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BUDGET 2009-10 INDUSTRY VOICES

Nishith M Desai, founder, Nishith Desai Associates

'Some of the more interesting proposals remained unspoken'

Nishith M Desai

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: Barring the increase in minimum alternate tax, the budget appears to meet reasonable expectations, especially considering that the new government has taken office only about a month ago. Personally, I did not expect that the FBT would be abolished so soon nor that personal tax rates would be lowered from around 34 to 31%. Unfortunately, some of the more interesting proposals remained unspoken in the budget speech - if only the market looked at the fineprint!

The Budget seeks to bring about a structural shift to the tax legislation and a new draft tax code would be made available for public comments in 45 days. It is hoped that this would simplify and rationalise the existing direct tax framework.

Much awaited clarity on the taxation of limited liability partnerships (LLPs) has now been provided. They will now be taxed as a separate taxable entity like any other general partnership and partners would not be separately taxed. This is contrary to international standards where LLPs are treated as tax transparent vehicles and is likely to give rise to tax credit issues in certain cross border situations. An LLP may therefore not be suitable vehicle for setting up venture capital funds.

In a welcome move and in line with the recent G-20 proposals to combat tax evasion, the budget proposes to authorise the government to enter into tax information exchange agreements with non sovereign countries. Another proposal of interest to foreign taxpayers is the setting of a new dispute resolution panel which would review the orders of the assessing officer in matters of international taxation before they are finalised. This is a unique and progressive attempt towards providing an efficient dispute redressal process at an early stage.

The proposals seek to remove anomalies adversely affecting units in special economic zones by securing them full tax exemption under section 10AA of the Income Tax Act, 1961. The tax holiday for software technology park units has been extended for another year. These proposals should bring relief to the technology sector.

Further, all manufacturing activities, excluding a few, would be entitled to a weighted deduction of 150% in respect of in-house R&D expenditure, incentivizing indigenous R&D activity.



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