Budget PLUS
2011

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Budget PLUS 2011

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Foreword

The Union Budget for 2011-12 was presented by the Finance Minister in the Parliament today.

The Indian economy has emerged with remarkable rapidity from the slowdown caused by the global financial crisis from 2007 to 2009. With growth in 2010-11 now estimated at 8.6%, the turnaround has been fast and strong. While some clouds linger, such as continued high inflation and a temporary slowdown in the industrial growth, the dynamism in overall growth is evident. The world economy, led by the buoyant economic activity in the emerging economies, is also gradually recovering from the crisis.

In view of the proposed DTC, it was widely expected that the Finance Minister would limit his direct tax proposals to initiatives that require immediate attention.

The Budget proposals seek to increase the basic exemption limit in case of individuals, reduce the surcharge on tax in case of companies, levy MAT on SEZ developers and units, provide a concessional rate of tax on dividends received by Indian companies from their foreign subsidiaries and provide a set of counter measures in relation to jurisdictions with which there is lack of effective exchange of information

Increase in the basic exemption limit in case of individuals is expected to increase disposable incomes and thereby provide some relief against inflation. While companies would welcome the reduction in surcharge, the increase in rate of MAT as well as extending the same to SEZ developers and units could be a cause for concern. There were expectations that the Government would consider another extension of tax holiday benefits for STPI and EOUs. Absence of any such proposal may be a disappointment; but is perhaps understandable in view of the stated policy of phasing out most tax incentives.

The Finance Minister's Budget speech also provided insight into the status of the structural tax reforms initiated by the Government on both the direct and indirect taxes. The Government had already signaled its intention to consolidate and comprehensively amend the existing direct tax laws through a single legislation. Accordingly, the DTC was introduced in Parliament in August 2010, which is proposed to be made effective from 1 April 2012. While the Finance

Minister re-affirmed that the DTC is on track for implementation with effect from 1 April 2012, he also clarified that Government expects to progress in implementing the GST.

On the regulatory front, the Finance Minister mentioned a number of financial sector regulatory reform initiatives, a further liberalization in the FDI Policy and introduction of the new company law legislation in the Parliament shortly.

Overall, the Government appears to have adopted a balanced approach while framing the Budget proposals. One can expect more activity on the tax and regulatory reforms in the coming months in view of the Government's intention to implement the DTC and the GST.

28 February 2011 Ernst & Young

At a glance

Income-tax

- Basic exemption limit for individuals increased to INR 180,000 (for resident women below the age of 60 years exemption limit retained at INR 190,000).
- Age limit for qualifying as senior citizen reduced from 65 years to 60 years and basic exemption limit increased to INR 250,000.
- Basic exemption limit of INR 500,000 applicable for senior citizens of the age of 80 years or more.
- Surcharge on domestic companies reduced from 7.5% to 5%.
- Surcharge on foreign companies reduced from 2.5% to 2%.
- Basic rates of corporate tax remain unchanged for both domestic and foreign companies.
- Activities in the nature of trade, commerce or business or any related activities, pursued for advancement of object of general public utility is “charitable purpose”, if annual receipts from such activities do not exceed INR 2.5 million (previous limit INR 1 million).
- Specified allowances and perquisites of Chairman and Members of the UPSC are exempted.
- Exemption provided to specified income of a notified body or authority or trust or board or commission set up for regulating or administering an activity for the benefit of general public, provided it is not engaged in any commercial activity.
- Weighted deduction for contributions made to national laboratory or a university or IIT or a specified person for scientific research, increased to 200%.
- Investment linked tax deduction extended to taxpayers engaged in developing and building affordable housing projects under a scheme framed by the Central Government or a State Government or in production of fertilizers in India.

- Contribution made by an employer towards a notified pension scheme allowed as a deduction (restricted to 10% of the salary of employees).
- Tax holiday sunset clause for power sector extended to 31 March 2012.
- Tax holiday for undertakings engaged in commercial production of mineral oil will not be available for blocks licensed under a contract awarded after 31 March 2011.
- Deduction in addition to limit of INR 100,000 specified under section 80CCE available to employees in respect of contributions (upto 10% of salary) made to notified pension scheme by the Government or any other employer.
- MAT rate increased from 18% to 18.5% of book profit (plus applicable surcharge and education cess).
- Income of SEZ developers and units will be subject to MAT.
- Dividends declared by SEZ developers will be subject to DDT.
- Introduction of AMT for LLPs at 18.5% (plus education cess) of the adjusted total income. AMT credit allowed to be carried forward and set off against future income-tax liability for a period of ten years.
- Due date for filing the return of income by a company which is required to report its international transactions in Form 3CEB is extended to 30 November.
- Notified class or classes of persons exempted from filing the return of income.
- Time limit prescribed for completion of assessment and reassessments (including search assessments) to exclude time taken for obtaining information from foreign tax authorities under agreement for exchange of information or six months, whichever is less.
- For determining ALP of international transactions, instead of a 5% variation, the allowable variation will now be such percentage as may be notified by the Government.
- TPOs granted power of conducting a survey.

- Transactions with persons located in a NJA brought within the purview of TP provisions.
- Transactions with a person located in a NJA subject to certain disallowance/ taxability and higher withholding tax under certain circumstances.
- The limit for making application before Settlement Commission is reduced from INR 5 million to INR 1 million in certain cases.
- Settlement Commission empowered to rectify its order passed pursuant to the application before it, within a period of six months from the date of the order.
- Non residents having LOs in India required to file a statement, giving details of the activities carried out by the LO, within 60 days from the end of the financial year.
- Revenue authorities empowered to make enquiries and investigate for collection of information on requests received from the Revenue authorities outside India, pursuant to a double taxation avoidance agreement entered into between India and the respective country.
- Income from infrastructure debt funds notified by the Central Government will be exempt.
- Interest received by non residents from notified infrastructure debt funds taxable at 5% (plus applicable surcharge and education cess).
- Rate of tax on income distributed by mutual funds (other than equity oriented funds) to a person other than individual or HUF, increased to 30% (plus applicable surcharge and cess).
- Dividend received by an Indian company from subsidiary foreign company will be taxed at the rate of 15% (plus applicable surcharge and cess), on gross basis.
- Deletion of scheme of DIN for correspondence with tax authorities.

Customs duty

- Peak rate of BCD unchanged at 10%.
- BCD of 2%, 2.5% and 3% replaced with median rate of 2.5%.

- Existing procedure provides for assessment of every bill of entry or shipping bill by the customs officer before removal from port of import or export. Goods will now be allowed to be cleared both for import or export on 'self assessment' basis.
- Time limit for demanding customs duty and claiming refund of duty enhanced from six months to one year for all categories of importers.
- Provisions introduced to create first charge on the property of the defaulter for recovery of the customs dues from such defaulter subject to conditions.
- Amendments made to allow exports counted towards export obligation under EPCG scheme, to be also simultaneously available for benefits under export incentive schemes. These amendments have been made with retrospective effect.

Excise duty

- Peak rate of duty maintained at 10%. Basic duty rate increased from 4% to 5% to align with state VAT rates.
- AED under AED (GSI) removed on sugar, textile and textile products to enable states to levy VAT.
- Duty of 1% (without input Cenvat) imposed on 130 items, which were earlier exempted. For specified items, option provided to avail credit and discharge duty at 5%.
- Exemption to packaged or canned software (from value that represents transfer of right to use) provided to cover supplies made other than under MRP assessment.
- Interest rate for delayed payment of duty increased from 13% to 18% with effect from 1 April 2011 and penalty provisions amended.
- Input and input services redefined to exclude specified goods and services. Exempted services to include trading "trading" for the purposes of computing credit reversal.
- Definition of capital goods amended to include goods used outside the factory for generation of electricity for captive use.

- Rule 6(5) of Credit Rules which specified input services for full Cenvat credit availability (unless used exclusively for exempted operations), deleted.

Service tax

- No change in the effective service tax rate of 10.3%.
- Service tax extended to services by air conditioned restaurants having liquor license and to short term accommodation in hotels.
- Scope of seven existing service categories expanded, including life insurance service, legal service, health service and commercial training and coaching service.
- Interest for delayed payment of service tax increased to 18% a year and penalty provisions amended.
- Restrictions on Cenvat credit on input services prescribed in the case of works contractors (availing composition scheme).
- Outright service tax exemption for input services "wholly consumed" in a SEZ, linked with Export Rules.
- Point of Taxation Rules, 2011 introduced, deeming the time of provision of service to be the date of provision of service or date of invoice or date of payment, whichever is earlier.
- Performance based criteria for determining export of "credit rating agency services", "market research agency services", "technical testing and analysis services" and "transport of goods by air/ road/ rail services" changed to "location of recipient of service".
- Definition of "input service" for Cenvat credit purposes substituted. Services provided for construction of building or civil structure, outdoor catering, life/ health insurance services not to be considered as input service.
- "Exempted services" to include trading. For the purposes of availment of pro rata Cenvat credit, value of trading will be the difference between sale price and purchase price of the goods traded.
- Banking companies or financial institutions obligated to pay an amount equal to 50% of Cenvat credit availed. For

services related to life insurance or management of ULIP, such amount to be equal to 20% of credit availed.

- Provision relating to availability of full Cenvat credit on specified services under Rule 6(5) of Cenvat Credit Rules deleted.

Sales tax

- No change in CST rate.

GST

- Date of implementation of GST not announced.

Key performance indicators

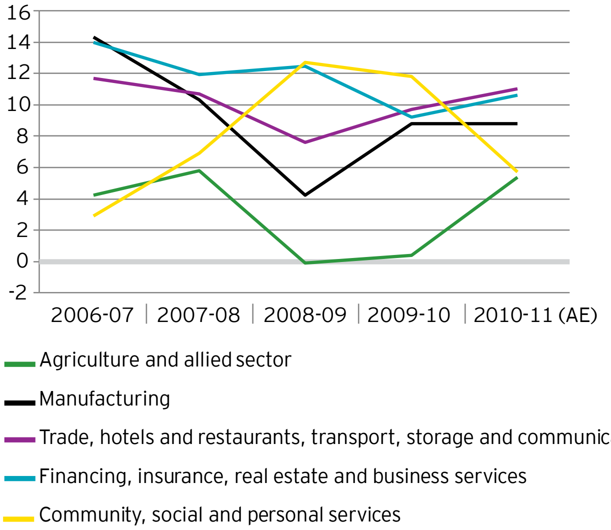
The Indian economy has emerged from the slowdown caused by the global financial crisis with remarkable rapidity. The Economic Survey 2010-11 reports the estimated GDP growth for this year at 8.6% as against 8% in 2009-10. Further, it is estimated that India's GDP will grow by 9% during 2011-12. While the Government's fiscal stimulus during the period 2007 to 2009 have strengthened the ability of the economy to withstand pressures, challenges such as high food inflation and a temporary slowdown in industrial growth remain.

Agriculture and allied sector: The sector is estimated to have grown at 5.4% in 2010-11 as against 0.4% in 2009-10, primarily on account of above normal rainfall.

Industry: Growth in the industrial sector was buoyant during the first two quarters of the year and moderate for the rest of the year. The IIP data for 2010-11 has exhibited volatility in the current fiscal with growth ranging from 2.7% to 16.6% on a month-on-month basis. Manufacturing registered a growth of 8.8% in 2010-11; similar to the growth in 2009-10. Mining registered a growth of 6.2% in 2010-11 as against 6.9% in 2009-10 while electricity registered a growth of 5.1% in 2010-11 as against 6.4% in 2009-10.

Services: The services sector registered a growth of 9.6% in 2010-11 as against 10.1% in 2009-10. This marginal deceleration in growth is mainly due to the slowdown in growth in community services to 5.7% in 2010-11 as against 11.8% in 2009-10. Trade, hotels, restaurants, transport and communication (together) registered a growth of 11% in 2010-11 as against 9.7% in 2009-10. Likewise, financing, insurance, real estate and business services registered a growth of 10.6% in 2010-11 as against 9.2% in 2009-10.

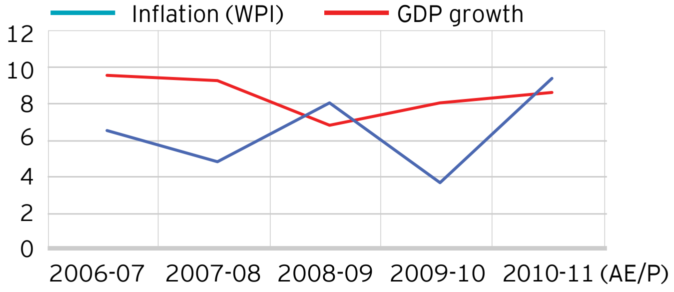
Sectoral growth rate (%)



Other key economic indicators are summarized below:

- The average rate of inflation (in WPI terms) increased to 9.4% during April–December 2010 (provisional actuals) as against 1.7% during the corresponding period in 2009-10. Inflation in primary articles, particularly food articles (which remained in double digits for most part of the year, despite a good monsoon) was the main contributor to elevated levels of inflation. Apart from the supply-side bottlenecks, especially in food items, there were demand-side pressures as well such as higher global commodity prices on account of the global recovery, increased purchasing power owing to the rapid growth in the economy and the Government's inclusive programs.

GDP growth and inflation (%)

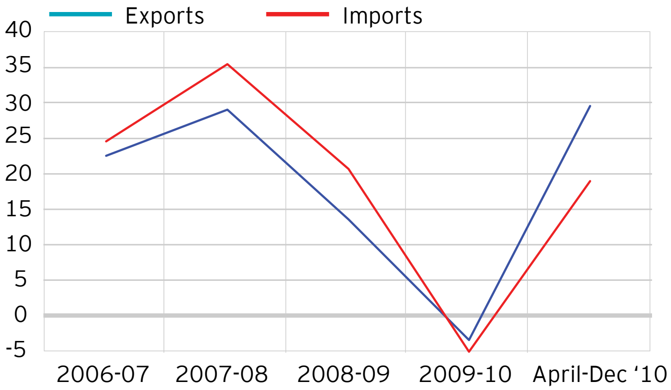


- Net capital flows rose to USD 36.7 billion in April-September 2010 as against USD 23 billion in April-September 2009. The increase was mainly driven by large inflows from FIIs, short-term trade credits and ECBs. The net FDI inflow moderated to USD 5.3 billion in April-September 2010 as against USD 12.3 billion during the corresponding period last year.

- Foreign exchange reserves increased by USD 18.2 billion from USD 279.1 billion at the end of March 2010 to USD 297.3 billion in December 2010.

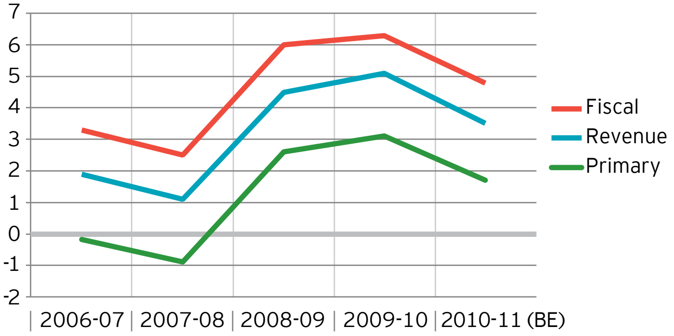
- Merchandise exports registered an increase of 29.5% in April–December 2010 as against a negative growth of 3.5% during 2009-10. Similarly, imports increased by 19% in April-December 2010 as against a negative growth of 5% during 2009-10.

Foreign trade (%) change in USD terms on an annual basis



- Fiscal deficit decreased to 4.8% of GDP in 2010-11 as against 6.3% in 2009-10. Primary deficit also decreased to 1.7% of GDP in 2010-11 as against 3.1% of GDP in 2009-10. Similarly, revenue deficit registered a decline of 3.5% of GDP in 2010-11 as against 5.1% of GDP in 2009-10. The outcomes of the above key fiscal indicators were much better than envisaged by the 2010 Budget estimates on account of the higher than estimated revenue from the telecom 3G/ BWA auctions and indirect taxes.

Fiscal, revenue and primary deficit (% of GDP)



- The primary markets financing reached record levels including the largest ever IPO for Coal India while secondary markets reached new highs. The BSE and NSE indices touching new peaks of 21,004.96 points and 6,312.45 points, respectively, on 5 November 2010 following global recovery and strong FII inflows on account of solid domestic growth coupled with a resurging corporate sector. However, since December 2010, the market has corrected primarily on account of inflation, the strengthening of other markets and the political unrest in the Middle East.

Challenges and outlook of the Economic Survey 2010-11

The key challenges and outlook of different sectors and key recommended policy initiatives as per The Economic Survey 2010-11 is outlined below:

- **Agriculture:** The agriculture sector in India is at a crossroads with rising demand for food items and relatively slower supply response in many commodities resulting in frequent spikes in food inflation.

  Concerted and focused efforts are required for addressing the challenge of stagnating productivity levels. A holistic approach, simultaneously working on agricultural research, development, dissemination of technology, provision of agricultural inputs such as quality seeds, fertilizers, pesticides and irrigation would help improve productivity levels. Increased capital investment both by public and private sector in a sustained way is required.

  The set up of an efficient supply chain is important to prevent the volatility in food prices and ensuring adequate compensation for farmers. Investment in horticulture products is essential to enhance the per capita availability of food items and cater to a growing population with increasing incomes. Investments in food processing, cold chains, handling and packaging of processed food need to be encouraged.

- **Industry**: Looking at the IIP data for past few months, the short term industrial sector is likely to grow at moderate but sustainable rates. Over medium to long term, to sustain double digit output growth, there is need for multifaceted reforms to reduce the vulnerabilities in the sector.

  Neglect of R&D in new technology and skill development continues to impact the growth in the manufacturing sector. High technology base, skilled manpower availability and ease of credit flow is crucial for growth and enhancing manufacturing competitiveness in the global markets. Further, while manufacturing inflation has so far been benign, persistent high average inflation is leading to increase in input costs and a rise in average wages. Most importantly, capacity addition in core sectors and removal of infrastructure bottlenecks would encourage industrial sector output in the medium to long term.

- **Infrastructure**: While the infrastructure sector indicates an optimistic outlook, in order to accelerate the pace of infrastructure development further, certain challenges need to be overcome; the foremost being to make huge capacity addition in a time bound manner while ensuring that projects generate satisfactory investment returns. As per the Planning Commission's preliminary assessment of the investment in infrastructure during the Twelfth Plan (financial years 2012-17), the projected investment is estimated to be about USD One trillion (approximately) half of which would need to come from the private sector. Thus, financing infrastructure would be a big challenge and innovative ideas and new models of financing are required. Further, channelling domestic and foreign financial savings of this scale into infrastructure requires a judicious mix of policy interventions which balance the growth and stability objectives.

  Apart from the need for substantial financial outlays for infrastructure, there are several non-financing constraints which require urgent action. These include (i) tendering of unviable projects; (ii) bad quality of engineering and planning; (iii) lack of standardized and optimal contracts; (iv) land acquisition delays and slow approval processes, especially environmental and forest clearances; (v) insufficient optimization of procurement costs (of PSUs); (vi) weak performance management in nodal agencies and PSUs and; (vii) inadequate availability of skilled and semi-skilled manpower.

There is also a need to reassess the existing criteria and priorities for allocation of funds to different sub-sectors within this sector and this requires a macro-level approach and greater inter-ministerial coordination.

- **Services**: Given the myriad activities in services, supporting its growth will require careful and differentiated strategies. It is very important to address the challenge of maintaining India's competitiveness in sectors like IT/ ITeS and broadening the domestic market for these sectors to increase efficiency. Additionally, increased efforts are required to make forays in globally traded services like financial services, health care, education and accountancy. Further, traditional sectors like tourism and shipping continue to be slow movers.

  On the regulations front, a more conducive environment for services trade can be created by rationalization of taxes, totalization agreements, streamlining domestic regulations, technical standards and regulatory transparency. Further, a portal for services, a services data system and a more focused and coordinated policy approach could help services sector to grow at a consistent rate.

- **Finance:** Providing access to banking facility to all citizens is one of the main objectives of the inclusive development agenda in India. Towards this end, while licenses may be given to new entities to operate as banks, the eligibility norms need to be specified consistent with the objective of maintaining the regulatory robustness of the banking sector.

  Minimum capital requirement for banks should be graded and banks should be granted two types of licenses; one for providing basic banking to fulfill the obligation of financial inclusion and the other for all activities of a commercial bank. Industrial houses, business houses and NBFCs may be allowed to promote banking enterprises and obtain full banking licenses subject to conflict of interest issues. Micro-finance institutions and NBFCs should be considered for basic banking licenses. The aspect of the requirement for foreign promoters in banking needs to be addressed and foreign promoters with credible banking experience may be considered provided they meet the "fit and proper" criteria. With regard to restriction on shareholding, one view could be that as the bank grows in business, the promoter's control should decline and the bank should be managed more professionally and independently.

The NPS which was introduced in 2009 does not cover majority of the population in unorganized sector for which the system was designed. Government intervention is required in creating awareness amongst potential investors in the pension products. There is also need to consider passage of the long pending Pension Fund Regulatory and Development Authority Bill in order to boost the regulatory robustness in the pension sector.

In recent times and especially after the global financial crisis, the issue of financial stability has drawn great attention mainly due to transmission of its impact on the real sector of the economy. Steps are required to ensure financial stability in the real estate sector.

- **Taxes**: The compositional shift in the tax structure in favor of direct taxes reversed marginally in 2010-11 with direct taxes forming 56.6% of the total tax revenue as against 58.6% in 2009-10. The indirect tax collections increased to 42.2% of the total tax revenues as against 39.5% in 2009-10. As a proportion of GDP, total gross tax revenue remained relatively unchanged at 9.5% (as against 9.6% in 2009-10); comprising of direct taxes at 5.4% and indirect taxes at 4% of GDP.

  The DTC introduced in Parliament, seeks to consolidate and amend the direct taxes law so as to establish an economically efficient, effective and equitable direct tax system which will facilitate voluntary compliance and increase the tax to GDP ratio. Though the Government has taken measures to facilitate movement towards a GST regime and considerable progress has been made, the timeline of April 2011 for its introduction is unlikely to be met. This is because the convergence of views between the Centre and States on various issues including introduction of legislation for a constitutional amendment is yet to be achieved.

  With significant levels of reduction envisaged in the combined State Government deficit in 2010-11, the resumption of the fiscal consolidation process at both Centre and State levels has begun after two years of purposive expansion. Based on estimates, the growth in tax revenues seems likely given the recovery in the economy to the pre-crisis levels.

- **FDI policy reforms:** FDI flows, which are more stable and productive in nature, have declined during the year. Steps have to be taken to encourage FDI inflows over other forms of capital. Increased efficiency in the bureaucratic machinery is important to attracting FDI into India. Further, the Government should consider liberalizing FDI in services as FDI inflows and trade in services have a close relationship given the nature of intra firm trade of multinational parent firms with affiliates. FDI in multi product retail in a phased manner is recommended.

- **External trade:** While the outlook for India's trade sector is bright with a good growth rate, which is still picking up momentum, growth in external trade would depend on world trade developments. There is a need to be vigilant about any fallout of the financial turbulence in the periphery of the Euro zone and the new disturbances in the Middle East. Equally important is the need to guard against new protectionist measures by raising its pitch at bilateral and international forums.

  On a medium to long term, the following challenges and recommendations are inter alia identified:

  - Diversification of the export basket;

  - Increasing export competitiveness/ reduction of high transaction costs; and

  - Formation of a systemic inflation tackling mechanism with early warning systems, rather than ad-hoc policy measures.

- **Inflation:** Inflation is clearly the dominant concern. At present, the major pressure on prices is emanating from the food and energy sectors both at global and domestic levels. International crude prices have crossed USD 100 a barrel in the wake of political unrest in the Middle East and putting pressures on the Government to take a relook at domestic fuel prices.

  There is need to remain cautious and be prepared to take proactive steps as the emerging scenario warrants, with the objective of bringing down inflation. The consolidation of fiscal deficits will permit greater availability of credit to sustain growth, while tighter monetary policy starts to transmit its impact in reducing inflationary pressures.

Inflationary pressures in the economy are also emanating in part from supply-side constraints, especially in food and other primary articles, as well as the transmission of higher global food, oil and other commodity prices. Therefore, the policy challenge of maintaining the growth momentum in the economy with price stability is going to remain a key focus area for monetary policy and macroeconomic management.

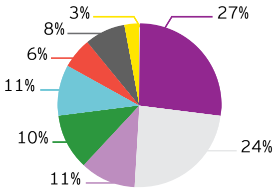
- **Human development, equity and environment:** While the Government has initiated several social sector reforms, implementation of these programs remains key to achieving the desired outcome. The recommendations in this area include:
  - Improvements in the MGNREGS like shifting to permanent asset building and infrastructure development activities, reducing transaction costs, better monitoring and extension of the MGNREGS to urban areas can yield better results.
  - Given the advantage of a young population, the realization of the democratic dividend also lies in educating and improving the skill set of the workforce to correct the demand-supply mismatch in the job market. The gap in available resources could possibly be met by a tailor made public-private partnership mode of funding without diluting the regulatory oversight of the Government.
  - Another challenge for the Government is proper balancing of the climate concerns and the growth aspirations. Careful planning and customized policies are needed to ensure that green growth strategies do not result in a slowdown in business growth.

Note: All figures are as per the Economic Survey 2010-11

BE: Budget Estimates

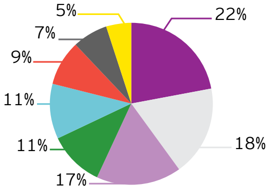
Budget financials

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



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

- ▶ The annual financial statements of the Government for 2010-11 are set to reflect a fiscal deficit of 5.1% of GDP, lower than the budget estimate of 5.5% for 2010-11. The target fiscal deficit for 2011-12 is 4.6%. According to the medium term fiscal policy statement, the target fiscal deficit is to be progressively reduced to 3.5% by 2013-14. For 2011-12, revenue deficit is estimated to be 3.4% of GDP, which is the same (in percentage terms) as the revised estimate for 2010-11. In his speech before the Parliament, the Finance Minister stated that control over the fiscal situation was further improved by higher than anticipated non-tax revenues from 3G spectrum auctions.

- ▶ Market borrowings are expected to finance 83.09% of the Government's fiscal deficit in 2011-12. According to the revised estimates, the interest outgo as a percentage of the revenue receipts is set to decrease considerably to 30.72% in 2010-11 from 37.20% in 2009-10 and is estimated to be 33.93% in 2011-12.

- The Union Budget 2011-12 has estimated the following:
  - Gross tax revenues at INR 9,324.40 billion, representing an increase of approximately 18.50% over the revised estimates of INR 7,868.88 billion for 2010-11.
  - Plan expenditure at INR 4,415.47 billion, representing an increase of approximately 11.78% over the revised estimates of INR 3,950.24 billion for 2010-11. As a proportion of the total expenditure (excluding expenditure matched by receipts), plan expenditure is estimated at 35.11% against the revised estimate of 32.47% for 2010-11. Non-plan expenditure is estimated at INR 8,161.82 billion representing a decrease of 0.65% over the revised estimates of INR 8,215.52 billion for 2010-11.
  - During his speech, the Finance Minister stressed the need to revisit the extant classification of public expenditure between plan, non-plan, revenue and capital spending. Towards this end, a Committee under Dr. C. Rangarajan has been set up by the Planning Commission to look into the issue.

Budget proposals

This section summarises significant proposals and direct and indirect taxes and policy initiatives announced in the Union Budget 2011. Most direct tax proposals in the Finance Bill are effective from the financial year commencing on 1 April 2011, 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 (%)@	Income (INR)	Rate (%)@
0-160,000	Nil	0-180,000*	Nil
160,001-500,000	10	180,001-500,000	10
500,001-800,000	20	500,001-800,000	20
800,001 and above	30	800,001 and above	30

@ Education cess of 3% is leviable on the amount of income-tax.

* The exemption limit is INR 190,000 in case of resident women below the age of 60 years and INR 250,000 (earlier INR 240,000) in case of resident individuals of the age of 60 years or more but less than 80 years. In case of resident individuals of the age of 80 years or more, the exemption limit is INR 500,000.

Corporate tax rates

Basic rates of corporate tax remain unchanged for both domestic and foreign companies. However, surcharge on corporate tax for domestic companies has been reduced from 7.5% to 5%. Surcharge on corporate tax for foreign companies has been reduced from 2.5% to 2%. Further, MAT has been increased from 18% to 18.5%.

The corporate tax rates including surcharge and education cess have been summarized below:

Description	Rate (%)
A) Domestic company	
Regular tax	32.445[@]
DDT	16.223
B) Foreign company	
Regular tax	42.024[*]

MAT is chargeable at 18.5% 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 "charitable purpose"

- The definition of "charitable purpose" includes relief of the poor, education, medical relief and the advancement of any other object of general public utility.
- Presently, the term "advancement of any other object of general public utility" in the definition of charitable purpose excludes activities in the nature of trade, commerce or business or activities of rendering services in relation to trade, commerce or business where the receipt from such activities is more than INR 1 million.
- Now, the monetary limit for receipts from such activities for considering the exclusion will be enhanced from INR 1 million to INR 2.5 million.

Exempt income

Exemption of income of allowances and perquisites to Chairman and Members of UPSC

- Allowances and perquisites provided to the existing and retired Chairmen and Members of the UPSC, as notified by the Government, will be exempt from tax.

  This amendment will take effect retrospectively from 1 April 2007.

Exemption of specified income of notified body or authority or trust or board or commission

- Specified income of Central Government notified body or authority or trust or board or commission set up or constituted by a Central, State or Provincial Act or constituted by the Central or a State Government for regulating or administering an activity for the benefit of general public will be exempt from tax, if it is not engaged in any commercial activity.
- Specified income for this purpose will be notified by the Central Government in the Official Gazette.

  The above amendment will take effect from 1 June 2011.

Deductions from business income

Weighted deduction for expenditure on scientific research

- Presently, a weighted deduction of 175% is allowed for any sum paid to a national laboratory or a university or IIT or a specified person for the purpose of scientific research.

  The weighted deduction will now be enhanced to 200%.

Deduction for capital expenditure for specified business

- Presently, deduction is allowed for capital expenditure incurred by a taxpayer for the purpose of certain specified business.
- Now, the deduction for capital expenditure will also be allowed to taxpayers engaged in:
  - Developing and building affordable housing projects under a scheme framed by the Central Government or a State Government; or

- Production of fertilizer in a new plant or in a newly installed capacity in an existing plant in India.

The above specified businesses should commence activities on or after 1 April 2011.

- In order to remove ambiguity with respect to set off of losses, clarificatory amendments have been made in the context of specified businesses of hotels and hospitals.

Deduction for contributions made towards notified pension scheme

- A specific amendment has been made to permit deduction for contribution made by an employer on behalf of an employee towards a notified pension scheme. The amount of deduction will be restricted to 10% of the salary of the employee paid during a financial year.

Extension of the tax holiday sunset clause for the power sector

- Ten year tax holiday will be extended to power sector undertakings which commence operations by 31 March 2012.

Tax holiday sunset clause for undertakings engaged in commercial production of mineral oil

- Presently, a seven year tax holiday is available to undertakings located in any part of India which commenced commercial production of mineral oil on or after 1 April 1997. Now, the tax holiday will not be available for blocks licensed under a contract awarded after 31 March 2011 under NELP or in pursuance of any other law.

Other deductions under Chapter VIA

Contribution made to notified pension scheme

- Deduction in addition to limit of INR 100,000 specified under section 80CCE available to employees in respect of contributions (upto 10% of salary) made to notified pension scheme by the Government or any other employer.

Contribution made to infrastructure bonds

- Additional deduction of INR 20,000 for individuals and HUFs in respect of investments made in long term infrastructure bonds available for financial year 2011-12, as well.

MAT and DDT

Increase in MAT rate

- Presently, the MAT rate is 18% of book profit (plus applicable surcharge and education cess).

  Now, the MAT rate will be increased to 18.5% of book profit (plus applicable surcharge and education cess).

Withdrawal of MAT and DDT benefits to SEZ developers and units

- Presently, income earned by SEZ developers or units in a SEZ or unit is not considered as part of "book profit" for MAT purposes.

  Now, such income will be considered for computing "book profit" for MAT purposes. Consequently, income of SEZ developers and units will be subject to MAT.

- Presently, dividend declared by SEZ developers is not subject to DDT.

  Now, dividends declared by SEZ developers will be subject to DDT with effect from 1 June 2011.

Taxation of LLPs

Alternate minimum tax

- Presently, LLPs are liable to pay regular income-tax at the rate of 30% (plus education cess) of the total income computed as per the normal provisions of the Income-tax Act.

- Now, LLPs will be subject to AMT at the rate of 18.5% (plus education cess) of the adjusted total income if the regular income-tax payable is lower than the AMT. Adjusted total income will be the total income as computed under the normal provisions as increased by deductions claimed under:

  - Chapter VI-A (Heading C- Deductions in respect of certain incomes); and

- Section 10AA (deduction in respect of profits of SEZ units).

Tax credit for AMT

- AMT paid in excess of the regular income-tax computed under the normal provisions will be available as credit against future income-tax liability.
- The AMT credit will be allowed to be carried forward and set off for a period of ten years succeeding the year in which such credit becomes allowable.
- The credit allowed to be set off in a financial year will be restricted to the difference between the regular income-tax computed under the normal provisions and the AMT.

Audit report

- LLPs will be required to obtain a report from a chartered accountant certifying the computation of the adjusted total income and AMT.
- Such report will be required to be furnished on or before the due date of filing of income-tax return.

Return of income

Extension of due date for filing return of income by companies undertaking international transactions

- Presently, companies are required to file their return of income on or before 30 September.
- Now, the due date for filing the return of income by companies which are required to submit a report in Form 3CEB in respect of its international transactions, will be 30 November.

  The above amendment will be effective from 1 April 2010.

Exemption from filing the return of income to specified class or classes of persons

- In order to reduce compliance burden of small taxpayers, Government will notify any class or classes of persons who will be exempted from filing the return of income on satisfaction of specified conditions.

  The above amendment will be effective from 1 June 2011.

Return to be filed by specified persons

- The following persons will be required to furnish their return of income if the total income before giving effect to the exemption exceeds the maximum amount which is not chargeable to tax:
  - Notified body, authority, board, trust, commission whose specified income is exempt under section 10(46) of the Income-tax Act; and
  - Notified infrastructure debt funds whose income is exempt under section 10(47) of the Income-tax Act.

  The above amendment will be effective from 1 June 2011.

Assessment procedures

Extension of time limit for issuing directions for centralized processing of returns

- Under the provisions of the Income-tax Act, the CBDT is empowered to make a scheme for expeditious determination of tax payable by, or refund due to the taxpayer.
- The time limit for issue of notification by Central Government containing directions for providing exceptions, modifications or adaptations of any provisions of the Income-tax Act, for enabling the scheme for centralized processing of returns determining the tax payable by, or refund due to the tax payer, has been extended from 31 March 2011 to 31 March 2012.

Extension of time limit for completion of assessment in case of reference made under exchange of information

- For determination of the statutory limitation period for completion of assessments and reassessments, period commencing from the date on which reference for exchange of information is made by the competent authority under an agreement till the date the information is received by the Commissioner of Income-tax, or a period of six months, whichever is less, is to be excluded.
- Similar amendment has been proposed for extending the time limit for completion of search assessments.

The above amendments will take effect from 1 June 2011.

Transfer pricing

Determination of ALP

- Presently, where the difference between the ALP and the TP does not exceed 5% of the TP, the TP is deemed to be the ALP.

  Now, the allowable variation will be such percentage of the TP as the Government may notify.

Extension of TPO's power

- TPOs empowered to examine additional international transactions (which were not formally referred by the tax officer), if identified subsequently in the course of proceedings before him.
- TPOs will now be granted additional powers of conducting a survey.

  The above amendments will take effect from 1 June 2011.

Special measures in respect of transactions involving NJA

- Anti avoidance measures introduced to discourage transactions with persons located in countries or territories which do not have effective information exchange arrangements with India.
- Central Government will be authorised to notify countries or territories outside India as a NJA.
- Any transaction between the taxpayer and a person located in a NJA will be deemed to be an international transaction subject to TP provisions and all parties to such international transaction would be deemed to be associated enterprises.
- While determining ALP of such international transactions, benefit of allowable variance will not be available.
- No deduction will be allowed for any expenditure or allowance (including depreciation) arising from such international transactions unless taxpayer maintains such documentation and furnishes such information as may be prescribed.
- No deduction will be allowed for any payment made to a financial institution located in a NJA, unless the taxpayer

authorises Revenue authorities to seek relevant information from the said financial institution.

- Any sum received or credited by the taxpayer from a person located in the NJA will be deemed to be income of the taxpayer, unless the taxpayer satisfactorily explains the source of such money in the hands of such person or in the hands of beneficial owner located in the NJA.

- Any payment to a person located in a NJA on which tax is deductible, shall be subject to withholding tax, at higher of the following rates:

    - At the rate specified under the Income-tax Act; or

    - At the rates in force; or

    - At the rate of 30%.

  The above amendments will take effect from 1 June 2011.

Settlement Commission

Modification in the conditions for filing an application before Settlement Commission

- Presently, in case of an applicant, where assessment/ reassessment proceedings resulting from a search or from requisition of book of accounts, other documents or any assets is initiated, an application before Settlement Commission can be made if the additional amount of income-tax payable on the income disclosed in the application exceeds INR 5 million.

- With a view to expand criteria for filing application, it is now provided that an applicant, who is related to the person on whom a search is conducted ("specified persons") and in whose case also assessment/ reassessment proceedings have been initiated as a result of search, can also file an application before the Settlement Commission if the additional amount of income-tax payable on the income disclosed in the application exceeds INR 1 million.

- The applicant in relation to "specified persons" has been defined.

The above amendments will take effect from 1 June 2011.

Power of rectification to Settlement Commission

- Presently, the Settlement Commission is not specifically empowered to rectify its orders passed in pursuant to the application made before it. Now, the Settlement Commission may rectify a mistake apparent from record in the order passed by it, within a period of six months from the date of such order. If, however, the rectification has an effect of modifying the tax liability of the applicant, appropriate notice and opportunity is required to be given to the applicant and the Commissioner of Income-tax.
- The above amendment will take effect from 1 June 2011.
- Similar provisions will also be incorporated in the Wealth-tax Act.

Others

Submission of statement by a non resident having a LO in India

- Presently, a non resident person having a LO in India does not file a return of income in India on the ground that no business activity is allowed to be carried out in India.

  Now, such a non resident will be required to file a statement in a prescribed form providing details of activities carried out by the LO in India.
- The time limit for filing the above statement will be 60 days from the end of the financial year.

  The amendment will take effect from 1 June 2011.

Powers in relation to exchange of information

- Presently, the Revenue authorities have the same powers as are available to a Civil Court while trying a suit, in respect of discovery and inspection, enforcing the attendance of any person and examining him on oath, compelling the production of books of account and other documents and issuing commissions.
- The Revenue authorities also have the power to impound and retain in their custody books of account or other documents produced before them and to call for such information as may be required for any proceeding under the Income-tax Act.

- The double taxation avoidance agreements entered into between India and respective foreign countries or specified territories/ specified associations generally have provisions for exchange of information, for the prevention of evasion or avoidance of income-tax or for investigation of cases in relation thereto.

- In order to facilitate collection of information on request received from Revenue authorities outside India, notified Revenue authorities will have all the powers mentioned above for the purpose of making an inquiry or investigation in relation to any person or class of persons.

- The notified Revenue authorities will have the said powers even if no proceedings in relation to such person or class of persons are pending before them or before any other Revenue authorities.

  The above amendment will take effect from 1 June 2011.

Provisions relating to notified infrastructure debt funds

- Central Government to notify infrastructure debt funds which are set up in accordance with prescribed guidelines.

- The income of such infrastructure debt funds will be exempt from tax.

- Interest received by a non resident from notified infrastructure debt funds will be taxable at the rate of 5% (plus applicable surcharge and education cess).

- Withholding tax rate will be 5% (plus applicable surcharge and education cess) on interest paid by the infrastructure debt fund to non residents.

  The above amendments will take effect from 1 June 2011.

Increase in the rate of tax on income distributed by mutual funds (other than equity oriented fund)

- Presently, the rate of tax on income distributed to persons other than individual or HUF, by money market mutual funds or liquid funds and other mutual funds is 25% and 20% respectively (plus applicable surcharge and education cess).

- Now, a uniform tax rate of 30% (plus applicable surcharge and education cess) will be applicable on income distributed by mutual funds to persons other than individual or HUF.

The above amendment shall take effect from 1 June 2011.

Special provision for taxation of dividends received by Indian company from subsidiary foreign company

- Presently, dividend received by an Indian company from its subsidiary foreign company is taxable at the rate of 30% (plus applicable surcharge and education cess), on a net basis.
- Now, such dividend received by an Indian company during the period 1 April 2011 to 31 March 2012 will be taxable at the rate of 15% (plus applicable surcharge and education cess), on a gross basis.
- Subsidiary foreign company is defined as a foreign company in which the Indian company holds more than 50% of the nominal value of the equity share capital.

Deletion of scheme of DIN for correspondence with tax authorities

- Considering the practical difficulties, i.e. non availability of requisite infrastructure on an all India basis, the provision for scheme of DIN is deleted.

Extension of time limit for recognition of provident funds

- Presently, recognition accorded to provident funds which did not satisfy specified conditions till 31 December 2010 were to be withdrawn. Now an extension will be granted to such provident funds to satisfy the specified conditions by 31 March 2012.

Indirect tax

Customs duty

Policy changes

- Peak rate of BCD unchanged at 10%.
- Basic customs duty rates of 2%, 2.5% and 3% replaced with median rate of 2.5%.

The following changes will be effective on enactment of the Finance Bill:

- Existing procedure provides for assessment of every bill of entry or shipping bill by the customs officer before removal from port of import. Goods will now be allowed to be cleared both for import or export on 'self assessment' basis.
- Consequently, regulations for audit procedures shall be prescribed.
- Time limit for demanding customs duty and claiming refund of duty enhanced from six months to one year for all categories of importers.
- Provisions introduced to create first charge on the property of the defaulter for recovery of the customs dues from such defaulter subject to certain conditions.
- Amendments made to allow exports counted towards export obligation under EPCG scheme, to be also simultaneously available for benefits under export incentive schemes. These amendments have been made with retrospective effect at the specified date.
- Interest would be payable from first day of the month succeeding the month in which the duty is payable.
- Interest on delayed payment of customs duties enhanced to 18%.
- Presently, the power to release seized goods vests with the Commissioner of Customs. Now the adjudicating authority will be empowered to release seized goods.
- Presently, SCN is required to be issued with prior approval of the Deputy Commissioner of Customs. Now

such power has been given to the Assistant Commissioner of Customs.

- CBEC empowered to issue instructions relating to non filing of appeal in certain cases, in line with National Litigation Policy, retrospectively with effect from 20 October 2010.
- The first schedule of CTA amended to include changes in HSN in certain chapters, which would be effective from 1 January 2012.
- The second schedule of the CTA to be amended so as to align the entries of HSN and introduce a new entry for de-oiled rice bran cake.
- Provisions to enable the Government to reduce the anti-dumping duty on an article or an importer where such importer proves to the satisfaction of the Government that he has paid anti-dumping duty in excess of his actual margin of dumping.
- Definitive safeguard duty imposed retrospectively on imports of caustic soda lye during the period from 4 December 2009 to 3 March 2010.

Other changes

- De-oiled rice bran oil cake exempted from BCD.
- Full exemption from BCD and SAD and concessional CVD at the rate of 5% extended to specified parts of the hybrid vehicles. This exemption is actual user based and will be available up to 31 March 2013.
- Definition of "completely knocked down" unit of vehicle eligible for concessional import duty amended.
- Presently, exemption from SAD is limited only to goods which are manufactured in SEZ and cleared to DTA. Now, such exemption is extended to all clearances from SEZ into DTA, provided they are not exempt from the levy of local VAT/ Sales tax.
- Presently, exemption is granted to ship repair units on import of spares and consumables. Now the same will be granted to owners of ocean going vessels also.
- Exemption from BCD and CVD available to specified tunnel boring machine and parts extended to such machines used in highway development projects also.

- Cash dispensers fully exempt from BCD. Parts required for the manufacture of cash dispensers also exempted from BCD on actual user basis.
- Concessional import duty of 5% BCD, 5% CVD and nil SAD extended to specified mailroom equipment imported by registered newspaper establishments.
- Concessional import duty of 5% BCD, 5% CVD and nil SAD extended to parts and components for manufacture of 23 specified high voltage transmission equipments.
- Endovascular stents exempted from BCD.
- Patent and proprietary medicines included under chapter 30 of the CTA imported for retail sale now exempted from SAD.
- Concessional import duty of 5% CVD and nil SAD provided on parts of inkjet and laser-jet printers imported for manufacture of such printers.
- Parts/ components required for manufacture of PC connectivity cable and sub-parts of parts and components of battery charger, hands-free head phones and PC connectivity cable of mobile handsets including cellular phones now exempted from BCD.
- Exemption from SAD presently available upto 31 March 2011 on parts, components and accessories for manufacture of mobile headsets including cellular phones extended upto 31 March 2012.
- Import of aircrafts for non scheduled operations to attract BCD of 2.5%. However, CVD and SAD exemption on such imports to continue.
- Exemption from education cess and higher education cess presently available to aircrafts now withdrawn.
- List of specified goods which can be imported duty free for manufacture of leather goods, textile and leather garments expanded.
- Specified tools used in the handicrafts sector now allowed to be imported duty free by handicrafts exporters.
- Exemption from BCD extended to stainless steel scrap.
- Exemption from BCD now provided on the value of gold and silver contained in copper concentrate.

- Import of gold dore bars upto 80% purity to attract nil BCD, CVD of INR 140 per 10 gram and nil SAD.
- Exemption to specified categories of works of art and antiquities granted to:
  - works or arts of antiquities for exhibition or display in private art galleries or similar premises that are open to general public.
  - works of art created by an Indian artist abroad, irrespective of the fact whether such works are imported alongwith the artist or the sculptor on their return to India.
- Packaged software which are not required to bear RSP shall now be exempted from so much of the additional customs duty as is equivalent to the duty payable on the portion of the value which represents the consideration paid or payable for transfer of the right of its use, subject to conditions. Such software would be required to pay CVD only on the portion of value representing the value of the medium on which it is recorded along with freight and insurance.

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	
Pistachios	30	10	↓
Sun-dried dark seedless raisins	100	30	↓
Bamboo used in the manufacture of agarbatti	30	10	↓
Lactose used in the manufacture of homeopathic medicine	25	10	↓
Cranberry products	30	10	↓
De-oiled rice bran oil cake	30	Nil	↓
Mineral gypsum	5	2.5	↓

Items	Rate movement (%)		
	Basic duty		Movement
	From	To	
All ores and concentrates (under 2601 to 2617 of CTA)	2	2.5%	↑
Carbon black feed stock	5	2.5	↓
Petroleum coke	5	2.5	↓
Acrylonitrile	5	2.5	↓
Diphenylmethane 4, 4-diisocyanate (MDI) (subject to actual user condition)	7.5	5	↓
Caprolactam	10	7.5	↓
Life saving drugs i.e. Rasburicase, Nilotinib, Pneumococcal sacchride Conjugate Vaccine and Micafungin sodium for injection	10	5	↓
Crude palm stearin for manufacture of laundry soap (subject to actual user condition)	20	Nil	↓
Sodium polyacrylate	7.5	5	↓
Poly tetra metylene ether glycol (PT MEG) (subject to actual user condition)	7.5	5	↓
Nylon chips, yarn and fibre	10	7.5	↓
Pneumatic tyres and retreaded tyres of kind used for aircrafts	3	2.5	↓
Rayon grade wood pulp	5	2.5	↓
Waste paper	5	2.5	↓
Raw silk (not thrown)	30	5	↓
Cotton waste	10	Nil	↓
Stainless steel scrap	2.5	Nil	↓

Items	Rate movement (%)		
	Basic duty		Movement
	From	To	
Ferro-nickel	5	2.5	↓
Specified agriculture machinery	5	2.5	↓
Parts and components of specified agricultural machinery	7.5	2.5	↓
Micro irrigation equipment	7.5	5	↓
Cash dispensers	10	Nil	↓
Specified gems and jewellery machinery	7.5	5	↓
Polypropylene, stainless steel strip and stainless steel capillary tube for manufacture of syringe, needle, catheters, cannulae on actual user basis	10	5	↓
Endovascular stents	5	Nil	↓
Solar lantern/ lamps	10	5	↓
Aircrafts for non-scheduled operations	Nil	2.5	↑
Vanadium pentoxide and vanadium sludge	7.5	2.5	↓

Excise duty

Policy changes

- Peak rate of duty maintained at 10%. Basic duty rate increased from 4% to 5% to align with state VAT rates.
- AED under AED (GSI) removed on sugar, textile and textile products to enable states to levy VAT.
- Duty structure on Portland cement has been revised.
- Readymade garments and articles made up of textile, sold under brand name, made subject to mandatory duty of 10%. General SSI scheme also extended to such goods.

- Machinery provisions to enable brand owners of garments to pay duty and comply with procedures, for goods manufactured by job workers, introduced. Corresponding changes made in Credit Rules.

- Condition for availing exemption on goods supplied to MPP has been relaxed and aligned with description under project imports scheme of customs.

- Exemption also extended to specified goods supplied to expansion of existing MPP, subject to conditions.

- Duty of 1% (without input Cenvat) imposed on 130 items earlier exempted. For specified items, option provided to avail credit and discharge duty at 5%. Corresponding changes introduced in Credit Rules.

- Exemption provided, inter alia to air conditioning equipment, refrigeration panels for installation of cold chain infrastructure for preservation, storage or transport of agricultural produce and apiary, horticulture.

- Exemption to packaged or canned software (from value that represents transfer of right to use) provided to cover supplies made other than under MRP assessment.

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

- Penal provisions to be amended to provide for the following:

    - Where, transaction to which duty relates is appropriately captured in records, penalty reduced to 50% of duty.

    - Where duty (along with interest) is paid before issuance of SCN, penalty compounded to 1% per month but not exceeding 25% of duty. The reduced penalty provisions would not be applicable in cases of fraud, suppression, misstatement or collusion.

- Provisions introduced for recovery of central excise dues by creating charge on property of defaulter.

The key changes mentioned below will take effect from 1 April 2011:

- Interest rate for delayed payment of duty increased from 13% to 18%.

- Definition of inputs and input services substituted to specifically exclude goods and services used for the following:
  - Construction of building or civil structure, laying of foundation for support of capital goods.
  - Outdoor catering or use in guest house, residential colony, club or recreation facility when such goods or services are primarily used for personal use or consumption of employees.
  - Services such as beauty treatment, health services, health and fitness centre, life insurance which are primarily used for personal use or consumption of employees.
- Trading activity specifically included in definition of exempted services for the purposes of computing credit reversal.
- Definition of capital goods amended to include goods used outside factory for generation of electricity for captive use.
- For payment (or part thereof) towards input service is received back, then proportionate Cenvat credit to be reversed.
- Retrospective amendment made to allow availment of Cenvat credit of service tax under RCM on import of services. This change will come into effect on enactment of the Bill.
- Rule 6(5) of Credit Rules which specified input services for full Cenvat credit availability (unless used exclusively for exempted operations), deleted.
- Rule 6(6A) inserted under Credit Rules to provide that restrictions of input credit will not apply to services provided to SEZ unit or developer without payment of service tax.

Rate movement

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

Items	Rate movement (%)		
Cenvat	Basic duty		Movement
	From	To	
Cement manufactured in a mini pant:			
Cleared in packaged form			
a) Where RSP does not exceed INR 190 per 50 kilogram bag	INR 185 per tonne	10	↑
b) Where RSP exceeds INR 190 per 50 kilogram bag	INR 315 per tonne	10 plus INR 30 per tonne	↑
Cleared other than in packaged form	INR 215 per tonne	10	↑
Cement manufactured other than in a mini pant:			
Cleared in packaged form			
a) Where RSP does not exceed INR 190 per 50 kilogram bag	INR 290 per tonne	10 plus INR 80 per tonne	↑
b) Where RSP exceeds INR 190 per 50 kilogram bag	10	10 plus INR 160 per tonne	↑
Cleared other than in packaged form	Higher of 10 or INR 290 per tonne	10	
Cement Clinker	INR 375 per tonne	10 plus INR 200 per tonne	

Items	Rate movement (%)		
Cenvat	Basic duty		Movement
	From	To	
Gold bars, other than tola bars, bearing manufacturer's engraved serial number and weight expressed in metric units	INR 280 per 10 gram	INR 200 per 10 gram	↓
Microprocessor (other than motherboards), floppy disc drive, CD drives, DVD drives/ DVD writers etc, when meant for external use with a computer or laptop as a plug in device	Nil	5	↑
Medicaments (excluding those used in ayurvedic, unani, siddha, homeopathic or bio-chemic systems)	Nil	1 (without credit); or 5	↑
Telephone sets and other transmission apparatus a) Mobile handsets, radio trunking terminals b) Wireless data modems cards	Nil	1 (without credit); or 5	↑
Storage devices a) CDs, VCDs, DVDs b) Sound / video recorded magnetic tapes, cassettes, discs c) Smart cards	Nil	1 (without credit); or 5	↑
Coffee or tea premixes	Nil	1 (without credit); or 5	↑
Color unexposed cinematographic film	10	Nil	↓
Conveyor belt system used for specified purposes	10	Nil	↓

Service tax

- 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 2011:

- Service tax will be levied on the following two additional services:
  - Services by air conditioned restaurants having license to serve liquor (70% abatement to be prescribed); and
  - Short term accommodation in hotels/ inns/ clubs (50% abatement to be prescribed).
- The scope of key existing taxable services will be amended as follows:
  - Repair, reconditioning and other similar services of specified motor vehicles will now cover such services provided by any person.
  - Life insurance services will cover all services including management of investments (principles for valuation to be prescribed).
  - Club or association services will include services to non members.
  - Business support services will include operational or administrative assistance of any nature.
  - Legal services will cover services by business entities to individuals, representation services by any person, and arbitration services by an arbitral tribunal, to business entities.
  - Health services will cover any service provided by specified clinical establishments (50% abatement to be prescribed).
  - Commercial training or coaching services will cover all coaching and training (exemptions for pre school coaching and coaching for degrees/ diplomas/ other qualifications recognized by law to continue).

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

- Interest for delayed payment of service tax will be increased to 18% a year (and to 15% a year for tax payers with turnover below INR 6 million).
- Maximum penalty for delayed filing of return will be increased to INR 20,000.
- Benefit of reduced penalty will not be available in cases of fraud, misstatement, suppression or collusion.
- Penalty for failure to pay service tax would be halved to INR 100 a day or 1% a month, subject to a maximum of 50% of service tax payable.
- Penalty for any other contravention will be increased to INR 10,000.
- Maximum penalty in cases of fraud, misstatement, suppression or collusion will be restricted to 100% of service tax payable.

The following changes will take effect from 1 March 2011:

- Value of telecommunication services will be the gross amount paid by the person (ultimate user or subscriber) to whom the service is provided by the telegraph authority.
- Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 will be amended to restrict Cenvat credit to 40% of tax paid on input services relating to erection, commissioning, installation, commercial or industrial construction and construction of residential complex. This will be applicable where service tax has been paid by the vendor on full value of such service after availing Cenvat credit on inputs.
- Works contract services provided wholly within an airport or port will be exempt from service tax levy.
- Business exhibition services for holding an exhibition outside India will be exempt from service tax levy.
- Abatement of 25% will be provided on services of transportation through waterways or of coastal goods.
- Presently, outright exemption from service tax is available to services which are “wholly consumed” within a SEZ. However, “wholly consumed” has not been defined

in this regard. Now, wholly consumed services in a SEZ will be linked with Export Rules for obtaining the above exemption. Other services will be entitled for proportionate refund.

The following changes will take effect from 1 April 2011:

- Point of Taxation Rules, 2011 introduced. Point of taxation for services (which was earlier receipt of taxable value) will be deemed to be:

  - date on which service is provided or to be provided; or
  - date of invoice; or
  - date of payment;

  whichever is earlier.

  Principles prescribed for determining rate of tax for services.

- Adjustment of service tax paid will be allowed if service is not subsequently provided.

- Amount prescribed for suo moto adjustment of excess service tax paid will be increased to INR 200,000.

- Composition rate applicable to service of purchase or sale of foreign currency, including money changing, reduced to 0.1%.

- Valuation rules prescribed for money changing services.

- Export Rules will be amended as follows:

  - Performance based criteria for determining export of "credit rating agency services", "market research agency services", "technical testing and analysis services", "transport of goods by air/ road/ rail services" and "opinion poll services" will be changed to "location of recipient of service".
  - Location of recipient of service criteria for determining export of "health services" and "rail travel agent services" will be changed to performance based criteria.
  - Location of recipient of service criteria for determining export of "preferential location services by builders" will be changed to "location of immovable property".
- Corresponding changes will be made in the Import Rules.

- Exemption from service tax on services of transportation of goods by air/ road/ rail to a person located in India when the goods are transported from a place outside India to a place outside India.

- Transportation of goods by air, to the extent of air freight included in value of imported goods for customs duty purposes, will be exempt.

- Applicable rate of service tax on air travel services (other than standard rate) will be increased.

- Cenvat Credit Rules will be amended as follows:

  - Definitions of "input" and "input service" substituted.
  - "Input service" will cover services used for providing output service and other specified services.
  - The phrase "activities relating to business such as" will be deleted from the definition of "input service" and specific exclusions will be provided for services such as construction of building or civil structure, outdoor catering, rent-a-cab services, life/ health insurance services to employees.
  - Definition of "exempted service" will include trading and taxable services which are partially exempted.
  - Principles for valuation of aforesaid exempted services prescribed for the purpose of availment of pro rata Cenvat credit. In case of trading, such value will be the difference between sale price and purchase price of the goods traded.
  - For availment of Cenvat credit, additional option to maintain separate accounts only in respect of inputs along with pro rata allocation for input services will be available.
  - Amount payable on exempted services under the option to avail full Cenvat credit will be reduced from 6% to 5% of the value of exempted services.
  - Banking companies or financial institutions, including NBFCs, providing banking and financial services will be obligated to pay an amount equal to 50% of Cenvat credit availed. For services related to life insurance or management of ULIP, such amount will be equal to 20% of credit availed.

    For the service providers mentioned above, no other option for availment of Cenvat credit will be allowed.
  - Rule 6(5) of the Cenvat Credit Rules allowing full Cenvat credit on specified services will be deleted.
  - Provision of services without payment of service tax to a SEZ developer/ unit will not require pro rata

- reversal of Cenvat credit. This amendment will take effect from 1 March 2011.
- Where payment for an input service, or a part thereof, is returned, the person availing credit on such input service will need to proportionately reverse the Cenvat credit availed.

The following changes will take effect from a retrospective date:

- Membership fee collected by an association or chamber representing commerce or industry for the period 16 June 2005 to 31 March 2008 will be exempt from levy of service tax.
- Inter state or intra state transportation of passengers, (excluding tourism), in a vehicle bearing contract carriage and tourist vehicle permit for the period 1 April 2000 to 6 July 2009 will be exempt from levy of service tax.
- Appropriate refund mechanism will be prescribed for giving effect to the amendments mentioned above.

Central sales tax

- No change in CST rate. CST rate (against form C) of 2% to be continued.

GST

- The Constitutional Amendment Bill required for the introduction of GST would be placed before the Parliament during the present session.
- Date of implementation of GST not announced.
- IT infrastructure to support GST being implemented and model laws for Central and State GST being drafted.
- Prior to pan India GST roll out, National Securities Depository Limited expected to set up a pilot portal in collaboration with 11 States, by June 2011.

Other key policy initiatives

The Government has proposed various policy initiatives in Budget 2011. Some of the key initiatives are as follows:

Industry

- The Government is considering extending the nutrient based subsidy policy, implemented in the financial year 2010-11, to cover urea as well.
- To provide further impetus to the development of the food processing sector, the Government has approved 15 more mega food parks taking the total number of mega food parks to 30.
- The Government will launch a national mission for hybrid and electric vehicles in collaboration with all stakeholders to provide green and clean transportation for the masses.
- The Ministry of Textiles in consultation with the Planning Commission will formulate a scheme to allocate INR 30 billion (proposed to be provided to NABARD) for handloom weaver co-operative societies which have become financially unviable due to non repayment of debt by handloom weavers facing economic stress.
- The Government will set up seven mega clusters for leather products during financial year 2011-12.

Governance

- The Government will introduce an amendment to the Fiscal Responsibility and Budget Management Act, 2003 laying down the fiscal roadmap for the next five years.
- Under the fiscal consolidation roadmap, the State Governments will be required to amend or enact their Fiscal Responsibility and Budget Management Acts to conform to the recommendations of The Thirteenth Finance Commission for eliminating the revenue deficit and achieving a fiscal deficit of 3% of their respective GDP by 2014-15.

- The Government has set up a Performance Monitoring and Evaluation System to assess the effectiveness of Government departments in their mandated functions.
- The Government will move towards direct transfer of cash subsidy for kerosene and fertilisers, to people living below poverty line in a phased manner. This is to ensure greater efficiency, cost effectiveness and better delivery of subsidy.
- The Government has set up a task force headed by Shri Nandan Nilekani to work out the modalities for the proposed system of direct transfer of subsidy for kerosene, LPG and fertilizers. The interim report of the task force is expected by June 2011 and the system is expected to be in place by March 2012.
- The Government has set up two committees to address the need for greater transparency and accountability in procurement policy and allocation, pricing and utilization of natural resources.
- GoM have been mandated to consider all issues relating to reconciliation of environmental concerns emanating from various departmental activities including those related to infrastructure and mining and will suggest changes in the existing statutes, rules, regulations and guidelines and make its recommendations in a time bound manner.
- The Government is in the process of setting up an independent debt management office in the Finance Ministry.
- The Government will take a number of measures to deal with the problem of black money which will include appropriate legislative frame work, joining international task force and a comprehensive national policy to strengthen prevention of trafficking of drugs.

Infrastructure

- The Government will include capital investment in fertilizer production, cold chain and post harvest storage as an infrastructure sub-sector.
- The Government will allocate INR 2,140 billion towards the infrastructure sector which is about 48.5% of the total planned allocation.

- Various Government undertakings will issue tax free bonds of INR 300 billion to boost infrastructure development in railways, ports, housing and highways.

- The Government has increased the disbursement target of India Infrastructure Finance Company Limited by INR 50 billion to provide long term financial assistance to infrastructure projects. Further, the amount to be sanctioned for take out financing scheme has been pegged at INR 50 billion.

- To attract investment in cold storage projects, capital investment will be eligible for viability gap funding scheme of the Finance Ministry.

- The Government will raise the total limit available to FIIs for investment in corporate bonds to USD 40 billion in order to enhance the flow of funds to the infrastructure sector. FIIs would also be permitted to invest in unlisted bonds with a minimum lock-in period of three years. FIIs will however be permitted to trade among themselves during the lock-in period.

- The Government will allocate an additional INR 20 billion to the corpus of Rural Infrastructure Development Fund to create warehousing facilities.

Banking sector

- To enable public sector banks to maintain a minimum Tier I CRAR at 8%, the Government will infuse INR 60 billion as capital.

- To enable regional rural banks maintain a CRAR of at least 9% as on 31 March 2012, the Government will infuse INR 5 billion during the financial year 2011-12.

- The Government will create "India Microfinance Equity Fund" of INR 1 billion with SIDBI for providing equity to smaller MFIs.

- To empower women and promote their self help groups, the Government will create “Women’s SHG’s Development Fund” with a corpus of INR 5 billion.

- The Government proposes to re-initiate the reforms in the financial sector. Towards this end, the Government had set up a financial sector legislative reforms commission in the financial year 2010-11 to rewrite and streamline the financial sector laws, rules and regulations. The Commission will complete its work in 24 months.

- The Government will move the following legislations in the financial sector:
  - The Insurance Laws (Amendment) Bill, 2008;
  - The Life Insurance Corporation (Amendment) Bill 2009;
  - The revised Pension Fund Regulatory and Development Authority Bill, first introduced in 2005;
  - Banking Laws Amendment Bill, 2011;
  - Bill on Factoring and Assignment of Receivables;
  - The State Bank of India (Subsidiary Banks Laws) Amendment Bill, 2009; and
  - Bill to amend RDBFI Act and SARFAESI Act.
- The Government will set up a Central Electronic Registry under the SARFAESI Act, 2002 to prevent frauds involving multiple lending from different banks on the same immovable property. This will become operational by 31 March 2011.
- The Government will amend The Banking Regulation Act in the context of giving additional banking licences to private sector players.
- The Government will provide INR 50 billion to SIDBI for refinancing incremental lending by banks to micro and small enterprises.
- The Government will provide INR 100 billion to NABARD's Short term Rural Credit Fund from the shortfall in the priority sector lending by scheduled commercial banks.

Capital markets

- The Government will raise INR 400 billion from divestment of its stake in central PSUs.
- In order to liberalize the portfolio investment route, the Government has decided to permit SEBI registered mutual funds to accept subscriptions from foreign investors who meet KYC requirements for equity schemes.

Urban development

- The Government will provide financial assistance for metro projects in Delhi, Mumbai, Bengaluru, Kolkata and Chennai.

Rural development

- The Government will further allocate INR 100 billion to Bharat Nirman program for the upgradation of rural infrastructure over the budget estimates of 2010-11.

- The Government will provide additional INR 10 billion for housing finance in rural areas under Rural Housing Fund.

Others

- The Companies Bill will be introduced in the Lok Sabha during the current session.

- The Government has taken concrete measures to improve the agricultural productivity, some of which include:

  - The increase in allocation to the ongoing Rashtriya Krishi Vikas Yojana from INR 67.55 billion in the financial year 2010-11 to INR 78.60 billion in the financial year 2011-12.

  - Allocate INR 3 billion to promote 60,000 pulses villages in rainfed areas to increase crop productivity and to strengthen market linkages.

  - Increase the target of credit flow to the farmers from INR 3,750 billion in the financial year 2010-11 to INR 4,750 billion in the financial year 2011-12.

  - Provide interest subvention of 3% in the financial year 2011-12 (increased from 2% in the last financial year) to farmers who repay their short term crop loans on time.

- The Government expects the share of manufacturing in GDP to increase from 16% to 25% over a period of 10 years and to achieve this goal will come out with a comprehensive manufacturing policy.

- The Government will allocate INR 520.57 billion for education, which is an increase of 24% over the financial year 2010-11.

- The Government will provide additional INR 5 billion for National Skill Development Fund.
- The Government had introduced a National Knowledge Network in March 2010. The National Knowledge Network will link 1,500 institutes of Higher Learning and Research through an optical fibre backbone by March 2012.
- To boost development in the north eastern region and special category states, the Government will double the allocation for special assistance to INR 80 billion.
- To boost development in Jammu and Kashmir, the Government will provide INR 80 billion from Prime Minister's Reconstruction Plan.
- To boost development in backward region, the Government will provide INR 99 billion from backward Region Grant Fund.
- To stimulate growth in the housing sector, existing scheme of interest subvention of 1% on housing loan will be extended to housing loan upto INR 1.5 million where the cost of the house does not exceed INR 2.5 million.
- The housing loan limit on the residential properties in urban areas will be increased from INR 2 million to INR 2.5 million for developing units under priority sector lending.
- The Government will provide for INR 1,644.15 billion for defence services including INR 691.99 billion for capital expenditure.
- To build judicial infrastructure and the projects on E-courts, the Government will increase the plan provision for Department of Justice for the financial year 2011-12 by three fold to INR 100 billion.
- The Government will introduce National Food Security Bill in the Parliament during the financial year 2011-12.
- The Government will allocate INR 1,608 billion towards social sector in financial year 2011-12.
- The Government has decided to index the wage rates notified under the Mahatma Gandhi National Rural Employment Guarantee Act to the Consumer Price Index for agricultural labour.

- The Government has decided to increase the remuneration of Anganwadi workers from INR 1,500 per month to INR 3,000 per month and for Anganwadi helpers from INR 750 per month to INR 1,500 per month.
- The Government will provide INR 267 billion towards health sector.
- The Government will extend the Rashtriya Swasthya Bima Yojana to cover the unorganized sector workers in hazardous mining and associated industry.
- The Government will introduce a bill to amend the Indian Stamp Act, 1899. It will also launch a new scheme to provide assistance to states to modernize their stamp and registration administration and rollout e-stamping in all the districts in the next three years.

Recent policy changes

Significant policy initiatives during the period 16 February 2010 to 15 February 2011 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.

Securities law and regulations

Securities Contract (Regulation) Rules, 1957

- SCRR has been amended as follows:
  - All existing companies shall have a minimum public shareholding of at least 25% (10% for public sector companies).
    - Existing listed companies with public shareholding of less than 25% (10% for public sector companies) shall bring the public shareholding to at least 25% (10% for public sector companies) within a period of three years.
    - All companies, other than public sector companies, may issue at least 10% of the shares or convertible debentures to the public in terms of offer document, if the post issue capital of the company, calculated at the offer price, is more than INR 40 billion. Such companies shall bring the public shareholding to the level of at least 25% by increasing its public shareholding within a period of three years from the date of listing of securities.
    - A public sector company is allowed to issue at least 10% of the shares or convertible debentures to the public in terms of offer document (irrespective of the amount of post issue capital)

without any requirement to increase the public shareholding in future.

Equity listing agreement

- In order to align requirements in listing agreement with the amended SCRR and to specify the manner in which public shareholding may be raised to prescribed minimum, listing agreement has been amended to provide that:
    - Where the company is required to achieve the level of minimum public shareholding, it shall adopt any of the following methods to raise the public shareholding to the required level:
        - Issuance of shares to public through prospectus; or
        - Offer for sale of shares held by promoters to public through prospectus; or
        - Sale of shares held by promoters through the secondary market. However, the company is required to take prior approval of the specified stock exchange which may impose such conditions as it may deem fit.

SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009

- ICDR regulations have been amended to include that any person belonging to promoter or promoter group who fails to exercise the warrants previously subscribed, would be ineligible for preferential issue of specified securities of such issuer for a period of one year from:
    - The date of expiry of the tenure of the warrants due to non exercise of the option to convert; or
    - The date of cancellation of the warrants;

  as the case may be.

Foreign investment policy

With the intent and objective to promote FDI through a policy framework which is transparent, predictable, simple and reduces regulatory burden, the Government issued a consolidated FDI policy which consolidates all the prior press notes, press releases, clarifications, etc issued prior to 31 March 2010. The important changes introduced by Circular 1 of 2010 and updated by Circular 2 of 2010 are as follows:

- FIIs permitted to invest in the capital of an Indian company either under the FDI scheme or under the Portfolio Investment Scheme, subject to 10% individual limit and 24% aggregate limit even if the FIIs investment is made under the FDI scheme.
- For FDI through FCDs and CCPS, it is specified that pricing for conversion would need to be decided/ determined upfront at the time of issue of these instruments.
- It has been clarified that investment by way of share swap is permitted only after obtaining prior approval of the FIPB (subject to satisfaction of the valuation requirements).
- Transfer of equity shares/ FCDs/ CCPS from residents to non residents by way of sale or otherwise, would require prior approval of FIPB, followed by permission from the RBI, if the Indian company is engaged in any sector falling under the Government approval route.
- Share premium allowed to be included while calculating the minimum capitalization amount, subject to the condition that share premium is received by the Indian company on fresh allotment.
- FDI up to 49% allowed in private security agencies under the approval route, subject to licensing conditions specified in Private Security Agencies (Regulation) Act, 2000.
- The term "Cash and Carry Wholesale Trading" defined and following conditions prescribed for undertaking wholesale cash and carry trading activities in India:

- Requisite licenses/ registration/ permits, as prescribed by the State Government should be obtained.
- Except in case of sales to Government, sales made by the wholesaler would be considered as "Cash and Carry Wholesale Trading" only when the sale is made to any of the following entities:
  - Entities holding sales tax/ VAT/ service tax/ excise duty registration; or
  - Entities holding trade licenses; or
  - Entities holding permits/ licenses for undertaking retail trade (like tehbazari and similar license for hawkers); or
  - Institutions having certificate of incorporation or registration as a society or registration as public trust for their self consumption.
- Wholesale trading of goods would be permitted among companies of the same group. However, wholesale trading with two group companies taken together, should not exceed 25% of the total turnover of the wholesale venture.
- Wholesale trading can be undertaken as per normal business practice, including extending credit facilities subject to applicable regulations.

- Activity of manufacturing cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes, included in the list of activities/ sectors prohibited for FDI.
- The definition of "Controlled Conditions" provided for agriculture and animal husbandry sector.
- 100% foreign owned NBFCs incorporated in India, with the minimum capitalization of USD 50 million, can set up subsidiaries for specific NBFC activities without bringing additional capital towards minimum capitalization.
- Downstream investment through internal accruals specifically permitted.
- The key changes relevant for FDI in real estate are discussed later.

Foreign exchange regulations

FEMA

- The Government has liberalized restrictions on royalty payment under technical collaboration agreements in excess of 5% on local sales and 8% on exports and lumpsum payments for transfer of technology in excess of USD 2 million. Such payments will now be permitted under the automatic route (without any limit).
- In order to rationalize, streamline, and to enhance transparency and effect smooth implementation of the compounding process, the RBI has revised the prevailing exchange control laws which provide for compounding for certain contraventions under FEMA.

Inbound investments

- The RBI has expanded the list of collaterals which FIIs can offer to recognized stock exchanges in India to include domestic Government securities, for transactions in the cash segment of the market, subject to adherence of the relevant guidelines. However, cross-margining of the above stated Government securities shall not be allowed between cash and derivative segments of the market.
- The RBI has reviewed the pricing guidelines in consultation with the Government and accordingly, the pricing guidelines in respect of issue of shares including preferential allotment have been revised as under:
    - Issue of shares (other than rights issue) to person resident outside India

Type of Indian company	Revised pricing norms
Company listed on a recognized stock exchange in India	At a price not less than the price determined in accordance with the applicable SEBI guidelines
Company (public or	At a price not less than the fair valuation of shares as per DCF

private) not listed on a recognized stock exchange in India	method determined and certified by either: ▶ a SEBI registered Category I Merchant Banker; or ▶ a chartered accountant
Preferential allotment of shares by a company	At a price not less than the price determined in accordance with the pricing guidelines applicable in case of a transfer from a resident to a non resident

- Rights issue to person resident outside India

Type of Indian company	Revised pricing norms
Company listed on a recognized stock exchange in India	At a price determined by the company
Company not listed on a recognized stock exchange in India	At a price not less than the price at which the shares are issued to resident shareholders

- The pricing guidelines for transfer of equity instruments from a resident to a non resident and vice versa have also been reviewed. The revised pricing guidelines are as under:

  - Transfer by resident to non resident (i.e. to foreign national, NRI, FII and incorporated non resident entity other than erstwhile OCB)

Type of Indian company	Revised pricing norms
Company listed on a recognized stock exchange in India	At a price not less than the price at which a preferential allotment of shares can be made under the applicable SEBI guidelines, provided that the

Type of Indian company	Revised pricing norms
	same is determined for such duration as specified therein, preceding the date of purchase or sale of shares as the case maybe
Company (public or private) not listed on a recognized stock exchange in India	At a price not less than the fair valuation of shares as per DCF method determined and certified by either: ▶ a SEBI registered Category I Merchant Banker; or ▶ a chartered accountant

- ▶ Transfer of shares by non resident (i.e. incorporated non resident entity, erstwhile OCB, foreign national, NRI and FII) to resident - The price of shares shall not be more than the minimum price at which the transfer of shares can be made from a resident to a non resident.

- In order to expand the menu of exchange traded hedging tools, the RBI has decided to permit trading of currency options by residents on spot USD-INR rate in the currency derivatives segment of the stock exchanges, recognized by SEBI, subject to the directions issued by the RBI from time to time.

- FFMCs, AD Category II (other than RRBs, LABs, UCBs and NBFCs) having minimum net worth of INR 50 million are allowed to hedge their underlying foreign exchange exposure in designated currency futures and currency options on recognized stock exchanges.

- The RBI has issued revised guidelines with effect from 1 February 2011 on foreign exchange derivatives and overseas hedging of commodity price and freight risk for persons resident in India (other than AD Category I Banks). The guidelines provide for the categories of persons (including through the FDI route, FIIs and NRIs) permitted to enter into OTC foreign exchange derivatives and the prescribed eligible derivative products to hedge their foreign exchange exposure and reporting requirements in respect of the same.

Offices in India

- The RBI has issued guidelines for OPGSPs. OPGSPs now have to establish a LO with a prior approval of RBI before operationalizing the arrangement with AD Category I Banks. OPGSPs already providing services as on 16 November 2010 have been directed to open a LO with prior approval in India on or before 15 February 2011 after finalizing the arrangement with the AD Category I Bank.

ECBs

- The definition of “infrastructure sector” has been expanded to include “cold storage or cold room facility, including for farm level pre-cooling, for preservation or storage of agricultural and allied produce, marine products and meat”.
- IFCs were permitted to avail of ECBs under the approval route for on lending to infrastructure sector, subject to certain conditions which include inter alia hedging of currency risk in full. IFCs which comply with the prudential guidelines, are now permitted to avail ECBs under the automatic route, if the proposed ECBs including outstanding ECBs do not exceed 50% of their owned fund.
- The facility of credit enhancement by eligible non resident entities is extended to domestic debt raised through issue of capital market instruments, such as debentures and bonds, by Indian companies engaged exclusively in the development of infrastructure and by eligible IFCs subject to prescribed conditions.
- Indian companies were allowed to buy back FCCBs under the automatic route and approval route until 31 December 2009, pursuant to which the scheme was discontinued. In view of the representation received from issuers of FCCBs, RBI has decided to consider applications under the approval route for buy back of FCCBs until 30 June 2011 subject to issuers complying with all terms and conditions of buy back and prepayment of FCCBs.

- The RBI has decided to permit take out financing arrangement through ECB, under the approval route, for refinancing of rupee loans availed from domestic banks by eligible borrowers in sea port and airport, roads including bridges and power sector for the development of new projects, subject to conditions such as minimum average maturity period of loan, limit of fees payable and reporting requirements.

  Entities in service sector viz. hotels, hospitals, software were permitted to avail ECBs upto USD 100 million per financial year under automatic route for foreign currency and/ or Rupee capital expenditure for permissible end use excluding acquisition of land. ECBs beyond USD 100 million could now be availed by such corporates under the approval route.

Outbound investments

- The RBI has directed the AD Category I Banks to allow remittances by Indian companies for overseas investment to establish, install, operate and maintain International Long Distance Services, subject to certain conditions.

Imports/ exports

- The RBI had initially increased the limit of realization and repatriation to India of export proceeds (except SEZ units and warehouses established outside India for goods and software) from six months to twelve months till 30 June 2010. The RBI has extended the limit of "one year" period for realization and repatriation of export proceeds of goods or software upto 31 March 2011.

- The RBI had permitted AD Category I Banks to accede to request for "write off" made by exporters subject to specified conditions. As announced in the FTP, realization of proceeds for exports made with effect from 27 August 2009, shall not be insisted under any of the export promotion schemes, if the RBI or the AD Category I Banks, on behalf of the RBI, write off the export proceeds on merits, and the exporter produces a certificate from the concerned Foreign Mission of India about the fact of non-recovery of export proceeds from the buyer. However, this facility would not be applicable in self write off cases. The above is independent of provisions of Duty Drawback Scheme under the Customs Act.

- Earlier, OPGSPs had facilitated cross border e-commerce transactions and allowed exporters to retain their export proceeds outside India. The RBI has recently issued guidelines for regulating such e-commerce arrangements. As per the revised guidelines, AD Category I Banks are thus permitted to offer the facility of repatriation of export proceeds (not exceeding USD 500) by entering into standing arrangements with OPGSPs, subject to undertaking due diligence of OPGSPs and certain conditions including inter alia opening a NOSTRO account with the AD Category I Bank.

Financial services

FIIs/ sub-accounts

- The limit for investments by FIIs in corporate bonds has been increased from USD 15 billion to USD 20 billion (with the incremental limit to be invested in corporate bonds issued by companies in the infrastructure sector). The limit for investments by FIIs in Government securities has been enhanced from USD 5 billion to USD 10 billion.

Mutual funds

- SEBI has clarified the mechanism of computing annual expenses in order to give greater flexibility to FoF schemes without affecting the maximum amount payable by the investors. SEBI has capped the total annual expenses of FoF schemes at 2.5% of the average net assets.

Banking

- The RBI has mandated banks to switch from the Benchmark PLR System to the Base Rate System with effect from 1 July 2010 to enhance transparency in lending rates. All loans, except for the specified categories, are required to be priced with reference to the Base Rate only.

NBFCs

- The RBI has revised the minimum capital adequacy ratio (consisting of Tier I and Tier II capital) of all deposit taking NBFCs from 12% to 15% of aggregate risk weighted assets, with effect from 31 March 2012.

- The RBI has introduced a regulatory framework for a new category of NBFC viz. CIC. A NBFC carrying on the business of acquisition of shares and securities (but not for trading) and holding 90% of its total assets in the form of investments in group companies is classified as a CIC. Where the CIC raises/ holds public funds and the asset size of the CIC (individually or in aggregate with all CICs in the group) exceeds INR 1 billion, such CIC would be required to obtain registration with the RBI and adhere to requirements relating to capital adequacy and leverage ratio as specified by the RBI.
- The RBI has permitted corporates, including NBFCs, to raise capital by issuing NCDs for maturities not less than 90 days, in accordance with the prescribed guidelines.
- The RBI has permitted "persons resident in India", including NBFCs to participate in trading of designated currency options on the recognised stock exchanges for the purpose of hedging their underlying forex exposures and subject to the RBI/ SEBI guidelines.

Others

- The SEBI has permitted stock exchanges to allow physical settlement of equity derivatives. Stock futures and stock options can now be settled by physical delivery of shares in addition to settlement by cash.

Insurance

- IRDA has issued a circular specifying certain elements for ULIPs offered for sale from 1 September 2010 onwards. These elements include increase in the lock in period for all unit linked products from three years to five years (including top up premiums), providing minimum mortality cover or a health cover (except in case of pension and annuity products), offering a minimum guaranteed return of 4.5% per annum in case of ULIP pension and annuity products, not allowing partial withdrawal during the accumulation phase in case of annuity and pension products, providing cap on the maximum loan amount that can be sanctioned under any ULIP policy.

- IRDA has issued guidelines on Universal Life Products and stated that these products would henceforth be known as Variable Insurance Products. These would be offered only on the non unit linked platform and should provide death benefit equal to the guaranteed sum assured plus the balance in the policy account and maturity benefit equal to the balance in the policy account together with the applicable terminal bonus. Only regular premiums with minimum policy and payment terms of five years would be permitted.

- In order to end the dispute between SEBI and IRDA on regulation of ULIPs being hybrid products incorporating securities market investment and insurance cover, the Securities and Insurance Laws (Amendment and validation) Act, 2010 was passed which amended the Insurance Act, 1938 to declare that the life insurance business shall include ULIPs, scrips or any such instruments or unit. Corresponding amendments have also been made in other relevant Acts.

- The IRDA has clarified that the provisions of the RBI circular on change in pricing guidelines of equity shares, CCPS and CCDs (equity instruments) to be issued/ transferred to a resident outside India would continue to be not applicable to the insurance sector.

Information technology

- The Government has introduced a slew of significant e-Governance initiatives over the past year. Some of the key measures/ proposals are as follows:

  - Establishment of a "National Knowledge Network" to inter connect all stake holders in technology, education, R&D and governance, with the objective of sharing of knowledge/ research, on a real time basis.

  - Proposed set up of a statutory authority, i.e., the "National Identification Authority of India" to administer the UID project and introduction of a specific legislation in this regard.

  - Phasing out of manual delivery of public services by the Government beyond a cut off date.

Telecommunications

- Bidding for the auction and allotment of spectrum for BWA license has been successfully completed through 117 rounds of bidding across the 22 service areas in the country.
- DoT has amended telecom license agreements (UAS/ CMTS/ Basic Service license) for addressing security related concerns about expansion of telecom services.
- DoT, vide notification dated 1 September 2010, amended the UAS license of various licensees to allow usage of 3G spectrum for provision of telecom access services.
- MNP service has been introduced all over the country on 20 January 2011. MNP allows customers to retain their existing mobile number when they switch from one service provider to another or from one technology to another within the same service provider.
- With the objective of achieving efficient utilization of numbering resources in India, TRAI has issued a recommendation for migration to an integrated numbering scheme for both fixed and mobile services by 31 December 2011.

Retail and consumer products

- The Warehousing (Development and Regulation) Act, 2007 enacted in September 2007 for the development and regulation of warehouses, negotiability of warehouse receipts, etc and for connected or incidental matters has come into force with effect from 25 October 2010.
- To address the problem of shortage of storage capacity in short run, FCI has announced a new scheme of guaranteed hiring of private godowns for one year with preservation and maintenance of foodgrains.

Real estate

- DIPP issued Circular 2 of 2010 covering consolidated FDI policy to be effective from 1 October 2010. The key changes relevant for FDI in real estate sector are as follows:
  - The three year lock in period would be applicable for the entire amount of FDI investment. Such lock in shall apply from the date of receipt of each installment/ tranche of FDI or from the date of completion of minimum capitalization, whichever is later.
  - Minimum capitalization includes share premium received upon issue of the shares to the non resident investors.

Media

Broadcasting

TRAI recommendations

- TRAI issued its recommendations on the following:
  - Modifications in the existing UDTC guidelines issued by the MIB in 2005.
  - FDI limits in the broadcasting sector.
  - Implementation of digital addressable cable system in India.

Review of existing TRP system in India

- MIB had set up a TRP committee for review of the existing TRP measurement system in India and understanding the effectiveness and underlying challenges of the current TRP system.
- The TRP committee issued its report to MIB in November 2010.

Health sciences

Drugs

- The Government has issued a notification to bring the Drugs and Cosmetics (4th Amendment) Rules, 2010 into force from April 2011. The amendment inter alia requires mandatory registration of all imported cosmetics with the approved licensing authority.

- The Government has made it mandatory for the pharmaceutical units to comply with the GLP norms set by the Health Ministry from 1 November 2010. Further, the DCGI has directed the state drug controllers to begin implementation.

- The Indian Pharmacopoeia Commission has released the Indian Pharmacopoeia 2010. The scope of the Pharmacopoeia has been extended to include products of biotechnology, indigenous herbs and herbal products, veterinary vaccines and additional antiretroviral drugs and formulations, inclusive of commonly used FDCs.

- The DCGI has issued guidance for getting marketing approval of FDC drugs in India.

Clinical trials

- The Central Government has passed the Clinical Establishments (Registration and Regulation) Bill, 2010 seeking to make the registration of all clinical establishments mandatory in the country. The law will come into force across the country once the States adopt the same Bill by passing resolution in the Assembly.

- The DCGI has issued guidance on clinical trial inspection, providing directions to inspectors and other CDSCO officers for conducting inspection of clinical trial sites, sponsor or CRO's facilities involved in clinical trial and information to investigators, sponsors or CROs about procedures for inspection and follow up of action.

Biotechnology

- The CDSCO has amended its guidance for post approval changes in biological products. The CDSCO has omitted provisions for automatic approval of post approval changes, thus making the companies mandatory to file fresh new drug or manufacturing licenses for such products with the regulator.

Other key changes

- The National Medicinal Plants Board, Department of Ayush, in collaboration with the WHO's country office for India has issued a comprehensive guideline on Good Field Collection Practices in India, dealing with packaging of medicinal plant storage and post harvest management.

Oil and gas

- In June 2010, the Government decided to deregulate the petrol prices in line with the recommendations of the Kirit Parikh Committee, allowing oil marketing companies the freedom to determine petrol prices in accordance with the market price. Diesel prices, however, were not deregulated.
- Year 2010 also witnessed some key developments from the PNGRB, which amended the principal regulations for determination of pipeline tariff, exclusivity for CGD networks and authorizing entities to lay, build, operate or expand CGD networks.
- In October 2010, NELP IX was launched inviting bids for licensing of 34 exploration blocks, of which 15 are for offshore blocks and 19 for onshore blocks. The blocks are expected to be awarded in 2011.

Mining

- Draft Mines and Minerals (Development and Regulation), Act has been introduced and referred to GoM. Post incorporating the suggestions made by the GoM, the proposed legislation is presently being legally vetted and on completion of this exercise would be presented before the Cabinet for approval.

Infrastructure and transportation

Shipping

- The Ministry of Shipping framed the model documents for award of contract for projects on PPP basis in case of major ports. The key commercial aspects of the model documents are as follows:
  - Tariff to be determined as per market, subject to uniform tariff cap set by Tariff Authority for Major Ports;
  - Exclusivity provided to concessionaire;
  - Performance standards defined;
  - Liquidated damages payable;
  - Management control of concessionaire SPV to be retained by consortium members during exclusivity period;
  - Minimum shareholding and lock in period specified;
  - Mode of computation of termination payments specified.
- The Ministry of Shipping has fixed a target of 21 projects during financial year 2010-11 under PPP for major ports, with target private investment of INR 140 billion. Foreign companies along with Indian companies can bid for the PPP projects.

Railways

- The Ministry of Railways introduced a "R3i policy" for attracting private sector participation in rail connectivity projects. The key features of the policy is as follows:
  - New line proposals should be for at least 20 kilometres;
  - Policy provides for four types of models viz. (a) Cost sharing freight rebate model; (b) Full contribution - apportioned earning model; (c) SPV model; and (d) Private line model;

- Indian Railways to own land used for construction of new line.

- The Ministry of Railways also formulated policy on development of automobile and ancillary hubs effective from 16 June 2010 for automobile manufacturers to carry their automobile traffic by rail in bulk. The key features of the policy is as follows:

  - Land for establishing hub to be provided by Indian Railways on license basis for an initial period of seven years;

  - Indian Railways shall only charge land licence fee for land use;

  - Maximum gestation period to make the hub operational specified as one year;

  - Maintenance cost of area to be incurred by licensee.

- The policy on Special Freight Train Operator Scheme formulated by the Ministry of Railways will take effect from 31 May 2010, providing opportunity to logistics service providers or manufacturers to invest in wagons for rail transportation of selected commodities.

- The Ministry of Railways has also formulated the private freight terminal policy which will take effect from 31 May 2010 whereby eligible private parties can develop private freight terminal on private land to handle freight traffic moved by the Indian Railways.

Roadways

- The Ministry of Road Transport and Highways tightened bidding norms by amending the RFQ/ RFP documents in April 2010. The key features are as follows:

  - Tightening of the conflict of interest clause;

  - Minimum net worth requirements for the consortium as a whole prescribed (based on total project loss);

  - Minimum net worth requirements for each member of the consortium prescribed;

  - Experience and financial score of the applicant computed as weighted average score of the experience/ financial score of a member and the proposed equity stake percentage in the consortium;

- EPC works of the project to be executed only by such EPC contractors have completed at least a single package of more than 20% of the total project cost or INR 5 billion, whichever is less.

Civil aviation

- The Ministry of Civil Aviation set up an Economic Advisory Council for deliberating on key issues such as consolidation, protecting interest of consumers, boosting investments and air connectivity improvement.
- The Ministry of Civil Aviation approved the user development fee to be levied upon passengers departing from Amritsar, Trichy, Mangalore, Udaipur or Vishakapatnam airports.

Power

- The Ministry of Power notified amendment to the Tariff Policy, 2006 in February 2011, requiring the State Electricity Regulators to fix a minimum percentage of total consumption of electricity for purchase of solar energy, which will go up to 0.25% by end of financial year 2012-13 and further upto 3% by 2022. The same will be facilitated by solar specific REC mechanism.
- In June 2010, CERC notified new regulations for sharing of inter state transmission charges and losses by implementing point of connection method. The new regulations will come into force from 1 April 2011 and shall remain in force for a period of five years. The key objectives that the new regulations seek to meet, include:
  - Scrapping current process of signing Bulk Power Transmission Agreements by having all users to be default signatories to Transmission Service Agreement;
  - Facilitating solar based generation by allowing zero transmission access charge and non-allocation of transmission loss to solar based generation;
  - Facilitating integration of electricity markets;

    - Enhancing open access and competition.

- In April 2010, CERC notified new IEGC to be effective from 3 May 2010. This supersedes IEGC, 2006 regulations. Key changes made under new IEGC include:

    - Facilitating implementation of National Action Plan on Climate Change which calls for significantly higher share of electricity generation from renewable energy;

    - Providing norms for sharing financial burden of fluctuations from schedule for new solar energy plants and new wind energy plants;

    - Tightening of operational frequency band to ensure better performance of generating stations and user appliances.

- CERC amended regulations on UI charges and related matters. Key changes to be effective from 3 May 2010, include:

    - Under drawls and over injections of electricity beyond permissible quantities to be disincentivized and priced at lower rates.

    - Introduction of norms for levy of additional UI charges to discourage tendency of states to heavily overdraw and deprive other states of legitimately purchased electricity.

- Mandatory opening of Letter of Credit in favour of system operator by any utility defaulter in respect of any payment defaulted, even once.

SEZ

- SEZ units allowed to export prohibited items, provided they import raw material for the same, subject to approval by the BoA.

- SEZ units allowed to import prohibited items provided they export finished goods manufactured from the same inputs, subject to approval by the BoA.

- SEZ developer/ units have been allowed to procure restricted items from DTA for setting up of infrastructure facility or for setting up of unit or for undertaking a manufacturing operation by the SEZ unit, except refrigeration, cutting, polishing and blending, subject to approval by the BoA.

- Authorized employees of IT/ ITeS SEZ unit are now permitted to work from home or place outside SEZ, provided they carry out work in relation to a project of the SEZ unit and the resultant exports will be carried out from the premises of the SEZ unit.
- FTWZ units can hold goods on behalf of foreign supplier/ DTA supplier subject to fulfillment of relevant provisions of SEZ Rules, 2006.
- Entrepreneurs can now shift their units from DTA/ STPI into IT/ ITeS SEZ without any limitation on transfer of capital goods and manpower to the SEZ units.
- SEZ developers need not apply for distribution license under the Electricity Act, 2003.

DTC

- The DTC marks a new era in the Indian tax regime after more than 50 years of operation of the current income-tax law in India and is being viewed as the most awaited change in the Indian tax system. The proposed DTC is envisaged to replace the existing direct tax legislations constituted by the Income-tax Act and the Wealth-tax Act with effect from 1 April 2012.
- A draft DTC, along with a discussion paper, was first released on 12 August 2009 for public comments. Based on feedback from various stakeholders, a revised discussion paper was released on 15 June 2010 addressing 11 of the major identified issues.
- A revised DTC was thereafter placed before the Indian Parliament on 30 August 2010 and has presently been referred to the Standing Committee on Finance of the Parliament for a detailed examination.
- Though a lot of concerns expressed on the earlier draft DTC have been addressed in the DTC 2010, some proposals such as the introduction of GAAR continue to remain. In addition, DTC 2010 proposes a levy of branch profit tax and also introduces Controlled Foreign Company rules apart from widening of source rules. The

DTC 2010 also proposes to introduce an APA regime, which, if properly implemented, could help in reducing transfer pricing uncertainty in India. These are some of the substantial changes that are likely to have significant impact on taxation of cross border transactions in India. In the Budget speech, the Finance Minister reiterated that the DTC will be effective from 1 April 2012.

Indirect tax

Excise duty

- Standard rate of excise duty increased from 8% to 10%.
- Excise duty on motor spirit (petrol) and HSD (diesel) have been increased by INR 1 per litre.
- The ad valorem component of excise duty on large cars, multi utility vehicles and sports utility vehicles increased from 20% to 22%.
- Exemption to packaged or canned software from excise duty payable on the consideration paid for transfer of right to use such goods.
- Clean energy cess imposed on coal, lignite, and peat produced in India which will be levied and collected as a duty of excise from coal mines.
- One of the essential conditions for availing excise duty exemptions for goods required for initial setting up of non conventional power projects is that the supply of power is tied up under a power purchase agreement for a period of at least ten years. Now this condition has been waived off for projects promoted by State Electricity Boards/ Corporations notified as State Transmission Utility and Licensee.
- Excise duty benefits which were earlier available to power projects awarded under the international competitive bidding procedures are now extended to include power projects awarded under tariff based competitive bidding or projects where the supply of power is tied up through tariff based competitive bidding.

Customs duty

- Customs duty is to be paid only on the value of the carrier medium and related freight and insurance charges in respect of movies, music and gaming software other than packaged form.
- Exemption from SACD on imported parts, components and accessories required for manufacture of mobile

handsets, battery chargers and hands free headphones of such mobile handsets.

- Upfront exemption from SACD on import for resale of pre-packaged goods and other goods, such as, ready-made garments, mobile phones and watches.
- Concessional basic customs duty rate of 5% and SACD exemption for import of specified agricultural machinery and instruments/ appliances/ machinery required for the initial setting up of solar power generation projects.
- Condition of transfer of right to use packaged software for "commercial exploitation" deleted.

Service tax

- Definition of India amended under Export of Service Rules, 2005 and Taxation of Services (Provided from outside India and received in India) Rules, 2006 to include installations, structures and vessels for the purpose of prospecting, extracting or production of mineral oils and natural gas in the Continental Shelf and Exclusive Economic Zone of India.
- Condition of "service provided from India and used outside India" to qualify as export, deleted. Performance based criteria for determining export of services by chartered accountant, cost accountant changed to "location of service recipient".
- Exemption from payment of service tax on packaged or canned software, where excise duty or customs duty has been paid on MRP.
- No penalty to be imposed where service tax along with interest has been paid before issuance of notice.
- Renting of immovable property or any other incidental services provided in relation to renting and use of vacant land for future construction to attract service tax retrospectively from 1 June 2007.

GST

- Target date for implementation of GST with effect from 1 April 2011, missed. New implementation date has not yet been proposed.

- Dual GST proposed where the Centre and States will simultaneously levy GST on a common base on Intra State transactions. Inter State transactions likely to attract an Integrated GST rate.

Foreign trade policy

- EPCG scheme at zero duty extended till 31 March 2012.
- Additional incentive of 2% bonus, over and above the existing benefits of 5%/ 2% under focus product scheme, allowed for about 135 existing products, which have suffered due to recession in exports.
- DEPB scheme extended till 30 June 2011.
- Validity of 1% status holder incentive scheme has been extended by a year to financial year 2011-12 exports.

Personal tax

- The exemption limit for gratuity increased from INR 350,000 to INR 1,000,000 with effect from 24 May 2010.
- Amendment to the TDS rules by the CBDT include:
    - The due date for furnishing TDS return for the last quarter of the financial year revised from 15 June to 15 May of the financial year immediately following the relevant financial year in which deduction is made.
    - The due date for issuing Form 16 and Form 12BA by the employers revised from 30 April to 31 May of the financial year immediately following the relevant financial year.

Social security in India (Provident Fund)

- Significant amendments have been made to the rules applicable to the IWs in relation to EPF and EPS, with effect from 3 September 2010. The amendments include inter alia:
    - Withdrawal only at retirement or reaching the age of 58 years, whichever is later, or on account of

permanent and total incapacity, subject to the applicable SSA, if any.

- Cap of INR 6,500 on monthly pay to compute the amount of employer's contribution allocated towards EPS is removed.

- No contributions to EPS by the Government with regard to IWs.

- Where the individual's salary is paid in foreign currency, for the purpose of computing the EPF and EPS contributions, the salary is to be converted using TTBR offered by SBI as on the last working day of the month for which the salary is due.

- Bank account in India will be a prerequisite for obtaining refund, except where covered under an SSA.

- No pension benefit under the EPS, except where the assignee covered under an SSA or has rendered more than 10 years of service in India.

- India's SSA with Switzerland has now been ratified. In addition, India has now signed SSAs with Czech Republic, Denmark, Norway and Korea, the dates of ratification of which are yet to be notified.

Visa regulations

- P Visas have been introduced for foreign nationals coming to India for execution of projects in power and steel sectors, validity of which will be initially for one year or the actual duration of the project, whichever is less. P visas will be project specific and the P Visa holder will not be allowed to engage in another project either for the same company or for a different company.

- The limit on the number of E Visas has been withdrawn. The condition of grant of E Visas only to skilled foreign individual, if their salary exceeds USD 25,000 a year, has been extended to all sectors.

- The conditions and procedure for grant of C Visas to be issued to foreign nationals coming to India to attend international conferences, seminars and workshops has been prescribed.

Global tax update

The world of tax has some seen some very significant developments in recent times.

From a tax policy perspective we continue to see proposals for tax reform. In the USA, last year's report from the President's Economic Recovery Advisory Board has been followed by a State of the Union address that sets the stage for corporate tax reform in 2011. Lawmakers are beginning 2011 with a full plate of tax policy priorities to address. While much of 2010 was shaped by a difficult political and economic climate, 2011 is showing signs of positive economic growth. With the recent State of the Union address setting the stage for corporate tax reform in 2011, and with policymakers seemingly encouraged to work together to address priorities, including the nation's fiscal situation, 2011 is shaping up to be a key year for USA's tax reform.

The UK Pre-Budget Report contained a separate "Corporate Tax Roadmap", designed to provide a boost to the competitiveness of the UK tax regime and take it a step closer towards territoriality. With the British Government wishing to turn their tax system "into an asset", the Roadmap, highlights a number of tax policy issues under focus. This initial policy stance might move the UK back into a competitive position. Tax competition remains the key focus, with the UK's review continuing its shift towards taxing income on a territorial basis and seeking to constrain its controlled foreign company rules to situations of artificial diversion of profits from the UK.

This coincides with the continued reduction in headline corporate tax rates, as seen in The Netherlands, Australia and Japan. Given the need to maintain tax revenues, these headline rate cuts have been accompanied with revenue raising measures, such as widening of the tax base through the removal of some tax reliefs and incentives. We also see a rise in the use of indirect taxes to raise additional revenue.

With a raft of new circulars released since early 2009, it is difficult to ignore the fact that the Chinese tax authorities have been paying close attention to the collection of taxes from non residents' activities in China. In the last two years, the SAT (the Chinese tax authority at the Central Government level) has intensified various tax collection and administration measures with respect to non residents, especially in areas where they perceive tax avoidance or treaty shopping to have occurred.

The Japanese Government has announced its 2011 tax reform proposals, which contain a significant five percentage point corporate tax rate cut. The rate cut means that Japan will have a lower headline corporate income-tax rate than the USA, and following 2009's 95% dividend exemption move - and the fact that the Japanese cut will be funded from a deficit position - demonstrates that the growth strategy of the new Government holds tax policy at the center of trying to make Japan once again an attractive proposition for multinational companies.

Looking beyond individual countries, we have seen new reports from the OECD on tax policy and international tax issues. A recent OECD report shows how countries are tackling aggressive tax planning through improved transparency and disclosures. It covers a range of approaches from mandatory disclosure rules to forms of co-operative compliance.

The OECD has continued to refine and update its TP guidelines. In 2010, among other initiatives, the OECD issued a thorough update of its guidance on comparability and profit methods, while in 2011, the OECD is shifting its transfer pricing focus to better defining the issues surrounding intangibles such as trademarks, patents and even business models. The OECD will be issuing guidance, hopefully within the next few months, that will form the basis of many Governments' attitudes in dealing with these difficult subjects. 2010 also saw the publication of the OECD's new chapter on business restructurings and its new report on the attribution of profits to permanent establishments.

Transfer pricing remains one of the most important tax challenges for the world's leading companies. That's the major observation from our latest Ernst & Young survey of tax directors and international tax practitioners. Faced with a slowly recovering global economy and record deficits in many major economies, Governments are increasingly focused on raising revenues through taxation, with transfer pricing remaining a key focus for tax administrators everywhere. As Governments turn towards taxation as a key lever in reducing budget deficits, more and more jurisdictions are ramping up tax enforcement efforts, with a focus on transfer pricing. EY global survey shows that this rise in enforcement is occurring not only in developed nations, but also in many emerging markets, including the BRIC countries.

2011 looks set to be another challenging year for indirect taxes around the world. A host of changes in VAT, GST, excise duties, customs duties and environmental taxes are expected in the upcoming year as Governments continue to look to indirect taxes to balance budgets, fund tax reform in other areas, promote and regulate trade, and support "green" policies and other social initiatives.

The past year has witnessed a dizzying array of tax legislation, reforms and stepped up tax enforcement efforts in virtually every jurisdiction around the world. The pace of change may only accelerate as Governments and businesses reflect on lessons learned from the global economic crisis. Tax administrators across the globe, including those in emerging market countries, are being asked to adapt their administrative processes to an increasingly complex and dynamic global business landscape in order to protect the revenue base while, at the same time, becoming more efficient and thereby reducing the cost of compliance for both taxpayers and Governments. The response to these competing demands has taken many forms. Two key trends – international collaboration amongst tax authorities and active engagement with the business community – appear to be the most critical elements for tax administrators who want to remain relevant and effective.

Glossary

AD	Authorized dealer
AED	Additional excise duty
AED (GSI)	Additional Duties of Excise (Goods of special importance) Act, 1957
ALP	Arm's length price
AMT	Alternate minimum tax
APA	Advance pricing agreement
BCD	Basic customs duty
BoA	Board of Approval
BRIC	Brazil, Russia, India and China
BSE	Bombay stock exchange
BWA	Broadband wireless access
CBDT	Central Board of Direct Taxes
CBEC	Central Board of Excise and Customs
CCPS	Compulsory convertible preference shares
CDSCO	Central Drugs Standard Control Organisation
Cenvat	Central value added tax
Cenvat Credit Rules	Cenvat Credit Rules, 2004
CERC	Central Electricity Regulatory Commission
CFC	Controlled foreign company
CGD	City gas distribution
CIC	Core investment company
CMTS	Cellular mobile telephone service

CST	Central sales tax
CRAR	Capital to risk weighted assets ratio
CRO	Clinical research organisation
CTA	Customs Tariff Act, 1975
CVD	Countervailing duty
Customs Act	Customs Act, 1962
C Visa	Conference visa
DCGI	Drug Controller General of India
DCF	Discounted cash flow
DDT	Dividend distribution tax
DEPB	Duty entitlement pass book
DIN	Document identification number
DIPP	Department of Industrial Policy & Promotion
DoT	Department of Telecommunication
DTA	Domestic tariff area
DTC	Direct Taxes Code, 2010
ECB	External commercial borrowing
EOU	Export oriented undertaking
EPC	Engineering, procurement and construction
EPCG	Export promotion capital goods
EPF	Employees' Provident Fund Scheme, 1952
EPS	Employees' Pension Scheme, 1995
E Visa	Employment visa
Export Rules	Export of Services Rules, 2005
FCCB	Foreign currency convertible bond
FCD	Fully convertible debenture

FCI	Food Corporation of India
FDC	Fixed dose combinations
FDI	Foreign direct investment
FEMA	Foreign Exchange Management Act, 1999
FFMC	Full fledged money changer
FIIs	Foreign institutional investor
FIPB	Foreign Investment Promotion Board
FoF	Fund of Fund
FTP	Foreign trade policy
FTWZ	Free trade warehousing zone
GAAR	General Anti Avoidance Rules
GDP	Gross domestic product
GLP	Good Laboratory Practices
GoM	Group of ministers
GST	Goods and Service Tax
HSD	High speed diesel
HUF	Hindu undivided family
ICDR regulations	SEBI (Issue of Capital and Disclosure Requirements) Regulations, 2009
IEGC	Indian Electricity Grid Code
IFC	Infrastructure finance company
IIP	Index of industrial production
IIT	Indian Institute of Technology
Import Rules	Taxation of Services (Provided from Outside India and Received in India) Rules, 2006
Income-tax Act	Income-tax Act, 1961

INR	Indian Rupee
IPO	Initial public offering
IRDA	Insurance Regulatory and Development Authority
IT	Information technology
IT/ ITeS	Information technology/ Information technology enabled services
IW	International worker
KYC	Know your customer
LAB	Local area bank
LCD	Liquid crystal display
LLP	Limited liability partnership
LO	Liaison office
LPG	Liquefied petroleum gas
MAT	Minimum alternate tax
MGNREGS	Mahatma Gandhi National Rural Employment Guarantee Scheme
MIB	Ministry of Information and Broadcasting
MNP	Mobile number portability
MPP	Mega power project
MRP	Maximum retail price
NABARD	National Bank for Agriculture and Rural Development
NBFC	Non banking financial company
NCD	Non convertible debenture
NELP	New exploration licensing policy
NELP-IX	IX Round of new exploration and licensing policy

NJA	Notified jurisdictional area
NPS	New pension scheme
NRI	Non resident Indian
NSE	National stock exchange
OCB	Overseas corporate body
OECD	Organisation for Economic Co-operation and Development
OPGSP	Online payment gateway service provider
OTC	Over the counter
PC	Personal Computer
PLR	Prime lending rate
PNGRB	Petroleum and Natural Gas Regulatory Board
PPP	Public private partnership
PSB	Public sector bank
PSU	Public sector undertaking
P Visa	Project visa
R&D	Research and development
RDBFI Act	Recovery of Debts due to Banks and Financial Institutions Act, 1993
RBI	Reserve Bank of India
RCM	Reverse charge mechanism
REC	Renewable energy certificate
RFP	Request for proposal
RFQ	Request for qualification
RRB	Regional rural bank
RSP	Retail sale price

R3i Policy	Railways Infrastructure for Industry Initiative
SAD	Special additional duty
SACD	Special additional customs duty
SARFAESI Act	The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interests Act, 2002
SAT	State Administration of Taxation
SBI	State Bank of India
SCN	Show cause notice
SCRR	Securities Contract (Regulation) Rules, 1957
SEBI	Securities and Exchange Board of India
SEZ	Special economic zone
SIDBI	Small Industries Development Bank of India
SPV	Special purpose vehicle
SSA	Social security agreement
SSI	Small scale industry
STPI	Software technology parks of India
Takeover Regulations	SEBI (Substantial Acquisition of Shares and Takeovers) Regulations, 1997
TDS	Tax deducted at source
TPO	Transfer pricing officer
TRAI	Telecom Regulatory Authority of India
TRP	Television rating points
TTBR	Telegraphic transfer buying rate
UAS	Unified access service
UCB	Urban co-operative bank

UDTC guidelines	Uplinking/ Downlinking of Television channels in India guidelines
UI	Unscheduled interchange
UID	Unique identification
ULIP	Unit linked insurance plan
UPSC	Union Public Service Commission
USA	United States of America
USD	United states dollar
UK	United Kingdom
VAT	Value added tax
WHO	World Health Organisation
WPI	Wholesale price index
Wealth-tax Act	Wealth-tax Act, 1957

Notes

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Notes

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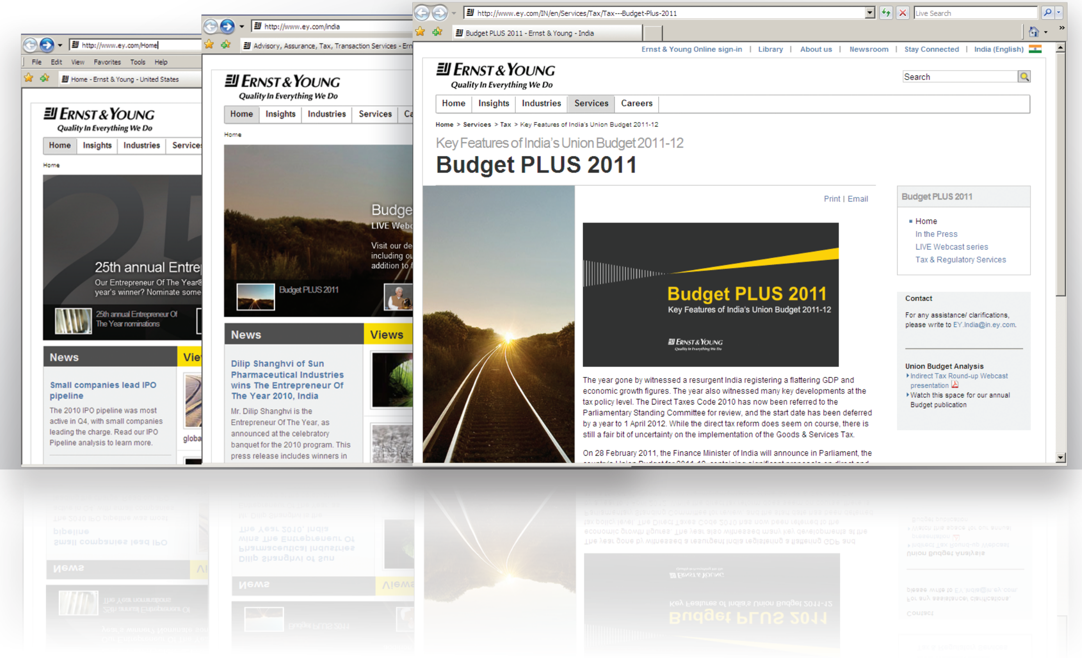

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2011

m	t	w	t	f	s	s
				1	2	3
11	12	13	14	15	16	17
25 Service tax return for the period 1 Oct'10 till 31 Mar'11	26	27	28	29	30 Payment of taxes withheld in Mar'11	A
						1
9	10 Filing of excise return	11	12	13	14	15 Filing qtrly returns for taxes withheld in qtr Jan-Mar 2011 of tax year 2010-11*
23	24	25	26	27	28	29
						Ju
6 E-payment of excise and service tax liability	7 Deposit taxes withheld in May'11	8	9	10 Filing of excise return	11	12
20	21	22	23	24	25	26

India tax compliance calendar
April 2011 - March 2012

m	t	w	t	f	s	s
4	5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability	7	8	9	10 Filing of excise return
18	19	20	21	22	23	24
Apri						
2	3	4	5 Payment of excise and service tax liability other than e-payment	6 E-Payment of excise and service tax liability	7 Payment of taxes withheld in Apr'11	8
16	17	18	19	20	21	22
30	31	**May**				
ne		1	2	3	4	5 Payment of excise and service tax liability other than e-payment
13	14	15 Advance tax (15% of estimated tax for tax year 2011-12)	16	17	18	19
27	28	29	30			

*Forms 24Q, 26Q and 27Q

2011

July

m	t	w	t	f	s	s
4	5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability	7 Payment of taxes withheld in June'11	8	9	10 Filing of excise return
18	19	20	21	22	23	24
1	2	3	4	5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability	7 Payment of taxes withheld in July'11
15	16	17	18	19	20	21
29	30 File personal tax return for tax year 2010-11[1]	31	Augu			
			1	2	3	4
12	13	14	15 Advance tax (45% of the estimated tax for tax year 2011-12)	16	17	18
26	27	28	29	30 File corporate tax return for tax year 2010-11[2]	Se	

Footnote 1:

India tax compliance calendar
April 2011 - March 2012

m	t	w	t	f	s	s
				1	2	3
11	12	13	14	15 Filing first qtrly. returns for taxes withheld*	16	17
25	26	27	28	29	30	31 File personal tax return for tax year 2010-11
8	9	10 Filing of excise return	11	12	13	14
22	23	24	25	26	27	28

ust

m	t	w	t	f	s	s
5 Payment of excise and service tax liability other than e-payment	6 E-payment of Excise and service tax liability	7 Payment of taxes withheld in Aug'11	8	9	10 Filing of excise return	11
19	20	21	22	23	24	25

ptember

*Forms 24Q, 26Q and 27Q

Certain categories of salaried taxpayers likely to be exempt from tax return filing obligation

Footnote 2: For corporate taxpayers with no obligation on transfer pricing compliance

2011

m	t	w	t	f	s	s
					1	2
10 Filing of excise return	11	12	13	14	15 File second qtr withholding tax returns*	16
24	25 File service tax return for the period April to Sept'11	26	27	28	29	30

November

m	t	w	t	f	s	s
7 Payment of taxes withheld in Oct'11	8	9	10 Filing of excise return	11	12	13
21	22	23	24	25	26	27

December

m	t	w	t	f	s	s
5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability	7 Payment of taxes withheld in Nov'11	8	9	10 Filing of excise return	11
19	20	21	22	23	24	25

India tax compliance calendar
April 2011 - March 2012

m	t	w	t	f	s	s
3	4	5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability	7 Payment of taxes withheld in Sept'11	8	9
17	18	19	20	21	22	23
31	October					
r	1	2	3	4	5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability
14	15	16	17	18	19	20
28	29	30 File corporate tax return for tax year 2010-11[3]				
er			1	2	3	4
12	13	14	15 Advance tax (75% of estimated tax for tax year 2011-12)	16	17	18
26	27	28	29	30	31	

*Forms 24Q, 26Q and 27Q

Footnote 3: For corporate taxpayers with Transfer Pricing compliance requirements

2012

m	t	w	t	f	s	s
						Ja
2	3	4	5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability	7 Payment of taxes withheld in Dec'11	8
16	17	18	19	20	21	22
30	31	1	2	3	4	5 Payment of excise and service tax liability other than e-payment
13	14	15	16	17	18	19
27	28	29	Febru			
			1	2	3	4
12	13	14	15 Advance tax (100% of the estimated tax for tax year 2011-12)	16	17	18
26	27	28	29	30	31 Payment of excise and service tax liability (including e-payment) Last day for payment of advance tax (tax year 2011-12)	

India tax compliance calendar
April 2011 - March 2012

anuary

m	t	w	t	f	s	s
						1
9	10 Filing of excise return	11	12	13	14	15 File third qtr withholding tax returns*
23	24	25	26	27	28	29
6 E-payment of excise and service tax liability	7 Payment of taxes withheld in Jan'12	8	9	10 Filing of excise return	11	12
20	21	22	23	24	25	26

uary

m	t	w	t	f	s	s
5 Payment of excise and service tax liability other than e-payment	6 E-payment of excise and service tax liability	7 Payment of taxes withheld in Feb'12	8	9	10 Filing of excise return	11
19	20	21	22	23	24	25

March

*Forms 24Q, 26Q and 27Q

India tax compliance calendar

April 2011 - March 2012

1. If a due date falls on a Public Holiday/ Sunday, the next working day will be considered as the due date.

2. The above calendar captures only key compliance dates on direct taxes and hence does not include dates for issue of Form 16/16A, dates for submission of returns for taxes collected at source, etc. In general, the annual Form 16 needs to be issued by the taxpayer before 31 May for taxes on salary withheld in tax year 2011-12, whereas in case of other tax withholdings, Form 16A would need to be issued on a quarterly basis within 15 days from the due date of furnishing of the quarterly return.

3. The above calendar captures excise and service tax due dates and it does not include state specific due dates for VAT and CST.