



# 2012-13

## THE INDIAN BUDGET



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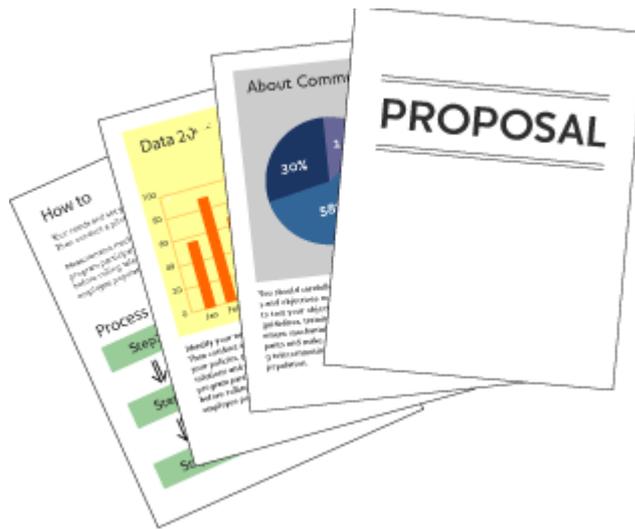
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# THE UNION BUDGET 2012-13

## AN OVERVIEW

### WITH REFERENCE TO DIRECT TAX PROPOSALS



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The note highlights the key proposal put forth by the Honourable Finance Minister while presenting the Union Budget 2012. We have summarized only issues which we consider to be of general importance in respect of direct taxes and service tax. The material used in the preparation of this note has been sourced from various sources including the speech of Finance Minister, website of Government and other public available information. While all reasonable care has been taken in the preparation of this note we accept no responsibility for any errors it may contain or for any omission or otherwise or for loss, however caused or sustained by the person who relies on it.

# BUDGET 2012

## BUDGET 2012: ANALYSIS BY FOLLOWING EXPERTS

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## First thing first: Most debated controversy of India Budget



*Don't fight with the government because it can change the laws any time and give you a bloody nose.*

**The government's proposal to amend its tax law retrospectively will affect Vodafone and even other large acquisitions of Indian assets might be up for review**

*In this Union Budget the finance minister has introduced three tax measures with retrospective effect.*

- 1. One is regarding the sale of assets with control outside India.*
- 2. Treatment of software sales by a multinational as royalty income rather than business income.*
- 3. The transfer pricing norms between a foreign subsidiary and its parent have been clarified on the higher side.*

**The Vodafone case, the most followed tax controversy in recent times, took centre-stage in the Budget with the Finance Minister, Mr Pranab Mukherjee, on Friday moving numerous amendments to the income-tax law to reverse the Supreme Court ruling on the matter**

**Why the Budget's shots at Vodafone should be seen as a constitutional crisis**  
A corollary of the Rule of Law is that legislation with retrospective effect is highly dubious and in fact the Indian constitution also bans retroactive criminal legislation

# BUDGET 2012

## Important Highlights

- 18.5 % TAX(MAT/AMT) ON ALL PERSON OTHER THAN COMPANIES

Under the existing provisions of the Income Tax Act MAT are levied on company and LLP .It is proposed to include person who had claimed deduction under chapter VI A shall be liable to pay MAT/AMT. This means all other form of entities other than company and LLP also be covered under MAT/AMT such as claiming deduction under section 80IC etc. and MAT will be payable at the rate of 18.5% on deemed income .



### *Tax Impact :*

*All entities will come under MAT/AMT which means that assessee such as Individuals , sole proprietorships ,HUF , Partnership firms ,AOP will also be required to pay tax @19.05% (including cess )even if they are claiming exemption under such as 80IC, 80I B , etc .*

*Only silver lining is that this would apply if adjusted total income exceeds Rs 20 lakh .*



- 1%TAX(TDS) ON SALE VALUE ON TRANSFER OF IMMOVABLE PROPERTY

A property buyer will have to deduct 1% tax if a deal exceeds Rs 50 lakh for urban properties and Rs 20 lakh in other areas.

“It is proposed to insert a new provision to provide that **every transferee**, at the time of making payment or crediting any sum by way of consideration for transfer of immovable property (other than agricultural land), shall deduct tax, at the rate of 1% of such sum



### *Tax Impact*

*All the real estate transaction above a limit will come under income tax scanner and seller will have compulsory have a PAN number and show such transaction in their income tax returns .*



- Increase in Taxable Limit

Exemption limit increased to Rs 2,00,000 (for senior citizen of 60 year or more the exemption limit will remain Rs 2,50,000 for super senior citizen above 80 years limit will remain Rs 5,00,000 for female tax payers exemption limit will remain Rs 2,00,000 ).

10% slab rate will applicable up to Rs 5,00,000 between Rs 5,00,000 to Rs 10,00,000 the tax rate will be 20% above RS 10,00,000 slab rate will be 30% .No other change in tax rates .

Senior Citizens has been exempted from payment of advance tax if not having income under the head profit and gain from business.



Tax Impact

Tax saving of Rs 2060 (Rs 1030 for women) across the board for income up to Rs 8lakh . Tax saving of Rs 20600 for person having income above Rs 8 lakh.

- Deduction in respect of interest on deposits in savings accounts with banks up to Rs 10,000.

Under the proposed new section 80TTA of the Income-tax Act, a deduction up to an extent of ten thousand rupees in aggregate shall be allowed to an assessee, being an individual or a Hindu undivided family, in respect of any income by way of interest on deposits (not being time deposits) in a savings account with a banking company or a co-operative society engaged in carrying on the business of banking or a post office.



Tax Impact

Tax saving of Rs 3090 on saving bank interest.

- Expenditure of Preventive health check up to Rs 5000 will be qualified for deduction under section 80D

Under this citizen can save tax for the monies spent them on their health checkups .This will include various medical test that individuals are asked to undergo at hospitals .In addition section 80DDB that allows deduction for medical treatment of specified diseases has enhanced from Rs 40000 to Rs 60000.



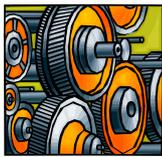
- Turnover limit for compulsory tax audit for SMEs raised from Rs.60 lakh to Rs.1 crore

In order to reduce the compliance burden on small business man ann on professionals it is proposed to increase the threshold limt of total sales turnover for getting audited from Rs 60 lakh to Rs 1 crores in the case of persons carrying on business and Rs 15 lakh to Rs 25 lakh in the case of persons carrying on profession.



- A Big sop for small investors

Direct investment in stocks perceived a high risk asset class will get tax exemption under the Rajiv Gandhi Equity Saving Scheme the government proposes to allow tax deduction in equity .Individuals with annual income up to Rs 10 lakh will be eligible for the scheme –investment up to Rs 50000 with a minimum lock in period of three years get 50% tax exemption.



- Reinvest in start up to save tax

**Individual and HUF can invest their gain from selling residential property in start up to save on tax .These small enterprise will have to use the money to buy plant and machinery .At present such gains have to be parked in certain bonds or reinvested in properties .**

- Charitable Purpose : Donations



It is proposed to amend the section 80g to specify therein that any payment exceeding Rs 10000 shall only be allowed as a deduction if such sum is paid by any mode other than cash.

# BUDGET 2012

## IMPACT OF BUDGET PROPOSALS 2012

### TAX RELIEFS

#### 1. Decrease in overall tax liability of Individual tax payer

The Union budget has announced marginal relief for individual taxpayers. Nominal changes have been proposed for reduction in the income tax liability of the individual taxpayers. The assessee may now be able to save tax depending on their aggregate taxable income and whether the individual is a male or senior citizen. He has changed the slab for men, women and senior citizen. Overall reduction in tax liability will be as under for assesses having income ranging as under:

#### **Impact:**

#### **Individual below 60 Years**

Taxable income (Rs)	Existing Tax – amount (Rs)	Proposed Tax amount (Rs)	Reduction in tax (Rs)
180000	Nil	Nil	-
200000	2060	Nil	2060
500000	32960	30900	2060
800000	94760	92700	2060
1000000	156560	133900	22660



#### **Female Income**

As per the budget proposal no additional relief has been allowed to female assesseees who are the age of below 60 years.

However relief for female citizens will be Rs1030 for income up to Rs 800000.

No change in income tax rules for people over 80 years of age .Those with gross income less than Rs 6,40,000 will not be liable to pay any tax at all if they avail maximum benefits.

### **3. Introduction of exemption of return for small taxpayers**

It is proposed to introduce that if taxable salary income is Rs 5 lakh and interest from saving bank accounts is up to Rs 10,000 no tax return is to be filed.

### **4. All that glitters is dearer**



Unbranded gold jewellery will attract a 15 advalorem excise duty putting in the same bracket as its branded counterpart .Standard gold and platinum bar will attract a 4% custom duty , double the previous level. Further in order to reduce cash transaction in bullion and jewellery it is proposed to tax at the rate of 1% of sale consideration from every buyer of bullion and jewellery if this exceeds Rs 2 lakh and sale is in cash .



### **5. Compulsory filing of income tax return in relation to assets located outside India .**

It is proposed to provide furnishing of return of income under section 139 may be mandatory for every resident having any asset located outside India .Furnishing of the return by such resident would be mandatory irrespective of the fact whether the resident taxpayer has taxable income or not.

### **6. Reassessment of income in relation to any asset located outside India**



It is proposed to amend the provisions to increase the limit of the issue of notice for reopening an assessment to 16 years where the income in relation to any assets located outside India chargeable to tax has escaped assessment .

## Corporate / Business Corner

### **1. No change in corporate tax**

There is no change in the rate of tax for the domestic companies.



### **2. Tds on remuneration of Director of Company.**

Currently there is no specific provision for deduction of tax on remuneration paid to a director which is not nature of salary .Under section 194J 10% deduction will be made from payment made to independent directors or directors receiving payment other than remuneration.

### **3. Share Premium in excess of fair market value to treated as income.**

In closely held company if the consideration received for issue of shares exceeds the face value of such shares the aggregate consideration received for such shares the as exceed the fair market value of the shares shall be chargeable to the income tax under the Income from other sources under section 56(2).

### **4. General Anti Avoidance Rule(GAAR)**

GAAR is other big ticket measure that will come into effect in 2012-13 ahead of DTC. The objective is to counter aggressive tax avoidance schemes while ensuring that it is used only in appropriate cases by enabling a review by a GAAR panel. In the above background and keeping in view the aggressive tax planning with use of sophisticate structures F M has codified the doctrine the substance over form where the real intention of the other parties and effect of transactions and purpose of an arrangement is taken into account for determining the tax consequences irrespective of legal structures that has been superimposed to camouflage the real intent and purpose .

The basic criticism of statutory GAAR is raised worldwide is that it provides a wide discretion and authority to the tax administration which at times is prone to be misused.

### **5. Credits in the nature of share capital to be taxable in the hands of closely held companies unless source of income in the hand of shareholders is explained.**

It is proposed to provide that the nature and source of any sum credited as share capital ,share premium etc in the books of closely held company shall be treated as explained only if the source of funds is also explained by the assessee company in the hands of resident shareholder.

6. **Tax on interest on ECB raised by companies engaged in specified infrastructure sector lowered from 20% to 5%.**

7. **Weighted deduction of 200% on inhouse R&d facilities extended by 5 years.**



8. **Certain domestic transaction between related parties to also be subjected to transfer pricing scrutiny.**

Section 40A of the Act empowers the Assessing Officer to disallow unreasonable expenditure incurred between related parties. However, no specific method to determine reasonableness of expenditure or fair market value to re-compute the income in such related transactions is provided under these sections.

The Supreme Court in the case of *CIT Vs. Glaxo SmithKline Asia (P) Ltd.*, in its order has, after examining the complications which arise in cases where fair market value is to be assigned to transactions between domestic related parties, suggested that Ministry of Finance should consider appropriate provisions in law to make transfer pricing applicable to such ..

It is, therefore, proposed to amend the Act to provide applicability of transfer pricing regulations (including procedural and penalty provisions) to transactions between related resident parties for the purposes of computation of income, disallowance of expenses etc. as required under provisions of sections 40A, 80-IA, 10AA, 80A, sections where reference is made to section 80-IA, or to transactions as may be prescribed by the Board, if aggregate amount of all such domestic transactions exceeds Rupees 5 crore in a year.

9. **STT on cash delivery reduced by 25 per cent to 0.1 per cent.**

## INDIRECT TAXES

### CUSTOM DUTY & EXCISE DUTY

Major changes include

- The basic customs duty rates of 2%, 2.5% and 3% unified at the rate of 2.5%. Since there is no change in basic custom duty rate.
- Exemption of custom duty on import of liquefied natural gas which is currently 5 per cent.
- There is no change in peak custom duty of 10 per cent on non agricultural goods.
- There is 2.5 per cent import duty on petrol and diesel and 5 per cent on LNG and natural gas which remains unchanged.
- Large cars attract higher custom duty 
- The standard rate of excise duty raised from 10 per cent to 12 per cent.
- Unbranded jewellery would now attract excise duty of 1 per cent.
- Branded silver jewellery has been exempted from excise duty.
- Certain cigarettes and bidis attract higher excise duty.

#### Other measures

- Chassis for building of commercial vehicle bodies to be charged excise duty at an ad valorem rate instead of mixed rate.
- Import of foreign-going vessels to be exempted from CVD of 5 per cent retrospectively.
- Duty-free allowances increased for eligible passengers and children upto 10 years.



## 1. SERVICE TAX

1. Service tax rate enhanced from 10 per cent to 12 per cent, with corresponding changes in rates for individual services.
  2. Overwhelming response to the new concept of taxing services based on negative list.
  3. Proposal to tax all services except those in the negative list comprising of 17 heads.
  4. Rules pertaining to point of taxation are being rationalized.
  5. Utilization of input tax credit permitted in number of services to reduce cascading of taxes.
  6. Exemption from service tax is proposed for some sectors.
  7. Service tax law to be shorter by nearly 40 per cent.
  8. Measures to harmonize Central Excise and Service Tax.
  9. A common simplified registration form and a common return comprising of one page are steps in this direction.
  10. Revision Application Authority and Settlement Commission being introduced in Service Tax for dispute resolution.
  11. New scheme announced for simplification of refunds.
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