



(An inhouse weekly newsletter for private circulation)  
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**FROM EDITOR'S DESK**



Dear Readers,

The much awaited Union Budget 2010 was announced in Parliament today by Finance Minister, Mr Pranab Mukerjee. Government shall implement Direct Tax Code (DTC) and Goods and Service Tax (GST) from April 1, 2011 .

However, the most dangerous change is the retrospective amendment from 1.6.2007 in case of renting of immovable property, defying the Delhi High Court order granting stay on levy of service tax on renting of commercial property. Thus, assesseees will also have to pay interest and penalty for earlier period. This is certainly not fair and is misuse of constitutional power. At the same time, it also leads to making a mockery of our judicial and legislative system.

This budget special issue covers highlights of Union budget relating to service tax and notifications issued today.

Date: 26.02.2010

- Dr. Sanjiv Agarwal

# **HIGHLIGHTS OF BUDGET PROPOSALS RELATING TO SERVICE TAX**

## **1. EIGHT NEW SERVICES TO BE INTRODUCED**

Following eight new services are proposed to be introduced:

- ✓ Services of promoting, marketing or organizing of games of chance, including lottery [Section 65 (105) (zzzzn)].
- ✓ Health services, namely, health check up undertaken by hospitals or medical establishments for the employees of business entities; and health services provided under health insurance schemes offered by insurance companies.[Section 65 (105) (zzzzo)]
- ✓ Services provided for maintenance of medical records of employees of a business entity [Section 65 (105) (zzzpz)].
- ✓ Services of promoting of a 'brand' of goods, services, events, business entity etc [Section 65 (105) (zzzqq)].
- ✓ Services of permitting commercial use or exploitation of any event organized by a person or organization [Section 65 (105) (zzzqr)].
- ✓ Services provided by Electricity Exchanges [Section 65 (105) (zzzqs)].
- ✓ Services related to two types of copyrights hitherto not covered under existing taxable service 'Intellectual Property Right (IPR)', namely, those on (a) cinematographic films; and (b) sound recording [Section 65 (105) (zzzqt)].
- ✓ Special services provided by a builder etc. to the prospective buyers such as providing preferential location or external or internal development of complexes on extra charges [Section 65 (105) (zzzqu)].

[The tax on these services would come into effect from a notified date after the enactment of the Finance Bill, 2010.]

## **2. ALTERATION OR EXPANSION IN THE SCOPE OF EXISTING SERVICES**

Service	Amendment/Effect
Air Passenger Transport Service [section 65(105) (zzzo)]	<p>Is being expanded to include domestic journeys, and international journeys in any class.</p> <p>Remarks: International journey in other than economy classes are already subjected to service tax. Now all domestic &amp; International Journeys by all class are subjected to service tax.</p>
Information Technology Software Service [section 65 (105) (zzzze)]	<p>Presently the taxable service is subjected to tax only in cases where such IT software is used for furtherance of business or commerce. The scope of the taxable service is being expanded to tax such service even if the service provided is used for purposes other than business or commerce.</p>
'Commercial Training or Coaching Service' [section 65 (105) (zzc)]	<p>An Explanation is being added in the definition of the taxable service to clarify that the term 'commercial' appearing in the relevant definitions, only means that such training or coaching is being provided for a consideration, whether or not such training or coaching is conducted with a profit motive. This change is being given retrospective effect from 01.07.2003.</p> <p>Remarks: This change is aimed to include all training or coaching centre within the purview of service tax, irrespective of their motive. Further, retrospective amendment will unsettle the settled cases.</p>
'Sponsorship Service' [section 65 (105) (zzzn)],	<p>In the definition of the taxable service the exclusion relating to sponsorship pertaining to sports is being removed.</p>
'Construction of Complex service' [section 65 (105) (zzzh)], and 'Commercial or industrial construction service' [section 65 (105) (zzq)],	<p>In the definition of the taxable services it is being provided that unless the entire consideration for the property is paid after the completion of construction (i.e. after issuance of completion certificate by the competent authority), the activity of construction would be deemed to be a taxable service provided by the builder/promoter/developer to the prospective buyer and the service tax would be charged accordingly.</p> <p>Remarks: This seems to be most significant change in service tax this budget. This amendment is aimed to bring within the purview of service tax all the payments received by the builder/promoter/developer from the intended buyer of property before, during or after the construction of the property irrespective of nature of agreement. Only exception is purely sale of property after completion of construction on payment of entire consideration.</p>
'Renting of immovable property' [section 65 (105) (zzzz)]	<p>Amendments are being made in the definition of the taxable service to,-</p> <p>(i) provide explicitly that the activity of 'renting' itself is a taxable service.</p> <p>This change is being given retrospective effect from 01.06.2007; and</p> <p>(ii) provide that renting of vacant land, where the agreement or contract between the lessor and lessee provides for undertaking construction of buildings or structures on such land for furtherance of business or commerce during the tenure of the lease, shall be subjected to service tax.</p> <p>Remarks: The purpose of this amendment is to over come the effect of judgment of Delhi High Court holding the services of 'Renting of Immovable Property' as ultra vires the law. Retrospective effect is being given to the provision to ensure no loss of revenue.</p>
'Airport Services' [section 65(105) (zzm)], the 'Port Services' [section 65 (105) (zn)] and the 'Other Port Services' [section 65 (105) (zsl)]	<p>The definitions of the taxable services are being amended to provide that,-</p> <p>(a) all services provided entirely within the airport/port premises would fall under these services; and</p> <p>(b) an authorization from the airport/port authority would not be a precondition for taxing these services.</p>

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*and*  
**GOODS & SERVICE TAX**

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