs

- ▶ The ECB guidelines have been liberalized by increasing the limit of ECBs to USD 500 million per borrower per financial year for rupee as well as foreign expenditure for permissible end uses under the automatic route subject to prescribed conditions.
- ▶ The all-in-cost ceilings over six months LIBOR for ECBs under automatic route have been increased to:
  - ▶ 300 basis points for ECBs with a minimum average maturity period of three to five years;
  - ▶ 500 basis points for ECBs with minimum average maturity period of more than five years.

Further, the all-in-cost ceilings under approval route have been dispensed with until further review.

- ▶ Payment for obtaining license/ permit for 3G spectrum has been added to the list of eligible end use of ECBs.
- ▶ In May 2007, RBI had withdrawn the exemption accorded to the “development of integrated township” as a permissible end use of ECB. It has now been decided to permit corporates, engaged in the development of

integrated township, as defined in Press Note 3 (2002 Series) dated 4 January 2002, to avail of ECB under the approval route.

- ▶ The definition of infrastructure sector has been expanded for the purpose of availing of ECB. The infrastructure sector is now defined as power, telecommunication, railways, roads (including bridges), seaport and airport, industrial parks, urban infrastructure (water supply, sanitation and sewage projects) and mining (exploration and refining).
- ▶ The service sector viz. hotels, hospitals and software companies have been permitted to avail ECB up to USD 100 million per financial year, for the purpose of import of capital goods or rupee capital expenditure (other than acquisition of land) under the automatic route.
- ▶ AD Category-I banks have been permitted to convey “no objection” for creation of charge on immovable assets, financial securities, issue of corporate or personal guarantees in favour of overseas lenders/ security trustee and issue of corporate guarantee for operating lease in respect of aircrafts/ aircraft engines or helicopters, to secure the ECB to be raised by a borrower, subject to prescribed conditions.
- ▶ Borrowers have been allowed the flexibility to retain the ECB amount outside India or bring it into their rupee accounts in India pending utilization. The funds will not be permitted to be used for investment in capital markets, real estate or for inter corporate lending.
- ▶ NBFCs exclusively involved in financing of the infrastructure sector, are now permitted to avail ECBs from multilateral/ regional financial institutions and Government owned development financial institutions for onward lending to the borrowers in the infrastructure sector under the approval route.
- ▶ The RBI has issued guidelines to consider premature buyback of FCCBs by Indian companies and has specified conditions for this process under the automatic route and the approval route.

The RBI has specified that the entire procedure for buyback of FCCBs (under the automatic and approval route) should be completed by 31 December 2009.

## Outbound investments

- ▶ The RBI has now allowed Indian companies to invest in excess of 400% of their net worth (as on the date of the last audited balance sheet) in energy and natural resources sectors such as oil, gas, coal and mineral ores, subject to approval from the RBI.
- ▶ In addition to Navaratna PSUs, ONGC Videsh Ltd and Oil India Ltd have been permitted to invest in overseas unincorporated entities in the oil sector, which are approved by the GoI, without any limit, under the automatic route, subject to prescribed conditions.

Further, other Indian entities can invest up to 400% of their net worth, under the automatic route, subject to prescribed conditions. Prior RBI approval would be required for investments exceeding 400% of their net worth.

- ▶ A prior RBI approval is required by Indian entities for making direct investment outside India by capitalization of amounts due in connection with the export of plant, machinery, equipment and other goods/ software to foreign entities, if such export proceeds have not been realized within twelve months (increased from six months).
- ▶ Registered trusts and societies engaged in hospital/ manufacturing/ educational sector have been permitted to make overseas investment in a JV/ WOS in the same sector(s) subject to compliance with the prescribed eligibility norms and with the prior permission of the RBI.

## Imports/ Exports

- ▶ The all-in-cost ceiling in respect of import trade credits up to three years has been increased to 200 basis points over six months LIBOR for respective currency of credit or applicable benchmark.
- ▶ The limit for advance remittance for all admissible current account transactions for import of services, without bank guarantee, has been increased from USD 100,000 to USD 500,000 or its equivalent, subject to specified conditions.

- ▶ The RBI has extended the period of realization and repatriation to India of the full export value of goods or software exported from 6 months to 12 months.

## **NRIs/ PIOs**

- ▶ AD Category-I banks have been permitted to credit proceeds of demand drafts/ bankers' cheques/ account payee cheques issued against encashment of foreign currency to the NRE account of the NRI account holder where the instruments issued to the NRE account holder are supported by encashment certificate issued by AD Category-I or Category-II banks.

# **Securities law and regulations**

## **Listing agreement**

- ▶ Listing agreement has been amended to include insertion of certain provisions with respect to inter alia composition of BoD, changes in reporting format for shareholding pattern, requirement to obtain a "fairness opinion" of independent merchant bankers for merger of a listed/ unlisted company, etc. One of the key amendments requires listed companies to disclose shares pledged by promoter and promoter group.

## **SEBI (Disclosure and Investor Protection) Guidelines, 2000**

- ▶ National Investment Fund set up by the GoI from the proceeds of divestment in PSUs has been included in the definition of QIB.
- ▶ Eligibility criteria for listed companies desirous of making QIP, included a condition that the equity shares of same class of such companies should have been listed on a stock exchange for a period of at least one year as on the date of issuance of notice to shareholders for considering the QIP. Now, companies which have been listed during the preceding one year pursuant to approved scheme of merger/ demerger/ arrangement entered into by such companies with companies listed for more than one year

on stock exchange(s) can take into account the listing history of the listed companies for its eligibility for QIP.

- ▶ In order to facilitate eligible listed companies to raise funds through QIP route, the pricing guidelines have been modified for QIP by bringing the issue price of the securities offered closer to their market price. This has been effected through change in the floor price formula and definition of relevant date.
- ▶ In order to facilitate eligible listed companies to raise funds from QIBs without complying with the elaborate documentation process required for QIP, the modified pricing guidelines of QIP have been extended to preferential allotment to QIBs, provided that the number of QIB allottees in such preferential allotment does not exceed five.
- ▶ Warrants issued on preferential basis were subject to a lock in for a period of one year or three years, as the case may be, and lock in on shares allotted on exercise of such warrants was reduced to the extent such warrants were already locked in. Now, the shares so allotted pursuant to exercise of warrants would be subject to full lock in period of one year or three years, as the case may be, from the date of allotment of such shares.
- ▶ Now, shares acquired pursuant to a restructuring exercise approved by High Court(s), in lieu of business and invested capital which had been in existence for a period of more than one year prior to the restructuring exercise are permitted to be offered for sale and inclusion in the promoters' contribution.
- ▶ Guidelines for QIP have been amended to enable listed companies to make a combined offering of NCDs with warrants subject to specified conditions.
- ▶ Warrants could be allotted on preferential basis, subject to the allottees paying an upfront amount equivalent to at least 10% of the price fixed at the time of allotment of warrants. Now, the upfront amount has been enhanced from 10% to 25%.

## **SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997**

- ▶ Acquisition of up to 5% voting rights in a listed company in a financial year is now allowed to persons holding 55% or more but below 75% voting rights without triggering public announcement. This can be done only via normal open market purchases or pursuant to buyback and acquisitions via bulk deal/ block deal/ negotiated deal/ preferential allotment are not permitted.
- ▶ SEBI now has the power to relax certain provisions of these regulations, subject to satisfaction of prescribed conditions. This power may be exercised in situations where the Central/ State Government or any other regulatory authority has removed the BoD of a company and has appointed other directors, and such BoD have initiated the process of competitive bids in the interest of all shareholders of the company, etc. Pursuant to the relaxation, no competitive bid shall be made after an acquirer has already made a public announcement.

## **SEBI (Delisting of Equity Shares) Regulations, 2009**

- ▶ SEBI (Delisting of Equity Shares) Regulations, 2009 have been notified. The key provisions of these regulations are as follows:
  - ▶ Minimum number of shares to be acquired in a reverse book building process to ensure its success must be such that shareholding of the promoter reaches higher of 90% or the aggregate percentage of pre offer promoter shareholding and 50% of the offer size.
  - ▶ The company sought to be delisted must obtain an in-principle approval from the stock exchange by making an application along with the audit report.
  - ▶ Approval of BoD of the company is required for delisting of the company. Further, approval of shareholders needs to be obtained by way of a special resolution through a postal ballot.

- ▶ The votes cast by public shareholders in favour of a delisting proposal must be at least twice the number of votes cast by public shareholders against it.
- ▶ Delisting is not permitted pursuant to rights issue.
- ▶ The exit window for remaining shareholders to tender shares has been increased from six months to one year.
- ▶ Special provisions have been introduced to facilitate delisting of small companies.

## Financial services

### FII/ sub-accounts

- ▶ With a view to liberalise India's foreign investment norms under the FII route, SEBI has removed the restrictions imposed on FIIs for the issue of ODIs against Indian securities, including derivatives. Consequently, FIIs are now permitted to issue ODIs against Indian securities (including derivatives) as an underlying asset without any caps.
- ▶ FIIs/ sub-accounts (not being dedicated debt FIIs/ sub-accounts) investing under the "70:30 route" were permitted to allocate a maximum of 30% of their total investments in Indian securities to debt securities. In order to accord greater flexibility, ratio of 70:30 has now been removed. However, investment limits for FIIs/ sub-accounts in a single Indian company continues.
- ▶ Certain amendments have been made to the SEBI (Foreign Institutional Investors) Regulations, 1995 in relation to inter alia definition of "Broad based fund", permanent validity of registration certificate and inclusion of certain foreign entities for FII registration:
- ▶ The definition of the term "foreign individual" has been introduced to mean a foreigner who has a net worth of not less than USD 50 million, holds the passport of a foreign country for a period of at least five years preceding the date of application, holds a certificate of good standing from a bank and is the client of an FII or any other entity which belongs to the same group as the FII for a period of at least three years preceding the date of application.

## Mutual funds

- ▶ The RBI has enhanced the aggregate ceiling for overseas investment by MFs from USD 5 billion to USD 7 billion, subject to specified conditions, thereby providing greater opportunity for investment overseas. The cumulative limit for investment by qualified MFs registered with SEBI of USD 1 billion in overseas exchange traded funds (with prior permission of SEBI) remains unchanged.

## NBFCs

- ▶ To address systemic risks associated with the activities of NBFCs-ND-SI, RBI has revised the minimum required CRAR in a phased manner, from the present 10% to 12% by 31 March 2010 and 15% by 31 March 2011.
- ▶ RBI has permitted NBFCs-ND-SI to raise capital by issuing PDIs in accordance with prescribed guidelines thereby enhancing capital raising options for such companies. PDIs shall be eligible to be treated as Tier I capital up to specified limits.

## Others

- ▶ SEBI has notified the SEBI (Intermediaries) Regulations, 2008 to put in place a comprehensive regulation which will apply to all intermediaries. The said regulations have been notified to consolidate in a single regulation the common requirements and obligations of most intermediaries such as grant of registration, general obligations, common code of conduct, common procedure for action in case of default and miscellaneous provisions.

## Corporate law

### LLP Act, 2008

- ▶ The key features of LLP and the key provisions of the LLP Act, 2008 are as follows:
  - ▶ LLP is an alternative corporate business vehicle that aims to provide the benefits of limited liability of a company but allows its members the flexibility of organizing their internal management on the basis of

a mutually arrived agreement, as is the case in a partnership firm.

- ▶ LLP is a body corporate and a legal entity, which has perpetual succession and is separate from its partners. The liability of the partners is limited to their agreed contribution in the LLP. Further, the concept of joint liability is done away with as no partner is liable on account of independent or unauthorized actions of other partners.
- ▶ LLP Act also contains provisions pertaining to maintenance of annual accounts, corporate actions (such as mergers), winding up, etc.
- ▶ LLP Rules, 2009 have also come into force. These rules inter alia contain provisions and procedures pertaining to incorporation, financial disclosures, conversion into LLP, foreign LLPs, compromise, arrangement or reconstruction of LLPs.

## **Companies (Issue of Indian Depository Receipts) (Amendment) Rules, 2009**

- ▶ Companies (Issue of Indian Depository Receipts) Rules, 2004 have been amended. The key amendments are:
  - ▶ An overseas bank now need not have a place of business in India in order to act as custodian. It may also act as such by having a custodial arrangement or agreement with a domestic depository.
  - ▶ A company raising funds in India by issuing IDRs now need not file the letter of offer with SEBI.
  - ▶ An IDR may now be redeemed into underlying equity share before expiry of one year from their issue date.
  - ▶ IDRs may now be purchased, possessed and transferred by a person resident outside India if the issuing company obtains specific approval from RBI or complies with any policy or guidelines issued by RBI in this regard.
  - ▶ A person resident outside India may now transfer IDRs or redeem them through the domestic

depository to redeem them subject to the provisions of FEMA and other applicable laws.

## Foreign Currency Exchangeable Bonds Scheme, 2008

- ▶ The FCEB Scheme, 2008 has been notified. The key features of this scheme are as follows:
  - ▶ FCEB is a bond denominated in freely convertible foreign currency, which is issued by a promoter group company of an Indian listed company eligible to receive FDI, issue FCCBs and avail of ECBs.
  - ▶ FCEBs are exchangeable, either wholly or partly, with equity shares of the Indian listed company.
  - ▶ Prior approval of the RBI is required to issue FCEBs.
  - ▶ Other provisions include end use restrictions for funds raised, rate of interest payable, minimum maturity period, requirement of obtaining approvals and broad tax treatment.

## Pension

### NPS extended to all citizens

- ▶ The NPS which was so far operational for Central Government employees has been extended from 1 May 2009 to all Indian citizens (including self employed professionals, private sector employees and those working in the unorganized sector), aged between 18 and 55 years, on a voluntary basis. The NPS is a long term investment plan based on defined contributions. The minimum amount of contribution is INR 500 and the minimum amount to be contributed in a year is INR 6,000 with no ceiling on the total contribution made per year.
- ▶ On exit from the NPS before the age of 60, a subscriber can keep 1/5th of the accumulated savings and invest the balance in annuities of insurance companies. A person who exits the NPS between the age of 60 and 70 has to keep 40% of the accumulated corpus in an annuity and withdraw the balance in full or in parts. Full withdrawal is compulsory on attainment of the age of 70.

- ▶ The PFRDA has selected six entities as fund managers to manage the corpus of the NPS. The fund managers will run different plans that comprise of equity, Government securities and corporate bonds. Three categories of asset classes/ schemes have been decided with a variance in the level of return commensurate with the risk, for different class of investors.

## Insurance

- ▶ The IRDA has permitted life insurance companies to set-up wholly owned subsidiaries to act as PFMs under the NPS, subject to prior approval from IRDA on a case-to-case basis. In considering such applications, IRDA would impose prescribed conditions.

PFMs may manage guaranteed products with separate, specific and prior IRDA approval.

IRDA has precluded non life insurance companies from acting as PFMs. Further, no insurance company (life as well as non life) may act as PoP under the NPS.

- ▶ With a view to improve the long term character of unit linked products, IRDA has reduced the minimum sum assured condition for single premium products from 125% of the premium to 110% of the premium where the policy term is 10 years or more. For less than 10 years, the minimum sum assured remains unchanged at 125% of the premium.

With respect to all non single premium products, the minimum sum assured is now required to be five times the annualized premium only as against the earlier requirement of higher of  $0.5 \times \text{term} \times \text{annualized premium}$  or  $5 \times \text{annualized premium}$ .

- ▶ The Insurance Laws Amendment Bill, 2008 was introduced in the Rajya Sabha. The Bill has been referred to the standing committee on finance for its report, which is expected shortly. The key amendments proposed in the Bill are as follows:
  - ▶ Increasing the FDI limits in insurance from 26% to 49%.
  - ▶ Introducing "Health insurance business" as a separate category of insurance (separate from life

and general insurance). Minimum paid up capital of INR 500 million (USD 10 million approx) has been prescribed for stand alone health insurance companies.

- ▶ Allowing foreign reinsurer companies to set up a branch in India for reinsurance business. The same would require prior approval of IRDA and minimum net owned funds of INR 50 billion (USD 1 billion approx).
- ▶ The Indian promoters are required to divest their shareholding in excess of 26% in the Indian life/ general insurance companies/ reinsurance companies in a phased manner after a period of 10 years from the commencement of business by the Indian insurance company or after such further period as the Central Government may prescribe. The Bill proposes to remove this requirement of mandatory divestment.

## Technology

- ▶ The IT (Amendment) Act, 2008 which sought to bring in far reaching amendments to the IT Act, 2000, has been notified on 5 February 2009.

The key amendments introduced are as follows:

- ▶ Introduction of the generic/ umbrella concept of “electronic signature”, which encompasses “digital signature”.
- ▶ Provisions under any law for audit of documents, records or information, would also extend to such documents, maintained in electronic form.
- ▶ Legal validity bestowed on e-contracts.
- ▶ Punishment prescribed for disclosure of information in breach of a lawful contract.
- ▶ Any body corporate that possesses, deals or handles personal data or information in a computer resource, shall be liable to pay damages, in the event of negligence in implementing/ maintaining reasonable security practices and procedures, which cause wrongful loss/ gain to any person.

- ▶ A legal framework has been introduced for new forms of cyber crimes such as e-commerce frauds through identity theft, impersonation, sending offensive messages, stealing/ destroying/ altering any computer source code, abetment of/ attempt to commit offences.
- ▶ Cyber terrorism (which includes threats to unity, integrity, security or sovereignty of India), shall be punishable with imprisonment which may extend to imprisonment for life.
- ▶ Government has been empowered to issue directions for interception, monitoring, decryption, collection, blocking public access, of/ to any information, through any computer resource.
- ▶ Introduction of mechanism for compounding of certain offences.
- ▶ The DIT has also issued certain draft rules for implementation of the IT (Amendment) Act and has sought public response in respect to the same.

## Telecom

- ▶ DoT has released the following guidelines for auction and allotment of spectrum for broadband wireless access license through a bidding process:
  - ▶ UAS licensee, ISP holding category A & B and companies eligible for UAS license are eligible for bidding process; and
  - ▶ License would be granted for a period of 20 years.

With the announcement of this policy, the GoI has laid the framework for the growth of broadband services in India.

- ▶ DoT has issued the following guidelines/ policy of 3G spectrum license through a bidding process:
  - ▶ Existing UAS licensees and companies that fulfill the eligibility criteria for UAS license with previous experience in providing 3G services are eligible for bidding process; and
  - ▶ License would be granted for a period of 20 years.

With this policy, the DoT has given another opportunity to foreign telecom operators to enter Indian telecom market. Further, it also provides an opportunity to existing operators to enhance their market penetration.

- ▶ DoT has issued guidelines and licenses for MNP service. MNP allows customers to retain their existing telephone numbers when they switch from one service provider to another or from one technology to another with the same service provider.
- ▶ DoT has introduced a new category of license - "Resale of IPLC" service license. License would be issued for a period of 10 years and the licensee must be an Indian company with net worth and paid up capital of INR 25 million. FDI in the licensee company is permitted up to 74% - up to 49% shall be under automatic route and above 49% would require FIPB approval.
- ▶ DoT has accepted the recommendation of TRAI for introduction of MVNO. However, the detailed guidelines for MVNO shall be issued by DoT in due course.

## Retail and consumer products

- ▶ The Ministry of Health has come out with a notification effective from 19 March 2009 making it mandatory for all processed food and beverage manufacturers to carry nutritional facts (viz. ingredients, weight, total calories), on their product labels in the specified manner.

## Media

### Broadcasting

#### Cable TV Networks (Regulation) Act, 1995

- ▶ The Government has announced the IPTV policy guidelines with effect from 8 September 2008 with the objective of bringing clarity on various platforms capable of providing IPTV services.
- ▶ No content can be included in the cable service by multi system operators/ cable operators in respect of which

copyright subsists under Copyright Act, 1957 unless they have been granted a license by the owners of copyright.

## **Self-regulation guidelines in respect of content for the broadcasting sector**

- ▶ These guidelines have been introduced to regulate the content going into public domain to ensure conformity with acceptable contemporary community standards and to protect the vulnerable sections from harmful and undesirable content on television.
- ▶ These guidelines are intended to guide the BSP and are based on enduring principles that all programming should not mislead, cause offence or lead to harm particularly to the vulnerable sections.

## **Sports Broadcasting Signals Act, 2007**

- ▶ Central Government has notified sporting events like Summer Olympics, Commonwealth Games, Asian Games, Special Olympics, Paralympics and certain events in tennis, hockey and football as "sporting events of national importance". Accordingly, the broadcasters would have to mandatorily share the broadcasting signals with Prasar Bharti.

## **The Standards of Quality of Service Regulations, 2009**

- ▶ These regulations effective 1 April 2009 address quality standards and procedures with respect to connection and disconnection of cable services. The key features are as follows:
  - ▶ Cable operators to make available to subscribers information regarding details of persons from whom digital decoders or set-top boxes can be purchased on an outright basis, rented or taken on hire-purchase.
  - ▶ Publicize the salient features of various schemes available for outright purchase, rent or hire purchase of decoders or set-top boxes.

## **The Direct to Home Broadcasting Services Regulations, 2009**

- ▶ Every DTH operator shall provide a warranty in respect of DTH equipment which has been acquired by a DTH subscriber on outright purchase basis.
- ▶ DTH operator shall not change the subscription package of a DTH subscriber so as to discontinue exhibition of any particular channel during the validity of the subscription package.

## **The Telecommunications Interconnection (Fifth Amendment) Regulations, 2009**

- ▶ All broadcasters of pay channels and distributors of TV channels are required to execute all their interconnection agreements in writing.

## **Print**

### **Guidelines for publication of Indian editions of foreign magazines**

- ▶ These guidelines have been introduced to regulate the publication of Indian edition of foreign magazines falling in the news and current affairs sector.

## **Health sciences**

### **Drugs**

- ▶ The Government has approved Drugs and Cosmetic (Amendment) Bill, 2008, which inter alia enhances the term for imprisonment from 5 years to at least 10 years, which may extend to lifetime and raises the fine from INR 10,000 to INR 1 million or three times value of drug confiscated, for manufacturers of spurious and adulterated drugs.
- ▶ The DCGI has directed state drug regulators not to allow companies to sell drugs with composition change with their old brand names. Such drugs will be treated as new drugs and the companies would have to go through scrutiny before getting fresh approvals.

- ▶ Consequent to the reduction in the rate of excise duty on medicines from 8% to 4%, NPPA has directed all manufacturers and marketing companies of non scheduled formulation packs, to reduce MRP of such formulation packs by 2.84%, to pass on the benefit to the consumers.

## Clinical trials

- ▶ The DCGI has made the registration of all clinical trials compulsory for trials initiated after 15 June 2009. Earlier, the registration of clinical trials by various institutions and companies was voluntary.
- ▶ The ICMR has issued guidelines for compensation to clinical research participants for research related injury.
- ▶ The ICMR has issued guidelines for good clinical lab practices for principles and procedures to be followed by medical labs involved in clinical research and/ or patient care.

## Biotechnology

- ▶ The CCEA has approved the launch of a new scheme called BIPP. The program has been envisaged as Government support to industries on cost sharing basis for high risk discovery and innovation, accelerated technology development, especially for futuristic areas.

## Other key changes

- ▶ The DCGI has decided to withdraw the powers given to State level regulators to issue CoPP.
- ▶ The DCGI has decided to discontinue issuance of WHO-GMP certificate for both pharmaceutical products and plant audits.

## Oil and gas

- ▶ The PNGRB has notified the policy for development of CGD networks in the country. The policy lays down the criteria for authorizing entities to lay, build, operate or expand city or local natural gas distribution network, determination of network tariff and exclusivity for these networks.

- ▶ The eighth round of NELP was launched on 9 April 2009. The Ministry of Petroleum has identified 70 blocks which would be covered under this round.

## Mining

- ▶ The National Minerals Policy, 2008 (for non fuel and non coal minerals) was approved on 13 March 2008. The NMP aims at achieving the twin goals of large scale prospecting with optimal mining and attracting investments with the latest technology.
- ▶ A 100 day agenda announced by Ministry of Mines in June 2009 inter alia to implement the NMP and to rationalize existing royalty system by moving to ad-valorem principle for computation of royalty.
- ▶ Compared to INR 300 per ton at the beginning of the year, export duty on iron ore was revised to 15% ad-valorem in June 2008. This duty was further reduced to 5% ad-valorem in December 2008.

## Infrastructure and transportation

- ▶ The Parliament has approved the Airports Economic Regulatory Authority of India Bill, 2007. The Bill provides for fixing, reviewing and approving the tariff structure for aeronautical services, user development fees, passenger service fees and monitoring the set performance standards relating to quality, continuity and reliability.
- ▶ The MCA has issued the guidelines detailing the procedure for submission, appraisal and approval of proposals for setting up greenfield airports. These guidelines will apply to the setting up of all airports and heliports and for up gradation of airfields but not to airports set up for private use.
- ▶ The TAMP has notified new guidelines for setting tariffs for all PPP projects. TAMP shall fix tariff caps for handling various commodities or providing various services by private operators licensed by major ports. Such tariff caps would apply to all terminals that are bid out subsequently in the same port during the next 5

years for handling identical commodity or for providing similar services.

- ▶ The cabinet has approved cruise shipping policy of India.
- ▶ In December 2008, the Ministry of Road Transport and Highways has notified the National Highways Fee (Determination of Rates and Collection) Rules, 2008.
- ▶ Effective April 2008, the Ministry of Railways has introduced new wagon leasing scheme to allow third party leasing of wagons to end users and operators. The scheme provides for eligibility criteria for wagon leasing company and other requirements such as registration, procurement criteria.

## Power

- ▶ The Ministry of Power has amended the guidelines for tariff determination by bidding process for procurement of power by distribution companies.
- ▶ The CERC has notified the Interstate Trading Regulations, 2009. These regulations have revised net worth requirement and have prescribed new conditions of liquidity. The existing licensees are required to comply with the new norms by 31 March 2010.
- ▶ The CERC has issued tariff regulations for generation and transmission projects for the tariff period 2009-14.
- ▶ The CERC has notified amendments to the open access regulations. These amendments have been carried out with the objective of streamlining and rationalizing the processes involved in obtaining open access keeping in view the importance of open access in carrying forward reforms in power sector. The new regulations came into force from 15 June 2009.

## SEZ

- ▶ Minimum area requirement for handicraft sector specific SEZ reduced from 100 hectares to 10 hectares.
- ▶ Definition of multi product SEZ amended to include a combination of manufacturing and service sector units.

- ▶ Exemptions, drawbacks and concessions previously allowed to contractors extended to sub-contractors appointed by SEZ developer or co-developer.
- ▶ Reimbursement of duty in lieu of drawback or DEPB credit against supply of goods by DTA supplier to SEZ developers to be admissible even if payment is made in INR.
- ▶ Clubbing of two or more contiguous and notified SEZs is allowed on merit subject to approval from the GoI for economic and other benefits, even if the total area exceeds the upper limit of 5,000 hectares.
- ▶ Complete take over of an approved unit by another entrepreneur is allowed subject to approval from the approval committee if the incoming entrepreneur undertakes to take over the assets and liabilities of the existing unit.
- ▶ Procedure for procurement by SEZ units of second hand capital goods from DTA has been prescribed. The depreciated value shall not exceed 20% of the total value of the capital goods in order to avail the benefits under the Income-tax Act.
- ▶ SEZ developer has been allowed to lease out space in an IT/ ITES SEZ on a shift to shift basis.
- ▶ Disaster management/ recovery centers of foreign companies are now allowed to be set up in the IT/ ITES SEZs.
- ▶ Guidelines for power generation, transmission and distribution in SEZ have been issued.
- ▶ Guidelines for administrative structure and process for clearing of cargo in SEZ ports have been issued.

## Indirect tax

### Excise duty

- ▶ Ad-valorem duty rates on majority of the goods have been reduced by 6%, from 14% to 10% (effective 7 December 2008) and thereafter from 10% to 8% (effective 24 February 2009) thereby reducing the effective duty rate from 14.42% to 8.24%.

- ▶ Excise duty exemptions in North East States, Jammu & Kashmir and Kutch have now been made available only to the duty attributable to the value added. Earlier this exemption was available to the entire amount of excise duty paid in cash.

## Customs duty

- ▶ Additional customs duty rates reduced on account of reduction in the excise duty rates.
- ▶ Import of naphtha for generation of electricity by Central and State Government undertakings exempted from BCD.
- ▶ The customs duty rates on goods imported under various trade agreements have been amended as follows:
  - ▶ Concessional rate of BCD on import of goods from least developed countries such as Cambodia, Ethiopia, Samoa, Tanzania, Mozambique and Sudan.
  - ▶ Concessional rate of BCD on goods imported under the Preferential Trade Agreement with MERCOSUR countries.
  - ▶ BCD on goods imported under the CECA has been further reduced. Duty exemption on BCD has been increased from the existing 50% and 20% to 75% and 35% respectively on notified goods.
- ▶ Clarifications on the procedure for SAD refunds issued including a clarification that the refund claim can be filed within one year.
- ▶ Clarification that the FOB price of goods to be considered as the transaction value of goods for computation of export duty from 1 January 2009 (practice of computation of export duty by taking the FOB price as the cum-duty-price to be discontinued).

## Service tax

- ▶ The service tax rate has been reduced from 12% to 10% effective 24 February 2009 bringing the effective service tax rate (including education cess) from 12.36% to 10.3%.
- ▶ Clarification issued regarding interpretation of the term "used outside India" while determining when services

would qualify as “export of services”. For services where the condition for export is based on location of service recipient, the service would be construed to be used outside India so long as the benefits of a service accrue outside India.

- ▶ Service tax exemption to services rendered to SEZs where such services are not consumed wholly in the SEZ to be provided by way of refund. For services which are consumed wholly in the SEZ, unconditional exemption has been continued.
- ▶ Service Tax (Provisional Attachment of Property) Rules, 2008 have been notified.
- ▶ Certain services provided to goods transporting agency used in providing its services to customers have been exempt from the levy of service tax subject to certain conditions.

## Foreign trade policy

- ▶ Rate of BCD on import of capital goods under EPCG scheme reduced from 5% to 3%.
- ▶ Coverage under the FMS increased to additional countries.
- ▶ DEPB Scheme which was set to expire in May 2009 has been extended till 31 December 2009.
- ▶ Export obligation period against advance authorization has been extended from 24 months to 36 months.

# Global tax update

As the global economy continues to struggle, more and more countries are turning to discretionary fiscal stimulus to boost overall demand and restart the flow of credit. While spending measures have received more mainstream attention over the last few months, tax measures actually represent the majority of the net effect of fiscal stimulus, according to recent estimates. In an increasingly global and interconnected tax arena, new stimulus driven tax provisions are being rolled out around the world affecting every aspect of the tax function.

## *US international tax reforms*

The US President, Barack Obama, on 4 May 2009, announced proposals for sweeping changes to the US international tax rules. The proposals that have attracted the most attention are:

- ▶ Reform the US system of deferral for foreign earnings by restricting the ability to deduct expenses on a current basis.
- ▶ Restrict the use of foreign tax credits to offset the US tax by companies with deferred foreign earnings.
- ▶ Curtail the use of the entity classification rules in structuring foreign operations.
- ▶ Target individuals who hold financial accounts in tax haven jurisdictions.

The Administration provided some further information regarding these proposals and proposed several additional changes which also target the international arena/operations.

These changes, if enacted, could dramatically change the competitive position of US multinational businesses across all industries. The proposals kick off a fundamental tax policy debate about how to tax multi-national businesses. The debate is happening not just in the US, but around the world.

## *Corporate tax rate reductions*

Even while most countries are experiencing intense pressure to maintain revenue collections amid the economic

downturn, countries continue to reduce their corporate tax rates. 27 of the 30 OECD countries have reduced their corporate tax rate since 2000. This continuation of an ongoing worldwide trend towards lower corporate tax rates likely indicates two things: (i) despite economic challenges, international competition for jobs and investment remains an important goal for many countries; and (ii) countries believe that lower tax rates support businesses, stimulate overall demand and encourage investment. Some countries are choosing to phase in their rate reductions, apparently in the expectation that the Government revenue impact of the reductions will be offset as the economy improves. For example, South Korea's rate is dropping from 25% to 22% in 2009 before dropping again to 20% in 2010. Similarly, the Czech Republic's two percentage point reduction will be phased over two years. Canada confirmed its commitment to becoming the lowest corporate tax rate jurisdiction among the major industrialized economies, with the goal of a 25% combined federal-provincial statutory rate by 2012. While most rate reductions have addressed the full spectrum of taxpayers, in some cases the rate reductions are limited to small and medium sized enterprises.

#### *Move towards territorial tax systems*

At the same time, the global trend has been to move from a worldwide tax system to a territorial system of taxation, under which domestic companies are subject to home-country tax on only their domestic income and are not subject to home country tax on their foreign income. In recent times, the UK and Japan have announced the replacement of their worldwide tax systems with territorial tax systems. The 2009 UK Budget included a number of significant international tax changes. UK companies will no longer be taxable on dividends received on or after 1 July 2009 from both UK and non UK sources, subject to conditions. The 2009 tax reform transforms the Japanese international tax system by introducing a new territorial system of taxation, in place of its historic system of worldwide taxation with a foreign tax credit. More specifically, the reform includes a new participation exemption rule (for dividends distributed from non Japan subsidiaries) and revised tax haven rules.

#### *Research and development credit enhancements*

One of the concerns for many countries is that businesses will significantly reduce their research and development

expenditures to improve their bottom line. To provide added incentive for companies to maintain their investment in innovation, and to attract new research and development activity, many countries are enhancing their research and development tax credit provisions. The most common approach has been to increase the rate of the credit. In Ireland, the rate of tax credit for incremental expenditure undertaken by a company on qualified research and development has been increased from 20% to 25%. With this increase, the total tax relief available for qualified research and development expenditures in Ireland can be as high as 37.5% (when the tax credit is combined with a tax deduction available for research and development spending). Some countries have added carry back provisions and refund elements to their research and development provisions. Ireland, for instance, is now allowing the carry back of excess credits to the previous year, with a refund of excess credit over a three year period. France is offering a refund of research and development credits from 2005, 2006 and 2007 that have not been previously utilized.

#### *Personal tax measures*

In an environment where unemployment is higher, and overall consumer confidence is lower, than they have been in decades, many countries are introducing tax measures to support the individual taxpayer. The most common approach has been to expand the range of deductible items. Reducing tax rates for lower income taxpayers has been another common measure.

#### *Indirect tax measures*

Many countries have sought to maintain demand by reducing the costs of goods and services through temporarily lowering indirect taxes, such as VAT. One common action has been to reduce the VAT rate (for example, the UK's temporary cut from 17.5% to 15%), either overall or for certain products (countries, such as the Czech Republic, Brazil and China have enacted special VAT reduction measures related to the purchase of automobiles). Another prevalent approach has been to suspend or defer planned VAT increases. Some countries are also looking to improve cash flow by accelerating the refund of VAT credits (for example, France is now allowing for VAT refund claims to be made monthly, instead of quarterly).

### *Focus on tax havens*

Tax havens have been at the front of global consciousness. At the recently concluded London G20 summit, the member countries pledged to take tougher action, including imposing sanctions against tax havens, that did not comply with international tax rules. In the wake of mounting international pressure against non cooperative tax havens, countries such as Austria, Belgium, Liechtenstein, Luxembourg, Switzerland, agreed to changes in their banking laws that will allow more international transparency and in turn, limit tax haven activity. Singapore and Honk Kong have also promised to relax their bank secrecy laws. Many Governments signed a flurry of information exchange agreements and announced their commitment to the OECD standards.

### *Other developments*

On 15 June 2009, the Dutch Government issued a consultation document in which anticipated changes to the Dutch corporate income-tax are proposed. These include a mandatory 5% effective special tax regime for intercompany interest, improvements to the participation exemption regime and changes to the limitation of interest expense deduction.

The finance committee of the German Bundesrat (State Council) has proposed to provide limited, temporary relief by (i) increasing the interest deduction limitation for business taxpayers, and (ii) mitigating the adverse effects of the strict change in ownership rules for loss corporations in the event of certain insolvency restructurings. To become law, the proposals must be approved by the Bundesrat and the German Bundestag (the German Parliament).

### *Conclusion*

Each country's actions have been dictated by their own specific needs, budgetary reality and political climate. So, while they generally share the same goal of boosting demand and improving cash flow, their approaches have varied significantly, even on similar issues. These are likely to be not the last stimulus efforts we will see before the global economy fully recovers. As Governments prepare for their next round of stimulus actions, they will look to the positive and negative experiences of other countries in determining their approach.

# Glossary

AAR	Authority for advance ruling
AD	Authorized dealer
ATM	Automated teller machines
BCD	Basic customs duty
BIPP	Biotechnology industry partnership programme
BoD	Board of directors
BSE	Bombay Stock Exchange
BSP	Broadcasting service provider
CCEA	Cabinet Committee on Economic Affairs
CCEX	Chief Commissioner of Central Excise
CECA	Comprehensive Economic Cooperation Agreement between India and Singapore
CENVAT	Central value added tax
CERC	Central Electricity Regulatory Commission
CETA	Central Excise Tariff Act
CGD	City gas distribution
CoPP	Certificate of pharmaceuticals products
CST	Central sales tax
CRAR	Capital to risk weighted assets ratio
CTA	Customs Tariff Act, 1975
CTT	Commodities transaction tax
CVD	Countervailing duty
Customs Act	Customs Act, 1962
DCGI	Drug Controller General of India
DDT	Dividend distribution tax
DEPB	Duty Entitlement Pass Book

DFIA	Duty free import authorization
DGCA	Directorate General of Civil Aviation
DGCEI	Director General of Central Excise Intelligence
DIN	Document identification number
DIT	Department of Information Technology
DMT	Dimethyl terephthalate
DoT	Department of Telecommunication
DTA	Domestic tariff area
DTH	Direct to home
ECB	External commercial borrowing
ECGC	Export Credit and Guarantee Corporation
EEFC	Exchange Earners' Foreign Currency
EHTP	Electronic hardware technology park
EPCG	Export promotion capital goods
EOU	Export oriented undertaking
ESOP	Employee stock option plan
FBT	Fringe benefit tax
FCCB	Foreign currency convertible bonds
FCEB	Foreign currency exchangeable bond
FDI	Foreign direct investment
FEMA	Foreign Exchange Management Act, 1999
FIIs	Foreign institutional investors
FIPB	Foreign Investment Promotion Board
FMS	Focus market scheme
FMV	Fair market value
FoB	Free on board
FRBMA	Fiscal Responsibilities and Budget Management Act, 2003

GDP	Gross domestic product
GSDP	Gross state domestic product
GST	Goods and service tax
Gol	Government of India
HC	High Court
HUF	Hindu undivided family
ICMR	Indian Council for Medical Research
IDR	Indian depository receipt
IIFCL	Indian Infrastructure Financial Corporation Limited
IIT	Indian Institute of Technology
Income-tax Act	Income-tax Act, 1961
INR	Indian Rupee
IPLC	International private leased circuit
IPTV	Internet protocol television
IRDA	Insurance Regulatory and Development Authority
ISP	Internet service provider
ITAT	Income-tax Appellate Tribunal
IT/ ITES	Information technology/ Information technology enabled services
JV	Joint venture
LCD	Liquid crystal display
LIBOR	London inter bank offered rate
LLP	Limited liability partnership
LPG	Liquefied petroleum gas
MAT	Minimum alternate tax
MCA	Ministry of Corporate Affairs
MERCOSUR	Southern common market comprising of Argentina, Brazil, Paraguay and Uruguay

MFs	Mutual funds
MNP	Mobile number portability
MRP	Maximum retail price
MVNO	Mobile virtual network operator
NBFC	Non banking financial company
NBFCs-ND-SI	Systemically important non deposit taking non banking financial company
NCD	Non convertible debenture
NELP	New Exploration Licensing Policy
NELP-VIII	VIII Round of bidding under New Exploration Licensing Policy
NHAI	National Highways Authority of India
NIT	National Institute of Technology
NMP	National Minerals Policy, 2008
NPPA	National Pharmaceutical Pricing Authority
NPS	New pension system
NRE	Non Resident External Rupee (Account)
NRI	Non-resident Indian
NSE	National Stock Exchange
ODIs	Offshore derivative instruments
ONGC	Oil and Natural Gas Corporation
PAN	Permanent account number
PDI	Perpetual debt instruments
PFM	Pension fund managers
PFRDA	Pension Fund Regulatory and Development Authority
PIO	Person of Indian origin
PNGRB	Petroleum and Natural Gas Regulatory Board
PoP	Points of presence

PPP	Public private partnership
PSU	Public sector undertaking
PTA	Pure terephthalic acid
QIB	Qualified institutional buyer
QIP	Qualified institutional placement
RBI	Reserve Bank of India
RSP	Retail sale price
SAD	Special additional duty
SACD	Special additional customs duty
SCN	Show cause notice
SEBI	Securities Exchange Board of India
SEZ	Special economic zone
STP	Software technology park
STT	Securities transaction tax
SUUTI	Special Undertaking of Unit Trust of India
TAMP	Tariff Authority for Major Ports
TRAI	Telecom Regulatory Authority of India
UAS	Unified access service
USD	United States Dollar
UT	Union territory
WHO-GMP	World Health Organisation Good manufacturing practices
WOS	Wholly owned subsidiary
WPI	Wholesale price index

# Notes

# Notes



www.ey.com/india

# Our offices

## Ahmedabad

2nd Floor, Shivalik Ishaan  
Near CN Vidhyalaya,  
Ambawadi,  
Ahmedabad - 380 015  
Tel: + 91 79 6608 3800  
Fax: + 91 79 6608 3900

## Kolkata

22, Camac Street  
Block 'C', 3<sup>rd</sup> Floor  
Kolkata - 700 016  
Tel: + 91 33 6615 3400  
Fax: + 91 33 2281 7750

## Bengaluru

"UB City", Canberra Block  
12th & 13th floor  
No.24, Vittal Mallya Road  
Bengaluru - 560 001  
Tel: + 91 80 4027 5000,  
+ 91 80 6727 5000  
Fax: + 91 80 2210 6000  
(12th Floor)  
Fax: + 91 80 2224 0695  
(13th Floor)

## Mumbai

6th floor & 18th floor  
Express Towers  
Nariman Point  
Mumbai - 400 021  
Tel: + 91 22 6657 9200  
(6th floor)  
Fax: + 91 22 22876401  
Tel: + 91 22 6665 5000  
(18th floor)  
Fax: + 91 22 2282 6000

## Chennai

TPL House, 2nd floor  
No 3, Cenotaph Road  
Teynampet  
Chennai - 600 018  
Tel: + 91 44 4219 4400  
Fax: + 91 44 2431 1450

## Jolly Makers Chambers II

15th floor, Nariman Point  
Mumbai - 400 021  
Tel: + 91 22 6749 8000  
Fax: + 91 22 6749 8200

## Jalan Mill Compound

95, Ganpatrao Kadam Marg  
Lower Parel,  
Mumbai - 400 013  
Tel: + 91 22 4035 6300  
Fax: + 91 22 4035 6400

## Gurgaon

Golf View Corporate Tower - B  
Near DLF Golf Course  
Sector 42  
Gurgaon - 122002  
Tel: + 91 124 464 4000  
Fax: + 91 124 464 4050

## New Delhi

6th floor, HT House  
18-20 Kasturba Gandhi Marg  
New Delhi - 110 001  
Tel: + 91 11 4363 3000  
Fax: + 91 11 4363 3200

## Hyderabad

205, 2nd floor  
Ashoka Bhoopal Chambers  
Sardar Patel Road  
Secunderabad - 500 003  
Tel: + 91 40 6627 4000  
Fax: + 91 40 2789 8851

## Pune

C-401, 4th floor  
Panchshil Tech Park  
Yerwada (Near Don Bosco School)  
Pune - 411 006  
Tel: + 91 20 6601 6000  
Fax: + 91 20 6601 5900

Ernst & Young Pvt. Ltd.

Assurance | Tax | Transactions | Advisory

**About Ernst & Young**

Ernst & Young is a global leader in assurance, tax, transaction and advisory services. Worldwide, our 135,000 people are united by our shared values and an unwavering commitment to quality. We make a difference by helping our people, our clients and our wider communities achieve their potential.

**For more information, please visit**

**[www.ey.com/india](http://www.ey.com/india)**

Ernst & Young refers to the global organization of member firms of Ernst & Young Global Limited, each of which is a separate legal entity. Ernst & Young Global Limited, a UK company limited by guarantee, does not provide services to clients. Ernst & Young Private Limited is one of the Indian client serving member firms of Ernst & Young Global Limited.

Ernst & Young Pvt. Ltd. is a company registered under the Companies Act, 1956 having its registered office at 22, Camac Street, Block C, 3rd Floor, Kolkata- 700016

**© 2009 Ernst & Young Pvt. Ltd.  
All Rights Reserved.**

Information in this publication is intended to provide only a general outline of the subjects covered. It should neither be regarded as comprehensive nor sufficient for making decisions, nor should it be used in place of professional advice. Ernst & Young Pvt. Ltd. accepts no responsibility for any loss arising from any action taken or not taken by anyone using this material.