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Tax

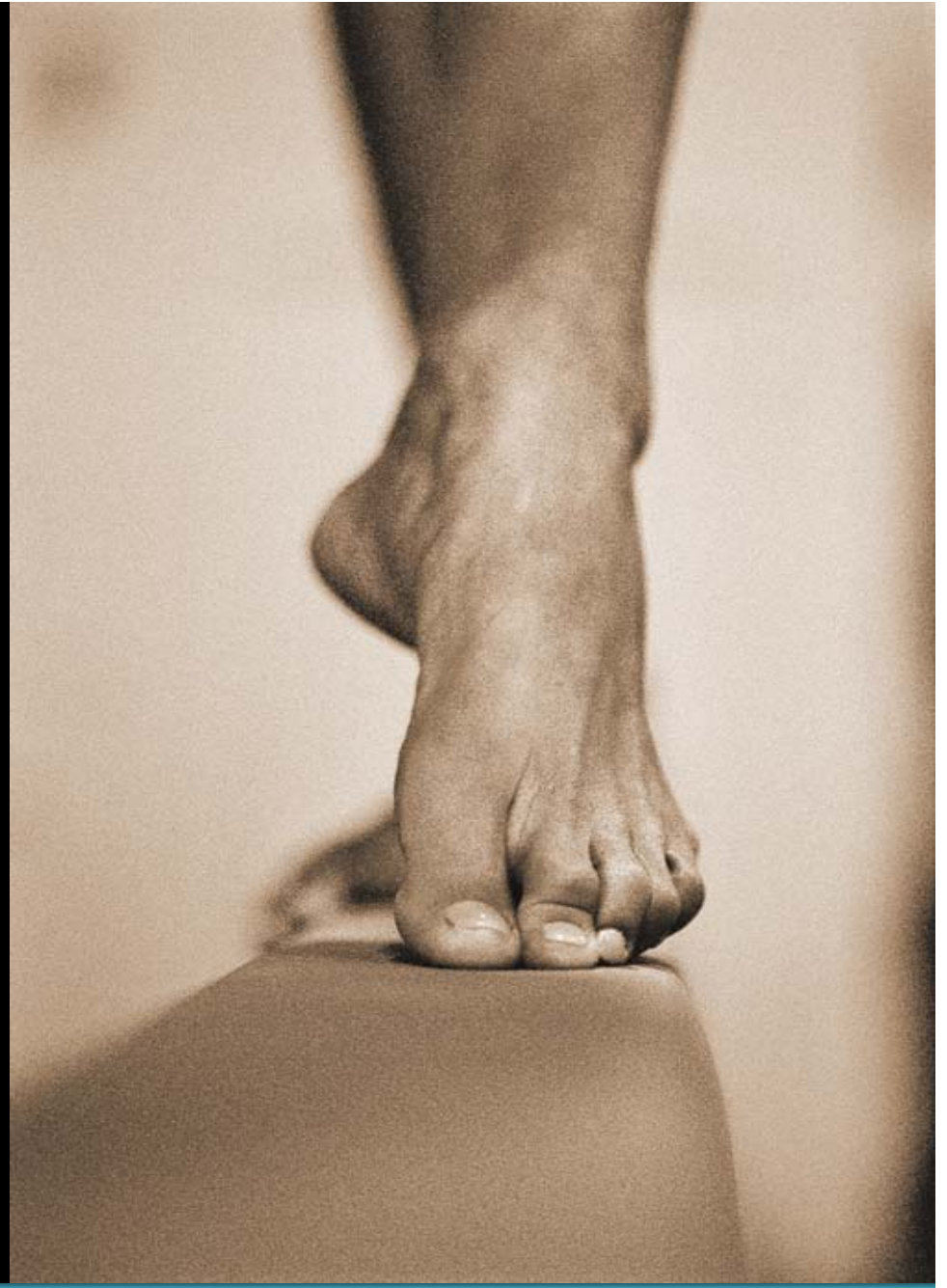
A faint, grayscale background image of a person walking a tightrope, positioned on the right side of the slide. The person is in a balancing pose, with one leg extended forward and arms outstretched. The background is dark with some diagonal lines.

Analysing India Budget 2010: Powered by BMR Advisors

In association with International Tax Review, Euromoney

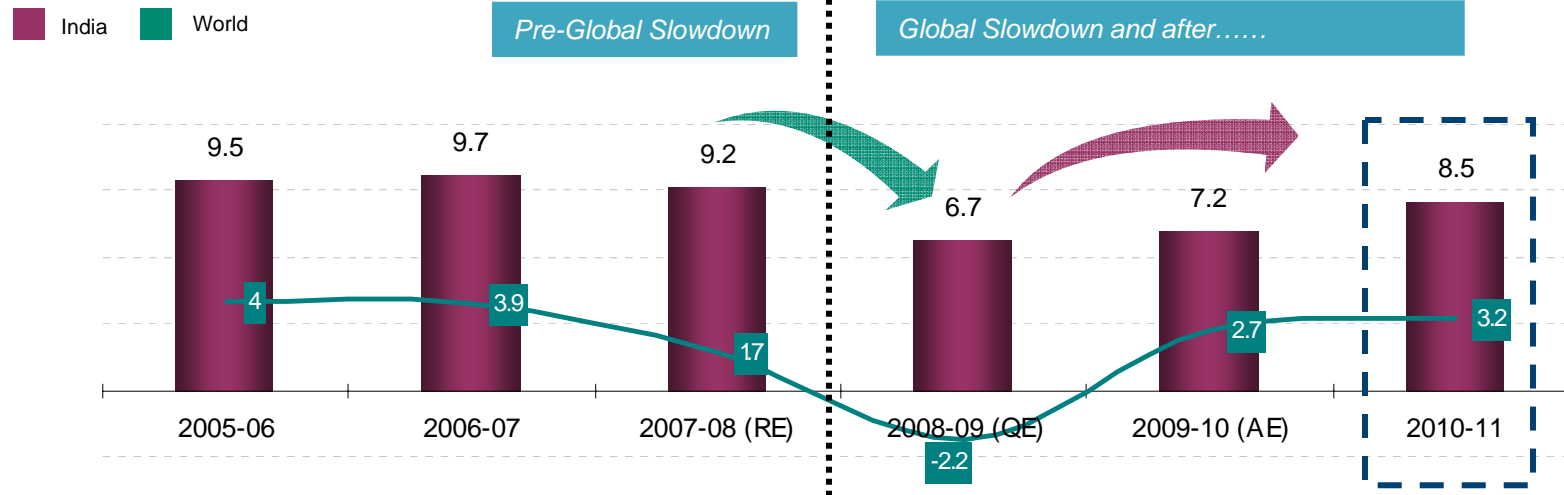
March 2, 2010
BMR Advisors

Indian economy



ECONOMIC GROWTH – INDIAN RESILIENCE

GDP growth trends – India Vs World

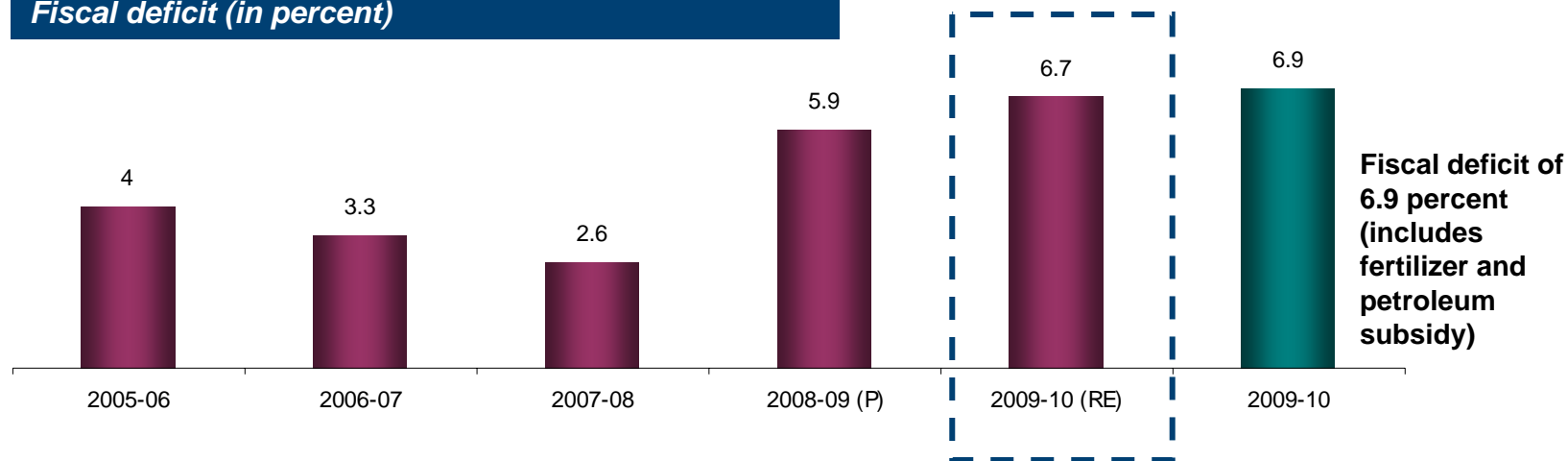


- *“India, now completely a part of the world’s fastest growing economies”* - Economic survey, 2010
- While the world economy is recouping from a negative growth, Indian growth story is admirable with GDP estimated to grow at 7.2 percent in current fiscal
- *“I hope to breach the 10 percent mark in not-too-distant a future”* - Pranab Mukherjee, Budget 2010

Source: Budget 2010, Economic Survey 2010, World Bank [RE – Revised estimates; & BE – Budget Estimates)

FISCAL DEFICIT

Fiscal deficit (in percent)



Fiscal deficit target (FRBM) as per budgets (in percent)

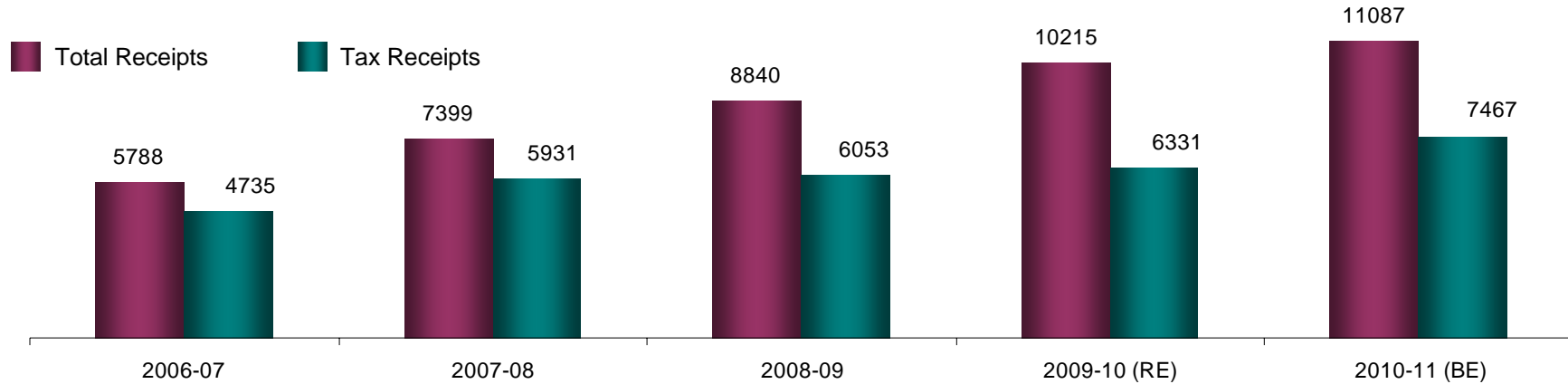
Fiscal deficit target	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13
Budget 2005	4.3	3.8	3.1					
Budget 2006		3.8	3.4	3				
Budget 2007			3.3(2.6)	3	3			
Budget 2008				2.5 (5.9)	3	3		
Budget 2009					6.8(6.7)	5.5	4	
Budget 2010						5.5	4.8	4.1

An emerging coherence on fiscal discipline...

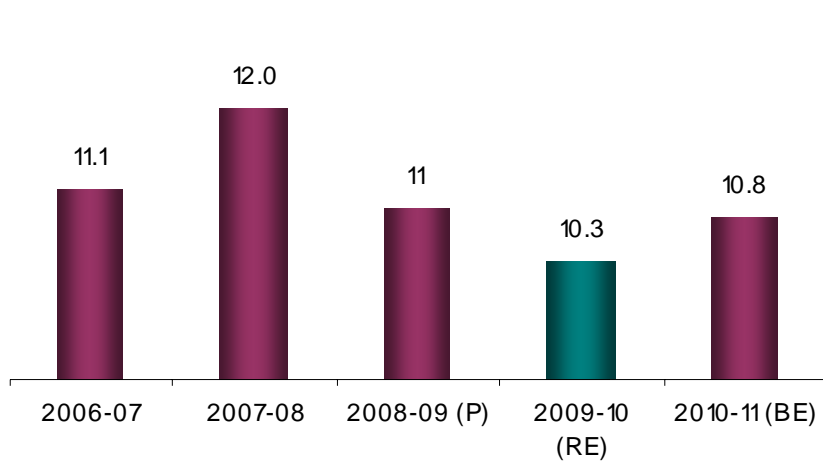
Source: Economic Survey 2010, Union Budget 2010; (Actuals figures /Revised Estimates highlighted in parenthesis)

TRENDS IN REVENUE RECEIPTS

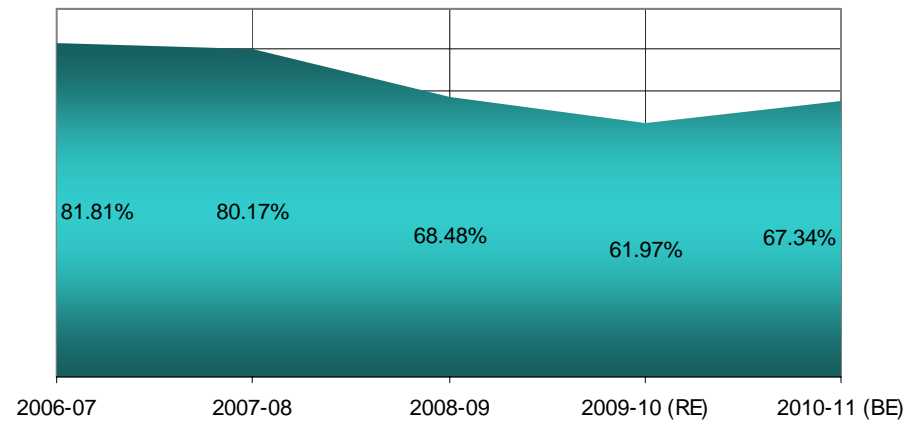
In INR billion



Tax to GDP Ratio (In percent)



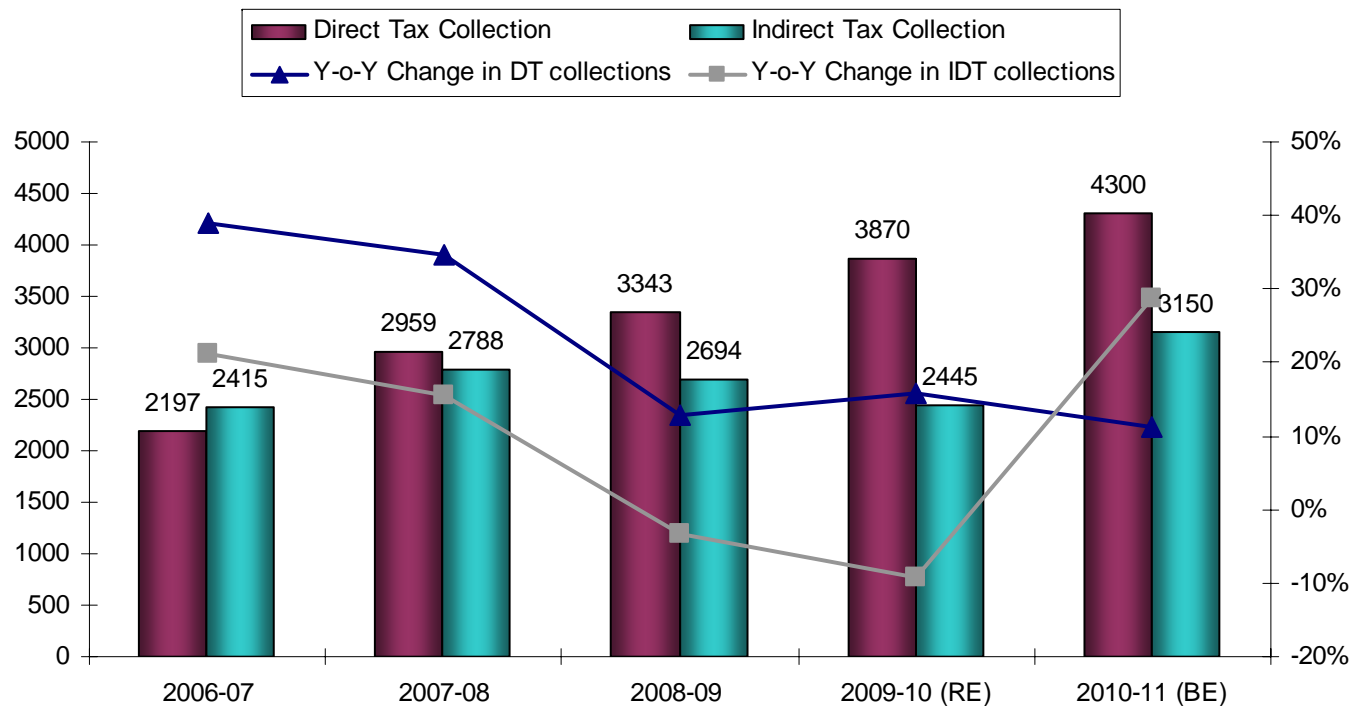
Share of tax revenue in total receipts



Source: Budget 2010, Economic Survey 2010, Ministry of Finance, Revised Estimates (RE) as on date

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TAX COLLECTIONS – DIRECT AND INDIRECT



RECOMMENDATIONS - 13TH FINANCE COMMISSION

KEY RECOMMENDATIONS OF THE COMMISSION

- Reduction in combined debt-GDP ratio
- Calibrated exit strategy from extant expansionary fiscal policy
- FRBM Act to specify relaxation norms for absorbing economic shocks
- States to get back to fiscal correction path by 2011-12
- Review levies such as Cess and Surcharge
- Grand bargain elements for Goods and Services Tax (GST)

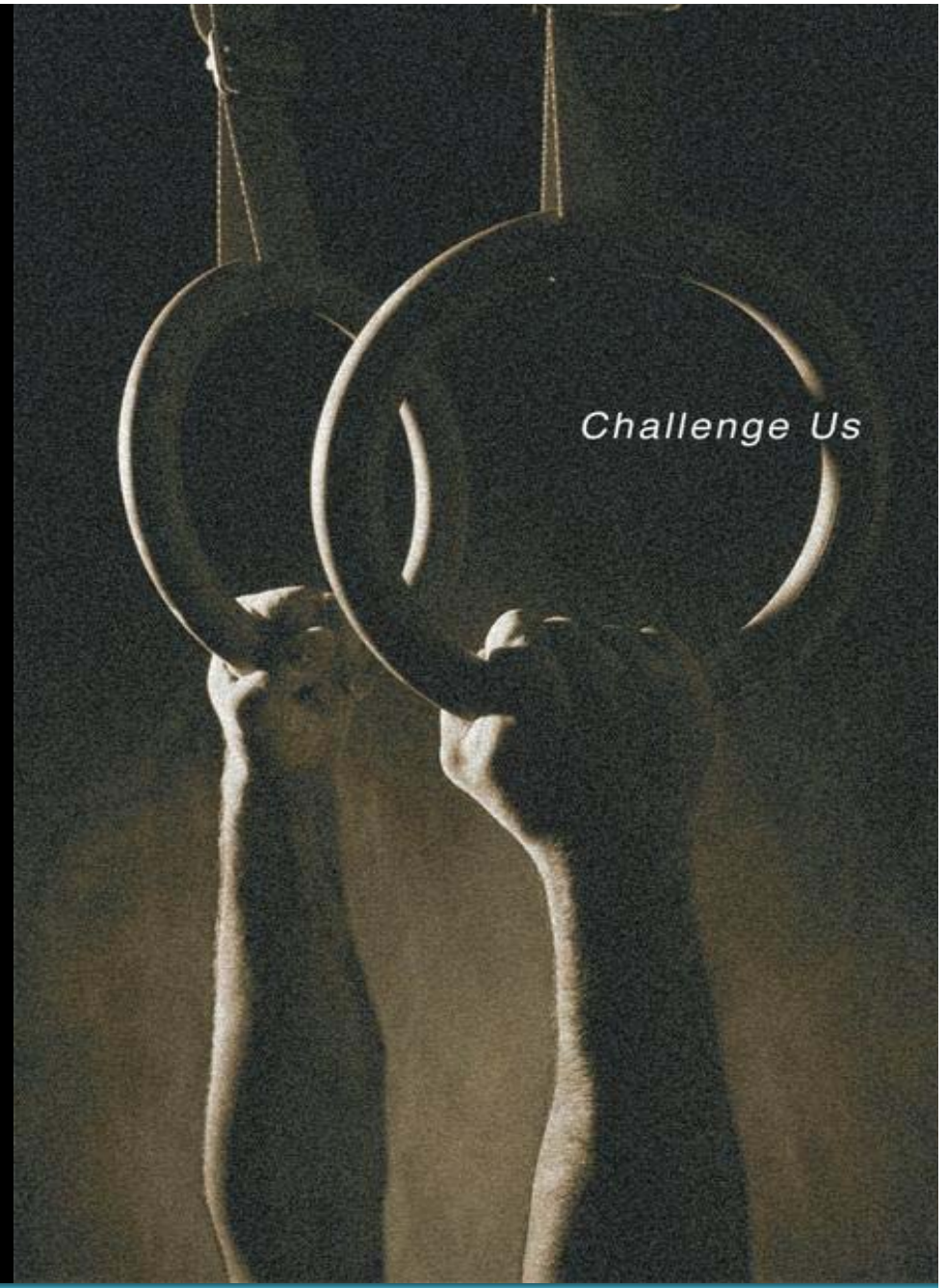
FISCAL CONSOLIDATION - FOR MEDIUM & LONG TERM

- Reduction in combined debt-GDP ratio to 68 percent (from 76.6 percent in 2009-10)
- Centre's debt-GDP ratio proposed at 45 percent
- Fiscal consolidation through elimination of revenue deficit

GST RECOMMENDATIONS – 'A GAME CHANGING TAX REFORMS'

- Expected to contribute significantly to buoyancy in tax revenues and acceleration of growth
- Grand bargain for GST:
 - Design and operational modalities
 - Binding agreement between Centre and States
 - Disincentive for non-compliance

Significant policy announcements



SIGNIFICANT POLICY ANNOUNCEMENTS

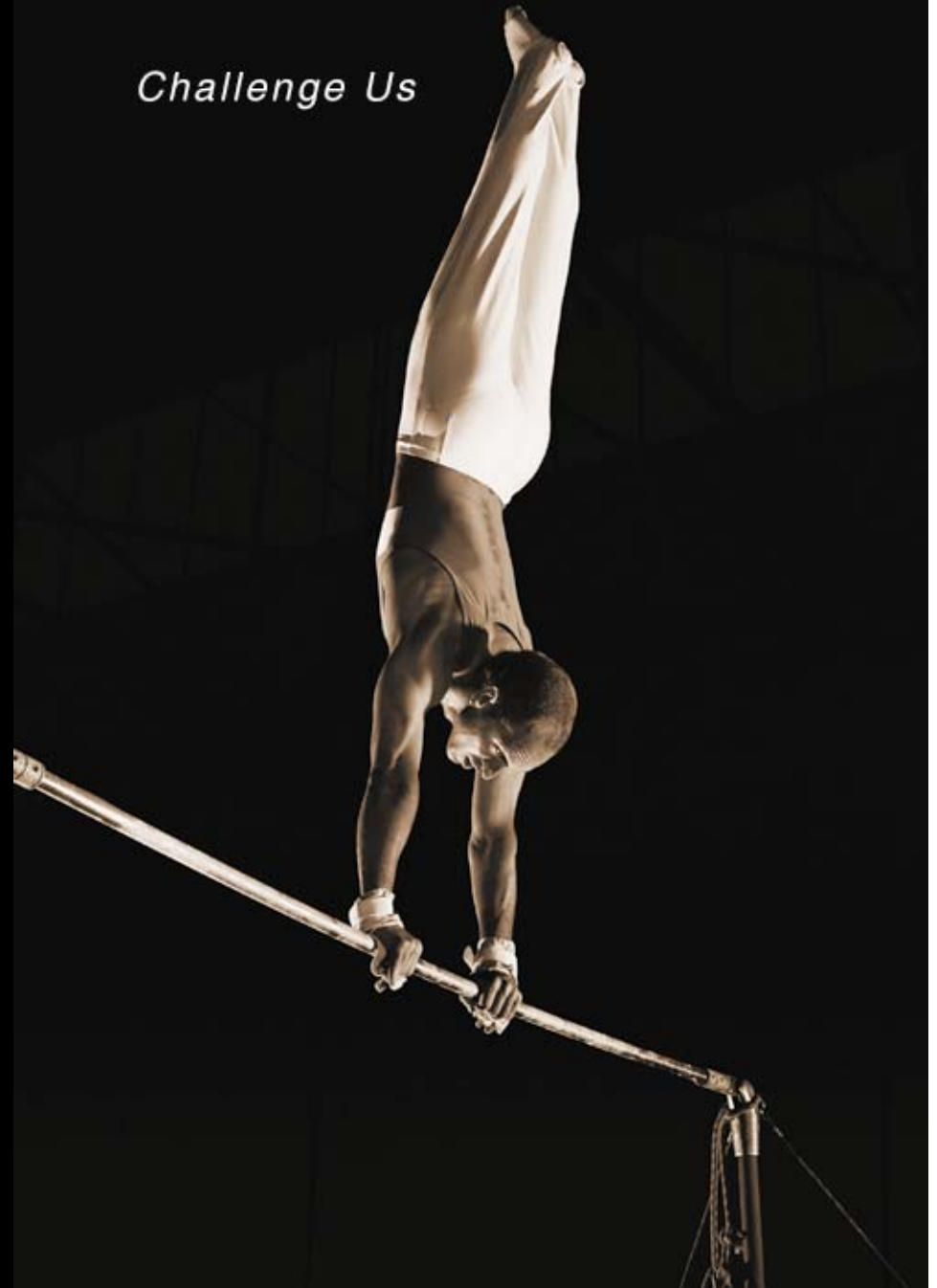
- Target on explicit reduction in domestic public debt-GDP ratio
- FDI policy to be made user-friendly; consolidation of all regulations/ guidelines intended
- Inclusion of cold storage/ cold room facility for preservation of agricultural/ allied products in the definition of infrastructure under ECB guidelines
- Establishment of National Clean Energy Fund for funding clean energy research projects
- Set up Coal Regulatory Authority for coal pricing, benchmarking of performance standards, etc
- Introduction of competitive bidding process for allocating coal blocks for captive mining

SIGNIFICANT POLICY ANNOUNCEMENTS (CONT)

- Revamp of financial sector laws intended through set up of Financial Sector Legislative Reforms Commission
- Set up Financial Stability and Development Council to maintain financial welfare in the country
- Set up National Mission for Delivery of Justice and Legal Reforms
- Set up Technology Advisory Group for Unique Projects
- Draft Food Security Bill to be placed for public comments shortly

Direct Tax proposals

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CORPORATE TAX - GENERAL

- DTC to be implemented from April 1, 2011; revised code to be introduced in monsoon session of Parliament
- No change in corporate tax rates
- Surcharge reduced from 10 to 7.5 percent for domestic companies
- Book Profits tax rate (MAT) increased from 15 to 18 percent
- Royalties and FTS excluded from presumptive taxation regime for non-resident oilfield service providers if a permanent establishment exists
- Anti-abuse provision for transfer of Indian shares at less than fair market value

TAX INCENTIVES

- Investment linked incentives
 - Extended to new hotels of 2-star and above category which start functioning after April 1, 2010
 - Threshold limit for common carrier usage of cross-country pipeline for transporting natural gas/crude/petroleum on common carrier basis aligned with Petroleum Regulations
- Basis for computing tax holiday for SEZ unit with reference to total turnover given retrospective effect from (FY 2005-2006)
- Government support to growth of SEZs; no extension for tax holiday for STPI units
- 'Completion of construction' for claiming tax holiday on housing projects relaxed by a year; relaxation in prescribed built up area condition

TAX INCENTIVES (CONT)

- Terminal date for commencement of operations by hotels and convention centres in National Capital extended from March 31, 2010 to July 31, 2010
- Weighted deduction on R&D enhanced:

Activities	Existing rate (percent)	Proposed rate (percent)
Approved in-house R&D facility	150	200
Approved scientific research association	125	175
Approved scientific research programme to specified institutions	125	175

- Weighted deduction for contributions to approved social science/statistical research associations; income of such associations exempt from tax

MISCELLANEOUS AMENDMENTS

ACCRUAL OF INCOME OF NON-RESIDENT

- Interest / royalty / fee for technical services taxed in India even if services are not rendered in India (retrospective from April 1, 1976)

TRANSACTION FOR INADEQUATE CONSIDERATION

- A firm or company receiving shares for inadequate consideration liable to tax
 - Difference between Fair Market Value (“FMV”) and consideration taxable
 - Fair market value may be determined by reference to Valuation Officer
 - Shares received on or after June 1, 2010
- Immovable property for inadequate consideration not taxable in the hands of the recipient
- Only capital assets covered

MISCELLANEOUS AMENDMENTS (CONT)

- Scope of Settlement Commission expanded to include cases of assessments or reassessments pursuant to a search operation
- Time period for disposal of proceedings extended from 12 to 18 months
- Turnover limit for mandatory tax audit increased to INR 6 million for business and INR 1.5 million for professionals

PERSONAL TAX

➤ Individual tax slabs enhanced

BEFORE		AFTER	
INCOME RANGE (INR)	RATE (percent)	INCOME RANGE (INR)	RATE (percent)
Upto 160,000	Nil	Upto 160,000 [*]	Nil
160,001 – 300,000	10	160,001 – 500,000	10
300,001 – 500,000	20	500,001 – 800,000	20
500,001 and above	30	800,001 and above	30

**Basic Exemption limit for women and senior citizens continues at INR 190,000 and INR 240,000 respectively*

Education cess of 3 percent to continue

➤ Additional deduction upto INR 20,000 for subscription to notified long term infrastructure bonds

WITHHOLDING TAX

- Threshold limit for domestic withholding tax enhanced marginally from July 1, 2010
- Physical TDS/TCS certificates to be provided to the deductee/collectee – dematerialization provisions dropped
- No disallowance, if tax deducted during previous year and paid on or before due date of filing return
- Interest for delay in deposit – increased to one and one half percent per month

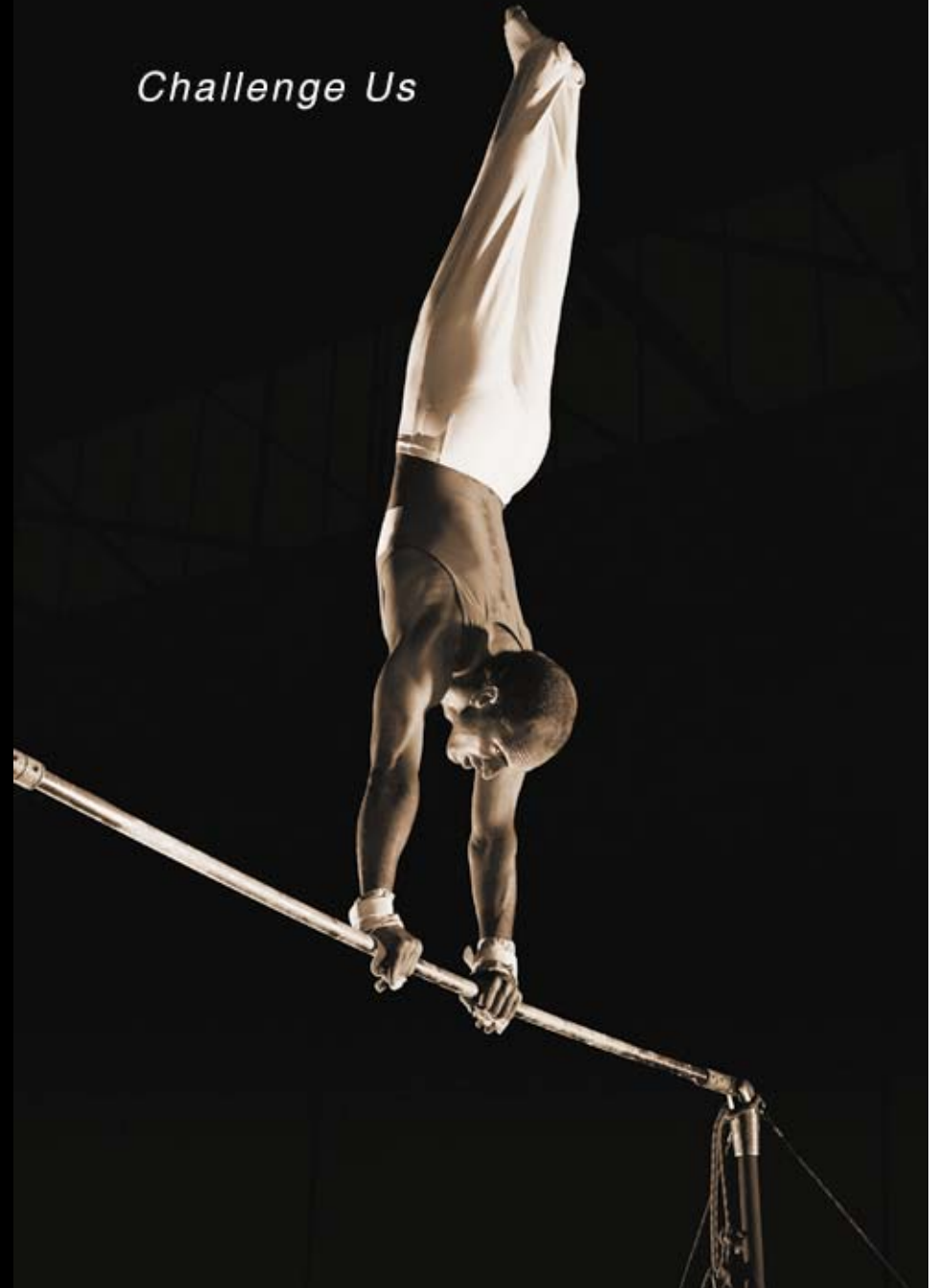
LIMITED LIABILITY PARTNERSHIP(LLP)

CONVERSION TO LLP

- Exemption from capital gains tax for companies with turnover of INR 6 million or less
- Non-compliance of stipulated conditions - taxation in the year of non compliance
- Successor LLP, allowed to carry forward and set-off business losses and unabsorbed depreciation
- Depreciation allowable on pro-rata basis between the predecessor company and successor LLP in the year of conversion
- Actual cost of block of assets – written down value of block of assets in the hands of the predecessor company
- Cost of acquisition of capital asset – cost in the hands of the predecessor company
- MAT credit will abate on converting to LLP
- Amortization of VRS payments to be allowable to successor LLP

Indirect Tax proposals

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INDIRECT TAX - OVERVIEW

- Reinforcement of desire to implement a national GST; expected date indicated as April 1, 2011
- No significant structural changes in Indirect taxes; marginal increase in excise rates to align with service tax
- Attempt to plug revenue gaps, provide sectoral incentives, rationalise rates and ease compliance
- Attempt to harmonise taxation of software transactions
- Rationalisation of refund processes and rules for service exporters and for importer traders

CUSTOMS

- Median rate of basic customs duty unchanged
- Exemption granted from additional duty of customs on pre-packaged goods intended for retail sale, apparels and accessories, cellular handsets, and watches
- Electricity supplied from SEZ to DTA or non processing areas of SEZ subject to basic customs duty of 16 percent ad valorem with retroactive effect from June 26, 2009
- Rate of basic customs duty on key petroleum products like motor spirit, high speed diesel, etc increased by 5 percent
- Duty on cinematographic films, music and gaming software chargeable on carrier medium on CIF basis; excluding pre-packaged units
- Duty exempted on the value of “transfer of right to use” of shrink wrapped software – erstwhile condition of use for commercial exploitation removed

CUSTOMS

- Project import benefit at 5 percent basic customs duty extended to mono rail projects, food grain handling systems, cold storages etc
- Duty rates on medical, surgical, dental and veterinary equipment rationalized to attract basic customs duty rate of 5 percent and countervailing duty of 4 percent
- Conditions on use of duty free import of capital goods for road construction relaxed
- Scope of cases which can be taken to Settlement Commission expanded
- MRP based levy of countervailing duty at the time of import of goods has been extended to cover goods covered under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955

SERVICE TAX

- Service tax rate retained at 10 percent
- Export of services and refund conditions rationalised
 - No requirement to demonstrate use of services outside India
 - Coverage of eligible credits expanded
 - Time bound disposal of refunds
- Key new services proposed to be taxed:
 - Copyrights involving temporary transfer of rights related to films and music
 - Employer sponsored health checks and cashless health insurance transactions
 - Promotion of brands (such as celebrity endorsements)
 - Charges by developers for preferential location or development of real estate complexes

SERVICE TAX

➤ Existing services modified:

- All air passenger transport liable to tax (domestic or international)
- Information technology software services coverage expanded; condition of use for business or commerce removed
- Sponsorship of sport events made taxable
- Sale of immovable property deemed to be taxable unless entire consideration paid after completion
- Retroactive reinforcement (from June 1, 2007) of taxability of rentals from immovable property
- Rent for vacant land taxable if:
 - the land is intended to be used for construction
 - and the use is for business purposes
- All services provided within ports and airports made taxable

SERVICE TAX

- Exemptions granted to:
 - Services provided by specified news agencies
 - Shrink wrapped IT software
 - Transmission of electricity
 - Taxes charged by any Government on air passenger transport service
- Exemptions withdrawn:
 - Transport of goods by rail, except for specified goods; abatement of 70 percent to be allowed
 - Vocational training, except if provided by specified institutes
- Scope of taxability of oil-field related services expanded when performed in continental shelf and exclusive economic zone
- No penalty to be levied where service tax along with interest is paid before issuance of show cause notice

EXCISE

- Median rate of excise duty enhanced from 8 percent to 10 percent
- Duty on motor spirit (petrol) and HSD (diesel) increased by Re 1 per litre
- Duty exempted on the value of “transfer of right to use” of shrink wrapped software – erstwhile condition of use for commercial exploitation removed
- Exemption of excise duty on supply of goods to mega power projects:
 - Where supply of power has been tied up through tariff based competitive bidding; or
 - Where mega power project has been awarded to the developer on the basis of the tariff based competitive bidding
- Attempt towards mitigating the disputes to expedite collection of duty:
 - Non-levy of penalty in case of deposit of duty prior to show cause notice
 - Widening the scope of Settlement Commission
 - Retrospective amendments to facilitate cenvat reversals towards exempt goods
- Excise imposed on certain products to rectify inverted duty structure



Q & A

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