



throwing light

Finance Bill 2012 – the fine print

The Finance Bill 2012 was tabled in the Parliament today by the Finance Minister.

How the Finance Bill 2012 affects you:
(Figures in brackets indicate the earlier rates)

AS A TAX PAYER

• Minimum amount exempt from tax liberalized further for individuals as under:-

For all individuals/ HUFs (other than senior citizens)
Rs. 200,000 (Rs. 180,000)

20% slab applicable for all tax payers for income between Rs. 500,000 and Rs. 10,00,000 (Rs. 800,000)

No separate slab rates for women any more.

• Interest on Bank Savings account entitled to a deduction of upto Rs. 10,000

• Deduction for Mediclaime (u/s 80D) to include expenditure on preventive health check up of upto Rs. 5,000.

• Senior Citizens exempt from paying of advance tax provided they have no Income from Business.

• Whenever any credits / receipts cannot be explained adequately in terms of source, etc., they shall be taxed at a flat rate of 30% and not merely be included in regular income to be taxed at slab rates.

• Any individual having assets abroad or an authority to sign in an overseas account will be obligated to file a tax return, even if he does not have taxable income, and such assets would need to be reported therein.

• In cases where there is information of assets held abroad, a reassessment of income / wealth can now be done for a period of 16 years.

• An gift received by an HUF from its member will be treated as received from a relative and will hence not be taxable. However clubbing of income provisions will continue to be applicable.

• 80G/ 80GGA deduction not available for donations in excess of Rs. 10000 made in cash.

• Tax assessments which were to be completed by December will now be due for completion by March.

• Single Premium Insurance Policies where the amount of premium exceeds 10% (earlier 20%) of the capital sum assured will not be fully eligible for a deduction u/s 80C nor will they be tax exempt on maturity.

• Where a case is selected for a scrutiny assessment, no processing of the return will be done u/s 143(1) for issue of refund due.

AS AN EMPLOYER

• TDS @ 10% to be done for all fees or remuneration paid to Directors of a company.

AS A BUSINESSMAN

• When a closely held company receives any sum from a shareholder, the company will be responsible to prove the source of the funds as well as the credit worthiness of the shareholder contributing the money.

• When a closely held company issues share at a premium, if the issue price is higher than the fair market value of shares (after duly adjusting for value of intangibles), the excess received will be deemed to be the income of the company.

• Dividend received from a foreign company where investment exceeds 26% will continue to be taxed at a concessional rate of 15% for one more year.

• While paying Dividend Distribution Tax, Credit will be given for dividend received from a subsidiary on a multi tier basis and not just a 2 tier basis.

• Weighted Deduction for Expenditure on in-house Research and Development facility extended upto 31.3.2017.

• Tax Audit required only in cases where business receipts exceed Rs. 1 crore or professional receipts exceed Rs. 25 lakhs.

• Presumptive tax on 8% of income applicable in all cases of business income of upto Rs. 1 crore except for income from commission/ brokerage.

• If an individual or HUF sells a residential property and uses the proceeds to invest in the equity of a start up Small and Medium Enterprise engaged in manufacturing activity and uses the money for acquisition of plant and machinery then the capital gains so earned, if long term, will be exempt.

• In case of transactions with even domestic related parties, where benchmarking is needed u/s 40A or in the context of 10AA r.w.s 80IA, the methods prescribed for international transactions and determination of arms length pricing shall now be used.

• An Alternate Minimum Tax (AMT) of 18.5% to be paid by all units getting a Chapter VIA deduction or an exemption u/s 10AA – including proprietary concerns (having an income exceeding Rs. 20 lakhs before such deductions) and partnerships. The AMT so paid entitled to a AMT Tax credit over ten years.

AS A DEDUCTOR OF TDS

• Severe and stringent penalties now imposed for late filing of returns as well as for filing any incorrect TDS data by the deductor.



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- In cases where tax is not deducted, but has been subsequently paid up by the recipient, interest will still be recovered from the payer.

AS AN ENTITY SUBJECT TO TRANSFER PRICING REGULATIONS

- In cases where Transfer Pricing is applicable, due date for completion of tax audit, preparation of transfer pricing report and filing return of income for corporates as well as non corporate, extended to 30th November.
- Introduction of a procedure to enter into Advance Pricing Agreement (APA) which would be valid for upto 5 years.
- Clarified that Safe Harbor Limits of 5% are tolerance limits and not a standard deduction.
- All business restructuring or reorganization transactions to be reported in TP reports.
- Penalty for failure to file report, maintain proper documents, filing inaccurate details increased to @2% of the value of international transactions.
- In cases determined by the Dispute Resolution Panel (DRP), the DRP empowered to make enhanced assessments and the AO authorized to appeal against an order of the DRP.
- TPO authorized to look into even those international transactions which are not reported in the TP Report.

AS A NON-RESIDENT

- Submission of a Tax Residency Certificate will be compulsory in case benefits under a Double Tax Treaty are to be taken.
- Sale of shares of a foreign entity between Non residents which derives substantial value from assets located in India will be deemed to have always been taxable in India – the Vodafone judgment of the Supreme Court stands reversed by a Legislative enactment.

AS AN INVESTOR

- Purchase of bullion or jewellery in excess of Rs. 2 lakhs where payment is made in cash, there will be a tax collected at source of 1%.
- Securities Transaction Tax on delivery based transactions reduced from 0.125% to 0.1%.

AS OWNER OF IMMOVEABLE PROPERTIES

- Sale of Immoveable Property after 1.10.2012 exceeding Rs. 50 lakhs in urban areas and Rs. 20 lakhs in other areas would attract a TDS of 1% of the sale price or the stamp duty value whichever is higher. The buyer will be obligated to do such TDS and have it paid and report the same to the Registration Authority in order to get the transaction registered.

AS A PROVIDER / RECEIVER OF SERVICES

- Service Tax Rate increased to 12.36% w.e.f 1st April 2012
- All categories of service taxable except a negative list which includes :-
 - trading of goods, manufacturing of goods, entertainment events and amusement facilities, school education upto 12th Standard, education to obtain a degree, all public transportation with some exceptions, renting of residential house used as residence, health care services, services provided by religious persons and sportspersons, individual advocates providing services to non-business entities.
- Refund for export of services made simpler
- Renting of immoveable property – if dues with interest paid within 6 months – No penalty proceedings.
- Time limit for issuance of invoice increased to 30 days.
- A common 1-page return for Central Excise and Service Tax

OTHER SALIENT ISSUES

- Provisions for GAAR – General Anti Avoidance Rules – have been introduced. These would enable Tax Administration to treat transactions which are designed to avoid tax as being impermissible and these would then get taxed appropriately. This is a measure to curb aggressive tax planning with the use of sophisticated tax structures.
- Implementation of the Direct Tax Code (DTC) and Goods and Service Tax (GST) postponed.

CAVEAT

Most changes proposed by the Finance Bill 2012 will become binding law only after the Bill receives the President's assent unless where specifically mentioned above.

Most changes will apply to the accounting year which will commence on 1st April 2012 except for amendments which are procedural in nature or which are specifically applied retrospectively.

The above is merely a gist of the amendments proposed. We recommend that you seek professional advice before implementing them.