NEW TAX CODE

The Direct Tax Code (DTC) is a major evolutionary step in direct tax history of the country, which is all set to change the entire financial landscape of India. As it spells major change, it will require fairly in-depth study before all its implications can be understood and assimilated. On the face of it, DTC may have added cheer to the lives of Indian taxpayers due to some of its moves, but it looks like a dampener for Indian realty industry.

PROPOSED CHANGES

The draft proposes to bring all direct tax laws under one umbrella, the finance minister said, adding that it would eliminate the scope of litigation. “The new draft code has simplified capital tax gains and laws on for non-profit organizations, savings instrument,” he said. The new code was aimed at removing distortions in the tax structure, he added.

The code proposes to exempt the general tax payer from paying income tax if his income is Rs1,60,000 in a year. He would pay just zero tax till an income of Rs1,60,000 per year. From income above Rs1,60,000 till Rs10lakh he will pay a tax of 10 per cent. For income above Rs10,00,000, but less than Rs25,00,000 he will pay tax of Rs84,000 plus 20 per cent of the amount over Rs10,00,000. For income above Rs25,00,000, he will pay Rs3,84,000 plus 30 per cent of the amount by which the total income exceeds Rs25,00,000. Currently, the general income tax payer does not pay tax till Rs1,60,000 of income in a year. However, he pays 10 per cent tax on income between Rs1,60,000 and Rs3lakh, 20 per cent between Rs3lakh and Rs5lakh (Rs500,000) and 30 per cent beyond Rs5lakh.

India Income tax slabs 2009-2010

Income tax slab (In Rs.) For MEN	**Income tax slab (In Rs.) For WOMEN**	**Income tax slab (in Rs.) For Senior Citizen**	**Tax**
0 to 1,60,000	0 to 1,90,000	0 to 2,40,000	Nil
1,6,001 to 3,00,000	1,90,001 to 3,00,000	2,40,001 to 3,00,000	10
3,00,001 to 5,00,000	3,00,001 to 5,00,000	3,00,000 to 5,00,000	20%
Above 5,00,001	Above 5,00,001	Above 5,00,000	30%

MAJOR HIGHLIGHTS OF DIRECT TAX CODE 2009

Income Tax :

Change in nomenclature: A unified financial year term replaces assessment year and previous year

- **Rise in tax slabs**: The 10% tax bracket rose up to Rs10lakh, 20% between Rs10 and 25lakh and 30% for over Rs25lakh.
- **Salary perks as part of income**: Would include perks like house rent, leave travel allowance, medical imbursement
- **Gratuity on change of jobs**: Will be tax-exempt on change of jobs only if it is invested in a retirement fund
- **Income from ordinary source**: Would include income from employment, house property, business and so on.
- **Income from special source**: Would include capital gains on equity and equity oriented funds, income of any other nature

Wealth Tax and 80 C :

- **Wealth limit**: Increased substantially from Rs30lakh to Rs50crore. Will not apply to private discretionary trusts.
- **Rate of taxation**: Reduced from 1% to 0.25%.
- **More instruments**: Will include equity, mutual fund units purchased and fixed deposit investments
- **80C limit**: From Rs1lakh at present to Rs3lakh for a Hindu undivided family (HUF) or individual
- **Less instruments in 80C**: Equity-link savings scheme and 5-year fixed deposit will not be included
- **Definition of higher education expanded under 80C**: Higher education will now include graduation and post graduation studies and the tuition fees will be exempt

Insurance :

- **Medical insurance**: Existing exemptions retained for individuals, senior citizens and the handicapped
- **Tax-free**: Pure life insurance and policies whose premiums less than 5 per cent of sum assured, even on bonuses
- **Exempt-Exempt-Tax** (EET): New tax regime for all provident funds, superannuation funds, life insurance and New Pension Scheme (NPS). These investments to be taxed on withdrawal
- **Grandfathering Clause**: Withdrawal of any amount invested in retirement and superannuation schemes as on March 31, 2011 will not be taxed
- **Relief on rollover**: The rollover of money withdrawn from one account of the permitted saving to another will not be treated as withdrawal.

Housing :

- **Housing Deduction: The deduction of Rs1.5lakh for housing loan interest payment removed for a self-occupied residence**
- Gross Rent Calculation: The gross rent for calculating income tax will be based either on the rent that the house owner has contracted or on the presumptive rent, whichever is higher.
- Presumptive Value: Presumptive rent to be considered as actual rent or 6% of the ratable value of a property fixed by local authorities, or 6% of the cost of buying or building the property
- Joint Ownership: If two people own the house, the tax will be levied based on the proportion of their ownership
- Rent Deductions Capped: The deduction from gross rent for any repair work or municipal taxes is capped at 20%from the earlier 30%.

Capital Gains :

- **Distinction Scrapped**: The distinction between short- and long-term capital gains tax scrapped
- **Indexation benefit:** One year cap remains to avail indexation benefits. The same applied for house sold after one year
- **Rate of Capital Gains**: The rate of capital gains tax as per income slab of the person
- **Equity Investment**: Investors will not enjoy zero tax on equity held for over one year
- **Dividend:** Dividends paid out on equity investment are fully tax exempt
- **Exceptions**: Capital gains will not apply to transfer of assets on partition of Hindu undivided family, gifts, transfer under an irrevocable trust, of any investment asset, other than sweat equity share.
    1. The code seeks to consolidate all direct taxes i.e. Income Tax, DDT, FBT & Wealth Tax under a single umbrella.
    2. The regulatory function of the taxing statute has been withdrawn. This is being labeled as a great simplification measure.
    3. Under the code all rates of taxes are proposed to be prescribed in the First to the fourth Schedule to the code itself thereby obviating the need for an Annual Finance Bill. The changes in the rates will be done through appropriate amendments to the Schedules.
    4. The Code has provided a comprehensive definition of income. It includes all accrual and receipts of revenue and capital nature unless otherwise specified. It is important to note in this regard that agricultural income has been excluded from the scope of this code.
    5. The separate concept of “Previous Year” and “Assessment Year” will be replaced by a unified concept of “Financial Year”
    6. Unabsorbed business losses shall be allowed to be carried forward indefinitely.

SALIENT FEATURES OF THE CODE ARE AS UNDER

(a) Single Code for direct taxes: All the direct taxes have been brought under a single code and compliance procedures unified. This will eventually pave the way for a single unified taxpayer reporting system.

(b) Use of simple language: It is necessary to keep the cost of compliance low by facilitating voluntary compliance by them. This is sought to be achieved, inter alia, by using simple language in drafting so as to convey, with clarity, the intent, scope and amplitude of the provision of law. Each sub-section is a short sentence intended to convey only one point. All directions and mandates, to the extent possible, have been conveyed in active voice.

(c) Reducing the scope for litigation: Wherever possible, an attempt has been made to avoid ambiguity in the provisions that invariably give rise to rival interpretations

(d) Flexibility: The structure of the statute has been developed in a manner which is capable of accommodating the changes in the structure of a growing economy without resorting to frequent amendments.

(e) Consolidation of provisions: In order to enable a better understanding of tax legislation, provisions relating to definitions, incentives, procedure and rates of taxes have been consolidated. Further, the various provisions have also been rearranged to make it consistent with the general scheme of the Act.

(f) Elimination of regulatory functions: Traditionally, the taxing statute has also been used as a regulatory tool. However, with regulatory authorities being established in various sectors of the economy, the regulatory function of the taxing statute has been withdrawn. This has significantly contributed to the simplification exercise.

(g) Providing stability: At present, the rates of taxes are stipulated in the Finance Act of the relevant year. Therefore, there is a certain degree of uncertainty and instability in the prevailing rates of taxes. Under the code, all rates of taxes are proposed to be prescribed in the First to the Fourth Schedule to the code itself thereby obviating the need for an annual Finance Bill. The changes in the rates, if any, will be done through appropriate amendments to the Schedule brought before Parliament in the form of an Amendment Bill.

ADVANTAGES

- As per the new Tax Code, incomes up to Rs10lakh will be taxed at 10 per cent, those between Rs10lakh to Rs25lakh at 20 per cent, and above Rs25lakh at 30 per cent. The level for tax exemption would remain the same, i.e., at Rs1.6lakh, Rs1.9lakh and Rs2.4lakh for individuals, women and senior citizens, respectively.
- Deductions allowed on investments in specified instruments under Section 80C would be raised from Rs1lakh to Rs3lakh, boosting one's savings further. The investments of Rs3lakh will combine all benefits, including the one available on home loan payments.
- Deduction for actual interest on loan taken for higher education would continue.
- Wealth will be calculated on net basis, i.e., asset value less debt, but it will include all assets including shares. The wealth tax will be applicable on assets worth more than Rs50crore, at 0.25 per cent. Presently, wealth tax stands at 1 per cent for assets above Rs30lakh.
- Securities Transaction Tax (STT) will be abolished, a move which will spur the volume and trading among individuals.

DISADVANTAGES

- Withdrawals from saving schemes such as Employee Provident Fund (EPF), Public Provident Fund (PPF), Gratuity Provident Fund (GPF), approved superannuation benefits, and life insurance would follow Exempt, Exempt and Tax (EET) structure, i.e., it would be included in the individual's income during the relevant year and taxed accordingly. The newly-introduced New Pension System (NPS) will continue to be in EET regime. However, withdrawals from accumulated balance till March 31, 2011 will not be taxed. Again, the retirement benefits would be exempt from taxes if saved in the Retirement Benefit Amount (annuity). However, the proceeds from life insurance policy, including bonus, would be exempt from tax if it is a pure life insurance policy.
- There will not be any tax deduction available on home loan interest up to Rs1.5lakh. The government aims to club this benefit under the saving limit of Rs3lakh.
- Employee benefits such as rent-free accommodation, medical reimbursements, leave travel concessions, etc., would be clubbed together in an individual's income.

Through this new Tax Code the Finance Minister has envisaged a uniform tax structure for all, individuals as also corporate. But it is speculated that it will take 2011 to bring the new tax code into reality as the final hearing would take place after the bill being placed in the parliament during winter session of 2009.

*** This code is proposed and not came into effect till now.**