

SAHAKAR BHARATI

BUDGET MEMORANDUM PROPOSAL 2013

Sahakar Bharati- an All India based NGO established in the year 1979, working in the field of Cooperatives and having its presence in all the states of India, is submitting the case of Cooperative Sector for better taxation treatment which this Sector deserves.

It is now a widely accepted fact that the world economists' fraternity, since the history of civilization, advocated vehemently for generation of wealth but undermined the importance of distribution of wealth.

DISPERSAL OF WEALTH

While talking about the Cooperative Model, Sahakar Bharati presents the theory of "Dispersal of Wealth" rather than "Distribution of Wealth", amongst its members. Dispersal of wealth amongst the members of cooperative society, who have collectively generated the wealth, will certainly build a strong and robust economy. The words "Dispersal of wealth", clarify that generated wealth in question, which is being "dispersed", belongs to those who are the owners of that wealth. And the dispersal of that wealth is a natural phenomenon, unless otherwise stalled. Whereas "Distribution of Wealth" can take place amongst the persons who have not earned it or who do not otherwise own it.

The paucity of basic data and absence of analysis and research about the Indian Cooperative sector, contribute to our lack of understanding about the use of the mutuality principle and its importance to the economy of India. Co Operative Sector is a jewel in the crown of resurgent India. It is a unique form of organization specially suited to the democratic and rural based Indian conditions.

While the design of the legislative proposal should not only ensure that it is technically sound and complies with the aims of any taxation review process – equity, efficiency and simplicity – it also needs to consider its implications for smallest of the small Indians residing in millions of villages in India.

NATIONAL BENEFITS

Sahakar Bharati considers cooperative institution as essentially an economic unit. The Tax expenditures incurred by the exchequer should be evaluated against the economic benefits accruing, collectively, at micro level and at macro economy level. Social benefits should also be duly evaluated and considered as well. Basic socio-economic character of our country demands a special tax treatment to cooperative sector.

Recent economic turmoil in USA and crisis in Europe has proved that Cooperative Model provides more stable business model

DIRECT TAX CODE

We compliment the government for giving a relook to the Income Tax Act, 1961 and presenting the Direct Tax Code, 2010 as a new simple, transparent and stable law and also for placing the same in the public domain to solicit views of the stakeholders before making it a law.

We are an organization operating in the Co-operative Sector and we hereby place before you the following proposals and solicit your favourable response in the matter:

PROPOSAL 1: RESTORE EXEMPTIONS TO CO- OPERATIVES:				
A	Direct Tax Code should restore the deductions available to all the sectors and all types of income covered presently under the existing Section 80P by incorporating the same in clauses 85 and 86 of the Direct Taxes Code Bill.	Clauses 85 an 86		
B	The discretion to exempt categories of co-operatives through notifications under Item 47 of the Sixth Schedule of the Direct Tax Code Bill, 2010 should be done away with and all eligible categories should be incorporated in Sections 85 and 86.	Sixth Schedule-Item 47		
C	Definition of 'Co-operative Society' should include without ambiguity, all co-operative societies including societies registered under Central Legislation like Multi-state Co-operative Societies Act.	Clause 314(62)		
D	<p>While computing taxable income, The Co-operative Sector should be given following deductions from taxable income in addition to restoration of deductions covered under the existing Section 80P:</p> <table border="1" style="width: 100%;"> <tr> <td style="padding: 5px;"> <p>(i) All amounts provided in the annual accounts towards appropriation of profits to statutory reserves should be allowed as deduction from taxable income.</p> </td> </tr> <tr> <td style="padding: 5px;"> <p>(ii) All amounts provided in the annual accounts towards dividend to shareholders (which in turn are being taxed in the hands of shareholders) should be allowed as deduction from taxable income.</p> </td> </tr> </table>	<p>(i) All amounts provided in the annual accounts towards appropriation of profits to statutory reserves should be allowed as deduction from taxable income.</p>	<p>(ii) All amounts provided in the annual accounts towards dividend to shareholders (which in turn are being taxed in the hands of shareholders) should be allowed as deduction from taxable income.</p>	First Schedule Part I Para B and Clauses 85 and 86
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JUSTIFICATION FOR ABOVE PROPOSAL:				
<p>1.HORIZONTAL EQUITY: The provisions of Section 80P have been in the statute books fairly unchanged since 1922. [Section 14(3) of the Income Tax Act, 1922 was</p>				

adopted as Section 81 in the Income Tax Act, 1961 and later from 1-4-1968 incorporated as deduction under Section 80P.] The amendments brought in over the years were designed to widen and strengthen the fiscal empowerment support to the co-operative sector. The proposed clauses 85 and 86 have limited the deductions to primary co-operatives with only agriculturist members and for profits from agriculture related activities. The co-operatives which try to network primary co-operatives as members as well as those co-operatives that operate at district, state and multi state levels in agricultural as well as various other sectors like rural credit, cottage industry, rural transport and similar activities are brought under tax net at par with corporate sector.

It will be highly insensitive not to realize the uniqueness of the co-operative sector to the Indian rural based democratic set-up. The co-operative sector is unique to India which is demographically rich and it would be premature to do away with the objectives of empowering the **Aam Admi**, around whom the co-operative sector is built. The co-operative sector is recognized to be a **SOCIAL EQUALISER**, a catalyst of rural and agricultural empowerment, where democratic principles of mutuality are more important than profitability of the stakeholders. In the corporate sector, the prime driver is profitability and empowerment of shareholders while co-operative sector operates to ensure collective bargaining power to the rural poor against profit centric organizations.

The co-operative sector is an important '**WEALTH EQUALISER**' in our democratic setup which has helped to bring economic empowerment to organized groups of farmers, labourers and people with rural background. The credit co-operatives have helped economic inclusion of rural population and have been the saviors of rural poor who would have otherwise been targets of money lenders. While the corporate world is considered as based on **ECONOMIC CAPITAL**, the co-operative sector is based on **SOCIAL CAPITAL**.

Unlike the Corporate Sector, the co-operative societies earmark a major portion of their profits into reserves due to statutory compulsions as well as a prudent measure to strengthen the organization against future eventualities. Such appropriations need to be recognised as eligible for investment based deduction in computing taxable income.

The dividend of the shareholders in the corporate world is tax exempt after paying a paltry dividend distribution tax by the corporate houses while **the shareholders in the co-operative sector have to pay tax on dividend** which is received after payment of tax by the co-operative societies leading to higher incidence of tax on profits in the co-operative sector. Unlike in the corporate sector, the principle of mutuality between the societies and its members is well recognised in the case of co-operative sector and hence profit of the co-operative society should not be subjected to tax when dividend of co-operatives is being taxed in the hands of shareholders of the society.

It will be highly incorrect to equate the co-operative sector with corporate sector and apply 30% tax rates on its profits.

2.VERTICAL EQUITY: Barring a few exceptions, the co-operative sector has been made subject to tax at par with the corporate sector.

While the corporate sector is free to appropriate the earned profits in the form of dividend and bonus shares, the **Co-operative Sector is bound by statutes to transfer its profits to statutory and other reserves.** The rules of appropriation are strict and rightly so in order to strengthen the democratic roots on which the co-operative organization is built.

The co-operative sector is governed on the democratic principle of one person one vote unlike the corporate world that is governed by owner promoters on the basis of their proxy strength decided by their shareholding size. Unlike Corporates, the reserves do not go to increase share valuations to the shareholders in the co-operative sector. As such the concept of “profits” has to be better understood in the context of the co-operatives and should not be subject to tax rates at par with the corporate world.

While the lawmakers are responsible enough not to tax the income of agriculturists, the **surplus of the agriculturists is sought to be taxed** through the backdoor by taxing the co-operative marketing and credit societies formed by the agriculturists for better collective bargaining power.

3.STABILITY: While the Direct Tax Code proposes to provide a stable and transparent canon of law and to do away with uncertainties involved in awaiting for direction from

the executive wing of the government in finalizing tax laws, the co-operative sector, for the first time since 1922, has been subject to the uncertainty of awaiting notifications from the Central Government regarding the manner and extent of exemption to be made available to the co-operative organizations. Paragraph 47 in the Sixth Schedule has introduced **powers to the central government to notify** activities and extent of exemption to be made available to co-operatives. We request you to cancel the said Paragraph and include all exemptions in Clauses 85 and 86.

4. RECOMMENDATIONS OF THE STANDING COMMITTEE ON FINANCE OF 15TH

LOK SABHA IN ITS 49TH REPORT: We draw your attention to the following extracts and recommendations contained in the Report of the Standing Committee which are in favour of restoration of tax exemption to the Co-operative Sector:

“7.66 The Committee has received numerous suggestions from different cooperative societies requesting that provisions of Section 80P of the existing Act should be restored in the Code because not only it would safeguard the interests of cooperative societies but it would also serve the purposes of its members; and rural masses for best managed financial services to the masses in general.

7.67 The Ministry has replied that the co-operative societies are formed with the purpose to promote cooperation and thrift amongst its members.

Accordingly, Clause 85 of the DTC Bill, 2010 already provides for deduction to a primary co-operative society, to the extent of profits derived from the business of providing banking, or credit, facility to its members.

Similarly, clause 86 of the Bill provides for the following deductions to a primary cooperative society :

(a) the amount of profits derived from agriculture or agriculture-related activities; and

(b) the amount of income derived from any other activity, to the extent it does not exceed one lakh rupees.

Further, Schedule VI enables the Govt. to notify certain income of the cooperative societies to be exempt from taxation. The scope of clauses 85 and 86 and Schedule VI of the DTC Bill, 2010 is in accordance with the current provisions of the Act

7.68 Keeping in view the large number of representations received by the Committee from different cooperative societies for restoration of tax exemption as provided under the existing Section 80P of the Income Tax Act, the Committee would recommend that the Ministry may consider the same for modification in Clauses 85 and 86 of the Code. Further, the definition of a “primary co-operative agricultural and rural development bank” should not confine its scope to a taluk alone and its objects may also be expanded to cover long-term credit for all allied activities apart from “agricultural and rural development activities”.

Extract from page 22 of the Report:

The Committee would, therefore, recommend that while formulating the proposed Direct Taxes Code, the Government should review the present regime of tax exemptions and deductions, which is obviously loaded in favour of corporates and big tax payers at the expense of small tax payers and the salaried class. Thus, keeping in mind the fact that most of these exemptions have outlived their purpose, and in the light of the glaring facts cited above, it would be just and equitable to put in place a Policy on Exemptions, which would substantially reduce the percentage of tax foregone but at the same time encourage household savings, foster social security and is generally favourable to small tax payers. The revenue thus retrieved may be utilized to fund Government's developmental programmes, particularly in agricultural sector."

Extracts from Paragraphs 104 and 106 at pages 59 to 61 of the Report:

104. The Committee are also concerned about the extensive rule-making powers provided in the Code. The Committee find that there are around 200 clauses in the Code which expressly leave scope for rule-making. The obvious reason for this enablement is that it is procedurally easier to amend the rules than the main clauses, which can be amended only with Parliamentary approval. The Committee are of the view that such extensive rule-making powers would compromise the supreme authority of Parliament. It is therefore necessary that a fair balance is maintained in this regard between executive decision making/delegated legislation and Parliamentary oversight. **The Committee would therefore recommend that the extensive rule-making powers presently proposed in the Code is curtailed, so that substantive matters conferring discretionary powers to tax authorities and matters impinging on vital taxpayer-interest are brought in the Code itself.**

106. In a nutshell, the Committee would like the following essential prerequisites/ guiding principles to be considered and incorporated while revising the Direct Taxes Code Bill :

(ii) Smooth transition to investment-linked exemptions/incentives with focussed coverage;

(xi) Minimising scope of discretionary powers of department and circumscribing the same by way of clear-cut and unambiguous rules; Unfettered powers not to be conferred on authorities;

(xiii) Maintaining uniformity in "grandfathering" provisions so that the available benefits for different categories under the existing Act are phased out in a uniform and nondiscriminatory manner ensuring smooth transition to DTC provisions;

PROPOSAL 2: RESTORE TAX DEDUCTION EXEMPTIONS ON INTEREST TO MEMBERS

The interest income received from co-operative societies by its members was not being subject to tax deduction at source under the Income Tax Act, 1961. This exemption is being removed by the Direct Tax Code and interest from co-operatives to its members will be subject to 10% deduction at source where total interest exceeds Rs 10000(co-operative banks)/Rs 5000(other co-operatives).

Clause 200 be suitably amended to include exemption from tax deduction at source in the case of interest on deposits to members of co-operative organizations.

JUSTIFICATION FOR THE ABOVE PROPOSAL:

Depositors in the co-operative sector by and large belong to the small and marginal income categories with rural and agricultural background. The tax compliance requirements to take credit for TDS become complicated and cause hardship to this category of assesseees. Cost of compliance regarding TDS matters becomes a burden to the co-operatives on account of handling a large number of deposits with small amounts.

PROPOSAL 3: TAX EXEMPTION FOR INTEREST AND TDS PROVISIONS ON INTEREST FROM SCHEDULED BANKS

- a. Exemption for interest on deposits by co-operative societies with other co-operative banks and co-operative societies as existing in the present Section 80P needs to be restored at Clauses 85 and 86.
- b. Exemption for interest on deposits made by co-operative societies with scheduled banks should be extended at par with interest on deposits with other co-operative banks at Clauses 85 and 86.
- c. Interest on deposits by Co-operative societies in scheduled banks as well as in co-operative banks should not be subject to TDS provisions by amending Clause 200.

JUSTIFICATION FOR THE ABOVE PROPOSAL:

Co-operative societies generally park their funds with other banks as a prudent investment measure to ensure safety and return to their accumulated reserves. The

decision of investment with both co-operative banks as well as other scheduled banks is generally on account of same set of reasons and by and large on account of statutory requirement of parking statutory reserves in approved forms of investments. Such deposits add to the quality of reserves being built by societies for long term sustenance and to face unforeseen eventualities. Interest on such deposits need to be granted tax exemption as well as exemption from TDS provisions.

PROPOSAL 4:ACCEPTANCE AND REPAYMENT OF DEPOSITS IN CASH

Exemption from applicability of provisions of Sections 269SS and 269T should be made extended to Deposit Account transactions in all forms of co-operative organisations and not limited to co-operative banks. Section 294 of Direct tax Code should include co-operative societies along with co-operative banks in the list of organisations which are exempt from such restrictions on cash transactions.

JUSTIFICATION FOR THE ABOVE PROPOSAL:

Deposit and withdrawal of amounts in deposit accounts maintained by members of co-operative societies are subject to restriction of cash limits. The co-operative societies operate under close scrutiny of various departments of the government and their transactions are duly audited. Societies provide credit facilities to and accept deposits from its members and the accounts of depositors are opened after fulfilling KYC norms. The co-operative societies primarily operate in areas where banks are not present and generally provide service beyond the banking hours. The co-operative societies are meeting the quasi-banking needs of the people who are not otherwise served effectively by banks. Restrictions imposed by Sections 269SS and 269T create hardships when members operate their deposit accounts transactions in cash. The exemption from applicability of restriction on cash transactions as available to co-operative Banks and other banks must be extended to Societies also.

PROPOSAL 5: Weighted Deduction for Contributions made to the COOPERATIVE FUND.

The Central Government and the State Governments should set up a Fund called as "Cooperative Fund". The Fund should be utilized solely at the discretion of the respective governments for development and furtherance of the cause of the

cooperation and Research and Study in the field of Cooperation.

Contributions made by any person to these Funds should be given weighted Deduction of 200 per cent of the Contributions made, from the total income of that person.

JUSTIFICATION FOR THE DEDUCTION:

For proper development of the cooperative sector, funds are required 1) to provide financial assistance to any particular society or class of cooperative societies, 2) to undertake Research and Study relating to the specific issues concerning the cooperatives, 3) for training of the personnel working in this field and for many other purposes.

If funds are readily available with the government then the government will be able to undertake many more projects in the field of cooperation. Secondly through the network of cooperative societies, the government will be able to implement more and more welfare programmes so as to reach poorest of the poor person in the country.

PROPOSAL 6: DEDUCTION FOR SUBSCRIBING TO COOPERATIVE BONDS

The government should issue COOPERATIVE BONDS (on the same lines as Infrastructure Bonds etc). The funds raised from the issue of the Cooperative Bonds can be utilized for development and strengthening of the cooperatives. The subscriber of the Cooperative Bonds should be entitled to the similar tax benefits as are generally available to the subscriber of Infrastructure Bonds.

JUSTIFICATION FOR TAX DEDUCTION:

Logic and reasoning while arguing for this deduction would be the same logic and reasoning as is applicable to similar Bonds being issued by the government while raising the funds from taxpayer community for any particular cause such as development of infrastructure facilities for faster development of the economy.

PROPOSAL 7: DEDUCTION FOR SUBSCRIBING TO THE SHARE CAPITAL OF NOTIFIED COOPERATIVE SOCIETIES.

Any person who subscribes to the initial issue of Shares which are directly issued by the cooperative society should qualify for deduction under section 80 C.

The Cooperative Societies for this purpose should be notified for this purpose by the Central Government.

JUSTIFICATION FOR THE DEDUCTION:

It is observed that in many cases there are good economically viable projects which can otherwise be started by a cooperative society do not get started for want of initial share capital from the members. The prospective members who would be benefited by that project also are not prepared to part away with their money as they do not find that investment option as lucrative as any other option of investing in corporate sector. This is because investment in equity shares of any listed company is likely to yield better returns by way of capital appreciation as well as by way of dividend on shares. In case

of investment in cooperative shares there is no scope for capital appreciation of shares (in spite of accumulated Reserves) and there is ceiling on declaration of dividend by a cooperative society.

If after due verification, if the Central Government comes to the conclusion that it is in the larger public interest and for betterment of economic health of the members that the particular project should be started in cooperative sector but without direct funding from the government, then the central government may notify such cooperative society for this purpose.

This benefit of deduction under section 80 C will act as a incentive for intending investor and government will be able to promote good projects without making any direct funding.

PROPOSAL 8: EXEMPTION FROM SERVICE TAX TO CERTAIN COOPERATIVE SOCIETIES.

The Cooperative Societies which are catering mainly to its members and where more than 80 per cent of its revenue comes from its members, then such societies should be exempt from the purview of Service Tax.

JUSTIFICATION FOR THE EXEMPTION:

The demand for exemption from service tax while catering to its members is perfectly based on the principle of mutuality. If this exemption is evaluated in proper perspective in light of the concept of mutuality of interest then one would immediately realize that services rendered by members own body to its own members who are part and parcel of the body should not be seen as any service which could be taxed in the hands of tax provider. Here the service provider and the service recipient are not different entities as such.

Secondly, this exemption will improve the competitive edge of that society as compared to the similar service providers belonging to sectors other than cooperative sector. And will improve the financial position of that society.

In the light of our above proposals, we urge you to take a relook at the proposed clauses in the Direct Tax Code and Service Tax Regulations. We request you to recognize the Co-operative organisations more as 'social organisations operating on mutuality basis for inclusive growth' than as 'profit centric commercial organisations' and tax the Co-operative Sector with a sensitive hand.