

It is further proposed to amend section 131(3) so as to empower the aforesaid authority, as notified by the Board, to impound and retain any books of account and other documents produced before it in any proceeding under the Act. Similar amendments have also been proposed in section 133 of the Income-tax Act. These amendments will take effect from 1st June, 2011.

[Clauses 21, 22]

Exemption to a class or classes of persons from furnishing a return of income

Under the existing provisions contained in section 139(1) of the Income-tax Act, every person, if his total income during the previous year exceeds the maximum amount which is not chargeable to income-tax, is required to furnish a return of his income.

In the case of salaried tax payer, entire tax liability is discharged by the employer through deduction of tax at source. Complete details of such tax payers are also reported by the employer through Tax Deduction at Source (TDS) statements. Therefore, in cases where there is no other source of income, filing of a return is a duplication of existing information.

In order to reduce the compliance burden on small tax payer, it is proposed to insert sub-section (1C) in section 139. This provision empowers the Central Government to exempt, by notification in the Official Gazette, any class or classes of persons from the requirement of furnishing a return of income, having regard to such conditions as may be specified in that notification.

Consequential amendments are also proposed to be made to the provisions of section 296 to provide that any notification issued under section 139(1C) shall be laid before Parliament.

These amendments will take effect from 1st June, 2011.

[Clauses 23, 32]

Notification for processing of returns in Centralised Processing Centres

Under the existing provisions of section 143(1B) of the Income-tax Act, the Central Government may, for the purpose of giving effect to the scheme made under section 143(1A), by notification in the Official Gazette, direct that any of the provisions of the Income-tax Act relating to processing of returns shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in that notification. However, no direction shall be issued after 31st March, 2011.

It is proposed to amend section 143(1B) to extend the existing time limit for issue of notification to 31st March, 2012.

This amendment will take effect retrospectively from 1st April, 2011.

[Clause 24]

Extension of time limit for assessments in case of exchange of information

Section 153 of the Income-tax Act provides for the time limits for completion of assessments and reassessments. In *Explanation 1* to section 153 of the Income-tax Act, certain periods specified therein are to be excluded while computing the period of limitation for completion of assessments and reassessments.

It is proposed to exclude the time taken in obtaining information from the tax authorities in jurisdictions situated outside India, under an agreement referred to in section 90 or section 90A, from the statutory time limit prescribed for completion of assessment or reassessment.

Accordingly, it is proposed to insert a new clause (viii) in *Explanation 1* to section 153. It provides that the period commencing from the date on which a reference for exchange of information is made by an authority competent under an agreement referred to in section 90 or section 90A and ending with the date on which the information so requested is received by the Commissioner, or a period of six months, whichever is less, shall be excluded.

Similar amendments are proposed to be made to section 153B of the Income-tax Act.

These amendments will take effect from 1st June, 2011.

[Clauses 25, 26]

Modification in the conditions for filing an application before the Settlement Commission

The existing provisions contained in the proviso to section 245C(1) allow an application to be made before the Settlement Commission if—

(i) the proceedings have been initiated against the applicant under section 153A or under section 153C as a result of search or a requisition of books of account, as the case may be, and the additional amount of income-tax payable on the income disclosed in the application exceeds fifty lakh rupees;

(ii) in other cases, if the additional amount of income-tax payable on the income disclosed in the application exceeds ten lakh rupees.

It is proposed to expand the criteria for filing an application for settlement by a tax payer in whose case proceedings have been initiated as a result of search or requisition of books of account.

It is, therefore, proposed to insert a new clause (ia) in the proviso to section 245C(1). This stipulates that an application can also be made, where the applicant—

(a) is related to the person [referred to in (i) above] in whose case proceedings have been initiated as a result of search and who has filed an application; and

(b) is a person in whose case proceedings have also been initiated as a result of search, the additional amount of income-tax payable on the income disclosed in his application exceeds ten lakh rupees.

As a consequence, a tax payer who is the subject matter of a search would be allowed to file an application for settlement if additional income-tax payable on the income disclosed in the application exceeds fifty lakh rupees. Entities related to such a tax payer, who are also the subject matter of search, would now be allowed to file an application for settlement, if additional income-tax payable in their application exceeds ten lakh rupees.

The relationship between the person who makes an application under clause (ia) of the proviso to section 245C(1) and the person mentioned in clause (i) of the proviso is defined by inserting an Explanation in the section.

This amendment will take effect from 1st June, 2011.

[Clause 28]

Power of the Settlement Commission to rectify its orders

The existing provisions of section 245D(4) of the Income-tax Act provide that the Settlement Commission may pass an order, as it thinks fit, on the matters covered by the applications received by it, after giving an opportunity of being heard to the applicant and to the Commissioner. Further, under section 245F(1), the Settlement Commission has been conferred all the powers which are vested in an income-tax authority under the Act. An income-tax authority has the power (under section 154) to amend any order passed by it for the purpose of rectifying any mistake apparent from the record.

It is proposed to insert a new sub-section (6B) in section 245D so as to specifically provide that the Settlement Commission may, at any time within a period of six months from the date of its order, with a view to rectifying any mistake apparent from the record, amend any order passed by it under section 245D(4).

It is further provided that a rectification which has the effect of modifying the liability of the applicant shall not be made unless the Settlement Commission has given notice to the applicant and the Commissioner of its intention to do so and has allowed the applicant and the Commissioner an opportunity of being heard.

Consequential amendments on similar lines are proposed to be made to section 22D of the Wealth Tax Act.

These amendments will take effect from 1st June, 2011.

[Clauses 29, 34]

Omission of the requirement of quoting of Document Identification Number

Under the existing provisions contained in section 282B of the Income-tax Act, every income-tax authority shall, on or after the 1st day of July, 2011, issue a computer-generated Document Identification Number in respect of every notice, order, letter or any correspondence issued by him to any other income-tax authority or assessee or any other person and such number shall be quoted thereon.

Considering the practical difficulties due to non-availability of requisite infrastructure on an all India basis, it is proposed to omit the aforesaid section.

This amendment will take effect retrospectively from 1st April, 2011.

[Clause 30]

Reporting of activities of liaison offices

Foreign companies or firms or associations of individuals operate in India through a branch or a liaison office after approval by Reserve Bank of India. The branch constitutes a permanent establishment of the foreign entity and is, therefore, required to file a return of income along with requisite details. A non-resident does not file a return of income with regard to its liaison office on the ground that no business activity is allowed to be carried out in India.

It is proposed to seek regular information from non-residents regarding the activities of their liaison offices in India. A new section 285 is, therefore, proposed in the Income-tax Act mandating the filing of annual information, within sixty days from the end of the financial year, in the prescribed form and providing prescribed details by non-residents as regards their liaison offices.

This amendment is proposed to take effect from 1st June, 2011.

[Clause 31]

Recognition to Provident Funds – Extension of time limit for obtaining exemption from**Employees Provident Fund Organisation (EPFO)**

Rule 4 in Part A of the Fourth Schedule to the Income-tax Act provides for conditions which are required to be satisfied by a Provident Fund for receiving or retaining recognition under the Income-tax Act. One of the requirements of rule 4 [clause (ea)] is that the establishment shall obtain exemption under section 17 of the Employees' Provident Funds and Miscellaneous Provisions Act, 1952 (EPF & MP Act).

Rule 3 in Part A of the Fourth Schedule provides that the Chief Commissioner or the Commissioner of Income-tax may accord recognition to any provident fund which, in his opinion, satisfies the conditions specified under the said rule 4 and the conditions which the Board may specify by rules.

The first proviso to sub-rule (1) of rule 3, *inter alia*, specifies that in a case where recognition has been accorded to any provident fund on or before 31st March, 2006, and such provident fund does not satisfy the conditions set out in clause (ea) of rule 4 on or before 31st December, 2010 and any other conditions which the Board may specify by rules in this behalf, the recognition to such fund shall be withdrawn.

In order to provide further time to the Employees' Provident Fund Organization (EPFO) to process the applications made by establishments seeking exemption under section 17 of the EPF & MP Act, it is proposed to amend the aforesaid proviso so as to extend the time limit from 31st December, 2010 to 31st March, 2012.

This amendment will take effect retrospectively from 1st January, 2011.

[Clause 33]

CUSTOMS

Note: (a) "Customs Duty" means the customs duty levied under the Customs Act, 1962.
(b) "CVD" means the Additional Duty of Customs levied under sub-section (1) of section 3 of the Customs Tariff Act, 1975.
(c) "SAD" means the Special Additional Duty of Customs levied under sub-section (5) of section 3 of the Customs Tariff Act, 1975.

Changes come into effect immediately unless otherwise specified.

Major proposals about customs duties are the following:

A. GENERAL

1. The First Schedule to the Customs Tariff Act, 1975 is being amended vide Clause 57 of the Bill to give effect to the tariff changes relating to the Union Customs Duties.

2. The basic customs duty rates of 2%, 2.5% and 3% are being unified at the median rate of 2.5%.

B. Proposals involving changes in rates of duty, whether by amendment of tariff rates or by notification

I. FOOD/AGRO PROCESSING/AGRICULTURE:

1) Basic customs duty is being reduced from 5% to 2.5% on specified agriculture machinery namely paddy transporter, laser land leveler, cotton picker, reaper-cum-binder, straw or fodder balers, sugarcane harvesters and truck used for manufacture of tractor-type combine harvester.

2) Basic customs duty is being reduced from 7.5% to 2.5% on parts and components required for the manufacture of equipment at (1) above.

3) Basic customs duty is being reduced from 7.5% to 5% on micro-irrigation equipment (tariff item 8424 8100).

4) Basic customs duty on raw pistachios is being reduced from 30% to 10%.

5) Basic customs duty on sun-dried dark seedless raisins is being reduced from 100% to 30%.

6) Basic customs duty on cranberry products is being reduced from 30% to 10%.

7) Full exemption from basic customs duty is being extended to de-oiled rice bran oil cake.

8) Export duty of 10% is being imposed on exports of de-oiled rice bran oil cake.

II. AUTOMOBILES:

1) Full exemption from basic customs duty and SAD and concessional CVD @5% (by way of a central excise duty exemption) is being extended to specified parts of the hybrid vehicles, namely, battery pack, battery chargers, AC/DC electric motors and motor controllers. The concession is subject to actual user condition and will be available till 31.03.2013.

2) The customs duty dispensation and concessional CVD @5% at (1) above is also being made available to import of spare battery packs for the electric vehicles by importers which are registered with the agencies notified for Central Financial Assistance (CFA) scheme of the Ministry of Non-conventional & Renewable Energy (MNRE).

3) A definition for "Completely Knocked Down (CKD) unit" of a vehicle including two wheelers, eligible for concessional import duty, is being inserted to exclude from its purview such units containing a pre-assembled engine or gearbox or transmission mechanism or a chassis where any of such parts or sub-assemblies is installed.

III. SPECIAL ECONOMIC ZONES:

1) All clearances from SEZ into DTA are being exempted from SAD provided they are not exempt from the levy of VAT/Sales Tax.

2) The CVD exemption currently available to Plastic materials reprocessed in India out of the scrap or the waste of goods falling under specified chapters is being extended to domestic tariff area clearances of such plastic materials manufactured in SEZ units also.

IV. SHIP REPAIRS:

The benefit of exemption currently available to ship repair units on imports of spares and consumables required for repair of ocean going vessels is being extended to such spares and consumables for repairs of ocean going vessels by owners of such vessels registered in India.

V. TEXTILES:

1) Basic customs duty is being reduced on raw silk (not thrown) of all grades from 30% to 5%.

2) Cotton waste is being fully exempted from basic customs duty.

3) Basic customs duty on Poly Tetra Methylene Ether Glycol (PTMEG) and Diphenylmethane 4, 4-diisocyanate (MDI) is being reduced from 7.5% to 5% subject to actual user condition.

4) Basic customs duty is being reduced from 5% to 2.5% on Acrylonitrile.

5) Basic customs duty is being reduced from 7.5% to 5% on Sodium Polyacrylate.

6) Basic customs duty is being reduced from 10% to 7.5% on Caprolactum.
7) Basic customs duty is being reduced from 10% to 7.5% on Nylon chips, fibre & yarn.
8) Basic customs duty is being reduced from 5% to 2.5% on rayon grade wood pulp.

VI. CAPITAL GOODS/INFRASTRUCTURE:

1) The scope of full customs duty exemption to water supply projects for agricultural and industrial use is being expanded to the water pumping station and water reservoir of such projects.

2) The benefit of full exemption from basic customs duty and CVD currently available to 'Tunnel Boring machine' and parts thereof for hydro-electric power projects is being extended to such machines for highway development projects also.

3) Basic customs duty is being reduced from 7.5% to 5% for specified gems and jewellery machinery.

4) Full exemption from basic customs is being provided to cash dispensers. Parts required for the manufacturer of cash dispensers are also being exempted from basic customs duty on actual user basis.

5) The concessional import duty of 5% basic customs duty, 5% CVD & Nil SAD currently applicable to high-speed printing machinery is being extended to mailroom equipment compatible with such printing machinery imported by registered newspaper establishments.

6) A concessional rate of 5% basic customs duty, 5% CVD & Nil SAD is being extended to parts and components for manufacture of 23 specified high voltage transmission equipments.

7) Full exemption from basic customs duty is being extended on bio-based asphalt sealer and preservation agent millings remover and crack filler, asphalt remover and corrosion protectant and sprayer system for bio-based asphalt applications.

VII. CONCESSIONS TO ENVIRONMENT-FRIENDLY ITEMS:

1) Concessional CVD @5% (by way of a central excise exemption) and full exemption from SAD is being provided to LEDs used for manufacture of LED lights and light fixtures.

2) Basic customs duty is being reduced from 10% to 5% on solar lantern or lamps.

3) Full exemption from customs duty is being extended to toughened glass and silver paste imported for manufacture of solar cells or solar modules on actual user basis.

VIII. HEALTH SECTOR:

1) Endovascular stents are being fully exempted from basic customs duty of 5%.

2) A concessional import duty regime of 5% Basic customs duty, 5% CVD & Nil SAD is being prescribed on specified raw material for the manufacture of syringes, needles, catheters, cannulae on actual user basis.

3) Exemption from SAD is being provided to P&P medicines imported for retail sale.

4) Customs duty on four specified life saving drugs and their bulk drugs is being reduced from 10% to 5% with Nil CVD (by way of excise duty exemption).

5) Basic customs duty on lactose for use in the manufacture of homeopathic medicines is being reduced from 25% to 10%.

IX. ELECTRONICS HARDWARE:

1) A concessional import duty structure of 5% CVD and Nil SAD is being prescribed on parts of inkjet and laser-jet printers imported for manufacture of such printers.

2) Full exemption from basic customs duty is being extended to parts/components required for the manufacture of PC connectivity cable and sub-parts of parts & components of battery charger, hands-free head phones and PC connectivity cable of mobile handsets including cellular phones.

3) Full exemption from SAD presently available upto 31.03.2011 on parts, components and accessories for manufacture of mobile handsets including cellular phones is being extended upto 31.03.2012.

4) Full exemption from customs duty is being extended to additional specified capital goods and raw materials for the manufacture of electronic hardware.

5) A concessional import duty structure of 5% CVD and Nil SAD is being prescribed on parts for manufacture of DVD writers, Combo drives and CD Drives subject to actual user condition.

X. AIRCRAFTS:

1) A basic customs duty of 2.5% is being imposed on imports of aircrafts for non-scheduled operations. The exemption from additional duty of customs (CVD) and special additional duty of customs (SAD) would continue.

2) Exemption from education cess and secondary and higher education cess presently available to aircrafts is being withdrawn.

XI. EXPORT PROMOTION:

1) The list of specified goods, allowed to be imported duty free for use in the manufacture of leather goods, for export is being expanded.

2) The list of specified goods, allowed to be imported duty free for use in the manufacture of textile and leather garments, is being expanded by including anti-theft devices like labels, tags and sensors therein.

3) Description of some items is being changed in the list of items that are allowed to be imported duty free for manufacture of textile or leather garments and other leather goods for export.

4) Benefit of duty free import on trimmings, embellishments, components etc. for manufacture of leather goods, footwear and textile garments is being extended to merchant exporters subject to certain conditions.

5) Specified tools used in the handicrafts sector are being included in the list of specified goods, allowed to be imported duty free to Handicrafts exporters.

6) Full exemption from basic customs duty is being extended to fin fish feed.

7) Basic customs duty on vannamee broodstock is being reduced from 30% to 10%.

8) Basic customs duty on bamboo used for manufacture of agarbattis is being reduced from 30% to 10%.

XII. PAPER:

Basic customs duty on waste paper is being reduced from 5% to 2.5%.

XIII. METALS:

1) Full exemption from basic customs duty is being extended to stainless steel scrap.

2) Basic customs duty on ferro-nickel is being reduced from 5% to 2.5%.

3) Statutory rate of export duty on iron ores is being increased from 20% to 30% while unifying the effective rate of export duty on iron ore fines and lumps at 20%.

4) Iron ore pellets are being fully exempted from the export duty.

5) Copper dross, copper residues, copper oxide mill scale, brass dross and zinc ash are being exempted from levy of SAD.

6) Basic customs duty on vanadium pentoxide and vanadium sludge is being reduced from 7.5% to 2.5%.

7) Exemption from basic customs duty is being provided on the value of gold and silver contained in the copper concentrate.

XIV. PRECIOUS METALS:

An import duty of Nil basic customs duty, CVD of Rs.140 per 10 gram and Nil SAD is being prescribed for gold dore bars of upto 80% gold purity imported for refining and manufacturing serially numbered gold bars in India.

XV. MISCELLANEOUS:

1) Basic customs duty is being reduced from 5% to 2.5% on carbon black feed stock.

2) Basic customs duty is being reduced from 5% to 2.5% on petroleum coke.

3) Basic customs duty is being reduced from 5% to 2.5% on mineral gypsum.

4) Crude palm stearin is being fully exempted from basic customs duty for use in the manufacture of laundry soap on actual user basis.

5) At present specified categories of works of art and antiquities are exempted from customs duty. The scope of the exemption is being expanded by including—

(a) works or arts or antiquities for exhibition or display in private art galleries or similar premises that are open to general public;

(b) works of art created by an Indian artist abroad, irrespective of the fact whether such works are imported along with the artist or the sculptor on their return to India.

6) Special provision is being made in the Finance Bill imposing definitive safeguard duty retrospectively on imports of caustic soda lye imported into India during the period 04.12.2009 to 03.03.2010

7) Special provision is being made in the Finance Bill to retrospectively provide a concessional basic customs duty of 30% to fresh garlic imported by National Consumer Cooperative Federation and Madhya Pradesh State Cooperative Marketing Federation under import licenses issued by the Central Government and cleared after 15.12.2003.

8) Certain notifications are being amended retrospectively to allow exports made under the EPCG scheme to simultaneously avail of benefits under Export Reward Schemes such as Served From India Scheme, Focus Market Scheme etc.

[The changes at S. No. 6, 7 and 8 will come into effect on enactment of the Finance Bill]

XVI. AMENDMENTS IN CUSTOMS ACT, 1962:

1) Section 2 is being amended to include 'self-assessment' within the definition of 'assessment'.

2) Section 17 is being amended to replace the existing system of assessment with 'self-assessment' of duty on imported and export goods by the importer or exporter. The revised provisions empower customs officers to verify the self assessment and if required, reassess duty on the imported or export goods. It is being further provided that the officers may conduct audit in certain situations either in their own office or at the premises of the importer or exporter.

3) Section 19 is being amended to make the provisions relating to provisional assessment of duty applicable in case an importer or exporter is unable to make self-assessment with the proposed scheme of 'self assessment'.

4) Section 19 is being amended to align the provisions relating to determination of duty where goods consist of articles liable to different rates of duty with the proposed scheme of 'self-assessment' under section 17.

5) Sub-section (1) of section 27 is being substituted so as to enhance the time limit for claiming refund of duty and interest from six months to one year. This will bring uniformity for both demanding duty and claiming refund.

6) Section 28 is being substituted so as to make the provisions more coherent and clear as also to harmonize the demand period in normal cases to one year.

7) Section 28AA and 28AB are being substituted with a revised section 28AA so as to make the provisions relating to interest more coherent and clear.

8) Section 46 is being amended to provide that an entry of imported goods shall be presented electronically and to empower the Commissioner of Customs to allow filing of entry in any other manner when it is infeasible to present electronically.

9) Section 50 is being amended to provide that an entry of export goods shall be presented electronically and to empower the Commissioner of Customs to allow filing of entry in any other manner when it is infeasible to present electronically.

10) Section 75 is being amended to enable the Central Government to prescribe circumstances under which drawback would not be disallowed even though the export remittances are not received within the period specified in the Foreign Exchange Management Act.

11) Section 110A is being amended to empower the adjudicating authority to allow release of seized goods.

12) Section 124 is being amended to provide for issuance of a show cause notice with prior approval of an officer not below the rank of an Assistant Commissioner of Customs.

13) Section 131D is being inserted retrospectively with effect from 20.10.2010 to empower the Board to issue instructions relating to non-filing of appeal in certain cases in line with National Litigation Policy.

14) A new section 142A is being inserted so as to create first charge on the property of the defaulter for recovery of the customs dues from such defaulter subject to provisions of section 529A of the Companies Act, the Recovery of Debt due to Bank and Financial Institution Act, 1993 and Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

15) Section 150 is being amended so as to provide that the balance of sale proceeds of unclaimed cargo sold in auction shall be paid to the Government when it cannot be paid to the owner within six months.

16) Section 151A is being amended so as to empower the Board to also issue instructions to customs authorities on any other matters under the Customs Act or any other Act for the time being in force so far as they relate to prohibition, restrictions or procedure relating to import or export of goods.

17) Section 157 is being amended to empower the Board to prescribe regulations for specifying the manner of conducting audit at the office of the proper officer of customs or at the premises of the importer.

[These legislative changes will come into effect on enactment of the Finance Bill]

XVII. AMENDMENTS IN CUSTOMS TARIFF ACT, 1975:

1) Section 3 is being amended to substitute the reference to Standards of Weight & Measures Act