



Budget 2009 Snapshot

Specific proposals for IT / ITES sector

Industry Overview

- Industry size pegged at USD 60 bn
- Despite global economic slowdown, Indian IT / ITES sector continues its growth trajectory at CAGR of 14%
- 5.8% share in GDP
- Highest employment generator in the Indian service industry

Key Developments

- Obama speaks – “say no to Bangalore and yes to Buffalo” – apprehensions in IT / ITES sector
- Outright service tax exemption restored for SEZ units with respect to input services wholly consumed within SEZ; however refund mechanism to be followed with respect to other services
- Government has clarified that services rendered by BPOs in India will qualify as exports if benefits accrue to the service recipient outside India

Budget Wish list

Income Tax :

- Extension of tax holiday for exports by STPI /EOU units beyond March 31, 2010.
- Profits of STPI / EOU units should be exempt from MAT.
- Eliminate anomaly in formula prescribed for computing deduction under Section 10AA for SEZ units.
- Roll back of FBT, especially in relation to ESOPs. Further the benefit of lower FBT on conveyance and hotel expenses available to the IT industry should be extended to the ITES industry also.
- Demystify issues surrounding computation of deduction u/s 10A / 10B such as set-off of losses of other units against STP unit, set-off of brought forward losses, etc; exclusion of certain items from 'Total Turnover' which are required to be excluded from 'Export Turnover'; eligibility of the tax holiday on interest income / foreign exchange gains; availability of the tax holiday to units post slump sale thereof, etc.
- Clarification to the effect that payment for packaged software should not be subject to tax withholding as royalty.
- Introduce Advance Pricing Mechanism to mitigate litigation on transfer pricing adjustments.

Budget - Proposed Amendments

Income Tax – Industry Specific Proposals

- ☺ Tax holiday for exports by STPI / EOU units to be extended by one year, i.e. upto March 2011
- ☹ Effective rate of MAT increased from 11.33% to 17%; carry forward of MAT credit enhanced from 7 to 10 years
- ☺ Removal of anomaly in the formula for computing deduction under Section 10AA; deduction to be computed with reference to total turnover of the undertaking; amendment to take effect from AY 2010-11
- ☺ FBT abolished (including on ESOPs); fringe benefits / perquisites now taxable in employee's hand, including ESOPs taxable upon allotment of shares
- ☹ No deduction to be allowed under Section 10A/10AA/10B with retrospective effect from AY 2003-04, if no deduction has been claimed in the tax return

Income Tax – Other Important Proposals

- ☺ New direct tax code to be released for public comments in 45 days
- ☺ No change in Corporate tax rate
- ☺ Exemption limit for individuals enhanced by Rs.10,000 / Rs.15,000. Surcharge on personal tax waived
- ☺ CBDT empowered to formulate 'safe harbor' rules*
- ☺ Alternative dispute resolution mechanism introduced for foreign companies and for Transfer Pricing adjustments
- ☺ Introduction of tax regime for LLPs. Income taxable in LLP's hands; exempt in the hands of Partners
- ☺ Withholding tax on use of equipment reduced from 10% to 2% and on use of land & building from 20%/ 15% to 10% (excluding surcharge & cess)
- ☺ Wealth tax exemption limit doubled to Rs 30 lakhs

** Safe harbour rule means circumstances in which Tax Authorities shall accept transfer prices declared by the taxpayer*

Budget Wish list

Indirect Tax :

- Additional customs duty / excise duty on software should be withdrawn.
- Clarification on characterization of packaged software that it shall not be treated as a “service” exigible to service tax.
- Outright exemption from service tax on all services availed by SEZ / STP / EOU Units (instead of collection and subsequent refund) to avoid procedural hassles and delays.
- Inclusion of “Information Technology Software Service” in the list of common services on which full CENVAT credit of service tax paid is available.

Budget - Proposed Amendments

Indirect Tax – Industry Specific Proposals

- ☺ Excise duty / CVD exemption on the portion of value representing the consideration for transfer of the right-to-use packaged or canned software
- ☺ In context to Information Technology Software Service, the word ‘acquiring’ has been replaced with ‘providing’ in relation to right-to-use of software

Indirect Tax – Other Important Proposals

- ☺ Median rate of BCD and excise duty maintained at 10% and 8.24% with some exceptions
- ☺ Median rate of service tax maintained at 10.30%
- ☺ Aggregate rate of customs duty remained unchanged at 24.42%
- ☺ Service providers providing taxable and exempt services, now have the option to pay at reduced rate of 6 percent of the value of exempt service (earlier it was 8%)

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