

# Real Estate Update

March 04, 2010

## IMPACT OF BUDGET 2010 ON REAL ESTATE SECTOR IN INDIA

This is further to our recent hotline **India Budget Insights (2010 – 11)** analyzing the implications of the Budget 2010. This Hotline seeks to bring to the fore the provisions of Budget 2010 and attendant implications concerning the Indian Real Estate Sector.

### INTRODUCTION

With the recession fading out gradually and fund raising showing gradual and steady increase once again, the Indian real estate sector was clearly looking at 2010 as a year to build on its 2008 run. While concerns over liquidity and demand constraints have eased, developers were looking to execute the planned projects to maintain cash flows rather than raise more debt. The industry was therefore looking at Budget 2010 for “boosters” like tax breaks for townships / affordable housing sector, allaying the ambiguities on the real estate mutual funds to heal the bruises that the sector suffered in 2009. While the “infrastructure” status still alludes the real estate sector, a clear lean towards low-cost real estate especially housing was seen. It would be interesting to look at both sides of the coin flipped up by the Budget 2010.

### THE POSITIVES

§ The pending housing projects have been granted a one year extension for completion, from the existing four years to five years, for claiming a 100% deduction on their profits under section 80-IB of the Income Tax Act, 1961 (“Act”). This extension is available for housing projects approved by a local authority on or after April 1, 2005.

§ In addition, under section 80-IB of the Act the built-up area of shops and other commercial establishments in housing projects has been relaxed to 3% of the aggregate built-up area of the housing project or 5000 square feet, whichever is higher, from the existing 5% of the aggregate built-up area or 2000 square feet, whichever was less.

§ A 4 month extension has been provided for setting up and commencing operations of hotels and convention centers in National Capital Territory of Delhi and specified surrounding regions. Such hotels and convention centers would now be eligible to claim specified deductions, where such facilities are set up and commence business by July 31, 2010.

§ Investment linked incentives have been proposed for the business of building and operating new hotels of two-star or above category, anywhere in India, which start functioning after April 1, 2010. The incentives are in the nature of 100% deduction with respect to capital expenditure, incurred wholly and exclusively, for the purposes of such business, provided such expenditure is incurred prior to commencement of operations and the amount is capitalized in the books of such undertaking.

§ One per cent interest subvention on housing loans up to Rs.10 lakh (where the cost of the house does not exceed Rs.20 lakh) has been extended till March 31, 2011.

§ There has been higher allocation under *Indira Awas Yojana* and other rural development/infrastructure schemes.

**What it means:** The extension of time period for completion of existing projects will give the industry players the comfort of time and help developers whose projects were held up during the slowdown of last year. The relaxations regarding commercial establishments in the housing projects would enable basic facilities for the residents and help developers and real estate companies to make their projects more viable. Whilst the demand for “infrastructure” status to hotels has not been acceded to, inclusion of hotels for eligible deduction, through an investment linked incentive and not a profit linked one (as demanded by the industry players) does sweeten the deal and is likely to stimulate investments in this sector. The interest subvention along with increase in the tax slab rates for individuals should provide the necessary demand boost for low-cost housing. It may also encourage the developers to build more houses in this segment to benefit from this demand pick-up.

### AND THE NEGATIVES

Budget 2010 in spite of positives like incentives to hotel business, housing projects, higher allocation under Indira Awas Yojana and other rural development/infrastructure schemes, is unlikely to meet the expectations of the industry primarily due to some of the service tax proposals such as.

§ Service tax on commercial rentals: The High Court of Delhi in the case of *Home Retail Solution and Ors. v. Union of India* had clarified that renting of commercial property would not be subject to the levy of service tax. The Budget has amended the scope of ‘Renting of Immovable Property Service’ to directly overrule the High Court judgment and to explicitly cover the activity of mere renting as well and this has been done with retrospective effect from 1st June 2007. Moreover, renting of vacant land where the agreement of contract between lessor and lessee provided for undertaking construction of building/structure on such land for furtherance of business or commerce during the lease

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