

# Bimal Jain

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Dear Professional Colleague,

We are sharing with you important changes in Indirect Taxes - Union Budget 2013:-

**No change in peak rate of Customs (10%), Central Excise (12%) and Service tax rates (12%).**

## **UNION BUDGET 2013: CHANGES IN SERVICE TAX**

### **A. CHANGES IN CHAPTER V OF THE FINANCE ACT, 1994 (WILL COME INTO FORCE WHEN THE FINANCE BILL, 2013 IS ENACTED):-**

#### **i. Changes in relation to the Negative list:-**

- The definition of approved vocational course in Section 65B (11) is being proposed to be changed to:
  - a) Include courses run by an industrial training institute or an industrial training center affiliated to State Council for Vocational Training; and
  - b) Delete clause (iii) dealing with courses run by an institute affiliated to the National Skill Development Corporation.
- The definition of “process amounting to manufacture or production” in Section 65B(40) is being expanded to include processes under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955.
- Section 66D(d)(i) is being modified by deleting the word “seed” and allow the benefit to all other testing in relation to “agriculture” or “agricultural produce”.

#### **ii. Other Changes:**

- **Section 73** is modified to determine the demand for the shorter period of eighteen months if grounds for invoking extended period are not sustained by the Central Excise officer.
- **Section 77(a)** – Penalty in case of failure to pay service tax or take registration in accordance with the provisions of Section 69 or rules made under this Chapter, is being restricted to Rs 10,000.
- **New Section 78A** introduced to impose penalty, which may extend to one lakh rupees on directors and officials of the Company for specified offences in cases of willful actions.

Mobile: +91 98106 04563; E-mail: bimaljain@hotmail.com

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- **New provisions in Section 89** introduced to prescribe revised punishments for offences, make certain offences cognizable and others non-cognizable and bailable. (Detailed instructions will be issued in due course)
  
- B. CHANGES IN MEGA EXEMPTION LIST (W.E.F APRIL 1, 2013) VIDE NOTIFICATION NO. 3/2013-ST DATED. 1-3-2013 AMENDING NOTIFICATION NO. 25/2012-ST DATED. 20-6-2012:**
  
- **Under S. no. 9** - Exemption by way of auxiliary educational services and renting of immovable property provided by specified educational institutes will not be available i.e. Exemption of auxiliary educational services and renting of immovable property Services provided to an educational institution will continue.
  
- **Under S. No. 15** - The benefit of exemption in relation to copyrights for cinematograph films will now be available only to films exhibited in a cinema hall or theatre. This will allow service providers to pass on input tax credits to taxable end-users;
  
- **Under S. No 19** - Exemption will now be available only to non-air-conditioned or non-centrally air-heated restaurants; the dual requirement earlier that it should also have a license to serve alcohol is being done away with;
  
- **Under S. No. 20** – Earlier exemptions withdrawn of Services by way of transportation by rail or a vessel from one place in India to another of the following goods -
  - Petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986);
  - Postal mail or mail bags;
  - Household effects;
  
- **Under S. No. 21** - Services provided by a goods transportation agency (GTA) are being harmonized i.e. the benefit of transportation of agricultural produce, foodstuffs, relief materials for specified purposes, chemical fertilizers and oilcakes, registered newspapers or magazines and defence equipments will be available to GTAs;
  
- **Under S. No. 24** - The exemptions for vehicle parking to general public are being withdrawn
  
- **Under S. No 25** - Exemption for repair or maintenance service provided to Government, a local authority or a governmental authority of aircrafts are being withdrawn but for vessel, exemption will continue.

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- The definition of “**charitable activities**” is being changed by deleting the portion listed in sub-clause (v) of clause (k). Thus the benefit to charities providing services for advancement of “any other object of general public utility” up to Rs. 25 Lakh will not be available. However the threshold exemption will continue to be available up to Rs 10 lakh.

## **C. CHANGES IN ABATEMENT (W.E.F MARCH 1, 2013) VIDE NOTIFICATION NO. 2/2013-ST DATED. 1-3-2013 AMENDING NOTIFICATION NO. 26/2012-ST DATED. 20-6-2012:**

The abatement available under S. No 12 of notification 26/2012-ST dated June 20, 2012 for construction of a complex, building, civil structures etc. is being reduced from the existing 75% to 70% for construction other than residential properties having a carpet area up to 2000 sq ft or where the amount charged is less than Rs 1 crore.

## **D. NEW VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME, 2013 (VCES)**

A new scheme is proposed to be introduced to encourage voluntary compliance with the following main features:

- i. The scheme can be availed of by non-filers or stop-filers or persons who have not made a truthful declaration in their return. However it will not be applicable to persons against whom any inquiry or investigation is pending by the issue of search warrant or summon or by way of audit;
- ii. The defaulter will be required to make a truthful declaration of all his pending tax dues (from October 1, 2007 to December 31, 2012) and pay at least half of that before December 31, 2013; remaining half to be paid by:
  - (a) June 30, 2014 without interest; or
  - (b) By December 31, 2014 with interest from July 1, 2014 onwards;
- (iii) On compliance with all the requirements the person will have immunity from interest (as specified), penalties and other proceedings;

The scheme will come into force when the Finance Bill is enacted. It is clarified that the tax-payers will need to settle their dues for the period after December 31, 2012 under the present law.

## **E. ADVANCE RULING AUTHORITY VIDES NOTIFICATION NO. 4/2013-ST DATED. 1-3-2013:**

The benefit of Advance Ruling Authority is being extended to resident public limited companies under Section 96A (b)(iii) of the Finance Act, 1994. Advance ruling"

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means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay service tax in relation to a service proposed to be provided, by the applicant;

## **UNION BUDGET 2013: CHANGES IN CENVAT CREDIT RULES, 2004 (W.E.F 1-3-2013) VIDES NOTIFICATION No. 3/2013-Central Excise (N.T.) DATED. 1-3-2013**

An explanation inserted after the proviso to sub-rule 5B of Rule 3, if the manufacturer of goods or the provider of output service fails to pay the amount payable

- under sub-rules (5) i.e. inputs or capital goods removed as such,
- under sub-rules (5A) i.e. the capital goods are removed after being used, whether as capital goods or as scrap or waste, and
  - under sub rules (5B) i.e. input, or capital goods before being put to use is written off fully or partially,

Then, it shall be recovered, in the manner as provided in Rule 14, for recovery of CENVAT credit wrongly taken.

## **UNION BUDGET 2013: CHANGES UNDER THE CUSTOMS ACT, 1962 ("the Customs Act") and THE CUSTOMS TARIFF ACT, 1975 ("the Customs Tariff")**

1. The Finance Bill, 2013 and the Tariff Notification no. 9/2013 to Customs to 15/2013-Customs all dated. March 1, 2013 has made the following changes in duty rates:

Product	Old basic customs duty ("BCD") rate	BCD after amendm ent in budget	Old Counter vailing duty ("CVD")	CVD after amend ment in the Budget	Change
Hazel Nuts falling under Chapter 8 of the Customs Tariff	30%	10%			↓
De-hulled Oat grain falling under Chapter 11 of the Customs Tariff	30%	15%			↓

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Bituminous Coal falling under Chapter 27 of the Customs Tariff	5%	2%	6%	2%	↓
Steam Coal falling under Chapter 27 of the Customs Tariff	Nil	2%	1%	2%	↑
Raw silk falling under Chapter 50 of the Customs Tariff	5%	15%			↑
Pre-forms of precious and semi-precious stones falling under Chapter 71 of the Customs Tariff	10%	2%			↓
20 Specified machinery for use in leather or footwear industry as specified in S.NO. 390 read with List 29 of Notification 12/2012-Cus.	7.5%	5%			↓
Textile machinery and parts thereof falling under 8444 to 8449 of the Customs Tariff	7.5%	5%			↓
Set Top box falling under Chapter 85 of the Customs Tariff	5%	10%			↑
Cars/motor vehicles falling under Chapter 87 of the Customs Tariff with CIF value more than US \$ 40,000 or with engine capacity more than 3000 cc for petrol-run vehicles and more than 2500 cc for diesel-run vehicles or with both	75%	100%			↑
Import of old cars	100%	125%			↑
New motorcycles with engine capacity of 800cc or more	60%	75%			↑
Yachts and other vessels falling under Chapter 89 of the Customs Tariff	10%	25%			↑

2. Change in classification of "Peanut butter" from existing Tariff Item 1517 9020 of the Customs Tariff to 2008 1100 thereof to align the classification in terms of Harmonised System of classification.

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3. Further the concessional rate of BCD of 7.5% continues vide S.No. 88A of Notification 12/2012-Customs as amended by Notification 12/2013.
  
4. Amendment in export duty of certain specified goods vide Notification No. 15/2013-Customs dated March 1, 2013 is as under:-

<b>Product</b>	<b>Export duty in terms of second schedule to the Customs Tariff</b>	<b>Effective duty vide Notification No. 27/2011-Cus. Dated March 1, 2011 as amended by Notification 15/2013-Cus. Dated March 1, 2013.</b>
Raw/ white/ refined sugar falling under Chapter 17 of the Customs Tariff included in Second Schedule to the Customs Tariff	20%	"0"
Bauxite and ilmenite	30%	10% - Bauxite falling under Tariff Item 2606 0010 of the Customs Tariff and 2606 0020 thereof. 10% - unprocessed ilmenite falling under Tariff Item 2614 0010 of the Customs Tariff.  5% - upgraded ilmenite falling under Tariff Item 2614 0020 of the Customs Tariff.

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5. Exemption from export duty granted to “Flat rolled products of iron or non-alloy steel, plated or coated with zinc” with retrospective effect from March 1, 2011 which will come into effect from enactment of the Finance Bill, 2013.
6. The validity period of exemption granted to identified parts of hybrid and electric vehicles is being extended by two more years up to March 31, 2015 vide Clauses (g) and (h) of Proviso to notification No.12/2012-Customs, as amended by notification No. 12/2013-Customs, dated March 1, 2013.
7. BCD is being exempted on lithiumion automotive battery for manufacture of lithium ion battery packs for supply to the manufacturers of hybrid and electric vehicles vide Notification No.12/2012-Customs (S. No 438), as amended by notification No. 12/2013-Customs, dated 1st March 2013.
8. Exemption from education cess and secondary and higher education cess is being withdrawn on aeroplanes, helicopters and their parts vide notification No.9/2013- Customs, dated 1st March 2013.
9. The time period for consumption/installation of parts and testing equipment imported for maintenance, repair and overhaul (“MRO”) of aircraft by units engaged in such activities is being increased from 3 months to 1 year vide Notification No. 12/2013 –Customs dated 1<sup>st</sup> March, 2013.
10. Notification No 25/2013-Customs (NT), dated March 1, 2013 seek to amend Notification No. 30/98-Cus.(NT) dated June 2, 1998 vide which value limit of jewellery allowed duty free to an Indian passengers who has been residing abroad for more than one year has been raised as under:

	Old value limit of Jewellery allowed duty free	New value limit of Jewellery allowed duty free
Gentleman passenger	Rs 10,000	Rs 50,000
Lady passenger	Rs 20,000	Rs 100,000

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## **UNION BUDGET 2013: CHANGES UNDER THE EXCISE ACT, 1944 ("the Excise Act") and THE EXCISE TARIFF ACT, 1985 ("the Excise Tariff")**

1. Exemption from excise duty granted to the following goods:
  - Tapioca starch falling under Chapter 11 of the Excise Tariff manufactured and consumed captively in the manufacture of tapioca sago (sabudana) vide Notification No.12/2012-CE, dated March 17, 2012 as amended by Notification No. 12/2013-CE, dated the March 1, 2013.
  - Tapioca sago (Sabudana) falling under Chapter 19 of the Excise Tariff Notification No.12/2012- CE, as amended by notification No. 12/2013-CE, dated the 1st March 2013 refers. S. No 24A contains the changes.
  - Sulphur recovered as by product in refining of crude oil (sub-heading 2503 00 10) used for the manufacture of fertilisers. "Fertilizers" include bentonite sulphur and hence, sulphur under sub-heading 2503 00 10 used for manufacture of bentonite sulphur is exempt from excise duty.
  - All handmade carpets and carpets and other textile floor coverings of coir and jute, whether or not handmade, falling under Chapter 57 of the Excise Tariff.
  - Zero excise duty route, as existed prior to Budget 2011-12, is being restored on readymade garments and made ups. The zero excise duty routes will now be available in addition to the CENVAT route under which manufacturers can pay excise duty on the final product and avail of credit of duty paid on inputs.
  - Excise duty on ships, tugs and pusher craft, dredgers and other vessels falling under CETH 8901, 8904, 8905, 8906 90 00 is being exempted.
  - Goods manufactured and captively consumed within the factory of production in the manufacture of final products in respect of which exemption is claimed under the Area Based Exemption Scheme under notification Nos. 49/2003-CE and 50/2003-CE, both dated June 10, 2003 (available for Uttarakhand and Himachal Pradesh) is being exempted from excise duty. Notification No. 7/2013-CE dated March 1, 2013.

Mobile: +91 98106 04563; E-mail: bimaljain@hotmail.com



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2. Change in classification of "Peanut butter" from existing Tariff Item 1517 9020 of the Excise Tariff to 2008 1100 thereof to align the classification in terms of Harmonised System of classification.

3. Basic excise duty rate has been levied/ increased on the following goods:

- Marble slabs and tiles from ` 30 per square meter to ` 60 per square meter.
- Excise duty of 4% is being imposed on silver produced or manufactured during the process of zinc or lead smelting starting from the stage of zinc or lead ore or concentrate.
- The compounded duty rate on stainless steel "patta- patti" is being increased from Rs. 30,000 per machine per month to Rs. 40,000 per machine per month.
- Excise duty on mobile handsets including cellular phones having retail sale price more than Rs. 2000 is being increased from 1% to 6%. The duty on mobile phones priced up to and inclusive of Rs. 2000 (retail sale price) would remain unchanged.
- Excise duty on SUVs (including utility vehicles falling under Tariff Heading 8703 of the Excise Tariff) and engine capacity >1500 cc is being increased from 27% to 30 %.

Further the taxi refund in respect of SUVs is being adjusted with a view to ensuring that the duty increase does not affect SUVs used as taxis. Now, in respect of SUVs the refund of 28% of the excise duty paid at the time of clearance would be applicable.

- Excise duty on cigarettes and other products of tariff heading 2402 is being increased as under:

## **Cigarettes**

TARIFF ITEM	DESCRIPTION (length in mm)	BED Rs. per 1000 sticks (Existing Rate)	BED Rs. per 1000 sticks
24022010	Non filter not exceeding 65	509	No change

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24022020	Non-filter exceeding 65 but not exceeding	1463	1772
24022030	Filter not exceeding 65	509	No change
24022040	Filter exceeding 65 but not exceeding	1034	1249
24022050	Filter exceeding 70 but not exceeding	1463	1772
24022060	Filter exceeding 75 but not exceeding	1974	2390
24022090	Other	2373	2875

## Cigar, Cheroots and Cigarillos:

TARIFF ITEM	DESCRIPTION	BED (Existing Rate)	BED (New Rate)
2402 10 10	Cigar and cheroots	12% or Rs.1370 whichever is higher	12% or Rs.1781 whichever
2402 10 20	Cigarillos	12% or Rs.1370 whichever is higher	12% or Rs.1781 whichever
2402 90 10	Cigarettes of	Rs.1258 per thousand	Rs.1511 per thousand
2402 90 20	Cigarillos of	10% or Rs.1473 whichever is higher	12% or Rs.1738 whichever
2402 90 90	Other	10% or Rs.1473 whichever is higher	12% or Rs.1738 whichever

- The excise duty on chassis of diesel motor vehicles for the transport of goods falling under Tariff Item 8706 0042 of the Excise Tariff is being reduced from 14% to 13% vide Notification No.12/2012-C.E, as amended by notification No. 12/2013-CE, dated March 1, 2013.
- Branded Ayurvedic medicaments and medicaments of Unani, Siddha, Homeopathy or Bio-chemic system are being brought under Maximum Retail Price ("MRP") based assessment with an abatement of 35% from the MRP.
- The validity period of concessional excise duty of 6% granted to specified parts of hybrid and electric vehicles is being extended by two more years up to March 31, 2015 vide proviso to Notification No.12/2012-C.E, as amended by notification No. 12/2013-CE, dated the March 1, 2013.

Mobile: +91 98106 04563; E-mail: bimaljain@hotmail.com

# Bimal Jain

FCA, ACS, LLB, B.Com (Hons)

*Hope the information will assist you in your Professional endeavours. In case of any query/information, please do not hesitate to write back to us.*

Thanks & Best Regards.

# Bimal Jain

FCA, ACS, LLB, B.Com (Hons)

Mobile: +91 9810604563

E-mail: [bimaljain@hotmail.com](mailto:bimaljain@hotmail.com)