Chairman’s Communication

My dear Students,

Many thanks for the enthusiastic response to my earlier letters. The positive feedback was tremendously uplifting and has given me added pep and energy.

POINT TO PONDER

Helen Keller said “One can never creep, when one feels the impulse to soar.” We must soar for there lies hope and prosperity for all of us. After all “Yesterday is History, Tomorrow is a Mystery and Today is God’s Gift,’ that’s why it is called the “Present”. Albert Einstein has given 3 Rules of work “Out of Clutter, Find Simplicity; From Discord, Find Harmony; In the middle of Difficulty, lies Opportunity.” Learn to listen, opportunity could be knocking on your door very softly.

A RESOLUTION FOR THE NEW FINANCIAL YEAR

“Fear less, hope more; Whine less, breathe more; Talk less, Say More; Hate Less, Love More and all good things are yours.”

CHARTERED ACCOUNTANCY COURSE – FOCUS ON CHARACTER BUILDING

Our Institute is focusing on imparting ethical and value based education and training to the students of the Chartered Accountancy Course. Education should be both intellectual based and value based. Intellectual based education influences the head whereas value based education influences the heart. When the head and heart go together, we need not worry about the feet which will go in the right direction. Ethical and value based education results in character building. The thought provoking quote of Samuel Smiles comes to my mind and I quote:

“Sow a thought, and you reap an act;
Sow an act, and you reap a habit;
Sow a habit, and you reap a character;
Sow a character, and you reap a destiny.”

BUILDING A PLEASANT PERSONALITY IS A PRE-REQUISITE FOR SUCCESS IN LIFE

To succeed in life, you must excel in interpersonal skills and in this regard, the need to build a pleasant personality need not be overemphasized. Dale Carnegie

(Continued on page 3)
A student felicitating CA. V Murali, Chairman, Board of Studies with flowers.

A student felicitating CA. V Murali, Chairman, Board of Studies with memento.

CA. V Murali lighting the lamp at the programme. Others seen in picture (from L to R) CA. Prafulla Chhajed, Dr T.P. Ghosh, Director of Studies, CA. Uttam Prakash Agarwal, Council Member and Programme Director, CA. B. C. Jain, CA. Deepak Mistry, faculty.

CA. V Murali, Chairman, Board of Studies giving an address on ‘CA as a career’. Others seen in picture (from L to R) CA. B. C. Jain, CA. Uttam Prakash Agarwal, Council Member and Programme Director, CA. Deepak Mistry, faculty.

CA. Uttam Prakash Agarwal, Council Member and Programme Director, giving an address on ‘CA as a career’. Others seen in picture (from L to R) CA. Prafulla Chhajed, Dr T.P. Ghosh, Director of Studies, CA. V Murali, Chairman, Board of Studies, CA. Deepak Mistry, faculty.

Dr T.P. Ghosh, Director of Studies, giving an address on ‘CA as a career’. Others seen in picture (from L to R) CA. B. C. Jain, CA. Uttam Prakash Agarwal, Council Member and Programme Director CA. V Murali, Chairman, Board of Studies, CA. Deepak Mistry, faculty.

CA. V Murali, Chairman, Board of Studies discussing issues raised by audience in the open house.

Dignataries and key persons responsible for the success of the programme.
Chairman’s Communication (Continued from page 1)
in his famous book on “How to Win Friends and Influence People” mentions six rules for a winning and well liked personality:

Rule 1: Become genuinely interested in other people.

Rule 2: Smile.

Rule 3: Remember that a man’s name is to him the sweetest and most important sound in the English language.

Rule 4: Be a good listener. Encourage others to talk about themselves.

Rule 5: Talk in terms of the other man’s interests.

Rule 6: Make the other person feel important—and do it sincerely.

Dear students, if you follow the above rules, I am sure that you will be able to enlarge your circle of friends which in itself is a great strength.

KEYS FOR SUCCESS IN YOUR EXAMINATIONS

Positive attitude, enthusiasm, hard work and self-confidence are the keys for your sure success in your examinations.

Nothing great was ever achieved without enthusiasm and there is no substitute for hard work. The immortal quote of Stephen Leacock is apt in this respect “I am a great believer in luck, and I find the harder I work, the more I have of it.”

In fact, genius is one percent inspiration and ninety-nine percent perspiration. Regular study, review and repetition are the three R’s for success in your examination and self-confidence borne out of consistent and regular study will steer clear of your exam related worries and tensions.

RESULTS OF CHARTERED ACCOUNTANCY EXAMINATIONS – AN ANALYSIS

This Newsletter will reach you in the midst of your C.A. examinations and my best wishes to each one of you. It is heartening to note that the performance of our students is ever on the upswing. If you compare the results of last November, 2005 examinations with the November, 2004 exam results, you will find that there is tremendous increase in pass percentages across all levels. In fact, pass percentages have increased by as much as 101% for the students appearing in both groups of Professional Education (Course – II) The minimum corresponding increase was 29% for the students who have appeared in Group I of Final Examinations. The various pass percentages in different examinations are given below:

Professional Education (Course – I)

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<th>November, 2004</th>
<th>May, 2005</th>
<th>November, 2005</th>
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<td>34.83</td>
<td>40.22</td>
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Professional Education (Course – II)

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<tr>
<td>Group II</td>
<td>17.31</td>
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Final Examination

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<th>May, 2005</th>
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<tbody>
<tr>
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<td>14.40</td>
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<td>24.58</td>
<td>31.57</td>
<td>31.69</td>
</tr>
<tr>
<td>Group II</td>
<td>21.95</td>
<td>17.18</td>
<td>28.75</td>
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</tbody>
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I have no doubt that your performance in May, 2006 exams will be a record breaking one.

HONING OF SKILLS

As the world economic order has changed, in the changed scenario, Chartered Accountants should acquire diversified skills. Technology is streamlining and replacing tedious manual systems. Today our
members are expected to be adept in mergers, acquisitions, spin-offs, knowledge process management, risk management, international finance, business re-engineering and the list is endless. Hence, at the student level itself, a firm foundation has to be laid. For holistic development, you need to develop analytical ability, conceptual clarity and problem solving skills. In this respect, Case study pedagogy will be helpful.

We in the Institute are also adapting with changed requirements to provide you with the quality and career based education. In the month of March and April a series of virtual classes were successfully conducted. Practical career oriented Workshops, Seminars and Conferences are being planned during this year.

C.A. CAREER AWARENESS PROGRAMME IN MUMBAI

On 23rd April, 2006 the Board of Studies had organized a C.A. Career Awareness Programme in Mumbai for prospective C.A. Students – collegians, their parents and teachers about the efficacy of Chartered Accountancy as a splendid career option. Dr.T.P.Ghosh, Director, Board of Studies and various eminent C.A. faculty spoke on the occasion and the response of the students was heartening indeed. I wish to place on record my warm appreciation to Mr.Uttam Prakash Agarwal, Central Council Member for co-ordinating the programme.

RBI MONETARY & CREDIT POLICY

The Reserve Bank of India unveiled the annual monetary and credit policy recently. The policy aims at credit quality and developing financial market conditions to support export and investment demand in the economy for maintaining financial stability. We have to appreciate the efforts put in by Dr. Y.V.Reddy, Governor, Reserve Bank of India and his dedicated team for striving to ensure growth momentum consistent with price stability.

WRAP UP POINT

I remember reading a Readers Digest article wherein the secret of success was spelt out as “Bring to it the rainbow.” By it the author meant, that whatever we do, however small it may seem, we must do our level best such that it is a masterpiece. Our goal as a fraternity should be “Collective Obsession for Excellence.” We must move forward in society doing our bit, we must create a feeling of empathy. Sympathetic comprehension of social needs and nurture those in need using the expertise, skills and resources at our command.” Sir Winston Churchill said “We make a living by what we get, but we make a life by what we give.” Mahatma Gandhi said “A small body of determined spirits, fired by an unquenchable faith in their mission can alter the course of history.”

Good bye and good luck.

With warm professional regards,

Forever, yours in service,

(V. MURALI)

Quiz and Elocution Contest, Jaipur

The Chartered Accountants of today require multifarious skills to succeed in their professional lives. To assist the student to adequately prepare for the future, the Board of Studies provide opportunities to learn beyond theoretical education. Apart from emphasis on the practical training, the Board conduct several other programmes at branch, regional and national level. Conducting conferences, conventions, seminars, contests go a long way in helping the students in their wholesome learning. For the current year different kind of programmes are being planned in different cities. Students should keep an eye for them and participate wherever opportunities exist.

A quiz contest is planned in the month of June on 19th in Jaipur, followed by an Elocution Contest on 26th. Student are advised to participate in large numbers and take the benefit.
Analysis of Annual Monetary and Credit Policy for 2006-07

In an open economy, monetary policy has an impact not only on the level of prices and output, but also on the exchange rate, current account deficit and capital inflow. Any analysis has to focus on the intermediate variables also such as the interest rate, credit and inflation. The concerns of monetary policy in India can be stated under two broad categories, (i) to regulate monetary growth so as to maintain a reasonable degree of price stability, and 2) to ensure adequate expansion in credit to assist economic growth.

The monetary policy for 2006-07 is a step further in the ongoing macroeconomic reform process in India. The highlights of the monetary policy 2006-07 are:

- GPD growth projection for FY07 at 7.5-8.00 per cent
- Inflation rate for FY07 projected at 5.00-5.5 per cent
- Bank rate unchanged at 6.00 per cent
- Cash reserve ration unchanged at 5.0 per cent
- Reverse repo rate and repo rate kept unchanged at 5.5 per cent and 6.5 per cent, respectively
- M3 growth projected at 15.0 per cent in FY07
- Non-food bank credit projected to increase by 20.0 per cent in FY07
- Growth in aggregate deposits projected at around Rs. 3,300 billion in FY07
- Risk weight on exposures to commercial real estate raised from 125 per cent to 150 per cent
- General provisioning requirement on standard advances in specific sectors, i.e. personal loans, capital market exposures, residential housing loans beyond Rs. 2 million and commercial real estate loans raised from the present level of 0.40 per cent to 1.0 per cent

Macroeconomic and financial conditions have evolved as stronger than expected. Inflation has been contained well within the projected range as reflected in the relative stability of long term interest rates. There are indications of improvement in the fiscal situation and the return to the path of correction set by the Fiscal Responsibility and Budget Management Rules. Downside risks to the economic outlook internationally continue in the form of high and volatile oil prices, geo-political tensions and supply shocks, increased asset prices, global imbalances and tightening of monetary policy globally. In the domestic economy, non-food credit growth, deposit growth and money supply growth were higher than the projections. Asset prices have registered substantial increase. Ensuring credit quality and increasing the pace of investment in infrastructure is important.

Analysis

Prices

The inflationary situation in the economy remained satisfactory. The year – on – year on inflation rate is a little less than 4 percent. Part of the reason is incomplete pass through of increase in international oil prices into the domestic economy. The average inflation rate based on WPI was just 4.4 per cent during 2006, down from 6.5 percent during 2005. However, prices of food grains, wheat and pulses have increased to whopping 8.3 percent, 12.3 percent and 26.4 percent respectively. But, the most disturbing element is asset inflation. Due to sustained high levels of raw material cost, the corporates are facing a margin squeeze, and hence, increasing pressure to raise prices.

Growth

GDP growth has been projected in the range of 7.5 – 8.00 per cent during 2006 – 07 assuring trend line growth in agriculture. The RBI has upped the GDP estimate from 7.00 – 7.5% in 2006 acknowledging the structural acceleration in domestic economic growth. While the M3 growth of around 15% is expected for 2006 – 07, sustainable growth of M3 should be lower from a policy perspective. “The economy is possibly poised on the threshold of a structural set up in the growth trajectory”, the RBI said. “The containment of inflation has boosted growth prospects in an environment of stability and confidence”. Dr. Man Mohan Singh, India’s Prime Minister suggested that the pace of growth could rise still further.

Asset Concerns

The RBI raised the risk weight on housing loans of above Rs. 20 lakh from 0.4 per cent to 1 per cent. The lender will have to put aside as reserves against losses an additional Rs. 12,000 on a loan of Rs. 20 lakh. From the borrower’s point of view, if the additional risk is passed on fully to the borrower, it amounts to an extra Rs. 1000 per month. However, many banks already make provisions in excess of the statutory requirement, so the change would have no impact. But this step of additional risk provisioning could be taken as a precursor of further measures to increase the level of protection that the banking system achieves against a sharp decline in asset prices.

Interest rates

The RBI left key short term rates and the bank rate unchanged, but hiked the provisioning requirement on standard personal loans and residential housing loans over Rs. 20 lakh and
exposures to commercial real estate and the capital market (including venture capital funds) from 0.4 percent to one percent. This meant that loans in these segments could get costlier. In a bid to check the torrid pace of bank lending, RBI favored limited sector specific measures rather than higher interest rates, lifting the provisioning requirement on personal bank loans and real estate lending.

Liquidity
The large borrowing program and the 20% growth in credit projected in the policy statement for 2006-07 is a step to improve the significant liquidity needs. The step reassures the economy of providing all liquidity needs of the country. The two major reasons for the liquidity problem faced in 2005 were the redemption of the India Millennium Deposits (IMD) and the building up of up sent cash balances by the Government. However, the policy statement 2006-07 stresses that the RBI will continue with its policy of active demand management of liquidity using all the policy instruments at its disposal (OMO, LAF, CRR). The policy reiterates the RBI’s stance of reducing the CRR to 3% over the medium term.

Balance of Payments
The Balance of Payment’s picture is satisfactory despite the current account deficit, widening from $485 million in first half of 2004-05 to $12.96 billion in the same period of 2005-06. The main factors have been the massive injection of foreign capital, especially portfolio investment and substantial spurt in the inflow of remittances. The forex reserves were around $151.6 billion at the end of March 2006. The RBI would do well to leave the forex rates to find their own levels, as it is doing now, except for the occasional token intervention when things seem to go out of hand. Despite the depreciation of the rupee in the recent period the export lobby argues that the currency still stands appreciated as shown by the indices of real effective exchange rates.

Going forward, the government spending along with tax refunds expected in April, are expected to boost liquidity in the money markets in the short term. The continuation of forex purchased by the RBI will further improve the liquidity situation. While the neutral stance adopted by the policy justifies the existing liquidity scenario, a rate hike going forward cannot be ruled out, in a scenario of global monetary tightening.

With special emphasis being given to the global factors, risks of global imbalances and global monetary tightening are expected to weigh unfavorably on the exchange rate.

Risks
Implementation failure of the Monetary Policy arise because of high fuel prices, excess credit growth, unprecedented asset price increase and US current account deficits (global imbalances). Similarly, the rising equity and gold prices are also areas of concern.
Annual Monetary and Credit Policy 2006-2007

Prem J Bhutani

The Reserve Bank of India (RBI) recently announced its Annual Monetary and Credit Policy 2006-2007. In this write up, we present the highlights of this Policy.

Macro and Monetary Developments

The Indian economy performed remarkably well in the year 2005-2006. According to the advance estimates of the Central Statistical Organisation (CSO), the real GDP growth accelerated from 7.5 per cent in 2004-05 to 8.1 per cent in 2005-06.

♦ **Industrial Production:** Industrial production recorded growth of 8 per cent in 2005-06 (April-February) compared to 8.2 per cent growth in the corresponding period of the last year. The manufacturing sector recorded growth of 9 percent in 2005-06 (April - February) compared to 8.9 per cent growth in the corresponding period of 2004-05.

♦ **Services Sector:** Robust growth in the major sub-sectors like ‘trade, hotels, transport and communication’, ‘financing, insurance, real estate and business services’ and ‘construction’ resulted in an overall growth of 9.9 per cent during 2005 (April - December). This was on the top of growth of 9.5 per cent during 2004 (April - December).

♦ **Fiscal Situation:** Non-Plan expenditures in respect of interest payments, subsidies, grants to the States and defence expenditure were kept under strict control during 2005-06. These have enabled the Government to keep the revised estimates of key indicators viz, gross fiscal deficit, revenue deficit and primary deficit lower than the budgeted ones.

♦ **Monetary and Liquidity conditions:** Monetary and liquidity conditions remained quite comfortable during 2005-06 although during the last four months of 2005-06 there was some liquidity crunch. The RBI injected liquidity in the economy by unwinding the Market Stabilisation Scheme (MSS) and repo operations under the liquidity adjustment facility (LAF).

During 2005-06, there was a surge in the demand for commercial credit. Restricted incremental investments in government paper, strong growth in deposits as well as access to non-deposit sources enabled the banks to meet the increased demand for commercial credit. Scheduled Commercial Banks’ non-food credit, on a year to year basis, registered a growth of 30.8 per cent as on March 31, 2006 on top of 28.8 per cent a year ago.

♦ **Price Situation:** International crude oil prices reached a record high level during 2005-06 and caused inflation to rise in many countries during 2005-06. In India, inflation remained well contained due to fiscal and monetary measures undertaken since mid-2004. Year to year wholesale price inflation was 3.5 per cent on April 1, 2006 as compared with 5.7 per cent a year ago.

♦ **Financial Markets:** Indian financial markets remained disciplined during 2005-06 even though interest rates increased across the spectrum. Money market conditions, which remained comfortable up to October, 2005, turned somewhat tight thereafter. The foreign exchange market remained more or less orderly. In the credit market, deposit and lending rates increased during the year as the demand for credit surged up.

♦ **External Economy:** Indian exports maintained the momentum of high growth for the fourth year in succession. They registered strong growth of 24.7 per cent in 2005-06 on top of 26.4 per cent growth last year. Imports of petroleum, oil and lubricant (POL) increased by 46.8 per cent during 2005-06. Non-oil imports increased by 25.6 per cent during 2005-06 as compared to 33.3 per cent during 2004-05.

The trade deficit increased by 52.7 per cent over the previous year. Current account deficit widened. However, the balance of payments position remained comfortable resulting from continued flow of capital.

India’s foreign exchange reserve were US $ 154.2 billion as on April 7, 2006 as compared to US $ 141.4 a year ago.

Stance of the Policy

The overall stance of monetary policy for 2006-07 will be:

♦ To ensure an environment that enables continuation of the growth momentum consistent with price stability.

♦ To focus on credit quality and financial market conditions to support export and investment demand in the economy for maintaining macro-economic, in particular, financial stability.

♦ To respond swiftly to evolving global developments.

Projections and Policy Measures

♦ Bank Rate, Repo Rate, Reverse Repo Rate and Cash Reserve Ratio have been kept unchanged at their present levels of 6 per cent, 6.5 per cent, 5.5 per cent and 5 per cent respectively. These have been kept unchanged as liquidity pressure seen during the last 4 months of 2005-06 have eased off considerably.

♦ For 2006-07 the GDP growth has been targeted at 7.5 - 8.0 per cent. The overall growth, however, is critically dependent on the performance of agriculture.

♦ Inflation is expected to be contained in the range of 5 - 5.5 per cent during 2006-07.

♦ Money supply (M3) is projected to expand by 5 per cent in 2006-07 and deposits are projected to grow by around Rs. 3,30,000 crores for 2006-07.

♦ Non-food credit is projected to slow down to 20 per cent in
2006-07 from 30 per cent in the last fiscal year.

- For certain specific categories like personal loans, commercial real estate loans, loans against shares and housing loans above Rs. 20 lakhs, the general provisioning norms for standard assets have been raised from 0.4 per cent to 1 per cent. This measure would raise the banks cost of these loans and it is quite likely that higher costs would be passed on to customers in the form of higher rates on these loans.

- Risk weights on commercial real estate lending have also been raised to 150 per cent from 125 per cent. This measure will also make real estate loans from banks dearer. Addressing credit related risks through such measures rather than an overall interest hike will help in guarding systemic risks arising from them.

- The ceiling on Non-Resident (external) rupee [NRE] deposits has been raised by 25 basis points to 100 basis points above the LIBOR (London Inter-bank Offer Rate) or SWAP rate for one to three years maturity. This measure is likely to help banks garner fresh deposits. Similarly, the interest rate ceiling or foreign currency export credit has been raised by 25 basis points to LIBOR plus 100 points.

- Bank loan to venture capital funds has been treated as ‘high risk’ exposure and banks have been asked to assign a 150 per cent risk weightage on loans to venture capital funds.

- For the benefit of fixed-income market, the RBI intends to introduce ‘when issued’ market in government securities shortly. A when-issued market allows transactions in government bonds that have been authorized for issuance but are yet not issued. This measure will allow the bonds holders to trade in government securities even before they are sold in primary auction.

- The RBI has allowed Primary Dealers (PDs) to diversify their business into areas other than the government securities. These areas could be trade in equities, commodities and foreign exchange. This will help PDS in exploring profitable trading avenues.

- The RBI will also take steps to start a screen-based and quota-driven system for dealings in call/notice and term money market. This will speed up the call money trades.

- Mutual Funds, large pension and provident funds can access the negotiated dealing system (NDS) which is an online reporting system for G-securities (i.e. government securities).

- Recognising the need for banks to raise additional capital to meet Basel-II requirements, the RBI has announced the means for banks to strengthen their net worth through the issue of preference capital.

- In order to ensure greater transparency, RBI has asked banks to display the detail of their charges in their offices and branches in an approved format.

C. A. Students’ Education Crash Courses

**Jointly organised Western India Regional Council and Bombay Chartered Accountants’ Society**

For November 2006 & May 2007 Examinations

**Professional Education Course - II**

- **Group – I**
  - Accounting
  - Auditing
  - Business & Corporate Laws

- **Group – II**
  - Income Tax & C.S.T.
  - Cost Accounting & F.M.

(In addition, important topics in IT may be covered at no extra cost.)

**Final Course**

- **Group – I**
  - Advanced Accounting & Financial Management

- **Group – II**
  - Direct Taxes
  - Indirect Taxes
  - Cost Management

(In addition, important topics in MICS may be covered at no extra cost.)

**Course Co-ordinators**

- CA. B.M. Agarwal,
- CA. Yatin Vyavaharkar.
- Mr. Chandrakant Ruparelia

**Fees**

Rs. 1000/- per student for P.E.II or Final (Total and not per Subject Including cost of Study Materials)

**Timings & Venue**

6.15 p.m. to 8.30 p.m. on weekdays at Sydenham College.
'B' Road, Churchgate, Mumbai.

**Duration**

3 months from July 3, 2006

**Enrolment**

from May 2, 2006

**Faculty**

Eminent personalities possessing rich experience in their respective fields.

For further information kindly contact Mr. Raje / Mr. C. Ruparelia on Phone 56595601 to 05.

Case Study

A case study, Exploring Value in Sunshine Agro Foods, relevant for the students of Final course was included in the March 2006 issue of students’ newsletter. The last day of submitting its replies is being extended. Now, you may send your responses by e-mail to ssuneja@icai.org with the subject line ‘Exploring Value in Sunshine Agro Foods’ by the end of May, 2006. The best reply will be awarded a certificate and cash prize of rupees one thousand.
A bird’s eye view of significant amendments in Direct Taxes by the Finance Act, 2006

CA. Priya Subramanian

The provisions in the Finance Act, 2006 relating to direct taxes have endeavoured to maintain a certain element of balance and constancy, characterised by non-imposition of new taxes and maintenance of the same rates of income-tax and surcharge for all classes of assessees. The only deviation in this regard is the increase in the rate of minimum alternate tax from 7.5% to 10% of book profits, which might cause hardship to companies in the MAT regime. The other amendments relating to MAT are briefed hereunder -

1. The period for availing set-off of MAT credit has been increased from 5 years to 7 years.

2. Credit for MAT paid to be allowed in computation of interest under sections 234A/234B/234C and self-assessment tax under section 140A.

3. Section 115JB prescribes certain adjustments i.e. additions to and deductions from the net profit shown in the profit and loss account prepared in accordance with the provisions of Parts II and III of Schedule VI of the Companies Act, 1956, in order to arrive at the book profit for MAT purposes. The following changes have been made in the manner of computation of book profit –
   (i) Long-term capital gains on sale of equity shares through a recognized stock exchange on which securities transaction tax (STT) is paid is exempt under section 10(38). One of the adjustments to the book profit is that exempt income under section 10, which is credited to profit and loss account, would be deducted in arriving at the book profit. However, w.e.f. A.Y.2007-08, deduction of such long-term capital gains is not allowed for computing book profit. Consequently, expenditure to earn such income would not be added back to arrive at the book profit. Consequential amendment has been made in section 10(38) to provide that such long term capital gain of a company shall be taken into account in computing the book profit and income-tax payable under section 115JB.

   (ii) In order to check leakage of revenue on account of certain companies resorting to claim of higher depreciation through revaluation of assets, the manner of computation of book profits has been amended to exclude depreciation on account of revaluation of assets while computing book profits. (iii) Any amount withdrawn from the revaluation reserve and credited to the profit and loss account, to the extent it does not exceed the amount of depreciation on revaluation of assets, has to be reduced for computing book profits.

In his second budget, the Finance Minister Shri P. Chidambaram had introduced the “Fringe Benefit Tax” on the rationale of existence of an inherent difficulty in isolating the “personal element” where there is a “collective enjoyment” of fringe benefits. The fringe benefits tax had been introduced by the Finance Act, 2005 by insertion of Chapter XII-H in the Income-tax Act, 1961. This is an additional tax payable by prescribed employers on specified expenses incurred, which are deemed to be in the nature of fringe benefits provided to employees. In his current budget speech (Budget 2006), the Finance Minister has once again justified the levy of this tax on the grounds of both horizontal equity and vertical equity. The Fringe Benefit Tax is, therefore retained, however, with dilution of certain provisions w.e.f. A.Y.2007-08, as explained hereunder -

1. Contributions by an employer to an approved superannuation fund up to Rs.1 lakh per employee are exempt from levy of FBT. It may be noted that if the employer’s contribution is more than Rs.1 lakh per employee in a year, only the contribution in excess of Rs.1 lakh would be subject to FBT.

2. The value of fringe benefit in respect of “tour and travel (including foreign travel)” would now be 5% instead of 20%. However, it may be noted that this does not apply to conveyance, for which the value of fringe benefit would continue to be 20%.

3. The value of fringe benefit in respect of provision of hospitality and use of hotel, boarding and lodging facilities would now be 5% instead of 20% for airline and shipping companies.

4. Expenditure on distribution of free samples of medicines or of medical equipment to doctors has been excluded from “sales promotion including publicity” and consequently, exempt from levy of FBT.

5. Expenditure by way of payment to any person of repute for promoting the sale of goods or services of the business of the employer has been excluded from “sales promotion including publicity” and consequently, exempt from levy of FBT.

6. Any benefit or amenity in the nature of free or subsidised
transport or any allowance provided by the employer for journeys by the employees from their residence to the place of work or vice versa is also excluded from levy of PBT.

On the personal taxation front, the significant amendments are (i) inclusion of fixed deposits with scheduled banks (for a period of not less than 5 years) which is in accordance with a scheme framed and notified by the Central Government in the Official Gazette, among the eligible investments qualifying for deduction under section 80C and are (ii) increase in ceiling limit from Rs.10,000 to Rs.1,00,000 in respect of contribution to certain pension funds in section 80CCC. However, the overall ceiling of Rs.1,00,000, for deductions under sections 80C, 80CCC & 80CCD put together, would continue to be applicable. The one-by-six scheme under the proviso to section 139(1) requiring certain categories of persons to file a return of their income, even if their income is below the basic exemption limit, has been abolished.

The other significant amendments in direct tax provisions are summarised hereunder—

1. Exemption under section 10(23G) in respect of income by way of dividends, interest and long-term capital gains of an infrastructure capital fund or infrastructure capital company or a co-operative bank from investments by way of shares or long-term finance in approved eligible infrastructure projects, hotel projects, hospital projects etc. is not available from A.Y.2007-08 in respect of such income earned from existing as well as future investments.

2. Constituency Allowance received by MLAs also is fully exempt. All other allowances excluding daily allowance are fully taxable as in the case of MPs.

3. Anonymous donations to wholly charitable institutions would be taxed at the highest marginal rate. Such donations to partly charitable and partly religious institutions/trusts to be taxed only if the donation is made with a specific direction that such donation is for any university or other educational institution or any hospital or other medical institution run by such trust or institution. However, these provisions would not be attracted in the case of such donations received by wholly religious institutions/trusts.

4. The method for determining expenditure in relation to exempt income to be prescribed by the CBDT for the purpose of disallowance of such expenditure under section 14A and such method to be adopted by the Assessing Officer if he is not satisfied with the correctness of the claim of the assessee, having regard to the accounts of the assessee. Further, the Assessing Officer is empowered adopt such method, even where an assessee claims that no expenditure has been incurred by him in relation to the exempt income.

5. Section 43B provides for allowance of deduction only on

—“payment” basis in respect of certain expenditure specified therein. Such expenditure would be allowed as deduction only if the payment is made on or before the due date for filing the return of income under section 139(1). If the payment is made after the stipulated due date, deduction can be claimed only in the year of actual payment. Such specified expenditure include—

(i) interest on loan or borrowing from any public financial institution or a State financial corporation or a State industrial investment corporation; and

(ii) interest on any loan or advances from a scheduled bank.

A clarification has been given, with retrospective effect from the date of inclusion of the above expenditure in section 43B, that if any sum payable by the assessee as interest on any such loan or borrowing or advance is converted into a loan or borrowing or advance, the interest so converted and not “actually paid” is not deemed as actual payment, and hence would not be allowed as deduction.

6. The scope of section 54EC in respect of exemption of long-term capital gains on investments in specified bonds has been restricted by excluding bonds issued by NABARD, NHB and SIDBI from its ambit. The benefit of exemption under this section is henceforth to be available only if such capital gains are invested in bonds of NHAI or RECL.

7. Filing of return of income on or before the due date specified in section 139(1) is mandatory for claiming benefit of deduction under sections 10B, 80-IA, 80-IAB, 80-IB and 80-IC.

8. The terminal date for developing an industrial park for availing benefit of deduction under section 80-IA has been extended from 31.3.2006 to 31.3.2009.

9. The terminal date for power sector undertakings for starting generation/generation and distribution of power or for starting transmission/distribution of power by laying a network of new transmission/distribution lines or for undertaking substantial renovation and modernisation of its existing network of transmission/distribution lines for availing benefit of deduction under section 80-IA has been extended from 31.3.2006 to 31.3.2010.

10. Co-operative banks, other than Primary Agricultural Credit Societies and Primary Co-operative Agricultural and Rural Development Banks, not eligible for claiming deduction under section 80-IC.

11. Close-ended equity oriented funds treated on par with open-ended equity oriented funds for the purpose of exemption from levy of dividend distribution tax.

12. Alignment of definition of equity-oriented fund given in Chapter XII-E of the Income-tax Act with the definition adopted by SEBI, thereby requiring investment of more
than 65% of the total proceeds of such fund in equity shares of domestic companies, to qualify as an equity-oriented fund for the purpose of exemption from levy of dividend distribution tax.

13. The Assessing Officers are empowered to suo-moto allot PAN to any person, irrespective of whether any tax is payable by such person or not, in the prescribed manner and in accordance with the prescribed procedure.

14. The CBDT is empowered to notify a scheme for submission of returns through Tax Return Preparers (TRPs) by any person, other than a company or a person whose accounts are required to be audited under section 44AB (tax audit) or under any other law. The authorized TRPs shall assist such persons in furnishing the return of income in the manner specified in the Scheme. The TRP also has to affix his signature on such return.

15. Notice under section 142(1) to persons who have not filed their return of income within the prescribed time will be valid even if such notice has been issued after the end of the relevant assessment year. This amendment is to be applicable to notices served in respect of assessment years commencing from A.Y.1990-91.

16. In case of income escaping assessment, where the return of income has been furnished during the period between 1.10.91 and 30.9.05 in response to notice under section 148, a notice for scrutiny under section 143(2) served at any time before the expiry of the time limit for making an assessment/re-assessment/re-computation as specified in section 153(2) will be treated as valid.

17. The time limits specified for completion of assessments/re-assessments in sections 153 and 153B of the Income-tax Act, 1961 and section 17A of the Wealth-tax Act, 1957 has been reduced by 3 months, so that the demand raised during a previous year could be collected in the same year.

18. Penalty of Rs.10,000 will be levied for quoting a false ‘tax deduction account number’ or ‘tax collection account number’ or ‘tax deduction and collection account number’. However, a reasonable opportunity of being heard was to be given to the assessee.

Although there has been no major revamping in the direct tax provisions, significant amendments have been made in the area of MAT, taxation of charitable institutions and time limits under assessment procedure. Dilution of FBT provisions are likely to bring some relief to certain classes of employers. The stipulation of a pre-condition of compulsory filing of return of income for claiming deduction under sections 10B, 80-IA, 80-IAB, 80-IB and 80-IC seems to be rather strict and might cause genuine hardship to the concerned assessee. In a nutshell, it can be concluded that the amendments in direct taxes are a mixed bag of provisions, some of which are beneficial to the assessees, while the others are not.
The Union Finance Minister Mr. P. Chidambaram had presented the Union Budget for 2006-07 on 28th of February 2006. The President of India has given his assent to the Finance Bill, 2006 on 18.04.2006. Though there are no architectural changes in the budget this year, the major amendments in respect of indirect taxes have been summarized in this article.

**CENTRAL EXCISE**

The major amendments in the Central Excise Act, 1944 and the Central Excise Tariff Act, 1985 are detailed below:

- Section 12C of the Central Excise Act has been amended so as to enable credit of any excess amount collected as service tax (section 73A(6) of the Finance Act, 1994) by any person to the Consumer Welfare Fund.
- Section 23C of the Central Excise Act has been amended to empower the Authority of Advance Rulings to provide rulings on questions in respect of determination of the liability to pay excise duty on any goods.
- There will be a realignment of entries in the Third Schedule to the Central Excise Act, 1944 with effect from 01.01.2007. With effect from a date to be notified in the Official Gazette, three new entries viz. toothbrush, plant growth regulator and parts, components and assemblies of automobiles will also be covered in this Schedule.
- The Finance Act, 2006 has also amended the First Schedule to the Central Excise Tariff Act, 1985 to incorporate the amendments approved by the Customs Co-operation Council (World Customs Organisation) to align the said Schedule with the Harmonised System of Nomenclature. This amendment will come into effect from 01.01.2007.
- Following new instances of deemed manufacture have been added in the Central Excise Tariff Act. It may be noted that these changes have come into force from 01.03.2006.
  - A note has been inserted in Chapter 25 to provide that in relation to products of heading 2515 and 2516, the processes of cutting or sawing or sizing or polishing of blocks or any other process of converting stone blocks into slabs or tiles, shall amount to ‘manufacture’.
  - Note 7 to Chapter 32 has been amended so as to provide that in relation to products of heading 3206 and products of tariff items 3204 19 81 to 3204 19 90, labelling or relabelling of containers and repackaging from bulk packs to retail packs or the adoption of any other treatment to render the product marketable to the consumer, shall amount to ‘manufacture’.
  - A note has been inserted in Chapter 39 so as to provide that in respect of goods falling under heading 3920 and 3921, the process of metallization shall amount to ‘manufacture’.
  - A note has been inserted in Chapter 72 so as to provide that in relation to the products of this Chapter, the process of drawing or redrawing a bar, rod, wire rod, round bar or any other similar article, into bright bar, shall amount to ‘manufacture’.
  - Note 5 in Chapter 73 provides that the process of coating with cement or polyethylene or other plastic materials of pipes and tubes of heading 7304 and 7305 amounts to ‘manufacture’. This provision is being extended to goods of heading 7306.
- The excise duty structure on production cleared from Export Oriented Units, Software Technology Parks and Electronic Hardware Technology Parks to Domestic Tariff Area has been changed from 50% of aggregate of customs duties to 25% of the basic customs duty plus excise duty payable on like goods (CVD). Full credit shall be available for entire CVD. Additional duty of customs leviable under section 3(5) of the Customs Tariff Act shall also be exempt. However, if the goods cleared into the DTA are exempt from payment of sales tax/VAT, additional customs duty under section 3(5) would be levied.

**Significant changes in excise duty structure (effective from 01.03.2006)**

- Excise duty on aerated waters (abatement from RSP has reduced from 45% to 42.5%) reduced from 24% to 16%.
- Duty reduced on small cars from 24% to 16%. Small car will mean a car of length not exceeding 4000 mm and with an engine capacity not exceeding 1500 cc for diesel cars and not exceeding 1200 cc for petrol cars.
- Duty on LPG gas stoves of value exceeding Rs.2000 p.u. and compact fluorescent lamps (abatement from RSP has reduced from 40% to 37%) reduced from 16% to 8%.
- Duty on footwear of RSP between Rs.250 and Rs.750 per pair (abatement from RSP has reduced from 40% to 37%) reduced from 16% to 8% as against 16%.
- Condensed milk, ice-cream, yeast, pasta, processed meat, fish and poultry products granted full exemption from excise duty.
- Excise duty reduced on ready to eat packaged food and instant food mixes (abatement from RSP has reduced from 40% to 37%) from 16% to 8%.
- Excise duty on man made fibres, filament yarns, DVD-drives, flash drives, combo drives, MP3 players and MPEG4 players reduced from 16% to 8%.
Excise duty of 8% with CENVAT credit imposed on goggles, articles of wood, registers, accounts books, order books, receipt books, letter pads, memorandum pads, dairies, binders, folders, file covers, etc. (excluding note books and exercise books)

Packaged software or canned software sold over the counter to attract 8% excise duty. However, any customized software or software downloaded from the internet to be exempt from this levy.

Computers to attract 12% duty.

Set top boxes not covered under the Information Technology Agreement to attract 16% duty.

Excise duty of 16% imposed on umbrellas and sun umbrellas and their parts, food preparations intended for free distribution subject to end use certification, specified goods meant for display in any fair or exhibition in India, parts of table ware, kitchenware and other household articles of iron, steel, copper and aluminium etc.

The cess on domestic petroleum crude oil increased from Rs.1800 per tonne to Rs.2500 per tonne.

The exemptions provided to production of certain goods without ‘aid of power’ withdrawn.

CUSTOMS
The major amendments in the Customs Act, 1962 and the Customs Tariff Act, 1975 are detailed below:

Section 23 of the Customs Act, 1962 has been amended to provide that the owner of imported goods shall not be allowed to relinquish his title to such goods in respect of which an offence appears to have been committed.

Similarly, section 68 of the Customs Act, 1962 has been amended to provide that the owner of warehoused goods shall not be allowed to relinquish his title to such goods in respect of which an offence appears to have been committed.

Section 9 of the Customs Tariff Act, 1975 deals with levy of countervailing duty on import of goods in respect of which any subsidy has been paid. Explanation to sub-section (1) provides that subsidy shall be deemed to exist if there is financial contribution by the Government or any public body within the territory of the exporting or producing country. Section 9(1) has been amended so as to substitute the words ‘territory of the exporting or producing country’ by ‘exporting or producing country or territory’. This amendment clarifies that this section will cover cases where subsidy is bestowed by a country or by a Customs Union of more than one country.

In section 9 of the Customs Tariff Act, 1975, a new sub-section (7A) has been inserted. This is an enabling provision for application of certain provisions of the Customs Act, 1962, in respect of date of determination of the rate of duty, non levy, short levy, refunds, interest, appeals, offences and penalties to the countervailing duty chargeable under Section 9.

In section 9A(1) of the Customs Tariff Act, 1975, the words ‘meant for consumption’ have been substituted by ‘destined for consumption’.

With effect from 1.1.2007, First Schedule to the Customs Tariff Act, 1975 will be amended so as to incorporate the amendments approved by the Customs Cooperation Council (World Customs Organization). These changes would align the First Schedule of the Customs Tariff Act with the Harmonized System.

Significant changes in duty structure (effective from 01.03.2006)

The levy of additional duty of customs leviable under section 3(5) of the Customs Tariff Act, 1975 has been extended to cover all imported goods (with some exceptions). This will apply to all agricultural as well as non-agricultural imports. Jewellery will, however, attract a lower rate of additional duty of customs at 1%.

Reduction in peak customs duty for non-agriculture projects from 15% to 12.5%.

Reduction of customs duty from 10% to 7.5% on refractories and materials required for manufacturing refractories.

Ad valorem component of customs duty on textiles fabrics and garments reduced from 15% to 12.5%. There is, however, no change in specific component of customs duty.

Customs duty on set top boxes, whether or not covered under ITA (Information Technology Agreement) unified at Nil customs duty plus 16% CV duty plus 4% special additional duty of customs.

CVD under section 3(3) of the Customs Tariff Act withdrawn on computers consequent to imposition of excise duty at 12% on computers.

Customs duty on MP3 Players and MPEG4 Players reduced from 15% to 5%.

Customs duty on 14 specified anti-cancer and 10 specified Anti-AIDS drugs reduced to 5% with Nil CVD by way of excise duty exemption.

Customs duty on packaging machines reduced from 15% to 5%.

Customs duty reduced from 10% to 7.5% on primary and semi-finished forms of alloy steel, aluminium, copper, zinc, etc.

SERVICE TAX
Changes to be effective from 01.05.2006

The following 15 new services have been included in the service tax net:
1. Service provided by a Registrar to an Issue
2. Service provided by a Share Transfer Agent
3. Automated Teller Machine operations, maintenance or management
4. Service provided by a recovery agent
5. Sale of space or time for advertisement, other than in print media
6. Sponsorship services provided to any body corporate or firm, other than sponsorship of sports events
7. Transport of passengers embarking on international journey by air, other than economy class passengers
8. Transport of goods in containers by rail by any person, other than Government railway
9. Business support services
10. Auctioneers’ service, other than auction of property under directions or orders of a court of law or auction by the Central Government
11. Public relations service
12. Ship management service
13. Internet telephony service
14. Transport of persons by cruise ship
15. Credit card, debit card, charge card or other payment card related services

The scope of the following 10 existing services has been expanded in the manner given below:

1. Banking and other financial services to include transfer of money through different modes by any person and services provided as banker to an issue.
2. Management consultancy service to specifically include consultancy in different areas of management.
3. General insurance service to include service provided to a policy holder or any person by an insurer including a re-insurer.
4. Life Insurance service to include service provided to a policy holder or any person by an insurer including a re-insurer.
5. Insurance auxiliary service concerning general insurance business to include service provided to a policy holder or any person or an insurer including a re-insurer.
6. Insurance auxiliary service concerning life insurance business to include service provided to a policy holder or any person or an insurer including a re-insurer.
7. Maintenance or repair service to be renamed as “management, maintenance or repair” service and to include management of movable property.
8. Erection, commissioning or installation service to include erection, commissioning or installation of structures whether or not pre-fabricated.
9. Consulting engineer service to include engineering consultancy services provided by any firm or body corporate.
10. Business auxiliary service to include computerized data processing.

♦ It has been clarified that technical testing and analysis service includes clinical testing of drugs and formulations and excludes testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or any disorder in human beings or animals.

♦ The references to ‘commercial concern’, in relation to 17 taxable services have been substituted with ‘person’ so as to expand the scope of the service provider in the said services.

♦ An explanation has been inserted in section 65(1) of the Finance Act, 1994 which clarifies that taxable service includes any service provided or to be provided by any unincorporated association or body of persons to its members.

♦ The explanation at the end of section 65(105) relating to levy of service tax on taxable services provided from outside India to a recipient in India has been omitted. A separate mechanism has been provided for charging such kind of services.

Changes effective from 18.04.2006

♦ The rate of service tax has been increased to 12%.

♦ New section 66A has been inserted in the Finance Act, 1994 to levy service tax under reverse charge method on taxable services provided from outside India to a recipient in India.

♦ Existing section 67 has been substituted with new section 67 to provide for determination of value of taxable service.

♦ A new sub-section 1(A) has been inserted in section 73 to provide for conclusion of adjudication proceedings in respect of a person who has voluntarily deposited the service tax demanded along with interest and penalty equal to 25% of the service tax specified in the demand notice.

♦ A new section 73A has been inserted to provide for voluntary payment by an assessee of any amount collected in excess of the service tax leviable but not deposited with the Central Government or recovery of such excess amount. It also provides for voluntary payment or recovery of any amount representing service tax that has been collected by a person but not deposited with the Central Government.

♦ A New section 73B has been inserted to enable the Central Government to collect interest on the amount referred to in section 73A.
A new section 73C has been inserted which provides for provisional attachment of the property by the Central Excise Officer during the pendency of any proceedings under section 73 or section 73A.

Another new section 73D has been inserted which lays down that the name of any person and particulars of any proceedings in relation to such person may be published in public interest.

The penalty in case of failure to pay service tax by the due date has been increased to Rs.200 per day for every day during which such failure continues or at the rate of 2% of such tax, per month, whichever is higher, starting with the first day after the due date till the date of actual payment of the outstanding amount of service tax [Section 76].

Procedure relating to recovery of any amount due to the Central Government has been provided under the provisions of section 87.

A new section 93A has been inserted in the Finance Act, 1994 which has empowered Central Government to grant rebate of service tax paid on input services used in the manufacture of goods and provision of services which are exported.

The Central Government has been empowered to make rules for:
(i) valuation of taxable services
(ii) prescribing the manner of provisional attachment of property
(iii) prescribing the manner of publication of the name of any person
(iv) prescribing the manner of recovery of any amount due to the Central Government
(v) prescribing rules for the rebate of service tax paid/payable on the taxable services used as input services in the manufacturing or processing of goods exported out of India.

The Authority for Advance Rulings has been empowered to give rulings in respect of determination of the liability to pay service tax [Section 96C].

Changes effective from 01.03.2006 (Amendments made by Budget Notifications)

Amendment in Service Tax Rules, 1994

In rule 4, a new sub-rule (5A) is inserted which requires an assessee to intimate any change in information submitted to the Central Excise Officer at the time of registration, within 30 days of the said change.

In rule 4, a new sub-rule 8 is inserted to provide for cancellation of registration certificate by the concerned Superintendent of Central Excise, where an assessee makes an application for cancellation of the said registration certificate.

In rule 5, a new sub-rule 3 is inserted to make it obligatory for an assessee to preserve records related to service tax for a period of at least 5 years immediately after the financial year to which the said records pertain.

In rule 5, a new sub-rule 4 is inserted to make it obligatory for an assessee to make available the records pertaining to service tax, to a Central Excise Officer, for the purpose of inspection and examination.

Exemptions withdrawn

Exemption for services, other than accounting, auditing, and statutory certification services, provided by a practicing chartered accountant, company secretary or cost accountant in his professional capacity.

Exemption for taxable services provided by a Call Centre or a Medical Transcription Centre.

Exemption for catering services provided on a railway train by an outdoor caterer.

Exemption for taxable service provided in relation to Enterprise Resource Planning (ERP) software system provided by a management consultant in connection with the management of any organization.

The exemptions in relation to general insurance where premium is received from re-insurance, both domestic and overseas, and all business for which premium is booked outside India.

Exemption for catering services provided within the premises of an academic institution or medical establishment by an outdoor caterer.

Exemption bestowed

Exemption from service tax has been provided to testing and analysis services provided in relation to water quality testing by Government owned State and District level laboratories.

Exemption from service tax has been provided to all taxable services provided by the Reserve Bank of India.

Exemption from service tax has been provided to financial leasing services including equipment leasing and hire-purchase for so much of the service tax as is equivalent to the service tax calculated on 90% of an amount, forming or representing interest. The interest is the difference between the installment paid towards repayment of the lease amount and the principal amount contained in such installment.

The Finance Minister in his budget speech had envisaged year 2010 as the year for introduction of unified Goods and Service Tax. This reform, if introduced will be a turning point in the tax rationalization drive initiated in the last few years. Overall, Finance Act, 2006 has aimed to rationalize duty structure and to do away with redundant and irrelevant exemptions. It has sought to ensure transparency in tax administration and simplification of tax procedures.
Amendments made by Finance Bill 2006 - Dr. Vinod K. Singhania

This is concluding part of the article printed in two parts. The first part of the article was printed in the April, 2006 issue.

Permanent account number [Sec. 139A]

30. The scheme of permanent account number given in section 139A has been amended with effect from June 1, 2006 on the following lines:

♦ For the purpose of collecting any information which may be useful for or relevant to the purposes of the Act, the Central Government may by way of notification specify any class or classes of persons, and such persons shall within the prescribed time apply to the Assessing Officer for allotment of a permanent account number.

♦ The Assessing Officer may (having regard to the nature of transactions as may be specified by the rules made by the Central Board of Direct Taxes) also allot a permanent account number to any other person (whether any tax is payable by him or not) in accordance with the procedure as may be specified by such rules.

♦ Every person deducting tax or collecting tax shall quote the permanent account number of the deductee or person in respect of whose income tax is collected, in all quarterly statements furnished in accordance with the provisions of section 200(3) or, as the case may be, section 206C(3) which provide for furnishing of quarterly statement.

New Scheme to facilitate submission of returns through Tax Return Preparers [Sec. 139B]

31. A new section 139B has been inserted with effect from June 1, 2006. It provides as follows:

♦ For the purpose of enabling any specified class or classes of persons to prepare and furnish returns of income, the Board may, by way of notification, frame a scheme providing that such persons may furnish their returns of income through a Tax Return Preparer authorised to act as such under the scheme.

♦ The Scheme framed under the above provisions shall specify the manner in which the Tax Return Preparer shall assist the persons furnishing the return of income, and shall also affix his signature on such return.

♦ A Tax Return Preparer may be an individual other than a person referred to in section 288(2)(ii)/(iv) or an employee of the specified class or classes of persons, who has been authorised to act as a Tax Return Preparer under the above scheme.

♦ The above scheme shall also provide the manner in which a Tax Return Preparer shall be authorised, the educational and other qualifications to be possessed, and the training and other conditions required to be fulfilled, by a person to act as a Tax Return Preparer, the code of conduct for the Tax Return Preparer, the duties and obligations of the Tax Return Preparer, the manner in which the authorisation may be withdrawn, and any other matter which is required to be or may be specified.

Credit for payment of MAT and tax paid in a foreign country and specified territory outside India for the purposes of self assessment tax and charge of interest under sections 234A, 234B and 234C

32. There is a judicial controversy whether MAT credit under section 115JAA and double taxation relief under section 90/91 shall be taken into consideration for the purpose of calculating interest under sections 140A, 234A, 234B and 234C.

To prevent any further dispute, sections 140A, 234A, 234B and 234C have been amended with effect from the assessment year 2007-08 so as to provide that MAT credit under section 115JAA and double taxation relief under sections 90, 90A and 91 shall be considered for the purpose of these sections. Since the amendment is only clarificatory in nature, it will be applicable even in respect of earlier years.

Time-limit for issue of notice under section 142

33. There is a judicial controversy whether notice under section 142(1)(i) can be issued after the end of relevant assessment year. To prevent any further dispute, section 142 has been amended as follows:

1. In a case where a person has not made a return of his income before the end of the relevant assessment year, the Assessing Officer may serve a notice under section 142(1) requiring such person to furnish his return of income. This is applicable from April 1, 2006. Such notice can now be issued even after the end of assessment year.

2. Where any notice has been served on or after April 1, 1990 under the aforesaid provision after the end of the relevant assessment year to any person who has not made a return of his income before the end of the relevant assessment year, such notice shall be deemed to be a notice served in accordance with the provisions of section 142(1). It is applicable retrospectively from April 1, 1990.

It may be noted that the time-limit for completion of assessment under section 153(1) has not been modified. Consequently, if a notice is served for submission of return of income after the end of the assessment year (say notice for the assessment year 2000-01 is served on April 10, 2006), assessment cannot be completed after the expiry of 24 months (21 months under the modified provisions) from the end of the assessment year (the notice served on April 10, 2006 for the assessment year 2000-01 is a valid notice, assessment cannot be completed after March 31, 2003).

Making assessment/reassessment under section 147 - Time-limit for issue of scrutiny notice [Sec. 148]

34. There is a judicial controversy whether to complete
assessment/reassessment scrutiny notice should be served under section 143(2) within one year from the end of the month in which return is submitted by the taxpayer after getting a notice under section 148.

To resolve the controversy, section 148 has been amended with retrospective effect from October 1, 1991. If after getting notice under section 148, return is submitted by a taxpayer during the period between October 1, 1991 and September 30, 2005, the department at any time can issue scrutiny notice. But such notice cannot be issued after the expiry of time-limit for completion of assessment/reassessment specified under section 153(2).

For instance, in response to a notice under section 148 served on September 3, 2002, the taxpayer submits return for the assessment year 1999-2000 on October 16, 2002. The scrutiny notice can be issued at any time after October 16, 2002 (it can be issued even after the expiry of 12 months from the end of the month in which return is submitted, i.e., even after October 31, 2003). However, reassessment cannot be completed after March 31, 2004, as per time-limit given under section 153(2). As there is no amendment in the time-limit given under section 153(2), scrutiny notice cannot be issued in this case after March 31, 2004.

**Reduction of time-limit for completion of assessment/reassessment**

35. Different time-limits available for completion of assessment/reassessment have been revised with effect from June 1, 2006. The table given below highlights the same:

<table>
<thead>
<tr>
<th>Amended sections</th>
<th>New time-limit</th>
</tr>
</thead>
<tbody>
<tr>
<td>♦ Proviso to section 153(1): Completion of assessment for the assessment year 2004-05 onwards</td>
<td>21 months from the end of the assessment year</td>
</tr>
<tr>
<td>♦ 153(1A): Completion of assessment for fringe benefits under section 115WE or 115WF</td>
<td>21 months from the end of the assessment year</td>
</tr>
<tr>
<td>♦ 153(1B): Completion of assessment/reassessment of fringe benefit tax</td>
<td>9 months from the end of the financial year in which notice under section 115WH is served</td>
</tr>
<tr>
<td>♦ Proviso to section 153(2): Completion of assessment/reassessment under section 147 if notice is served under section 148 after March 31, 2005</td>
<td>9 months from the end of the financial year in which notice under section 148 is served</td>
</tr>
<tr>
<td>♦ Proviso to section 153(2A): Fresh assessment in pursuance of an order</td>
<td>9 months from the end of the financial year in which such order is received by the Commissioner or passed by the Commissioner</td>
</tr>
</tbody>
</table>

The Commissioner or passed by the Commissioner

21 months from the end of the financial year in which the last of the authorizations for search was executed on or after April 1, 2004

21 months from the end of the financial year in which the last of the authorizations for search was executed or 9 months from the end of the financial year in which the books of account/document/assets are handed over under section 153C to the Assessing Officer having jurisdiction over other person

**Deferment of dematerialisation of TDS and TCS certificates**

36. The provisions regarding dematerialisation of TDS/TCS certificates have been deferred by two years. Now these provisions will not be applicable in respect of tax deducted/collected at source on or after April 1, 2008. To put it differently, in respect of tax deducted/collected at source up to March 31, 2008, TDS/TCS certificate in Form No. 16/16A/16AA/27D will have to be issued in paper format.

**Payment of interest for TDS or TCS default before furnishing TDS or TCS quarterly statements**

37. With effect from June 1, 2006, quarterly return cannot be submitted before payment of interest under section 201(1A) or 206C(7).

Under section 201(1A), if any person responsible for deduction of tax at source does not deduct the whole or any part of the tax or after deducting fails to pay the tax as required under the Act, such person is held liable to pay simple interest at 12 per cent per annum on the amount of such tax from the date on which such tax was deductible to the date on which such tax is actually paid. Similar provisions exist in respect of tax collection at source under section 206C(7).

**Doing away with furnishing of annual TDS and TCS returns**

38. In respect of tax deducted/collected on or after
April 1, 2005 the requirement of submission of annual TDS/TCS return in Form No. 24/26/27E will not be applicable.

**Amendment of section 246A**

39. Under the existing provisions contained in section 246A, an assessee aggrieved by any of the orders specified in that section may appeal to the Commissioner of Income-tax. With effect from April 1, 2007, the reference of section 271CA shall be included.

**Modification in the provisions regulating penalties**

40. Provisions regulating imposing of penalties have been modified as follows –

1. A new section 271CA has been inserted with effect from April 1, 2007. It provides for imposition of penalty on any person who fails to collect tax at source in accordance of the provisions of section 206C. Such penalty shall be a sum equal to the amount of tax which he failed to collect at source. No penalty can, however, be imposed if the person proves that there was a reasonable cause for such failure.

2. Section 272A has been amended with effect from June 1, 2006 to provide that the amount of penalty for failure to file quarterly TDS/TCS return shall not exceed the amount of tax deductible/collectible.

3. Sub-section (1A) has been inserted in section 272BB with effect from June 1, 2006. It provides that if a person who is required to quote his ‘tax deduction account number’ or ‘tax collection account number’ or ‘tax deduction and collection account number’ in the challans, certificates, statements or other documents referred to in section 203A(2), quotes a number which is false and which he either knows or believes to be false or does not believe to be true, such person shall pay by way of penalty a sum of Rs. 10,000. However, no penalty shall be imposed unless the person concerned has been given a reasonable opportunity of being heard.

**Provisions relating to granting of recognition to a Provident Fund [Part A Fourth Schedule]**

41. Under the existing provisions contained in the Fourth Schedule, a provident fund may receive and retain recognition if it satisfies certain conditions such as—

   a. all employees shall be employed in India, or the employer has its principal place of business in India;
   b. the fund shall be vested in two or more trustees or in the Official Trustee under an irrevocable trust;
   c. the contribution of an employee in any year shall be a definite proportion of his salary for that year and shall be deducted by the employer from the employee’s salary;
   d. the contribution of an employer to the individual account of an employee in any year shall not exceed the amount of contributions of the employee in that year; etc.

With a view to provide legislative synergy between the Income-tax Act and the Employees’ Provident Funds & Miscellaneous Provisions Act, 1952 (hereinafter referred as Provident Fund Act) to tackle the problems being faced by the small investors in the recognised provident funds, the following amendments have been made with effect from the assessment year 2007-08:

- A new clause (ea) has been inserted in rule 4 of Part A of Fourth Schedule. It provides that the fund shall be of an establishment to whom the provisions of section 1(3)/(4) of the Provident Fund Act are applicable and such establishment has been exempted under section 17 of the said Act from the operation of all or any of the provisions of any scheme referred to in that section.

- Further, Rule 3 of Part A of the Fourth Schedule provides that the Chief Commissioner/Commissioner may accord recognition to any provident fund which satisfies the conditions set out in the new clause (ea) of Rule 4. Since a synergy between the provisions of the Income-tax Act and the Provident Fund Act is to be established, a proviso has been inserted in rule 3(1) so as to provide that in a case where recognition has been accorded to any provident fund on or before March 31, 2006 and such provident fund does not satisfy the conditions set out in new clause (ea) narrated above (and any other conditions which the Board may, by rules specify in this behalf), the recognition to such fund shall be withdrawn, if such fund does not satisfy such conditions on or before March 31, 2007.

**Amendment of Wealth-tax Act**

42. The different time-limits for completion of assessment/reassessment given by section 17A have been reduced from 2 years to 21 months and from 1 year to 9 months with effect from June 1, 2006.

**Securities transaction tax**

43. With effect from June 1, 2006, the securities transaction tax rates will be increased by 25 per cent. These rates are given below:

<table>
<thead>
<tr>
<th>New rates from June 1, 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td>Purchase of equity shares/units (delivery based)</td>
</tr>
<tr>
<td>Sale of equity shares/units (delivery based)</td>
</tr>
<tr>
<td>Sale of equity shares/units (non-delivery based)</td>
</tr>
<tr>
<td>Sale of derivatives</td>
</tr>
<tr>
<td>Sale of units to mutual fund</td>
</tr>
</tbody>
</table>

- With effect from June 1, 2006, equity oriented fund will be a fund where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65 per cent (up to May 31, 2006, it is 50 per cent).
**2 Services newly taxable**

Fifteen services are being newly covered. The tax on these services will be effective after necessary notifications are issued, after Finance Bill, 2006 receives assent of President.

**2.1 Air transport of passengers embarking for international travel**

Liability to pay service tax is on the aircraft operator who is the service provider. Economy class passengers are excluded from the levy of service tax under this sub-clause. Transit passengers not leaving the customs area will not be covered under this sub-clause.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any passenger, by an aircraft operator, in relation to scheduled or non-scheduled air transport of such passenger embarking in India for international journey, in any class other than economy class.

**Explanation 1.** For the purposes of this sub-clause, economy class in an aircraft meant for scheduled air transport of passengers means:

(i) where there is more than one class of travel, the class attracting the lowest standard fare; or

(ii) where there is only one class of travel, that class.

**Explanation 2.** For the purposes of this sub-clause, in an aircraft meant for non-scheduled air transport of passengers, no class of travel shall be treated as economy class [section 65(105)(zzzv)]

**Related Definition:** “Passenger” means any person boarding, at any customs airport, an aircraft for performing an international journey, but does not include -

(i) a person who has arrived at such customs airport from a place outside India and is in transit through India, provided that he does not pass through immigration and does not leave customs area and continues his journey to a place outside India; and

(ii) a person employed or engaged by the aircraft operator in any capacity on board the aircraft [section 65(77c)]

“Customs airport” means an airport appointed as such under clause (a) of sub-section (1) of section 7 of the Customs Act, 1962 [section 65(35a)]

“International journey” means his journey from any customs airport on board any aircraft to a place outside India [section 65(56a)]

**2.2 ATM operations, maintenance or management**

ATMs (Automated Teller Machines) may be owned by banks and other financial institutions who outsource a number of activities related to ATMs such as operations, maintenance or management of hardware and software, cash replenishment etc. In other cases, there is comprehensive outsourcing of entire ATM related services. Such outsourced services are taxable under this category. Some of the specific areas of outsourcing are mentioned in the definition of ATM operations, maintenance or management.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to automated teller machine operations, maintenance or management service, in any manner [section 65(105)(zzzk)]

**Scope of taxable service:** “Automated teller machine operations, maintenance or management service” means any service provided in relation to automated teller machines and includes site selection, contracting of location, acquisition, financing, installation, certification, connection, maintenance, transaction processing, cash forecasting, replenishment, reconciliation and value-added services [section 65 (9b)]

**Related Definition:** “Automated teller machine” means an interactive automatic machine designed to dispense cash, accept deposit of cash, transfer money between bank accounts and facilitate other financial transactions [section 65(9a)]

**2.3 Auctioneers’ service**

A seller of property normally enters into an agreement with an auctioneer to conduct the auction for a consideration. However, services provided in relation to auction of property under direction or orders of a Court of Law or auction by the Government are not taxable.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to auction of property, movable or immovable, tangible or intangible, in any manner, but does not include auction of property under the directions or orders of a court of law or auction by the Government [section 65(105)(zzzv)]

**Scope of taxable service:** “auction of property” includes calling the auction or providing a facility, advertising or illustrating services, pre-auction price estimates, short-term storage services, repair or restoration services in relation to auction of property [section 65(7a)]

**2.4 Credit card related services**

Credit card services are presently taxable under banking and other financial services. The proposal is to tax comprehensively all services provided in respect of, or in relation to, credit card, debit card, charge card or other payment card in any manner. The major services provided in relation to such services are specifically mentioned under the definition “credit card, debit card, charge card or other payment card service”.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to credit card, debit card, charge card or other payment card service, in any manner [section 65(105)(zzzw)]

**Related Definition:** “Credit card, debit card, charge card or other payment card service” includes any service provided -

(i) by a banking company, financial institution including non-banking financial company or any other person (hereinafter referred to as the issuing bank), issuing such card to a card holder;

(ii) by any person to an issuing bank in relation to such card business, including receipt and processing of application, transfer...
of embossing data to issuing bank’s personalisation agency, automated teller machine personal identification number generation, renewal or replacement of card, change of address, enhancement of credit limit, payment updation and statement generation;

(iii) by any person, including an issuing bank and an acquiring bank, to any other person in relation to settlement of any amount transacted through such card.

Explanation. For the purposes of this sub-clause, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card;

(iv) in relation to joint promotional cards or affinity cards or co-branded cards;

(v) in relation to promotion and marketing of goods and services through such card;

(vi) by a person, to an issuing bank or the holder of such card, for making use of automated teller machines of such person; and

(vii) by the owner of trade marks or brand name to the issuing bank under an agreement, for use of the trade mark or brand name and other services in relation to such card, whether or not such owner is a club or association and the issuing bank is a member of such club or association.

Explanation - For the purposes of this sub-clause, an issuing bank and the owner of trade marks or brand name shall be treated as separate persons [section 65(33a)]

2.5 Internet telephony service

Presently internet telephony services are taxable under “Online information and data base access and or retrieval services”. Proposal is to create a separate service under the name ‘Internet Telephony Service’.

Taxable Service: “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to internet telephony [section 65(105)(zzzu)]

Scope of taxable service: “Internet telephony” means telecommunication service through internet and includes fax, audio conferencing and video conferencing [section 65(57a)].

Related Definition: “Internet” means a global information system which is logically linked together by a globally unique address, based on Internet Protocol or its subsequent enhancements or upgradations and is able to support communications using the Transmission Control Protocol or Internet Protocol suite or its subsequent enhancements or upgradations and all other Internet Protocol compatible protocols [section 65(56b)].

2.6 Public relations service

Public relation agencies are engaged to provide services relating to image or communication management. These services will now be taxed. The term “public relations” is defined.

Taxable Service: “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to managing the public relations of such person, in any manner [section 65(105)(zzzs)].

Scope of taxable service: “Public relations” includes strategic counselling based on industry, media and perception research, corporate image management, media relations, media training, press release, press conference, financial public relations, brand support, brand launch, retail support and promotions, events and communications and crisis communications [section 65(86c)]

2.7 Registrar to an issue

A person engaged by a body corporate and provides various services in respect of sale or purchase of securities. These services include collection of application forms, keeping of records, and assisting in allotment of securities. The service providers are required to be registered under SEBI Rules. The details may be obtained from the website of SEBI.

Taxable Service: “Taxable service” means any service provided or to be provided; to any person, by a registrar to an issue, in relation to sale or purchase of securities [section 65(105)(zzzi)]

Scope of taxable service: Registrar to an issue” means any person carrying on the activities in relation to an issue including collecting application forms from investors, keeping a record of applications and money received from investors or paid to the seller of securities, assisting in determining the basis of allotment of securities, finalising the list of persons entitled to allotment of securities and processing and despatching allotment letters, refund orders or certificates and other related documents [section 65(9c)]

Related Definitions: “Banker to an issue” means a bank included in the Second Schedule to the Reserve Bank of India Act, 1934, carrying on the activities relating to an issue including acceptance of application, application money, allotment money and call money, refund of application money, payment of dividend and interest warrants [section 65(9c)]

“Issue” means an offer of sale or purchase of securities to, or from, the public or the holder of securities [section 65(59a)].

2.8 Recovery agent

Services provided for recovery of any sums due to a commercial or business entity are covered under this category. Under Securities and Reconstruction of Financial Assets and Enforcement of Security Act, 2002 and the relevant rules made there under, banks and other financial institutions appoint recovery agents.

Taxable Service: “Taxable service” means any service provided or to be provided; to a banking company or a financial institution including a non-banking financial company or any other body corporate or a firm, by any person, in relation to recovery of any sums due to such banking company or financial institution, including a non-banking financial company, or any other body corporate or a firm, in any manner [section 65(105)(zzzl)].

2.9 Sale of advertising space or time

Sale of media in television and radio by a broadcasting agency or organization is taxable under Section 65(105)(zk). Services provided by advertising agencies are taxable under Section 65(105)(e).

This entry levies service tax on sale of time or space for advertisement, excluding sale of space for advertisement in print media. Sale of advertising time in television and radio by any person other than
broadcasting agency or organization is also covered under this sub-clause. Some of the other modes of advertisement covered under this mode are internet advertisement, advertisement on buildings, vehicles, etc., advertisement in motion pictures, television serials, video and music albums, mobile phones, ATMs, films and television serials (known as product placement). It may be noted that advertisement in print media is excluded.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to sale of space or time for advertisement, in any manner; but does not include sale of space for advertisement in print media and sale of time slots by a broadcasting agency or organization.

**Explanation 1.** For the purposes of this sub-clause, “sale of space or time for advertisement” includes, -

- (i) providing space or time, as the case may be, for display, advertising, showcasing of any product or service in video programmes, television programmes or motion pictures or music albums, or on billboards, public places, buildings, conveyances, cell phones, automated teller machines, internet;
- (ii) selling of time slots on radio or television by a person, other than a broadcasting agency or organisation, and
- (iii) aerial advertising

**Explanation 2.** - For the purposes of this sub-clause, “print media” means “book” and “newspaper” as defined in sub-section (1) of section 1 of the Press and Registration of Books Act, 1867 [section 65(105)(zzzm)]

### 2.10 Share transfer agent

A person who provides service to a body corporate. The services include maintenance of the record of holders of securities and dealing with all matters connected with transactions or redemption of securities. The service providers are required to be registered under SEBI Rules. The details may be obtained from the website of SEBI.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any person, by a share transfer agent, in relation to securities [section 65(105)(zzzi)]

**Scope of taxable service:** “Share transfer agent” means any person who maintains the record of holders of securities and deals with all matters connected with the transfer or redemption of securities or activities incidental thereto [section 65(95a)]

### 2.11 Ship management service

Owners or operators of ships enter into an agreement with ship managers for provision of a wide range of services in respect of running and operations of ships. Indicative list of services provided under this category are mentioned under the definition of "ship management service".

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any person, under a contract or an agreement, by any other person, in relation to ship management service [section 65(105)(zzzt)]

**Scope of taxable service:** “Ship management service” includes:

- (i) the supervision of the maintenance, survey and repair of ship;
- (ii) engagement or providing of crews;
- (iii) receiving the hire or freight charges on behalf of the owner;
- (iv) arrangements for loading and unloading;
- (v) providing for victualling or storing of ship;
- (vi) negotiating contracts for bunker fuel and lubricating oil;
- (vii) payment, on behalf of the owner, of expenses incurred in providing services or in relation to the management of ship;
- (viii) the entry of ship in a protection or indemnity association;
- (ix) dealing with insurance, salvage and other claims; and
- (x) arranging of insurance in relation to ship [section 65(96a)]

### 2.12 Sponsorship service

Body corporates or firms involved in business or commerce sponsor events with an intent to obtain commercial benefit or bringing their name or products or services in public image to public attention by associating with a popular or successful event. This is an alternate form of advertisement. Consideration is normally paid in return for naming of the event after the sponsor or displaying the sponsoring company’s logo or trading name or giving the sponsor exclusive or priority booking rights. Service tax is leviable only when the sponsor is any body corporate or firm. Sponsorship of sports events is excluded from the scope of this levy. It may be noted that the organizers of events are not liable to pay service tax under sponsorship service.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any body corporate or firm, by any person receiving sponsorship, in relation to such sponsorship, in any manner, but does not include services in relation to sponsorship of sports events [section 65(105)(zzzn)]

**Scope of taxable service:** “Sponsorship” includes naming an event after the sponsor, displaying the sponsor’s company logo or trading name, giving the sponsor exclusive or priority booking rights, sponsoring prizes or trophies for competition; but does not include any financial or other support in the form of donations or gifts, given by the donors subject to the condition that the service provider is under no obligation to provide anything in return to such donors [section 65(99a)].

### 2.13 Support services of business and commerce

Business entities outsource a number of services for use in business or commerce. These services include transaction processing, routine administration or accountancy, customer relationship management and tele-marketing. There are also business entities which provide infrastructural support such as providing instant offices along with secretarial assistance known as “Business Centre Services”. All such outsourced services will now be taxed. If these services are provided on behalf of a person, they are already taxed under Business Auxiliary Service. Definition of support services of business or commerce gives indicative list of outsourced services.

**Taxable Service:** “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to support services of business or commerce, in any manner [section 65(105)(zzzo)]

**Scope of taxable service:** “Support services of business or commerce” means services provided in relation to business or commerce and...
includes evaluation of prospective customers, telemarketing, processing of purchase orders and fulfillment services, information and tracking of delivery schedules, managing distribution and logistics, customer relationship management services, accounting and processing of transactions, operational assistance for marketing, formulation of customer service and pricing policies, infrastructural support services and other transaction processing [section 65(104c)]

2.14 Transport of goods in containers by rail

The levy is on transport of goods in containers by rail. Service provided by Indian Railways is excluded. Suitable abatement for the amount paid by such service providers to railways for haulage services will be prescribed separately. The levy will, therefore, be restricted only to that portion of the consideration received and retained by the service provider for the services provided.

Taxable Service: “Taxable service” means any service provided or to be provided; to any person, by any other person other than Government railway as defined in clause (20) of section 2 of the Railways Act, 1989, in relation to transport of goods in containers by rail, in any manner [section 65(105)(zzz)].

2.15 Transport by cruise ships

Services provided to any person embarking from any port in India for transport by cruise ships will be taxed.

Taxable Service: “Taxable service” means any service provided or to be provided; to any person, by any other person, in relation to transport of such person embarking from any port or other port in India, by a cruise ship.

Explanation. For the purposes of this sub-clause, “cruise ship” means a ship or vessel used for providing recreational or pleasure trips, but does not include a ship or vessel used for private purposes or a ship or vessel of, or less than, fifteen net tonnage [section 65(105)(zzz)].

3. Expansion of scope of existing services

Scope of certain services has been expanded. The amended definitions will be effective after the Finance Bill, 2006 is passed.

3.1 Banking and other financial services

Banking and other financial services will include- (i) services in relation to transfer of money through different modes (such as MT, telegraphic transfer, electronic transfer) by any person (ii) services provided as banker to an issue.

Amendment to section 65(12) will add following two clauses.

(vii) banker to an issue services; and
(ix) other financial services, namely, lending, issue of pay order, demand draft, cheque, letter of credit and bill of exchange, transfer of money including telegraphic transfer, mail transfer and electronic transfer, providing bank guarantee, overdraft facility, bill discounting facility, safe deposit locker, safe vaults, operation of bank accounts.

Clause (ii) relating to credit card services has been deleted, since separate specific service is being defined for that service.

3.2 Business Auxiliary Service

Business auxiliary service will now include computerized data processing. Information technology service is excluded from the definition of under business auxiliary service. Presently, maintenance of computer software and computerized data processing is covered under the scope of information technology service for the purpose of classification under business auxiliary service. Now, this service has been excluded from the scope of information technology service under business auxiliary service. As a consequence of this change, maintenance of computer software and computerized data processing shall not be treated as information technology service under business auxiliary service.

Now, “information technology service” means any service in relation to designing, or developing of computer software or system networking, or any other service primarily in relation to operation of computer systems. [amendment to section 65(19)].

3.3 ‘Commercial Concern’ changed to ‘any person’ to expand scope

The references to ‘commercial concern’, in relation to seventeen taxable services, are being substituted with ‘person’, so as to expand the scope of the service provider in the said services. By this amendment, service tax is leviable on the taxable services provided by a person and not necessarily by a commercial concern.

3.4 Consulting Engineering Service

Consulting engineer service will include engineering consultancy services provided by any firm or body corporate.

New section 65 (31) reads as follows - “consulting engineer” means any professionally qualified engineer or any body corporate or any other firm who, either directly or indirectly, renders any advice, consultancy or technical assistance in any manner to a client in one or more disciplines of engineering.

This will end a dispute as to whether a company can be an ‘engineering firm’.

3.5 Erection, commissioning and Installation

Erection, commissioning or installation service, to include erection, commissioning or installation of structures, whether or not pre-fabricated.

After amendment, section 65(39a)(i) reads ‘Erection, commissioning or installation of plant, machinery, equipment or structures or’.

3.6 Insurance Services

General insurance service will include service provided to a policy holder or any person by an insurer, including a re-insurer.

Life Insurance service will include service provided to a policy holder or any person by an insurer, including a re-insurer.

Insurance auxiliary service concerning general insurance business will include service provided to a policy holder or any person or an insurer, including a re-insurer.

Insurance auxiliary service concerning life insurance business will include service provided to a policy holder or any person or an insurer, including a re-insurer.

Exemption provided to re-insurance vide Notification No. 3/94-Service Tax dated 30.6.1994 has been withdrawn. To make it explicit, it is mentioned that insurer includes re-insurer.
Existing definition is - “insurer” means any person carrying on the general insurance business or life insurance business in India [Section 65(58)]

**The new clause reads as follows:** “insurer” means any person carrying on the general insurance business or life insurance business and includes a re-insurer [section 65 (58)]

**3.7 Management Consultancy Service**

Management consultancy service will specifically include consultancy in different areas of management as specified.

Amended definition reads as follows - “management consultant” means any person who is engaged in providing any service, either directly or indirectly, in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, in relation to financial management, human resources management, marketing management, production management, logistics management, procurement and management of information technology resources or other similar areas of management” [section 65(65)] [Words in italics are newly inserted].

**3.8 Management, Maintenance or Repair Service**

Maintenance or repair service has been renamed as “management, maintenance or repair” service, and it will include management of movable property. New section 65(64) reads as follows - “management, maintenance or repair” means any service provided by -

(i) any person under a contract or an agreement; or

(ii) a manufacturer or any person authorised by him, in relation to:

(a) management of properties, whether immovable or not;

(b) maintenance or repair of properties, whether immovable or not; or

(c) maintenance or repair including reconditioning or restoration, or servicing of any goods, excluding a motor vehicle;

**3.9 Technical testing and analysis**

Definition of technical testing and analysis service [section 65(106)] has been amended to clarify that-(i) it includes clinical testing of drugs and formulations; and (ii) excludes testing or analysis for the purpose of determination of the nature of diseased condition, identification of a disease, prevention of any disease or disorder in human beings or animals (words in italics have been newly added).

**3.10 Services provided by unincorporated body to their members taxable**

An explanation has been inserted after clause 121 of Section 65. The purpose of this explanation is to make it clear that service provided by an unincorporated association or body of persons such as club or association to its members is treated as a taxable service. Thus, clubs or associations are treated as a person separate and different from their members for the purpose of levy of service tax.

*Explanation.* For the purposes of this section, taxable service includes any taxable service provided or to be provided by any unincorporated association or body of persons to a member thereof, for cash, deferred payment or any other valuable consideration.” [explanation to section 65 (121) newly inserted]

In *Saturday Club Ltd. v. ACSTC* (2005) 1 STT 64 = 180 ELT 437 (Cal HC), it was held that if a club provides some service to its member, it is like owner of house allowing family member or friends to carry out a marriage or other ceremony in his house. Members club and members are same entity. There are no two sides. Hence, ‘members club’ cannot be taxed as a ‘mandap keeper’ – same view in *Dalhousie Institute v. AC* 2005 STT 639 = 180 ELT 18 (Cal HC).

Now these decisions will not have any effect after Finance Bill, 2006 receives assent of President.
1. Announcement on Accounting for exchange differences arising on a forward exchange contract entered into to hedge the foreign currency risk of a firm commitment or a highly probable forecast transaction

The Institute of Chartered Accountants of India (ICAI) has issued an announcement on Accounting for exchange differences arising on a forward exchange contract entered into to hedge the foreign currency risk of a firm commitment or a highly probable forecast transaction (published in the ‘The Chartered Accountant’, January 2006 (pp.1090, 1091)). This Announcement is applicable in respect of accounting period(s) commencing on or after April 1, 2006. Earlier application of the Announcement is however encouraged.

The council of the ICAI had already issued an announcement on ‘Applicability of Accounting Standard (AS) 11 (revised 2003), The Effects of Changes in Foreign Exchange Rates, in respect of exchange differences arising on a forward exchange contract entered into to hedge the foreign currency risk of a firm commitment or a highly probable forecast transaction’ in June, 2004 (published in the ‘The Chartered Accountant’, July 2004 (pp. 110)). As per the earlier announcement issued in June, 2004, paragraphs 36 and 37 of AS 11(revised 2003) are not applicable to the exchange differences arising on forward exchange contracts entered into to hedge the foreign currency risks of a firm commitment or a highly probable forecast transaction. It is stated in the Announcement that the hedge accounting, in its entirety, including hedge of a firm commitment or a highly probable forecast transaction, is proposed to be dealt with in the Accounting Standard on ‘Financial Instruments: Recognition and Measurement’, which is under formulation.

It has been noted that in the absence of any authoritative pronouncement of the Institute on the subject, different enterprises are accounting for exchange differences arising on such contracts in different ways which is affecting the comparability of financial statements. Keeping this in view, the matter has been reconsidered and the Institute is of the view that pending the issuance of the proposed Accounting Standard on ‘Financial Instruments: Recognition and Measurement’, which is under formulation, exchange differences arising on the forward exchange contracts entered into to hedge the foreign currency risks of a firm commitment or a highly probable forecast transaction should be recognised in the statement of profit and loss in the reporting period in which the exchange rate changes. Any profit or loss arising on renewal or cancellation of such contracts should be recognised as income or expense for the period.

2. Limited Revision to AS 15 (Revised)

Accounting Standard (AS) 15 (revised 2005) on ‘Employee Benefits’ comes into effect in respect of accounting periods commencing on or after April 1, 2006. AS 15 (revised 2005) was originally published in March, 2005 issue of the ICAI’s Journal ‘The Chartered Accountant’. Subsequently, the ICAI, in January 2006, made limited revision to AS 15 (revised 2005) primarily with a view to bring the disclosure requirements of the standard relating to the defined benefit plans in line with the corresponding International Accounting Standard (IAS) 19, Employee Benefits; to clarify the application of the transitional provisions; and to provide relaxation/exemption to the small and medium-sized enterprises(SMEs). The limited revision has been duly incorporated by the ICAI in AS 15 (revised 2005) which has been published in published in the ‘The Chartered Accountant’, March 2006 (page nos. 1354 to 1385).

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1. A firm commitment is a binding agreement for the exchange of a specified quantity of resources at a specified price on a specified future date or dates.

2. A forecast transaction is an uncommitted but anticipated future transaction.

Compiled by CA. Seema Gupta, Sr. Education Officer.
### Endowment Scholarships w.e.f. 1st April, 2006

<table>
<thead>
<tr>
<th>Sl. No.</th>
<th>Name of scholarship</th>
<th>Sponsors</th>
<th>Number</th>
<th>Amount (Rs. p.m.)</th>
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<td>Students of PE-II/Final</td>
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<td>M/s Hiramehta Charitable Trust, Mumbai</td>
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<td>M/s Hiramehta Charitable Trust, Mumbai</td>
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<td>4</td>
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<td>1</td>
<td>500</td>
<td>Non-Commerce graduate belonging to the state of Maharashtra and undergoing PE-II Course.</td>
</tr>
<tr>
<td>5</td>
<td>Sourangshu Ghosh Memorial Scholarship</td>
<td>Mrs. Nabanita Ghosh, Kolkata</td>
<td>1</td>
<td>500</td>
<td>Final students belonging to Eastern India Regional Council</td>
</tr>
</tbody>
</table>

**Notes**

1. (i) The income of parents/guardians should not exceed Rs. 1,00,000 p.a.
   (ii) Scholarship shall be granted to the students of Professional Education (Course-II) for a maximum period of 18 months and to the students of Final Course for a period of 30 months or the balance period of practical training, whichever is lower.

2. Scholarship is discontinued if the recipient does not pass Both Groups of Professional Education (Examination-II) and Final Examination conducted by the Institute in the first available chance for S.Nos. 2 & 3 and for others in the first two available chances. (Non-appearance at the Examination is treated as the not qualifying in the examination).

3. The above stated scholarships will be released w.e.f. April, 2006. The duly completed application in the prescribed form should reach The Director of Studies, The Institute of Chartered Accountants of India, ICAI Bhawan, Post Box No. 36, C-1, Sector-1, NOIDA-201 301, latest by 31st May, 2006. Application form can be downloaded from website of the Institute.

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### The Winner & The Loser

**Ganpat Kumar**

Winner is always part of the answer;
Loser is always part of the problem.

Winner always has a program;
Loser always has an excuse.

Winner says, “let me do it for you”;
Loser says, “that is not my job”.

Winner sees an answer for every problem;
Loser sees a problem for every answer.

Winner makes commitments;
Loser makes promises.

Winner says, “I must do something”;
Loser says, “something must be done”.

Winner sees the gain;
Loser sees the pain.

Winner sees the opportunity threat;
Loser sees the past.

Winner uses hard arguments but soft words;
Loser uses soft argument but hard words.

Winner makes it happen;
Loser lets it happen.

*The author is a student of ICAI.*

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### Grant of Accreditation

**For conducting oral Coaching classes for Professional Education (Course – I)**

♦ Tiruppur Kumaran College for Women, S.R.Nagar, Mangalam Road, Tiruppur - 641687

**For conducting oral Coaching classes for Professional Education (Course – I) and Professional Education (Course – II)**

♦ Quilon Branch, ICAI Bhawan, Pallithottam, Kollam-691006

**For conducting 250 hours Compulsory Computer Course**

♦ Southern India Regional Council, ICAI Bhawan, 122, Mahatma Gandhi Road, Nungambakkam, Chennai - 600034
1. No admission to 250 hours Compulsory Computer Training Programme by NIIT Centres

NIIT Ltd. has temporarily stopped taking admission for 250 Compulsory Computer Training Programme for C.A. students at its accredited centres across the country. Students are hereby advised not to visit NIIT centres for 250 hours Compulsory Computer Training Programme and look for alternative accredited centres in their city. We are removing the names of all NIIT centres from the list of accredited centres given in the Reference Manual as well as from the website to avoid confusion amongst the students.

2. Crash Course at ICAI, Kolkata

Crash Courses with examination orientation will be conducted from June, 2006 for the benefit of Professional Education (Course - I) and (Course - II) students at EIRC of ICAI, ICAI Bhawan, 7, Anandilal Poddar Sarani, Kolkata – 700 071. Details are as under:

<table>
<thead>
<tr>
<th>Professional Education (Course - I)</th>
<th>Professional Education (Course - II)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Subject/Topics</td>
<td>Duration</td>
</tr>
<tr>
<td>Economics, Auditing, Law, BC, OM</td>
<td>15 days of 6 hours per day</td>
</tr>
<tr>
<td>IT (Selected topics)</td>
<td>15 days of 6 hours per day</td>
</tr>
<tr>
<td>Course fee</td>
<td>Rs. 2,250</td>
</tr>
<tr>
<td>Admission starts</td>
<td>Rs. 2,500</td>
</tr>
<tr>
<td>Timing</td>
<td>10 a.m. to 1 p.m. &amp; 2 p.m. to 5 p.m.</td>
</tr>
<tr>
<td></td>
<td>15/05/2006 &amp; 15/05/2006</td>
</tr>
</tbody>
</table>

Interested students may contact us over phone (033-3989 3989 during office hours i.e. 10 a.m. to 5.30 p.m., except 1 p.m. to 1.30 p.m. for lunch, on working days i.e. Monday to Friday excepting holidays) for any more clarification and are advised to note that registration would be strictly on first-come-first-served basis.

3. De-accreditation from the list of Accredited Institution

M/s Shayok Computers, Udhna, Surat is de-accredited from the list of Accredited Institutions engaged in imparting 250 Hrs. Compulsory Computer Training Programme which will be effective on and from 1st July, 2006. This Computer Training Centre has been instructed not to admit the students on or after 31st March, 2006. Accordingly, the students are advised to take note of this Announcement.

4. Response to general queries regarding transition to New Education and Training System

Enquiries are received about the impact of the proposed curriculum on the existing students. In this regard, it is clarified that the proposed scheme of curriculum is pending before the Government for consideration and will be notified only after due approval. Thereafter, the transition provisions will be known as to how the existing students will be accommodated and allowed to converge with the new curriculum over a period of time. Students are informed that the transitional provisions will take care of smooth convergence of existing and proposed curriculum.

There have been specific queries from students undergoing practical training about preponement of eligibility to appear in final examination. This matter is receiving attention of the Council and ultimately requires Government approval. Therefore, students are required to continue their preparation without entertaining rumours. As and when a decision is taken for implementation, the students will be duly notified.

5. Free Lecture of meetings at ICAI, Kolkata

Free Lecture meetings on different topics having particular relevance for Professional Education (Course - II) and Final Course would be organised at EIRC office (ICAI Bhawan, Institute of Chartered Accountants of India, 7, Anandilal Poddar Sarani, Formerly Russell Street, Kolkata 700 071) from 1st week of June, 2006. For further details including date, time, topic and faculty, students are advised to see the notice board at EIRC or visit EIRC Website www.eircindia.org after 20/5/2006.

6. Online Eligibility Test - Kolkata

The Board of Studies is conducting Online Eligibility Tests in the month of May and June in Kolkata for the students appearing for November, 2006 Examination. The facility is available for the students of Kolkata in all subjects. However, a student can appear and pass a maximum of two test papers under Online Eligibility Test Paper Scheme. Each paper comprises of multiple choice questions covering the entire syllabus of the subject.

Likewise Postal Test paper are Sunday Test Paper Scheme, qualifying marks under online Eligibility Test Paper Scheme is 45 per cent.

<table>
<thead>
<tr>
<th>Schedule</th>
</tr>
</thead>
<tbody>
<tr>
<td>Professional Education (Course - I)</td>
</tr>
<tr>
<td>17.05.06 Wednesday</td>
</tr>
<tr>
<td>03.06.06 Saturday</td>
</tr>
<tr>
<td>Professional Education (Course - II)</td>
</tr>
<tr>
<td>20.05.06 Saturday</td>
</tr>
<tr>
<td>31.05.06 Wednesday</td>
</tr>
<tr>
<td>18.06.06 Sunday</td>
</tr>
<tr>
<td>24.06.06 Saturday</td>
</tr>
<tr>
<td>Final Course</td>
</tr>
<tr>
<td>21.05.06 Sunday</td>
</tr>
<tr>
<td>04.06.06 Sunday</td>
</tr>
</tbody>
</table>

The detailed schedule & the registration timings are available on the notice board of ICAI-Kolkata office from 1st May 2006. Schedule for Chennai and Mumbai will be hosted on the web shortly.
May, 2006 27

G L I M P S E S

CA as a Career, April 23, 2006, Mumbai

Invitation to individuals, trusts, societies and others to create endowments to award scholarships.

The Institute of Chartered Accountants of India grants liberally scholarships to meritorious and needy students. Scholarships are also awarded with external participation under different endowment schemes. Individuals and organizations can create endowments by contributing a minimum sum of rupees one lakh only. Returns from the Corpus will be used to grant monthly scholarship. Extend your helping hands to meritorious students to become Chartered Accountants.

Interested persons may write to:

Director of Studies, ICAI Bhawan, The Institute of Chartered Accountants of India
C-1, Sector-1, Noida 201 301 (0120) 3989398, E-mail psdos@icai.org

Seen in picture (from L to R) CA. B. C. Jain, Dr T.P. Ghosh, Director of Studies, CA. Uttam Prakash Agarwal, Council Member and Programme Director. CA. V Murali, Chairman, Board of Studies. CA. Deepak Mistry, faculty.

CA. Deepak Mistry, faculty giving an address. Others seen in picture (from L to R) CA. B. C. Jain, CA. Uttam Prakash Agarwal, Council Member and Programme Director. CA. V Murali, Chairman, Board of Studies.

Seen in picture (from L to R) CA. B. C. Jain, CA. Uttam Prakash Agarwal, Council Member and Programme Director. CA. V Murali, Chairman, Board of Studies. CA. Deepak Mistry, faculty.

Seen in picture (from L to R) CA. Uttam Prakash Agarwal, Council Member and Programme Director. CA. V Murali, Chairman, Board of Studies, CA. Deepak Mistry, faculty.
Hon’ble
Dr. ANBUMANI RAMADOSS, Hon’ble
Union Minister for Health & Family
Welfare, Govt. of India being felicitated
by CA.V.MURALI, Chairman, Board of
Studies, ICAI, New Delhi.

As a part of interaction between major accounting institutes of the world Mr Surinder Kaul, (on right), first Asian member of ICAEW Council discussing academic and other student related issues with Dr T. P. Ghosh, Director of Studies.

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CA.V.MURALI,
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Editor: V Murali
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