



INDIA

The Budget 2006 was presented in Parliament on February 28, 2006 in the backdrop of a buoyant economy, growing at a projected rate of 8.1% in 2005-06, making it the second fastest growing nation. This apart, moderate inflation of 4.5%, a commendable fiscal deficit of 3.8%, impressive foreign exchange reserves of US\$ 139 billion and a tax /GDP ratio of 10.4% set the stage for a budget that has stability of policies and fiscal regime as its underlying tone. The investment boom in the country with gross capital formation being 30.1% of GDP indeed sets investment rates close to those in East Asia and China, which will provide the base for sustainable growth.

On the allocation front, health, education and rural employment are priority areas of the Budget, which seeks to implement the National Common Minimum Programme of the United Progressive Alliance coalition government and provide for increased thrust on schemes meant to benefit the common man.

DIRECT TAXES

The direct tax proposals in the Finance Bill reflect the broad policy direction of the Government to pursue moderate tax rates with a stable fiscal regime.

- Tax rates for individuals have also remained unchanged. However, in claiming a deduction upto Rs 100,000 for investment in specified savings, flexibility is extended to claim against investment in pension funds and term deposits of not less than five years in scheduled banks.
- Fringe Benefit Tax (FBT) has been somewhat rationalized by excluding from its ambit sales promotion expenditure to brand ambassadors, expenditure on provision of samples of medicines and medical equipment to doctors and contributions to approved superannuation funds up to Rs 100,000 per employee annually. Further, the deemed value of fringe benefit is reduced from 20% to 5% of the expenditure on (i) tour and travel (including foreign travel) and (ii) provision of hospitality, use of hotel, boarding and lodging in the case of airlines and shipping companies.
- Any sum payable as an interest on loan which is converted into a loan is not eligible for deduction under Section 43B, which provides for certain deductions only on actual payment.
- In computing interest under Sections 234A, 234B and 234C (sections pertaining to penal interest on account of delays in filing of return or payment of tax), it is proposed to give MAT credit and credit for taxes paid outside India.
- Securities Transaction Tax is increased by 25% for all categories. This will take effect from June 1, 2006. Further, long term capital gains, which would suffer Securities Transaction Tax, will be included for the purposes of MAT computation of corporates.
- A transfer pricing adjustment resulting in an increase of profits derived from a Special Economic Zone will not be eligible for a corresponding exemption under Section 10AA.
- Deductions under several tax holiday or tax concession sections (such as Sections 10B, 80-IA, 80-IB) in respect of 100% Export Oriented Units will be allowed only if the income-tax return is filed within the due date. This is applicable in respect of tax returns to be filed for the financial year 2005-06.
- The corporate tax rates have remained unchanged. However, the effective rate of Minimum Alternate Tax (MAT) is proposed to be increased to 11.22% (from 8.42%) for domestic companies and to 10.455% (from 7.84%) for foreign companies. Dividend Distribution Tax levied on domestic companies remains at 14.03%.

- Section 10(23G), which provides for exemption of income by way of interest, dividend or long-term capital gain of an infrastructure company or fund by way of investments in shares or long-term finance is deleted.
- A new section 90A is inserted to provide that any specified association in India may enter into an agreement with any specified association in a specified territory outside India and the Central Government may make necessary provisions for adopting and implementing such agreement for grant of double taxation relief, for avoidance of double taxation, for exchange of information for prevention of evasion or avoidance of income-tax or recovery of income-tax.
- The requirement for filing annual return of tax deducted or collected at source is done away with effective financial year 2005-06.
- The time limit for completion of assessments or reassessments is reduced by 3 months.
- Notices served by the Department under Section 143(2) after the 12-month period of a returns filed in pursuance of notices under Section 148 are proposed to be validated with retrospective effect from 1 October 1991 to 30 September 2005.

INDIRECT TAXES

A welcome announcement in the indirect tax proposals is the roadmap to a national, integrated Goods and Services Tax (GST) proposed from 1 April 2010. There is also an intention spelt out to phase out Central Sales Tax to pave the way for GST.

Customs Duty

- In sync with the Government's policy of reducing customs duties to ASEAN levels, the peak rate of duty for all non-agricultural goods is reduced from 15% to 12.5%.
- Additional Duty of Customs (ADC) currently levied on the Information Technology Agreement items is extended to all imports with a few exceptions. The credit of ADC would be available towards payment of excise duty on finished goods alone.
- Pipeline projects for transportation of crude oil, petroleum products and natural gas brought within the purview of Project Import Scheme.

- An amendment to the Customs Act, 1962 is proposed whereby an owner of any imported goods would not be permitted to relinquish title to the goods regarding which an offence appears to have been committed.

Excise Duty

- To make India the hub of manufacture of small cars, the rate of excise duty on small cars (defined as petrol cars not exceeding 4 meters in length and engine capacity not exceeding 1,200 CC and diesel cars not exceeding 4 meters in length and engine capacity not exceeding 1,500 CC), the rate of excise duty is reduced from 24% to 16%. Similarly reduction of special excise duty is also made on aerated waters.
- Conditional exemption notifications of excise, which have outlived their utility, are done away with.
- Notably, excise duty of 12% is imposed on computers. However, duty has been reduced on storage devices from 16% to Nil.
- Excise duty on ready to eat packaged food and instant food mixes is reduced from 16% to 8%. Excise duty on condensed milk, ice cream, pectin substances, yeast and pasta is reduced from 16% to Nil.
- Duty on clearances of goods to Domestic Tariff Area from Export Oriented Units is changed from 50% of the aggregate customs duties to 25% of the basic customs duty plus excise duty payable on like goods.
- Resale Price (RSP) based valuation scheme is proposed to be extended from the notified date to parts, components and assemblies of automobiles, tooth brushes and plant growth regulators. Abatement from RSP is reduced for aerated waters, compact fluorescent lamps, footwear, packaged foods and instant food mixes.
- Section 23C of the Central Excise Act is proposed to be amended to confer powers to decide the excisability of any product on the Advance Ruling Authority.

Service Tax

- As a precursor to the ultimate goal of an integrated GST and with a view to converging the rates of service tax and central value added tax, the rate of service tax is enhanced to 12% from the current 10%, to bring it closer to the median excise rate of 16%.
- Chargeability of service tax extended to:
 - Services provided by a registrar to an issue in relation to purchase or sale of securities;
 - Services provided by a share transfer agent in relation to purchase or sale of securities;
 - Services in relation to Automated Teller Machine operations, maintenance or management;
 - Services provided by recovery agents;
 - Sale of space or time for advertisements, other than sale of space for advertisements in the print media and sale of time slots by a broadcasting agency or organization;
 - Sponsorship services other than sponsorships related to sports events;
 - Air transport service of any passenger embarking in India for international travel in any class other than economy class;
 - Transport of goods in containers by rail provided by any person other than Government railways;
 - Business support services;
 - Auctioneers' services;
 - Public relations services;
 - Ship management services;
 - Internet telephony services;
 - Transport by cruise ship; and
 - Credit card, debit card, charge card or other card related services.
- The scope of certain existing services is proposed to be enlarged.
- The existing Section 67 of the Finance Act, 1994 is proposed to be substituted to provide for determination of the value of taxable services. Presently, service tax is charged on the gross amount received. The proposed section provides for determination of the taxable value in cases where the consideration received for taxable services is not wholly in money terms and the consideration received is in money terms but is not known explicitly. Separate valuation rules are proposed for this purpose.
- It is proposed to provide for the conclusion of adjudication proceedings in respect of a person who voluntarily deposits service tax along with interest and penalty.
- The Authority for Advance Rulings is proposed to be empowered to determine the question of the liability to pay service tax.
- The service tax rules are amended in relation to preservation of records for a period of 5 years, intimation of any change in particulars of registration within 30 days and making available of records maintained to a Central Excise Officer for inspection or examination.

The above services will be taxable from a date to be notified after the enactment of the Finance Bill, 2006.

