Budget Analysis 2008

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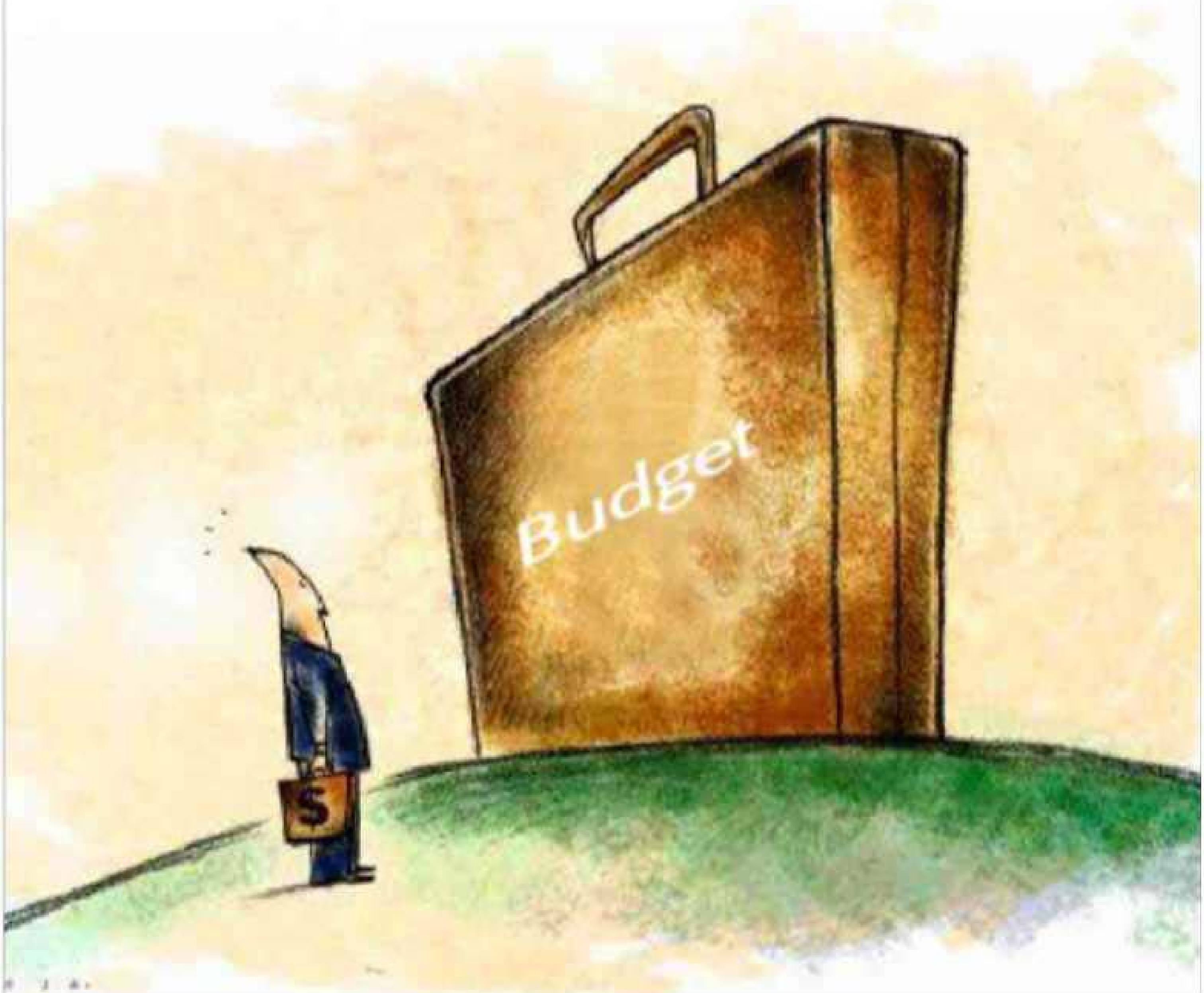

FOREWORD

- Budget 2008 was presented by Honorable Finance Minister Mr. P. Chidambaram with an endeavor to achieve sustained growth against global slowdown, by inducing domestic demand and combating inflation.

- The most significant aspect of the Budget is the debt waiver and debt relief scheme for farmers. Other developments include increased allocation for employment, education, healthcare and food subsidy for 'Aam Janta'.

- The revised slab rates for individuals propose to increase net disposable income thereby fuelling consumption and capital formation. Well…we see the Nano becoming more accessible to the common man!

- Increased tax rate on short term capital gains on one hand would pinch the investors and on the other would encourage buoyancy in long term investments.

- Holding companies spared from payment of dividend distribution tax to the extent of dividend received from subsidiaries.

- Fillip to manufacturing sector through reduction in excise duty rate coupled with specific benefit to sectors such as pharmaceutical, textiles, power, oil and gas, automobile, food etc.

- On the flipside, Budget has neglected I.T., E.O.U, infrastructure, industrial parks and housing by not extending the tax relief beyond 2009.

- To summarize, the populist Budget has tried to appeal to majority of the vote constituencies and at the same time chosen not to antagonize its allies.

February 29, 2008 **Mumbai**

I DIRECT TAXES

A TAX RATE

- Income tax rates for individuals, HUF, etc.
  - Basic exemption limit increased

Category	Present	Proposed
General	1,10,000	1,50,000
Females	1,45,000	1,80,000
Senior Citizens	1,95,000	2,25,000

  - Applicable tax rate

Present	Proposed	Tax Rates
1,10,000 to 1,50,000	1,50,000 to 3,00,000	10%
1,50,001 to 2,50,000	3,00,000 to 5,00,000	20%
Above 2,50,000	Above 5,00,000	30%

- No change in corporate tax rate, education cess and surcharge.

B DUE DATE FOR FURNISHING RETURN OF INCOME, WEALTH & FBT

Assessee	Existing Date	Proposed Date
1. Company 2. Persons who have to get their accounts audited 3. Working partner of a firm liable to tax audit	31st October	30th September

- The due date for other assesses will remain 31st July.

C SHORT TERM CAPITAL GAINS

- Tax on short term capital gains on sale of equity shares or units of an equity oriented fund on which Securities Transaction Tax is paid increased from 10% to 15%.

D Minimum Alternative Tax (MAT)

- The following items not to be reduced from book profit while calculating MAT
  - Deferred tax liability
  - Interest on income tax
  - Surcharge, education cess on Income tax, Secondary and higher education cess
- These amendments are proposed to be made with retrospective effect from 01.04.2001.

E Dividend Distribution Tax (DDT)

- While computing DDT payable by a domestic holding company on the dividend declared by it, the dividend received from the subsidiary company during the financial year to be reduced.
- This provision has effect of mitigating the cascading effect of multiple DDT upto one level.
- Benefit of reduction available if:
  - Holding company holds more than half the nominal value of equity in the subsidiary company
  - The subsidiary company has paid DDT on the dividend declared
  - Holding company is not a subsidiary of any other company
- The above provision is applicable from A. Y. 2008-09 i.e. even for the year ending 31.03.2008.

F Business & Profession

1 Securities Transaction Tax (STT) and Commodities Transaction Tax (CTT)

- STT and CTT now allowed as business expenditure provided the income arising from such securities is included under the head Profit from Business and Profession.
- Earlier, STT was not allowable as business expenditure and was eligible for rebate u/s 88E

2 Cash Payment

- Any expenditure in respect of which payment is made in a sum exceeding Rs. 20,000 is not allowed as deduction unless payment is made by an account payee cheque drawn on a bank or a bank draft.

- In order to overcome certain judicial decisions which held that limit applies to each transaction, it is now proposed that expenditure would be disallowed if the "aggregate of payments made to one person in a day" exceeds Rs.20,000.

3 Actual Cost for Depreciation

- New explanation inserted in computing actual cost of asset for depreciation for assessee's whose income was not liable to tax due to tax holiday or exemption.

- Actual cost shall be cost of asset (after adjustment of revaluation) less depreciation computed as per income tax act for the period under tax holiday or exemption.

4 Scientific Research Expenditure – Weighted Deduction

- Weighted deduction of 125% is available in respect of amount paid to approved scientific research association, approved university, college or other institution to be used for scientific research.

- With a view to encourage outsourcing of scientific research, it is now proposed to allow weighted deduction of 125% on payment to a company to be used for scientific research, provided

  - The company is registered in India
  - Its main object is scientific research and development
  - It is approved by the prescribed authority in the prescribed manner
  - It fulfils such other conditions as may be prescribed

- The Company will not be eligible to avail of benefit of weighted deduction of 150% available under section 35(2AB)

5 Section 35D – Preliminary Expenditure

- Presently the benefit of this section for expenditure incurred after the commencement of the business is available only to industrial undertaking or industrial unit.

- The benefit is now proposed to be extended to every undertaking or unit.

G Deductions

1 Deposit with Banks or Post Office

- Following investments will also be eligible for deduction u/s 80C

  - Amount deposited under Senior Citizen Saving Scheme Rules, 2004.

- Amount deposited in an account under the Post office Time Deposit Rules 1981 for a minimum period of 5 years.

- Any amount withdrawn from above schemes (including accrued interest unless taxed earlier) before expiry of 5 years from the date of deposit will be taxed as income in the year of withdrawal.

- In the event of death before expiry of five years, the amount received by the nominee (other than interest) will not be included in total income.

- There is no change in the maximum limit of eligible deduction of Rs. 1,00,000/-

2 80-D Medical Insurance Premium

- Presently, deduction of Rs. 15,000 is available for payment of medical insurance premium

    - In case of the individual, for self, spouse, dependent children and dependent parents.
    - In case of HUF, for members of the family.

- It is proposed that:

    - Deduction of Rs. 15,000 is available for the self, spouse and dependent children or family members in case of HUF.
    - An additional deduction of Rs. 15,000/- is available for payment of medical insurance of Parents (whether dependent or not).
    - If the person insured is a senior citizen limit of Rs15,000 to be substituted by Rs. 20,000.

3 Deduction u/s 80IB

Hospitals:

- Presently, 100% profits are eligible for deduction in case of undertaking deriving profits from operating and maintaining hospitals in rural area, provided such hospitals are constructed before 31.03.2008.

- 100% deduction from the profits will be available if:

    - The hospital is located anywhere in India, other than the excluded area

      Excluded area means:

    - Greater Bombay Urban agglomeration
    - Delhi Urban agglomeration
    - Kolkata Urban agglomeration

- Chennai Urban agglomeration
- Hyderabad Urban agglomeration
- Bangalore Urban agglomeration
- Ahmedabad Urban agglomeration
- District of Faridabad
- District of Gurgaon
- District of Gautam udh Nagar
- District of Ghaziabad
- District of Gandhinagar
- City of Secundrabad

- Urban Agglomeration is to be determined on the basis of 2001 census.
- Deduction is available for 5 consecutive assessment years
- The hospital is constructed and starts functioning during 01.04.2008 to 31.03.2013.
- The hospital has at least 100 beds for patients.
- The construction of the hospital is in accordance with the regulation or bye laws of the local authority.

Refining of Mineral Oil:

- No deduction shall be allowed to an undertaking engaged in refining of mineral oil if it begins refining on or after 01.04.2009.

4 DEDUCTION U/S 80ID

Hotels:

- Undertaking engaged in the business of hotels located in the specified district (as mentioned below) having a world heritage site, shall be eligible for 100% deduction for 5 consecutive assessment years if new hotels is of two, three and four stars category is constructed and starts functioning at any time during the period 01.04.2008 to 31.03.2013.

Name of State	Name of district
Assam	Kamrup Goalpara Nagaon
Bihar	Gaya
Goa	North Goa South Goa
Gujarat	Panchmahal
Karnataka	Bellary
Madhya Pradesh	Chhatarpur Raisen Bhopal
Maharashtra	Jalgaon Aurangabad
Orissa	Puri
Rajasthan	Bharatpur

Tamil Nadu	Kancheepuram Thanjavur Nilgiri
Uttar Pradesh	Agra
Uttarakhand	Chamoli
West Bengal	South 24 Parganas West Bengal (excluding areas falling within the Kolkata urban agglomeration on the basis of the 2001 census) Darjeeling

H FRINGE BENEFIT TAX (FBT)

1 HOSPITALITY

- Presently, expenditure on or payment through paid vouchers which are not transferable and usable only at eating joints or outlet are excluded while computing the FBT.
- It is now proposed that expenditure on or payment through pre-paid electronic meal card will also be excluded while computing the FBT.

2 EMPLOYEE WELFARE

- FBT will not leviable on expenditure incurred for:
  - providing crèche facility to the children of the employee.
  - Sponsoring sportsmen who are an employee.
  - Organising sports events for employees.

3 FESTIVAL CELEBRATION

- Expenditure on festival celebration will be chargeable to FBT at 20% instead of 50% at present.

4 GUEST HOUSE EXPENSES

- Guest House Expenses will not be liable to FBT.

5 SWEAT EQUITY / ESOP

- It is now provided that where FBT is paid by the employer on allotment of security or Sweat equity and subsequently recovered from the employee, such recovery of FBT shall be deemed to be tax paid by the employee. However employee shall neither be entitled to any refund nor be entitled to any credit for such tax paid against his tax liability.

- This amendment is proposed in order to enable the employee to claim credit for the FBT in the home country where the employee is resident of a foreign country.

I SECURITIES TRANSACTION TAX (STT)

- There are no changes in the rate of STT.
- Presently, STT in respect of derivatives is payable at the rate of 0.017% of the taxable securities transaction.
- It is now proposed to charge the STT as under:

Taxable Securities Transaction	Proposed
Sale of option in securities, to be paid • On option premium • By seller	0.017%
Sale of option in securities, to be paid • When Option is exercised • On settlement price • By purchaser	0.125%
Sale of futures in securities, to be paid • By seller	0.017%

- The amendments will be applicable from 01.06.2008.

J COMMODITIES TRANSACTION TAX (CTT)

- Applicable from the date to be notified by the Government
- Following are the taxable commodities transaction
  - purchase or sale of option in goods or commodity derivative,
  - any other commodity derivative

Note: The trading should be from recognised associations

- Value of taxable commodity transaction is to be computed as under:

Taxable Commodity Transaction	Rate	Payable by
Sale of an option in goods or commodity derivative	0.017%	Seller on the option premium
Sale of an option in goods or commodity derivative, where option is exercised	0.125%	Purchaser on the settlement price
Sale of any other commodity derivative	0.017%	Seller on the sale price

- Tax to be collected by the Recognised Association.
- Apart from above there are procedure/ compliance aspect which is introduced in the finance bill.

K BANKING CASH TRANSACTION TAX (BCTT)

- BCTT would not be charged after 31.03.2009.

L TAX DEDUCTED AT SOURCE (TDS)

- It is proposed to remove TDS on interest payable on any security issued by a company where such security is in Demat form and is listed on a recognised stock exchange in India in accordance with the Securities Contracts (Regulation) Act, 1956 and any rules made there under.
- It is proposed that w.e.f. from 1 June 2008, AOP or BOI shall be liable to deduct tax at source under works contract.
- It is proposed that any person responsible for deducting tax on payment made to a non-resident or foreign company shall furnish information of such payment in such form and manner as may be prescribed by the Board.

M MISCELLANEOUS

1 CAPITAL GAIN - FOREIGN CURRENCY EXCHANGEABLE BOND (FCEB)

- Conversion of FCEB into shares or debentures of any company not to be treated as transfer for the purpose of capital gain.
- Cost of Shares received on conversion of the bond to be the price at which corresponding bonds were acquired.

2 Reverse Mortgage

- It is clarified that any transaction of reverse mortgage under a notified scheme will not be treated as transfer for the purpose of capital gains tax.

- The borrower will be liable to capital gains tax only at the point of alienation of the mortgaged property by the bank for the purpose of recovering the loan.

3 Definition of Charitable Purpose

- "Advancement of any other object of general public utility" shall not include carrying on of any activity or rendering any services in the nature of trade, commerce or business for any consideration irrespective of the nature of use or application or retention of the income from such activity.

- The amendment is intended to curb the organisations operating on commercial lines claiming exemption of their income.

- The above amendment is intended to overcome certain judicial decisions.

4 Agriculture Income

- Income derived from sapling or seedling grown in a nursery is now treated as Agriculture income.

5 Permanent Account Number (PAN)

- PAN extended to all the transactions in the financial market subject to suitable threshold limit.

6 Recognised Provident Fund

- The time limit for the provident fund to obtain exemption under section 17 of Employees Provident Funds Act has been extended to 31.03.2009.

7 Centralised Processing Return

- The return of income filed by an assessee to be processed and income or loss computed after making the following adjustments:
  - Any arithmetical error.
  - Incorrect claim apparent from any information in the return.
  - Tax payable/refund due to be determined after adjusting TDS, TCS, advance tax, relief for double taxation and rebate.

- The method of processing the return of FBT will be same as above.
- The above provisions to apply from 1st April 2008 i.e. A. Y. 2008-09.

8 Issue of Scrutiny Notice

- The time limit for issue of notice u/s 143(2) is curtailed as under:

Existing period	Proposed period
Within 12 months from the end of the month in which return is furnished	Within 6 months from the end of the financial year in which return is furnished i.e 30th September.

9 Penalty

- Presently officer is required to record his satisfaction before issue of penalty notice.

- It is now proposed that if the assessment order contains a direction for initiation of penalty proceedings then it would be deemed to be a sufficient reason for initiating penalty proceedings.

- This amendment is proposed to be made with retrospective effect from 01.04.1989.

10 Stay of Demand by the Appellate Tribunal

- The aggregate (original and extended) period of stay not to exceed 365 days, even if the delay in disposing of the appeal is not attributable to the assessee.

- The above amendment will be effective from 01.10.2008.

11 Consequences of Non Filing of Appeal by Income Tax Authority

- Central Board of Direct Taxes prescribes monetary limit for filing of appeal.

- In certain cases, Department's appeals were dismissed by judicial authorities as the disputed issues were not agitated by the Department

  - in the case of the same assessee or
  - in the case of any other assessee.

- It is now provided that non filing of such appeal will not preclude the Department to file an appeal or application for reference in the case of

  - same assessee for any other assessment year or
  - any other assessee for the same or any other assessment year.

- The above amendment is proposed to have retrospective effect from 01.04.1999.

12 Power of Commissioner to Grant Immunity from Penalty & Prosecution

- New sections have been introduced enabling the Commissioner to grant immunity from penalty and prosecution subject to fulfilment of certain conditions in cases where proceedings before the Settlement Commission have abated.
- The above amendments will came into effect from 01.04.2008.

13 Notice Deemed to be Valid in Certain Circumstances

- In order to overcome certain judicial decisions, it is proposed that where the tax payer has appeared in any proceeding or cooperated in any inquiry related to assessment or reassessment a valid notice shall be deemed to be served upon the assessee.

14 Block Assessment

- Time limit for revival and completion of block assessment:
    - Provisions have been made for revival of proceedings and time limit for completion of assessments in cases where search has been conducted.

15 Sanction for Issue of Notice

- An explanation has been inserted that the Joint Commissioner, the Commissioner and the Chief Commissioner who is satisfied on the reasons recorded need not issue such notice himself.
- The above explanation will be inserted retrospectively from 1.10.1998
- The above explanation is sought to reverse certain judicial decisions.

II SERVICE TAX

A NO CHANGE IN BASIC SERVICE TAX RATES

B INCREASE IN SERVICE TAX FOR WORKS CONTRACT

- From 2% to 4% of the total value of works contract.

C INCREASE IN THE EXEMPTION LIMIT

- From Rs.8 lacs to Rs.10 lacs w.e.f. 1st April 2008

D NEW SERVICES ADDED

Category of Services	Nature of services included
Asset / Investment Management Service under ULIP	◆ Management of segregated fund (investment) of unit linked insurance products / business (e.g. premium allocation charges, fund switching & surrender charges etc)
Stock Exchange & Commodity Exchange Services	◆ Services in relation to assisting, regulating or controlling the transactions in securities / commodities
Processing and Clearing House Service	◆ Services in relation to processing, clearing & settlement of transactions in securities & commodities
Right to Use Tangible Goods	◆ Transfer of right to use tangible goods (incl. machinery, equipment, appliances) with no legal right of possession and effective control on which no VAT/sales tax is payable.

E CHANGE IN TITLE & EXPANSION

Internet telephony has been re-titled as Internet Telecommunication Services. Earlier taxable services included telecommunication services through internet (including fax, audio / video conferencing). Now the scope of taxable services has been expanded to include

- Internet backbone services
- Internet access services (excluded from 'On-line information & database access or retrieval services)
- Telecommunication services like fax, telephony etc.

F REGROUPING & EXPANSION OF SCOPE - IT SERVICES

Various IT/ITES related Service have been regrouped/ reclassified under "Information Technology (IT) Software Services". The services regrouped are as under:

Services	Earlier Classification
◆ Advice consultancy or technical assistance in the discipline of hardware engineering	◆ Consulting Engineer Service
◆ Procurement and management of IT resources	◆ Management or business consultants Services
◆ Maintenance of hardware and customised/ packaged software	◆ Management, Maintenance and Repair Services
◆ Provision and transfer of information and data processing	◆ Banking & Other Financial Services
◆ Various outsourced IT and IT enabled services	◆ Business Support Services
◆ Services provided on behalf of clients such as call centres	◆ Business Auxiliary Services

Further the scope of taxable services has been expanded to include Development of Customised Software

The definition of IT Software Services as per Finance Bill 2008 is as follows:

- Development, analysis, design & programming of IT software
- Upgradation, implementation & other similar services
- Consultancy including feasibility studies, data security etc.
- Acquiring the right to use IT software for reproducing, distributing & selling & use of software components supplied electronically (digital delivery)

Taxable services should be for business or commerce. The services to individuals for personal use not covered.

G SCOPE OF SERVICES EXPANDED (EXISTING SERVICES)

Category of Services	Nature of services included
Technical Testing and Analysis Service & Technical Inspection and Certification Services	- Services in connection with information technology software included
Foreign Exchange Broker Service	- Purchase and sale of foreign currency (including money changing) by authorised money changer or authorised dealer in foreign currency are now covered - Normal tax in case the consideration is separately mentioned. - If consideration not explicitly mentioned - Service tax is leviable @ 0.25% of the gross amount of currency exchanged
Cargo Handling Services	- Packing, loading and unloading services along with transportation of cargo/goods
Tour Operator Service	- Services in relation to journey in a vehicle having contract carriage permit (tourist vehicle condition done away with) - Vehicles having stage carriage permit and vehicles used by educational bodies not covered
Renting of immovable property	- Clarified that Renting includes permitting the use of space in an immovable property irrespective of transfer of right of possession or control (e.g. placing of vending/dispensing machines in malls, commercial premises & communication towers erected on buildings)
Business Auxiliary service	- Services in relation to promotion/marketing of game of chance such as lottery tickets, bingo, etc including games conducted through internet

H SERVICE TAX IN RESPECT OF ASSOCIATED ENTERPRISES (AE)

Service Tax in case of taxable transactions between associate enterprise (AE as defined under Income Tax Act), would be payable even if the receipt / payment* is pending

** in case of wherein recipient of services is required to pay service tax*

I EXEMPTION W.E.F. 1ST MARCH '08

- Tour Operator services

  To a person outside India, in relation to services in connection to booking of an accommodation in a Hotel in India for a customer, located outside India.

J OTHER SIGNIFICANT AMENDMENTS

- CENVAT Credit Rules 2004

  - Requirement of obtaining declaration from transporters to avail abatement has been dispensed with. Effective 1st March 2008 Service tax on Goods Transport services will be 25% of freight.
  - Benefit of CENVAT credit on Goods Transport Agency tax has been withdrawn
  - Rule 6 is proposed to be amended with effect from 1st April 2008. The existing rule deals with common inputs services/goods for providing taxable as well as exempted services/goods and opting not to maintain separate accounts. The amendment will provide option to:

  i. Reverse the credit attributable to the input services used for providing exempted services (as per norms to be prescribed) or
  ii. Pay 8% or 10% of the value of exempted services or goods as the case may be.

- Service Tax Rules 2004 (Applicable from 1st March 2008)

  - Now assessees not having centralised registration are also allowed to pay service tax in advance.
  - The limit for self adjustment of excess amount of service tax increased from Rs 50,000/- to Rs 1,00,000/-
  - Time Limit to file the revised return increased from 60 to 90 days

- Registration requirement for any provider of taxable service has been enhanced to Rs.9 lacs (from Rs. 7 lacs) of aggregate value of taxable services in a financial year.

- Export/Import of service rules

Revised rules provided for:

Condition	Category of service	Services to which apply
Tangible Goods located in India and services provided from outside India	Import of Services – taxable in the hands of recipient	• management, maintenance or repair • technical testing and analysis • technical inspection and certification
Tangible Goods located outside India and services provided from India	Export of Services – exempt	

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