KOCHHAR & CO.
ADVOCATES & LEGAL CONSULTANTS

INDIA - UNION BUDGET 2009-2010 HIGHLIGHTS

Date: July 2009

Kochhar & Company

Advocates & Legal Consultants

KEY OBJECTIVES

- Sustain a 9% growth rate per annum
- Increase infrastructure investment to more than 9% of GDP by 2014
- Strengthen and improve the Indian economic regulatory framework
- Move towards providing energy security by pursuing an Integrated Energy Policy
- Focus on broadening the opportunities for inclusive development
- Direct tax proposals to be revenue neutral, while indirect taxes are estimated to gain INR 20 billion for a full year

I. FINANCIAL SECTOR

- The threshold for non-promoter public shareholding for all listed companies to be raised in a phased manner.
- Scheduled commercial banks allowed to set up off-site ATMs without prior approval, subject to reporting requirements.

II. TAX PROPOSALS

- The Authority for Advance Rulings for Direct and for Indirect Taxes to be merged by amending the relevant statutes.
- Having reached a consensus on the introduction of Goods and Services Tax (GST), the Centre and the States will each legislate, levy and administer the Central GST and State GSTs respectively with effect from April 1, 2010.

DIRECT TAXES

- **Corporate Tax Rates:** No change has been made in the corporate tax rates.

TAX PROPOSALS contd.

- **Personal Tax Rates:** Exemption limits on personal income tax has been raised in the following manner: -

Category of taxpayer	Exemption limit
Senior citizens (above 65 years of age)	INR 240,000/-[1]
Women	INR 190,000/-[2]
All other categories	INR 160,000/-[3]

- Surcharge on all direct taxes to be phased out. In the first phase, surcharge of 10% on personal income tax has been scrapped.

- *Fringe Benefit Tax (FBT):* FBT on the value of certain fringe benefits provided by employers to their employees to be abolished. This will be beneficial for companies and salaried employees.

- *Minimum Alternate Tax (MAT):* The rate of MAT, payable by companies on their book profits, to be increased to 15% of book profits. The period allowed for carrying forward tax credits under MAT to be extended from 7 (seven) years to 10 (ten) years.

- *Commodity Transaction Tax (CTT):* CTT levied on taxable commodities transactions entered by recognized associations to be abolished.

OTHERS:

- Tax holiday enjoyed by STPs, Free Trade Zones, EOUs to be extended by 1 (one) more year, up to March 31, 2011.

- The weighted deduction of 150% available for expenditure incurred on in-house scientific research and development facility has been extended to all manufacturing companies with a few specified exceptions.

[1] Increased by INR 15,000/- from previous Fiscal Year
[2] Increased by INR 10,000/- from previous Fiscal Year
[3] Increased by INR 10,000/- from previous Fiscal Year

TAX PROPOSALS contd.

- All entities to furnish their PAN to the Income Tax authorities for deduction of income tax at a lower rate. As such, now all non-residents receiving taxable income from India will be required to obtain PAN.

- Emphasis given on providing investment linked tax incentives over profit linked incentives. Such incentives to be made available to businesses of setting up and operating ‘cold chains’, warehousing facilities for storing agricultural produce, laying and operating cross country natural gas, crude or petroleum oil pipeline network for distribution on common carrier principle. All capital expenditure, other than expenditure on land, goodwill and financial instruments, to be fully allowable as deduction under the new scheme.

- The income of New Pension Scheme trusts to be exempted from income tax. Dividend paid to such trusts to be exempt from Dividend Distribution Tax and purchase or sale of equity shares and derivatives by such trusts to be exempt from Securities Transaction Tax.

- Limited Liability Partnership (LLP) has been accorded the same tax treatment as a general partnership firm, i.e., the LLP to be taxed and the partners to be exempt from tax.

- Alternative Dispute Resolution mechanism to be introduced for resolving transfer pricing disputes. Central Board of Direct Taxes (CBDT) to formulate ‘safe harbour’ rules to reduce the impact of judgmental errors in determining transfer price in international transactions.

- Tax holiday of 7 (seven) years already available for petroleum sector, granting 100% deduction on profits, now to be extended to the natural gas sector.

TAX PROPOSALS contd.

- ***INDIRECT TAXES***

i. *Service Tax:*

- The service tax rate remains the same, at 10% (plus an education cess of 3%). The following new services have been included:
- Transport of coastal cargo, goods by rail and inland waterways (including National Waterways). This is not likely to impact the prices of essential commodities or goods for mass consumption, as suitable exemptions are expected to be provided.
- Cosmetic and plastic surgery.
- Advice, consultancy or technical assistance provided by legal consultancy firms. Individuals providing such services not included in the tax net.

Exemptions:

- The following services shall be exempt from service tax: Inter-bank purchase and sale of foreign currency between scheduled banks.
- 'Transport of goods through road' and 'Commission paid to foreign agents' to be exempted, if service tax is liable to be paid on a reverse charge basis. Therefore, the exporter need not pay the tax and then claim refund for the aforesaid services. However, the cap of 10% on commission agency has been retained and the exporter is to pay service tax on the amount of commission that exceeds 10%.

ii. *Customs duty:*

- ***Withdrawal of exemption:*** Exemption from application of customs duty to be withdrawn in the following cases:
- CVD exemption on Aerial Passenger Ropeway Projects
- Concrete batching plants of capacity 50 cum per hour or more. Such plants to attract customs duty of 7.5%.

CVD exemption:

- Packaged or canned software to be exempted from CVD. Exemption to be available only on such portion of consideration paid for transfer of the right to use such software, subject to specified conditions.

TAX PROPOSALS contd.

iii. Excise Duty:

Enhancement of duty: Central excise duty rates of items currently attracting 4% to be enhanced to 8%, with the following major exceptions:

- Food items
- Drugs, pharmaceuticals and medical equipment
- Paper, paperboard and their articles
- Items of mass consumption such as pressure cookers, cheaper electric bulbs, low-priced footwear, water filters / purifiers, compact fluorescent lamps, etc.
- Power driven pumps for handling water
- Paraxylene

Reduction in duty: Excise duty to be reduced on petrol driven trucks from 20% to 8%.

Exemptions:

- The following goods to be fully exempt from payment of excise duty:
- Petro-diesel blended with bio-diesel
- Value attributable to the transfer of the right to use packaged software
- Goods manufactured at the construction site, including pre-fabricated concrete slabs or blocks, when used for further construction at site
- Branded jewelers

OTHER PROPOSALS

III. INFRASTRUCTURE MEASURES

Financing of infrastructure projects

- India Infrastructure Finance Company Limited ("**IIFCL**") to evolve a 'takeout financing scheme' in consultation with banks to facilitate increased long term lending in infrastructure. The scheme will involve different banks coming together to take over a particular loan portfolio in turns.
- IIFCL to refinance 60% of commercial bank loans for public private partnership (PPP) projects in key sectors over the next 15 (fifteen) to 18 (eighteen) months.
- IIFCL and banks will have a capacity to support projects involving a total investment of INR 1 trillion (USD 20.83 billion).

Allocation of funds to Highways and Railways

- Allocation to National Highways Authority of India ("**NHAI**") for National Highway Development Programme (NHDP) increased by 23%.
- Allocation for Railways hiked to INR 158 billion (USD 3.29 billion) from the earlier estimate of INR 108 billion (USD 2.25 billion).

Power and Gas

- Allocation under Accelerated Power Development and Reform Programme (APDRP) increased by 160% to Rs.20.80 billion (USD 433 million).
- Blueprint for development of National Gas Grid through long distance gas pipelines to facilitate cross-country transportation of gas.

IV. EXPORT GROWTH

- INR 40 billion (USD 833 million) to be provided as special fund out of Rural Infrastructure Development Fund (RIDF) to Small Industries Development Bank of India (SIDBI). This will facilitate flow of credit at reasonable rates to Micro and Small Enterprises (MSEs) by allowing banks and State Finance Corporations (SFCs) to refinance 50% of incremental lending to MSEs during the current financial year.

IV. PETROLEUM AND DIESEL PRICING

- Government to set up an expert panel for advising on a viable and sustainable system of pricing petroleum products.

V. PUBLIC SECTOR UNDERTAKINGS (PSUs)

- People's participation in the disinvestment programme of PSUs to be encouraged, while the government retains its 51% equity.
- No privatization of existing public sector enterprises such as banks and insurance companies.

VI. COMMONWEALTH GAMES

- Allocation of INR 34.72 billion (USD 723.3 million) (increased from INR 21.12 billion (USD 440 million) over Interim Budget 2009-2010) for the Commonwealth Games. Expected to be beneficial for the hotel industry.

VII. DELIVERY OF PUBLIC SERVICES

- For the first time, all Indian residents to be given Unique Identification Numbers (UIN), to be rolled out within 12 – 18 months.
- Allocation of INR 1.20 billion (USD 25 million) to Unique Identification Authority of India (UIDAI) to set up online data base with identity and biometric details of Indian.

VIII. RURAL DEVELOPMENT

- Allocation of INR 391 billion (USD 8.145 billion) (increase of 144% over the Budget Estimate 2008-2009) under the National Rural Employment Guarantee Act, 2006 (NREGA) for rural development.

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