Direct Taxes Code (DTC) Bill, 2010

Of the total tax revenue of our country, while indirect taxes (that affects the poor more) account for 10.65 % of GDP, direct taxes account for only 5.99 % of GDP (2011-12). If India is to move towards a more progressive tax system, the government should rely more on direct taxes (such as, corporation tax, personal income tax and wealth tax)

The proposed Direct Taxes Code (2010) aims to consolidate and integrate all the direct taxes laws and replace both the Income Tax Act, 1961 and the Wealth Tax Act, 1957 by a single legislation, the Direct Taxes Code (DTC). Some of the main objectives of introducing Direct Taxes Code are stated to be to simplify the tax system, minimize litigation, broaden the tax base and eliminate exemptions.

KEY CONCERNS WITH THE DIRECT TAXES CODE (DTC) BILL, 2010

Proposal	**Concerns**
Income tax slabs widened, with income groups greater than Rs. 5 lakh being proposed to be shifted to lower tax slabs. Tax exempt income increased from Rs. 1.6 lakh in 2009-10 to Rs. 2 lakh. 10% tax on income upto Rs. 5 lakh instead of Rs. 3 lakh as in 2009-10. Highest marginal tax rate of 30% on income greater than Rs. 10 lakh instead of Rs. 5 lakh in 2009-10.	Lower tax rates in DTC would result in revenue loss of around Rs. 7000 crore in Personal Income Tax.
Eliminate all surcharge and cess on personal income tax	Would result in further revenue loss and reduce effective peak tax rate.
Proposes to do away with the distinction between male and female income taxpayers for deciding determination of exemption limits and it has already been implemented through the Finance Bill 2012	Doing away with the higher income tax exemption limit for women taxpayers goes against the policy thrust of the Union Government with regard to Gender Responsive Budgeting.
Minimum Alternate Tax (MAT) is proposed to be on 'book profits' rather than on 'gross assets'	Book profits can be easily manipulated to avoid tax whereas gross assets can't be manipulated. Carry forward provision in MAT, proposed to be increased from 10 to 15 years, appears as a form of appeasement for the corporate sector
Transition from profit-based incentives to investment-based ones	It has been argued[1] that all incentives, either sector-specific or area-based, should have a time limit of no more than 2 to 3 years; and that no tax concession should be allowed beyond 3 years. The SEZ Act should also be amended to phase out all profit-based incentives, which have been allowed for 10 years
Nil tax on long term capital gains earned on sale of listed shares	Privileges stock market speculation over income from labour and business. It has been estimated that[2] revenue loss due to non-taxation of long term capital gains are between Rs 14000 crore and Rs 30000 crore.

[1] Report of Parliament Standing Committee on Finance on Direct Taxes Code Bill(2012), Appendices I, Dissent Note of Moinul Hassan, former Member of Parliament

[2] Kohli, Vineet (2011), 'Direct Taxes Code: Some Concerns', Pragoti

Proposal	Concerns
50% deduction mechanism on Short Term Capital Gain in transfer of Equity Shares / Units of Equity Oriented Fund	Would result in further lowering of tax impact. Some economists[3] also support the elimination of distinction between LTCG and STCG and recommend taxation of both as was proposed in the original DTC-2009, i.e. at 25%.
Wealth tax at flat 1%	Highly regressive and should be increased. With a very low wealth tax to GDP ratio, India performs very poorly in wealth tax collection as compared to a number of other countries.
No proposal to address the low Effective Rate of Taxation	DTC should also focus on various exemptions due to which the Effective Rate of Taxation of 22.85 per cent is substantially lower than the statutory rate of 32.44 per cent.
Inheritance Tax Ignored	Inheritance Tax should be re-introduced in the country. It being an unearned income should be taxed as is done in many of the developed countries.
Section 90 and 90A have been amended mandating 'Tax Residency Certificates' (TRCs) in a prescribed manner, which is aimed at checking misuse of treaties such as the Double Taxation Avoidance Agreement with Mauritius	Finance Bill 2012-13 clarified that submission of TRC is a necessary but not sufficient condition for availing benefits of the treaties. It proposed to restrict grant of tax treaty benefits to only residents of foreign countries who can produce a Tax Residency Certificate ('TRC') in a prescribed format. But in a move to reassure foreign investors, a clarification from the Ministry of Finance in March 2013 stated that the TRC will be accepted as evidence and Income Tax Authorities in India will not question his resident status further[4], which is a concern.
Introduction of General Anti-Avoidance Rules (GAAR) postponed to 2016	Introduction of GAAR as anti-avoidance measure was a welcome step to check aggressive tax planning. GAAR provisions were advanced into Finance Bill 2012; however, the government has deferred the implementation of GAAR till 2016 by partially accepting the Shome Committee recommendation on the same.

CONCLUSION

It is certainly of concern that the Union Ministry of Finance have themselves estimated the loss of revenue expected from the proposals mentioned on Corporate Income Tax alone to be Rs 32,415 crore and Rs. 7,000 crore from Personal Income Tax for the year 2010-11[5]. With an already low tax-GDP ratio of 15.5%, lowest among the BRICS, this projected loss of revenue is of concern. As has been pointed out by a senior Member of Parliament[6], the Bill also fails to address other objectives of taxation policy such as addressing inequality and mobilizing funds to meet broader social development goals. The Bill fails to place the specific proposals in the broader context of a regressive taxation system of the country where almost two thirds of the revenue collected is from indirect taxes, which places a higher burden on the poor. It is therefore imperative that the Parliament closely examines the proposals in the Bill to ensure that the Direct Taxes Code addresses the concerns of the taxation system holistically and uses the opportunity to introduce progressive measures.

[3] Rao, M. Govinda and R. Kavita Rao (2009), 'Direct Taxes Code: Need for Greater Reflection', Economic and Political Weekly, September 12
[4] http://finmin.nic.in/press_room/2013/clarification_TRC.pdf
[5] GurudasDasgupta, DissentNote to the Parliament Standing Committee on Finance Report on DTC
[6] GurudasDasgupta, DissentNote to the Parliament Standing Committee on Finance Report on DTC

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