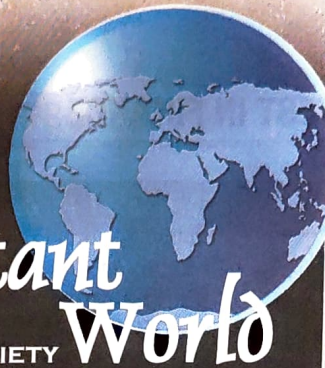


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EDITORIAL VINOD JAIN*

DIRECTIONLESS BUDGET 2006-2007

IMPOSITION OF SERVICE TAX ON CHARTERED ACCOUNTANTS – A PARTIAL TREATMENT



Mr. P. Chidambaram, Finance Minister, Government of India presented the Union Budget 2006-2007 in the Parliament on 28th February, 2006.

There are neither major policy

announcements nor any major initiative announced by the Government. Out of the total receipts of Rs. 5.6 lac crore a sum of Rs. 4.88 lac crore is proposed to spent on revenue account and non-plan expenditure and only a sum of Rs. 0.3 lac crore is proposed to be spent on plan expenditure – capital account. A substantial payment is going towards interest, re-payment of borrowings and cost of running the Government. There are no efforts on the part of the Government to reduce its expenditure.

Bharat Nirman

The Finance Minister had announced a Mega Plan for irrigation, roads, houses, drinking water, electricity and telephone in the 2005 budget. No significant progress has been made in last one year. A meager allocation of Rs. 18,696 crore has been made in 2006-2007 for the above, out of which more than 80% is going to be spent on revenue administrative expenses and is not going to create assets.

Agricultural Growth

A poor growth level of 2.3% in agricultural sector in 2005-2006 is a matter of major concern. No major or minor initiative has been implemented to achieve real growth for agriculturists, unless the rural India grows and prosper, we cannot achieve the

dream of 10-11% growth. Will inclusive growth remain only an agenda or action will be taken?

Employment

The unemployment position is worsening and the Rural Employment Guarantee Scheme announced by the Government is only a pilot project. Concrete steps are required to be taken for increasing employment opportunity. **The announcement to train unemployed youths to fill up Income Tax Returns with a view to create employment is only eyewash.** Even at present Commerce Graduates can enroll themselves as Income Tax Practitioners. In addition, world class cost effective services are available from chartered accountants and other professionals for this complex branch of law.

Scarcity of Power

Power shortage is projected as about 2,00,000 MW by the year 2011. The proposed Government projects are only for 39,000 MW out of which only 15,000 MW is expected to be on stream by 31st March 2007. **The latest Nuclear Pact** with the US Government for supply of raw material for generation of nuclear power is in the right direction. However, our sovereignty as a Nation cannot be and should not be compromised. The Government needs to issue a white paper on this.

Other Important Areas

No major actions are proposed for ensuring availability of adequate water in India for drinking as well as for irrigation. The repair of some Water Bodies is not enough. **The Government has also failed to keep its promise to reduce Central Sales Tax from 4% to 2% with effect from 1st April 2006.**

Service Tax

The rates have been increased from 10% to 12%. Besides adding a large number of additional services, exemptions have been withdrawn from various services.

The Finance Minister has subjected the Chartered Accountants to a major blow by withdrawing exemption from Service Tax from non-audit non-accounting services being rendered by Chartered Accountants. **Henceforth with effect from 1st March, 2006 all services being rendered by Chartered Accountants will be subject to service tax at 12% plus Education Cess.**

We hereby appeal to the Finance Minister as well as Dr. Manmohan Singh, Hon'ble Prime Minister as well as Ms. Sonia Gandhi, Chairperson of UPA to reconsider this decision.

It may be noted that in tax advisory and tax representation services, Chartered Accountants compete with lawyers and other entities that will not pay any service tax for the similar services for which Chartered Accountants will be required to

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1.0 NON-DEPOSIT TAKING NBFCs UNDER RBI LENS

The Reserve Bank of India (RBI) is planning to announce a regulatory framework to govern the relationship between Non Banking Financial Companies (NBFCs) which do not accept public deposits and banks. At present, RBI has no control over such bodies that are into private banking activities and wealth management advisory services since they do not accept deposits from the public.

RBI is concerned about these entities exposure to the stock market as they are raising resources from other banks and financial institutions and diverting to the stock market.

2.0 NEW INSURANCE COVER FOR EXPORTERS

From March 2006, Indian exporters will get an insurance cover for long-term exports similar to the one their counter-parts in the US, Australia etc. The Commerce Ministry has moved to create a National Export Insurance Account (NEIA) with a corpus of Rs. 2,000 crore to provide credit risk cover for medium and long-term exports. The insurance fund, will be maintained and operated by a public trust, to be set up jointly by the Department of Commerce and the Export Credit Guarantee Corporation (ECGC).

3.0 INTEREST RATES ON NRI DEPOSITS

The Reserve Bank of India (RBI) has tightened norms for banks fixing the interest rates on Non Resident Indians (NRI) deposits. RBI has decided that in order to ensure uniformity and transparency, Foreign Exchange Dealers' Association of India (Fedai) would quote/display the Libor/swap rates, which will be used by banks in arriving at the interest rates on NRI deposits.

4.0 IOB TO BUY BhOB

Public Sector Indian Overseas Bank (IOB) recently announced that it would acquire 70 per cent stake in Bharat Overseas Bank (BhOB) for about Rs. 170 crore. IOB already owns 30 per cent of BhOB.

5.0 BANKS FAVOUR SECTOR-SPECIFIC PLRs

The Banking industry is in favour of sector-specific Prime Lending Rates (PLR) in place of benchmark PLR and has identified five business segments which can have their own PLRs. They are retail, agriculture, small and medium enterprises, corporate business and infrastructure. Bankers are of the opinion that linking all lending rates to a single rate is unfair and unviable.

6.0 SARFAESI HELPS TO RECOVER DUD HOME LOANS

Banks and housing finance companies have begun using the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (Sarfaesi Act) to force home loan defaulters to pay up. During the last one year, LIC Housing Finance has sent 7,039 notices to recover Rs. 293 crore from defaulters. Similarly, ICICI Bank, HDFC have sent a few hundred notices to recover the loans.

Sarfaesi Act is very effective in the difficult cases where the notices under section 138 of the Negotiable Instruments Act for cheque bouncing do not serve the purpose.

7.0 LOWER STAMP DUTY ON LOAN DEALS

The Maharashtra Government has recently decided to reduce stamp duty on all loan agreements to 0.1 per cent from 0.25 per cent it had prescribed earlier.

8.0 SC REJECTS STANCHART APPEAL

In a recent ruling the Supreme Court (SC) has upheld the validity of Sections 50 and 51 of the Foreign Exchange Regulation Act and held that Standard Chartered Bank (SCB) and its officers have to face Enforcement Directorate notices which could impose fine on them. The court held that SCB, did not enjoy any immunity from prosecution in respect of offences for which a mandatory punishment of imprisonment is prescribed.

9.0 BANKS' EXPOSURE TO REAL ESTATE SECTOR

RBI has recently advised all the banks that while appraising loan proposals involving real estate, banks should ensure that the borrowers should have obtained prior permission from Government /Local Governments/other Statutory Authorities for the project, wherever required. RBI further directed the proposals could be sanctioned in normal course, but the disbursements should be made only after the borrower has obtained requisite clearances from the Government Authorities.

(Source: RBI/2005-06/310 dt. 1.3.2006)

10.0 BANKS, PDs ALLOWED TO SHORT-SELL G-SECS

The Reserve Bank of India (RBI) has allowed banks and Primary Dealers (PDs) to short-sell Government Securities (G-Secs). The RBI has clarified that banks and primary dealers may undertake outright sale of Government securities that they do not own, provided the G-Secs are covered by outright purchase from the secondary market on the same trading day. RBI has further clarified that intra day short sale transactions and covering of a short position should be carried out only on the Negotiated Dealing System - Order Matching (NDS-OM) Platform.

(Source: RBI/2005-06/309 dt. 28.2.2006)

11.0 CONTROL MECHANISM FOR EXPORT CREDIT

The Reserve Bank of India (RBI) has recently asked banks to put in place a control and reporting mechanism for disposing of the applications for export credit within a prescribed time frame. RBI has said that while processing the applications for export credit, banks should raise all queries in one shot and should avoid piecemeal queries in order to avoid delays in sanctioning credit.

The RBI has also permitted banks to extend export credit at interest rates lesser than the prescribed ceiling rates, taking into account their cost of funds, margin requirements, risk perception etc.

It further directed Banks to give priority for the foreign currency export credit requirements of exporters over non export borrowers.



E-GOVERNANCE MCA 21 PROJECT

GUIDELINES ON E – GOVERNANCE MCA 21 PROJECT - Company Law Forms E-Filing

The Ministry of Company Affairs (MCA) has recently launched its e-governance MCA21 Project by commencing the process of e-filing of company documents with the office of Registrar of Companies (ROC), Coimbatore and by the end of April, 2006, all ROC offices in the country will be accepting Company documents in e-form only. The process will go on air in Delhi on 18th March 2006. The e-filing will be the only mode for filing of documents with the Registrar of Companies.

E-FORMS

MCA has notified new E-Forms. Accordingly, since 27.2.2006 the statutory filing in the office of ROC, is done in the new notified e-forms only. The notified e-forms shall have to be filed whether filed electronically or in physical mode until the electronic filing is made mandatory.

CERTIFICATION OF E-FORMS

Certification of Company documents by practising professionals has been extended to several other forms comprising of Form Nos. 2, 3, 5, 8, 10, 17, 18, 23, 24AB, 32. This pre-certification can be carried out by Company Secretaries in whole-time practice as well as by Chartered Accountants and Cost Accountants in practice.

DIRECTOR IDENTIFICATION NUMBER (DIN)

All existing and new directors will now require the DIN. No fee is required to be paid for the same. To get the DIN an online application is to be filled which is available on www.mca.gov.in. A provisional DIN will be issued after online filing. Thereafter, the printed application form of DIN along with all the necessary attachments as required will be submitted in the RD office (Regional Director) at Noida. The RD office at Noida will issue the DIN. DIN once obtained need not be cancelled. The DIN will remain with the individual only.

COMPANY IDENTIFICATION NUMBER (CIN)

CIN of the company can be obtained from the MCA website: www.mca.gov.in by mentioning the company name.

DIGITAL SIGNATURE CERTIFICATE (DSC)

All the signatories of a company including Directors, Company Secretary in employment authorized to sign the various forms to be filed with ROC, RD or MCA are required to obtain DSC. Practising Company Secretary certifying e-forms also has to obtain his individual digital signature certificate. The Digital signatures can be obtained from the various agencies duly authorised by the Government.

INFRASTRUCTURE FOR E-FILING

The pre-requisite for using the portal MCA 21 viz. www.mca.gov.in are: P-4 Computer with printer; Internet Explorer 6.0 ver; Adobe Acrobat Reader 7.05 ver and Digital Signature Certificate.

PAYMENT GATEWAY

A total of two hundred branches of five banks SBI, PNB, Indian Bank, ICICI and HDFC Bank have been authorized to collect MCA payment. The two possible ways of making payments are:

1. Credit Card/Internet Banking

In this method, the computer of the authorized bank will carry forward the transaction to completion. Banks may levy additional charges for providing this facility to be borne by the Company. System will generate a receipt that can be retained as a part of records.

2. Challan Payment

In this method, a challan will be generated by the system that can be printed and deposited at nearest authorized branch either in cash or through a local cheque or DD. The acknowledged copy of the challan will serve as your receipt.

PHYSICAL FRONT OFFICE (PFO)

Facilitation Centres, also known as Physical Front Offices (PFOs) at 53 places throughout the country are being set up in order to provide assistance in e-filing to the stakeholders who do not have access to a computer system.

THE E-PROCESS

The five step procedure to complete the process of filing of any document through e-filing are:

Step 1: Register Yourself

Registration is a simple, one-time process where guidance is available to you in the MCA21 portal to create users personalized login ID – this is to ensure security. If you possess a Digital Signature Certificate (DSC) and if you intend to sign the e-forms as an authorized signatory, you will need to also register your DSC.

Step 2: Download e-Form

E-Forms are freely downloadable and are in the 'PDF' format.

Step 3: Complete e-Form

ONLINE/OFFLINE:

You may choose to fill-in an e-Form either online or offline. Online form filling will need you to keep your Internet connection active. Offline form filling can be done without staying connected.

PRE-FILL/PRE-SCRUTINY OPTION

As a part of the simplification of form-filling, certain fields can be filled-up automatically by the System (to the extent such data is available in the database of MCA) by selecting the "pre-fill" option that is available in the form.

Pre-Scrutiny option ensures that e-Form is complete in all respects and good for filing.

SUPPORTING DOCUMENTS

You may also attach supporting documents, where applicable, but please make sure that these are also in PDF format.

SIGNATURES

- Sign the e-form using the Digital Signature Certificate. Multiple signatures can be applied on a given e-form. After all individuals have digitally signed the form, it is ready for submission.

Step 4: Submit e-Form

- You will need to be connected to the Internet if you want to carry out e-filing
- Submission of e-Form will generally take a couple of minutes
- If the e-form is defective (may be because of incorrect data entry or missing information or invalid Digital Signature Certificates), it will be rejected and returned to the user with clear details of the nature of the defect.
- The copy of the document that has been submitted remains in your possession and you may retain this as a part of your records.

Step 5: Make Payment

AUTOMATIC FEE CALCULATION

- Fee calculation will be done automatically by the system and will be displayed to the user.
- The fees can be paid using any of the two methods as explained earlier.

COMPLETION OF E-FILING

- E-Filing will only be complete once the necessary payment is remitted either through electronic payment means or through the challan based method.
- The challan number that is printed on the challan or the computer generated receipt will be helpful for future referencing of your service request.

HIGHLIGHTS OF UNION BUDGET - 2006

INCOME TAX

- No Changes in Income Tax Rates for Individuals / Corporates.
- 1/6 Scheme for filing of Tax Returns removed.
- Assessing Officer may suo-moto allot PAN to any person (as per rules to be prescribed by CBDT).

Minimum Alternate Tax (MAT)

- Rate of MAT enhanced from 7.5% to 10% of the Book Profits.
- Credit of MAT paid can be claimed over seven assessment years instead of five years at present.
- Book profits to be increased by the depreciation on revaluation of assets, as debited to P&L Account, for the purpose of calculation of MAT.
- Long term capital gain arising out of securities to be included in calculating Book Profits for the purpose of MAT.
- Credit for payment of MAT and foreign taxes paid, shall be allowed while computing the interest under sections 234A, 234B and 234C.

Deductions/Exemptions Removed

- Interest payable to Financial Institutions / Banks and converted in loans will not qualify for deduction u/s 43B, amended retrospectively w.e.f. 1.4.1989.
- Deduction u/s 54EC restricted to investments in bonds issued by National Highway Authority of India and Rural Electrification Corporation.
- Section 54ED granting deduction from tax on long term capital gains on sale of listed securities and units of mutual funds has been removed.
- Deduction u/s 80P removed for the Co-operative Banks.

- New Section 115BBC introduced for taxing the anonymous donations received by the educational, medical trusts other than the religious / charitable trusts @ 30%.
- Tax paid in a country outside India, not allowed as deduction u/s 40, however, relief available u/s 90/90A.

Deduction/Exemptions Scope Widened

- Investment in Fixed Deposits with Banks for a period exceeding 5 years eligible for exemption u/s 80C, up to a limit of Rs. 1 Lac.
- Ceiling of Rs. 10000/- on contribution to pension funds removed and combined with investments u/s 80C.
- Constituency allowance exempted for all MLAs – to be treated at par with MPs.
- Period of entering into agreement for exemption of aircraft lease rentals extended by another year.
- Date of commencement of operations extended to March 31, 2009 in case of setting up of Industrial Parks and March 31, 2010 in case of power generation and distributions entities for the purpose of claiming deduction u/s 80-IA.

TDS/TCS

- Provision regarding non-submission of TDS/TCS certificate along with income tax return deferred for another year.
- Penalty to be levied for failure to collect tax at source (on scrap, timber, etc.)
- Consequent to quarterly filing of TDS/TCS statements, now there would be no requirement of filing annual TDS/TCS return (effective from 1.4.2006)
- Payment of interest for late payment of TDS/TCS on self-assessment basis introduced.
- Quoting of wrong or false TDS/TCS to invite penalty of Rs. 10000/-

Procedural Changes

- CBDT empowered to prescribe methods for determination of expenses incurred in relation to earning of exempted income for the purpose of Sec. 14 A
- Health insurance policies issued by Private Insurance Companies recognized for the purpose of Sec. 36(1)(ib)

- Deduction u/s 10B, 80-IA, 80-IB and 80-IC to be allowed only when a Return of Income is filed by the assessee within the prescribed time for filing of Return.

Other Proposal

- Time limit for making scrutiny assessments under section 143(3) has been reduced to 21 months from the present limit of 24 months from the end of respective assessment year.
- New scheme for submission of returns through Tax Return Preparer to be introduced.
- Adjustments resulting due to determination of arm's length price by the assessing officer under Transfer Pricing Regulations in case of SEZ units, not eligible for deduction under section 10AA.
- Application for grant of exemption or continuance of exemption for certain charitable and religious trusts and institutions and certain educational and medical institutions to be filed during the financial year for which such exemption is sought u/s 10(23C).
- Omission of section 10(23G) so as to make income from existing as well as future investment in infrastructure and other projects taxable.
- Close-ended equity oriented schemes of mutual funds will be exempted from dividend distribution tax.

FRINGE BENEFIT TAX

- Following Items have been taken out of the purview of Fringe Benefit Tax:
 - (a) Distribution of free samples of medicines or medical equipment's to Doctors.
 - (b) Payment to Brand Ambassadors for the purpose of Advertising of goods or services.
 - (c) Contribution to Superannuation Funds for the benefit of employees with a ceiling of Rs. 1 Lac per employee by the employer companies.
 - (d) Provision of Free or subsidized transport facilities or any allowance paid by employer for journeys by the employees from their residence to place of work.

HIGHLIGHTS OF UNION BUDGET - 2006

- FBT has been reduced to 1.683 % from the present rate of 6.732% on the following:

- (a) Tour and Travel expenses including foreign travel. (Conveyance to be taxed at 6.732% only.)
- (b) Provision of food and beverage, lodging and boarding expenses by the employers engaged in business of carriage of passengers or goods by aircraft or ship

CUSTOM DUTY

- Peak import duty cut to 12.5% from 15%.
- Customs duty on vanaspati increased to 80 per cent.
- Rates on clearances by EOUs to the Domestic Tariff Area (DTA) adjusted at 50 per cent of basic customs duty plus excise duty on like goods.
- CVD of 4 per cent to be imposed on all imports with a few exceptions, full credit to be allowed to manufacturers of excisable goods.
- Some more amendments in rates of custom duty are:

Items	Current Rate %	New Rate %
Ores, concentrates	5	2
Plastics duty	10	5
Refractories	10	7.5
Manmade fabrics	15	10
Packaging machines	15	5

EXCISE DUTY

Rate reduced

- Duty on Aerated drinks and small cars reduced to 16 percent.
- Duty on ready-to-eat packaged foods and instant food mixes, like dosa and idli mixes, to be reduced from 16 per cent to 8 percent.

- Duty on footwear with a retail sale price between Rs.250 and Rs.750 to be reduced from 16 per cent to 8 per cent.
- Duty on compact fluorescent lamps reduced from 16 percent to 8 per cent
- Excise duty on specified printing, writing and packing paper to be reduced from 16 per cent to 12 per cent.

Rates Increased

- Glassware to attract duty of 16 per cent on par with ceramic-ware and plastic-ware.
- Increase in excise duty on cigarettes by 5 per cent.
- 8 per cent duty to be imposed on packaged software sold over the counter

Exemptions

- (a) Duty has been fully exempted on the following:
 - Duty on condensed milk, ice cream, preparations of meat, fish and poultry, pectins, pasta and yeast.
 - Customised software and software packages downloaded from the internet.
 - DVD Drives, Flash Drives and Combo Drives.
 - Vegetable tanning extracts, namely, quebracho and chestnut.
- (b) Concessional rate of 8% to be extended to all LPG stoves.

Re-imposition of Duty

- Re-imposition of excise duty at 12 per cent on computers to enable domestic manufacturers to take CENVAT credit as well as to face competition from imports.

SERVICE TAX

Rate increased to 12%

- Service Tax rate increased from existing rate of 10% to 12% (from the date of enactment of Finance Act).
- Charge of service tax on services received from outside India (Reverse Charge) fortified by making provisions more explicit.

New Services Added

Fifteen New Services added within the purview of service tax net, these are:

1. Service provided by a Registrar to an Issue
2. Service provided by a Share Transfer Agent
3. Automated Teller Machine operations maintenance or management
4. Service provided by a recovery agent
5. Sale of space or time for advertisement, other than in print media
6. Sponsorship services provided to any body corporate or firm, other than sponsorship of sports events
7. Transport of passengers embarking on international journey by air, other than economy class passengers
8. Transport of goods in containers by rail by any person, other than Government railway
9. Business support services
10. Auctioneers' service, other than auction of property under directions or orders of a court of law or auction by the Central Government
11. Public relations service
12. Ship management service
13. Internet telephony service
14. Transport of persons by cruise ship
15. Credit card, debit card, charge card or other payment card related services.

Extention of Tax Net/Clarifications

- The references to 'commercial concern', in relation to seventeen taxable services, are being substituted with 'person', so as to expand the scope of the service provider in the said services.
- Banking and other financial services, to include-
 1. Transfer of money through different modes by any person;
 2. services provided as banker to an issue.
- Management consultancy service, to specifically include consultancy in different areas of management.
- General insurance service, Life insurance service, Insurance auxiliary service, concerning general insurance business and life insurance business to include



HIGHLIGHTS OF UNION BUDGET - 2006

service provided to a policy holder or any person by an insurer, including a re-insurer.

- Maintenance or repair service, to be renamed as "management, maintenance or repair" service, and to include management of movable property.
- Erection, commissioning or installation service, to include erection, commissioning or installation of structures, whether or not pre-fabricated.
- Consulting engineer service, to include engineering consultancy services provided by any firm or body corporate.
- Business auxiliary service, to include computerized data processing.
- Technical testing and analysis service, to clarify that it- Includes clinical testing of drugs and formulations; and Excludes testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or any disorder in human beings or animals.
- Apart from interest on non payment of tax, a penalty of 2% p.m. on the tax payable or Rs. 200/- per day shall be levied; however the penalty shall not exceed the tax amount.

The above changes will come into effect from a date to be notified, after the enactment of the Finance Bill, 2006

Exemptions withdrawn

The following exemptions have been withdrawn w.e.f. 1st March, 2006:

- Services, other than accounting, auditing, and statutory certification services, provided by a practicing chartered accountant, company secretary or cost accountant in his professional capacity; now CA/CS/CWA would charge service tax on all services rendered w.e.f. 1st March 2006.

- Taxable services provided by a Call Centre or a Medical Transcription Centre.
- Taxable service provided in relation to Enterprise Resource Planning (ERP) software system provided by a management consultant in connection with the management of any organization
- Catering services provided on a railway train by an outdoor caterer.
- Catering services provided within the premises of an academic institution or medical establishment by an outdoor caterer.

New Exemptions

- Exemption from service tax has been provided to financial leasing services including equipment leasing and hire-purchase, on that portion of the taxable value comprising of 90 percent of an amount representing as interest i.e. the difference between the installment paid towards repayment of the lease amount and the principal.
- Exemption from service tax has been provided to all taxable services provided by the Reserve Bank of India.

Preservation of Records for 5 years

- Assess to preserve records related to service tax for a period of at least five years immediately after the financial year to which the said records pertain.

The above changes will come into effect from 1st March, 2006.

SECURITIES TRANSACTION TAX

Category of Transaction	Existing Rate	New Rate
	%	%
a) Purchase/Sale of Equity Shares or unit of Equity Oriented Fund on - Actual delivery basis	0.1	0.125
Other wise	0.02	0.025
b) Sale of Derivative - Option	.0133	.017
Future	0.2	0.25

VAT & CST

- LPG covered as declared goods under Central Sales Tax Act.

Contd. from page no. 1

Directionless Budget

charge and pay service tax. This is a case of clear partiality and unequal treatment on the part of the Finance Minister who himself belongs to lawyers community. **His public comments that lawyers are not providing any services are defamatory and without any basis.** Similarly a number of other services being rendered by non-chartered accountants, for example, accounting, internal audit, BPO service and consulting service to be rendered by Chartered Accountants will be subject to service tax whereas a number of other non-chartered accountants rendering similar services may not pay any service tax.

When service tax was imposed on Chartered Accountants in 1998, the then Finance Minister and the then Prime Minister promised to the Chartered Accountants community that till the time lawyers and other professionals are brought into the service tax net, non exclusive services will not be taxed in the hands of Chartered Accountants. This promise has been clearly broken by the Government.

The Chartered Accountants community has been helping the Government in bringing financial discipline into the economy. Sincere attempts are being made by Chartered Accountants fraternity to widen the tax base and improve the tax compliance for the benefit of the country. Chartered Accountants are playing the role of a partner in progress of the Government and deserve a fair and justified treatment. **The services of Chartered Accountants will be costlier as compared to non-chartered accountants** who will not be paying service tax for similar services. This cannot be allowed in a democratic country like India where Article 14 and Article 16 of the Constitution of India guarantee the fundamental right of equality for its citizens. Even the Hon'ble Supreme Court has upheld this principle of equality in several judgements.

We sincerely hope that the good wisdom will prevail, otherwise the Chartered Accountants community will have to fight this battle on roads, as well as in Parliament and with the help of judiciary.



1.0 DELISTING OF DORMANT COMPANIES

Securities and Exchange Board of India (SEBI) Chairman M Damodaran recently said that the market regulator has started to compulsorily delist companies that are not traded, in order to improve the functioning of stock exchanges. It has been learnt that a majority of such firms belong to the category well known for low disclosure norms and non-compliance of capital market norms. SEBI said that the move is aimed to protect small investors.

2.0 RAISING OF FUNDS IN INDIA BY FOREIGN COs

The Government is planning to allow overseas companies to raise funds in domestic capital markets and shorten the approval time for local companies selling shares. Overseas companies, including American one, are planning to come to Indian markets to raise money. Market regulator is seeking to match that of GDRs, in efficiency, in time and in cost.

3.0 SEBI NEW MEMBER

Dr. Thumparampil Chandran Nair recently took charge as whole time member of the Securities and Exchange Board of India (SEBI).

Prior to this, Dr. Nair was the Managing Director of Bharatiya Reserve Bank Note Mudran Ltd., Bangalore a wholly owned subsidiary of the Reserve Bank of India (RBI). A central banker by profession Dr. Nair has held various important positions in the RBI since February 1978.

4.0 MFs INVESTIBLE CORPUS HITS HIGH

The rising equity markets have brought a smile on the face of almost all the fund managers with the total assets under management (AUM) of the mutual fund (MF) industry hitting a new all-time high of Rs. 2,07,986.11 crore.

5.0 PANEL FOR FAIR VALUATION OF DELISTED SECURITIES

The Securities and Exchange Board of India (SEBI) has recently asked stock exchanges to set up a panel of experts to determine the fair value of shares of companies that may be delisted for non-compliance with the listing agreements.

SEBI has said that it had amended the SEBI (Delisting of Securities), Guidelines, 2003, to make this possible. The promoter of the company, whose shares are delisted, shall be liable to compensate the investors by paying them the fair value, fixed by the panel of experts, as per the amendment. SEBI also said that it was removing the earlier provision whereby the fair value of the stocks was determined by the arbitrator. It directed the stock exchanges to ensure adequate and wide publicity about the delisting of securities through newspapers, besides prominently displaying the notification on delisting of securities with the reasons on the exchanges' trading systems and notice boards.

6.0 BLB BARRED FROM GIVING STOCK RECOMMENDATIONS

SEBI has barred stock broking outfit BLB Ltd. from making any recommendations about stock market investment after it found the firm guilty of making misleading 'buy' recommendation relating to VBC Ferro Alloy Ltd.

The broking outfit bought huge quantity of the shares before the recommendation and sold the stocks after the recommendation.

DIRECT TAX

1.0 DERIVATIVES TRADES NOT SPECULATIVE

The Central Board of Direct Taxes (CBDT) has recently issued a notification saying that the derivatives trading carried out on the platform of the Bombay Stock Exchange (BSE) and the National Stock Exchange (NSE) will not be deemed to be speculative transactions.

The notification dated January 25, 2006 says that all the derivatives transactions carried out after this date will not be deemed as speculative trades.

2.0 ANYTIME, ANYWHERE TAX

Income tax returns can soon be filed at any time and from anywhere. By April this year, the country's 745 income-tax offices will be connected under a central network linked to a national data centre. The first phase of the Rs. 240 crore 'Taxnet' project, connecting 170 offices, is already complete and the national data centre-which will store information relating to PAN, tax returns and TDS-may get functional by the end of June. Airtel Enterprises Services is implementing the Taxnet project partnership with technology solutions major IBM on a build-own-operate basis.

3.0 HC STAYS MOVE TO SET UP NTT

The Bombay High Court (HC) has recently put a stay on setting up of the National Tax Tribunal (NTT). The NTT is expected to take over the burden of tax cases from the High Courts and reduce the period of litigation which, in some cases go even up to 15 years.

The petition filed by senior advocate P.C. Joshi cited alleged impropriety of provisions in the NTT Act, which allows appointment by the government of the chairman and other members of the Tribunal, even though it has to be on the recommendations of a three member committee chaired by Chief Justice of India. The other two members are secretaries in the Ministry of Law & Justice and MOF. Soli Duster and NR Jagtap, representing the petitioner, expressed their apprehension that such a system may not be able to ensure independent functioning.

4.0 OWNERS RIGHT AGAINST CONFISCATED GOODS

The Central Board of Excise and Customs has directed field offices to ensure that the owners of seized and confiscated goods are informed before such goods are disposed off.

There have been several instances in the past, where seizure of goods have been set aside by adjudicating authorities but the owners have been unable to recover the goods as it may have been sold off by the customs authorities. In such instances, the owners have been told to contend with the sale proceeds, which usually is a lot lower than the value of seized goods.

BANK AUDITORS APPOINTMENT – Chartered Accountants up in arms

1. The Government of India has decided to delegate powers to appoint Central Statutory Auditors and Branch Auditors to Boards of Directors of Public Sector Banks.
2. Statutory Central Auditors' Panel will be obtained by Banks from CAG and Auditors of management's choice will be appointed subject to approval of Reserve Bank of India.
3. Branch Auditors of their choice will be appointed by the Banks from a panel to be maintained by ICAI.
4. ICAI and AICAS both have opposed this move of the Government as it will adversely affect the auditors' independence.
5. The Bank Audits may also get concentrated in few hands who are closer to the management of Banks.
6. The financial sector, deposit holders and public interest will be adversely effected if instances of bank failures, frauds and larger NPAs are repeated.

All India Chartered Accountant Society (AICAS) under the leadership of Mr. Vinod Jain, FCA has taken several steps to mount pressure on Government to withdraw its decision:

- To support the move of ICAI.
- Commencing signature campaign and awareness programme, seeking help of members to take up these issues with political leaders, media, Bankers and bureaucrats known to them.
- Met several Members of Parliament as delegation. The leading MPs belonging to BJP, Congress, SP, RJD, CPI, CPM and other parties are being approached to explain them about necessity of appointing independent Auditors for – Public Sector Banks, Private Sector Banks, Insurance Companies, Mutual Funds, Public Limited listed Companies, NBFCs accepting deposits
- We propose to meet Finance Minister, Prime Minister, Banking State Minister, Senior Cabinet Ministers, Mrs. Sonia Gandhi and Leader of Opposition to convince the Government.
- To meet Comptroller & General of India
- To meet Reserve Bank of India

We wish to move as a team with all CAs including ofcourse our parent body, The Institute of Chartered Accountants of India. President ICAI has also kindly taken up this matter as per advice of the Council.

Those who wish to join this cause are welcome to volunteer by sending an e-mail or contacting the following -

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INDIRECT TAXES**1.0 NO EXTENSION OF SERVICE TAX PAYMENT DATE**

The Finance Ministry has rejected demand from trade and industry for extending the due date for payment of service tax to the Exchequer.

Currently, the service tax collected by a service provider during a month has to be deposited with the Central Exchequer by the end of the fifth day of the next month.

2.0 IMPOSITION OF SALES TAX ON TELECOM SERVICES BARRED

The Supreme Court in a recently decided case has held that States cannot impose sales tax on the service provided by the telecom companies. The court held that the imposition of sales tax on any facility of telecom services is untenable in law. The decision is likely to bring down the burden on telecom operators by as much as much Rs. 10,000 crore annually.

The Court said that the telecom services cannot be equated with goods as they did not include electro-magnetic waves or signals.

The Court held that the sales tax will, however, be liable on mobile handsets. With respect to imposition of sales tax on SIM cards, the Bench left it to the authorities concerned to decide on the matter.

3.0 LAUNCH OF E-PAYMENT FOR EXCISE DUTY REMITTANCE

Corporation Bank has launched e-payment facility for remittance of Central Excise Duty by the assesseees.

4.0 DRUG MRPs TO INCLUDE ALL TAXES

From April 1 2006 onwards, there will be only Maximum Retail Prices (MRPs) on drugs and no local taxes would be mentioned

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