



Budget 2009 Snapshot

Specific proposals for Telecom sector

Industry Overview

- Industry size pegged at USD 24 bn
- Industry growing at CAGR of 21%
- Subscriber base ~ 452 mn; Tele density of ~ 39%
- Year-on-Year increase in subscriber base of 50% witnessed in 2008

Key Developments

- 3G Spectrum auction expected in August 2009 – reserve price of Rs. 4,040 crores (USD 840 mn)
- MNP guidelines rolled out – operations to kick start from September 2009
- IPTV guidelines introduced – convergence in the form of “triple play” now possible
- Super regulator for ‘Spectrum’ may be established
- MVNO guidelines on the anvil

Budget Wish list

Income Tax :

- Tax holiday under Section 80IA should be re-introduced for new telecom players. Further, allow 100% deduction for 10 successive years out of a block of 20 years.
- Benefits of Section 80IA should be restored vis-à-vis undertakings of companies undergoing amalgamation or demerger after March 31, 2007.
- To provide clarification to the effect that bandwidth charges do not constitute Royalty or FTS thus putting an end to the protracted litigation on the issue.
- Clarification on taxability (i.e. nature of income in the year of taxability) of lumpsum payments received for Indefeasible Right to Use bandwidth / dark fibre and also the tax deductibility of such payments in the hands of payers.
- Clarity on deductibility of lumpsum fee payable for acquisition of right to use spectrum for 3G services

Indirect Tax :

- Rationalization of multifarious taxes / levies including service tax, license fees, spectrum charges into a unified levy and reduction in the overall rate of such taxes / levies
- Sale of SIM cards should be exempted from Service Tax since it is also exigible to VAT
- Introduction of specific provisions allowing setoff of service tax liability against the excise duty on telecom equipments (e.g. towers, routers, modems, etc.), which are typically installed 'outside' company's premises
- National Calamity Contingent Duty / Special Additional Duty imposed on Mobile handsets should be withdrawn
- Special Additional Duty of customs on Telecom products should be allowed as a set-off against the output service tax liability
- Custom duty for import of optic fibre cables should be withdrawn

Budget - Proposed Amendments

Income Tax – Industry Specific Provisions

- ⊗ There are no income tax budget proposals specific to telecom sector

Income Tax – Other Important Provisions

- ☺ 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.
- ☺ FBT abolished. Fringe benefits/perquisites now taxable in employees' hands.
- ☺ CBDT empowered to formulate 'safe harbor' rules*
- ☺ Alternative dispute resolution mechanism introduced for Foreign companies & for Transfer Pricing adjustments.
- ⊗ Effective rate of MAT increased from 11.33% to 17%; carry forward of MAT credit enhanced from 7 to 10 years.
- ☺ 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.

Indirect Tax – Industry Specific Provisions

- ☺ Special additional duty (equivalent to sales tax) on import of parts used for manufacture of mobile phone exempted upto July 6, 2010

Indirect Tax – Other Important Provisions

- ☺ Median rate of basic customs duty 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%).

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

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