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Key features of the revised discussion paper on  
**DIRECT TAX CODE (DTC)**

Released on 15 June 2010

**By**

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### **An overview**

Amidst lot of hype and expectations, the draft Direct tax code bill was released on 12 August 2009 for the general public for their comments and suggestions. The main objective of the issue of DTC was of simplification of the Direct taxes thereby acceding to the canons of taxation and reducing scope for disputes and minimizing litigation. The DTC shall be made effective from 1 April 2011.

After going through the discussion paper, the government had received suggestions from various quarters on plethora of issues which were addressed incompletely especially on certain major sweeping amendments which were introduced such as the computation methodology for MAT, shift from EEE regime to EET regime, Introduction of General Anti-Avoidance rule (GAAR) etc.

To address these grievances the government has released the revised draft discussion paper on DTC on 15 June 2010 for public debate and suggestions before the legislative process of the DTC into a bill commences.

The revised discussion paper has focused only on certain major issues which were creating huge ripples for India INC and also to the "Aam Aadmi". We have outlined below the comparative features of the revised discussion paper with the first draft issued earlier

### **Basic comparative analysis of the revised and the earlier issued discussion paper**

<b>Topic</b>	<b>DTC 1 released on AUGUST 2009</b>	<b>DTC 2 released on JUNE 2010</b>
<b>Minimum Alternate tax (MAT)</b>	Taxed on gross assets	Now back to book profit though MAT rate is yet to be announced.
<b>Tax treatment on savings</b>	Savings deductible at time of investment-accretions/accruals exempt but taxed at the time of withdrawal.(EET Scheme)	Now it has been proposed not to tax at time of withdrawal. (EEE scheme)
<b>Income from employment</b>	Retirement benefits account scheme introduced in line with EET scheme	Retirement benefits account scheme abolished. Retirement benefits received by an employee exempt subject to threshold limits.
		Method of valuation or perks to be provided in rules.

Topic	DTC 1 released on AUGUST 2009	DTC 2 released on JUNE 2010
<b>Income from house property</b>	No deduction of interest on capital borrowed for self occupied properties	Individual/HUF eligible for the interest on capital borrowed on self occupied property to a limit of Rs 1.50 lakhs (Maximum of one non let out property)
	Notional rent as part of computation of Gross rent.	Notional rent has been scrapped. Gross rent will be the amount of rent received or receivable for the year
<b>Capital gains</b>	Chargeable under the head capital gains at marginal rate for residents and 30% for non residents	Nomenclature has been changed from Capital Gains to Income form Ordinary Sources including non residents.
	No deduction is available for shares listed on stock exchange or equity oriented fund held for more than one year	Specified rate of deduction on such capital gains shall be allowed. Rate to be announced.
	Capital gains Savings scheme introduced under EET scheme	Capital gains scheme abolished with abolishment of EET scheme
	TDS is to be deducted on capital gains for Foreign Institutional Investors (FII)	Sale of securities of FII's shall be deemed to be capital gains. TDS need not be deducted. Advance tax to be paid on such gains
<b>Non profit organisation</b>	Existing Trust shall be required to register with Income tax after Introduction of TDC	Trust already registered with Income tax act 1961 need not register again.
	Income of religious trusts registered under any central/state government shall be exempt	Income of all religious trusts shall be exempt subject to satisfying of few conditions

Topic	DTC 1 released on AUGUST 2009	DTC 2 released on JUNE 2010
	Taxability of partly religious/charitable trusts is not clear.	Income of religious/charitable activity of such institutions shall be exempt subject to satisfying of few conditions  Donors cannot claim the donations as deduction
	Accumulation of surplus cannot be carried forward and taxed on the year of receipt.	Higher of 15% of surplus or 10% of gross receipts will be allowed to be carried forward for maximum of 3 years
	The nomenclature was changed from Charitable purpose to 'permitted welfare activity'	To avoid any ambiguity the words charitable purpose is to be used
<b>Special economic Zone (SEZ)</b>	No mention on profit –linked deductions for units in SEZ.	Will be addressed in the bill
<b>Residential status of foreign companies</b>	Resident if control and management of affairs is 'wholly or partly' situated in India	Condition changed to - Resident if 'place of effective management is situated in India'.  Controlled foreign corporation (CFC) provisions are proposed to be introduced.
<b>DTAA vs. DTC</b>	DTC can override DTAA on any situation	DTC can override DTAA's only in these 3 cases: A) When GAAR is invoked B) When CFC provisions are invoked C) When branch profits tax is levied
<b>GAAR</b>	Commissioner is authorised to open assessments. No specified guidelines or rules for invoking GAAR	CBDT to provide guidelines for invoking GAAR.  Dispute resolution panel (DRP) would be available where GAAR is invoked.