India Budget 2019

Shaping Economy

K C Mehta & Co.

Chartered Accountants

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The provisions contained in the Finance (No. 2) Bill, 2019 ("the Bill") are proposals and are likely to undergo amendments while passing through Houses of Parliament before being enacted.

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“I believe economic growth should translate into the happiness and progress of all. Along with it, there should be development of art and culture, literature and education, science and technology. We have to see how to harness the many resources of India for achieving common good and for inclusive growth”

Pratibha Patil

Reflections

In my last communication in the publication on interim Budget, I made reference to the General Elections held in April - May 2019. The results of the Election have stunned many but was not surprising considering the ground level work which was put in by the earlier edition of the present Government. The results of the last Elections does have a clear shadow on this budget.

An analysis shows that the incumbent Government got great advantage due to its wide outreach to the poor with their pro-poor programmes and schemes and was topped up with last minute reach out to the farmers with their Kisan Samman Yojana. In a country like India, it makes sense that the priority of the Government should be to provide for the basic necessities of life and there cannot be any compromise on the same. This Government has taken some bold steps here for moving the wealth from "the haves" to "have nots".

The last year also show swift movement by the GST Council and the Government to ensure smoothening of the processes for the GST and to remove the hardships faced by the tax payers and at the same time focusing on increase in GST Revenue. It is felt that the said efforts have given rich dividends and we now have a fairly stable GST regime and the Government should be complimented for remarkable implementation of such a mega change. In furtherance of the same, a very bold Sabka Vikas Legacy Dispute Resolution Scheme, 2019 is introduced for resolving the pending disputes under the legacy indirect tax laws.

On the direct tax front, it appears that the Government will wait for the recommendations of the high powered committee set up for overhauling the tax laws which is likely to give its report by end of July 2019, though of course, no reference to the same was made in the budget speech. Having said that, the Finance Minister has continued with lowering of the tax rates for the Corporates; but has tried to balance it out with very steep increase in the effective tax rates for individuals, HUFs, etc. earning income above Rs. 2.00 crores & Rs. 5.00 crores by increasing the surcharge to 25% & 37% respectively from existing 15 %, taking effective maximum marginal rate of tax to 42.74%. In this global era of lowering the tax rates, I am not sure where this measure will take us.

The Government has been active in taking procedural measures for creating tax-payer friendly processes in the form of pre-filled tax returns and face-less tax assessments. They have also taken a path breaking decision of taking the first step in phasing out PAN for individuals and substituting it with Aadhar.

Riding on high expectations generated due to a very strong mandate, people expected more coming out in this budget. However, I see that there is a slight directional change and I hope that the same is temporary and the Government is back on its track for encouraging fresh investments, a goal which it set for itself in the Economic Survey 2019.

Milin Mehta

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State of Economy

A New Beginning

Economic Survey 2018-19 is different in more ways than one. This is the first Survey being presented by the newly elected Government with a new Chief Economic Advisor (CEA) at its helm.

As always, anything new is awaited with eagerness and enthusiasm and equally tempered with trepidation of the unknown. Setting aside apprehensions, if any, the Government of India has surpassed all expectations with the presentation of the Economic Survey 2018-19 with "blue sky thinking" as its backdrop and the target of USD 5 trillion by 2025.

The Economic Survey is being presented at a time when the Indian Economy is seeing its first cyclical downturn in decades with reduced infrastructure spending, rising unemployment and reduced savings rate. Furthermore, the NBFC crisis has led to a credit squeeze and the real estate sector has not overcome its sustained downtrend. The global scenario is no better with the US-China trade war not expected to end any time soon. Britain is facing its own internal 'BREXIT' crisis and the other developed / developing nations are not doing any better. Anticipated Gulf crisis can only add to the woes by escalation of crude oil prices which can worsen the existing economic conditions.

With this backdrop, the Economic Survey becomes a pathfinder which will enable the doyen of Indian Industry and the Government to work in tandem to navigate through the troubled economic waters. As aptly stated by the CEA "If every one of the 130 crore Indians takes one step forward, the country too will go that many steps ahead."

Deviation from the Past

The Economic Survey of 2018-19 is endeavouring to look at the Indian Economy from a different perspective. Some of the major areas which are being addressed to in the Survey are:

Why should the country focus on the sex ratio of the last child even in the 21st century?

- How to enable trickle down of the benefits to impact the bottom of the pyramid?
- How to kickstart the Private Investment which is the "key driver" that creates capacity, drives demand, increases productivity, introduces technology?
- How to attain higher savings which are a precursor of higher domestic consumption and driver of higher demand?
- How to move away from the Anglo Saxon thinking of vicious and virtuous cycle in the economy?
- How Behavioural Economics affects the ways the policies of Government are designed and implemented?

Approach and Way Forward

The Economic Survey has tried to identify major areas which impact various strata of the society and how the various policies and schemes introduced by the Government interplay with each other and impacts the economic health and well-being of the nation.

Private Investment – Key to Economic Progress

Investment is the key to growth which propels demand for products and services, increases job productivity, introduces newer technologies and generates employment. The Survey diverges from the thought process that economy is either in a virtuous or vicious cycle but never in equilibrium.

For a sustained economic equilibrium, the following factors have played a major role;

Macro-economic Stability

- Discipline imposed on the Gross Fiscal Deficit (GFD) and The Fiscal Responsibility and Budget Management (FRBM).
- Keeping Current Account Deficit (CAD) within manageable limits.
- Foreign exchange reserves reaching an all-time high on robust economic growth.

Direct and Focused Benefits to Target Audience

- Introduction of Aadhaar covering 90 percent of the population.
- Linking of Pradhan Mantri Jan Dhan Yojana (PMJDY), mobile numbers with bank account numbers and Aadhaar to secure Direct Benefit Transfers (DBT) to the beneficiaries.
- Pradhan Mantri Ujjwala Yojana (PMUY) launched in 2016 to give LPG connections to BPL families reached 70 million connections.
- Ayushman Bharat Yojana (ABY), providing insurance cover of Rs. 5,00,000 with ~15,000 empanelled hospitals have admitted ~ 2.6 million persons from the 346 million enlisted beneficiaries.

Infrastructure Creation

- Electricity had already reached each and every village in the country by April 2018.
- DAAN Scheme launched in 2017 to connect Tier III and Tier IV towns has created 40 lakh seating capacity and catered to 40 unserved and under-served airports.

Fiscal Distribution

- Fourteenth Finance Commission led to an increased share of states from the pool of central tax revenues from 32 per cent to 42 per cent.
- Goods and Service Tax (GST) has led to improved centre-state and inter-state financial relations.
- Insolvency and Bankruptcy Code (IBC) with strict time limits for resolutions has improved recovery and accelerated insolvency proceedings.

Behavioural Economics in determining Public Policy

Drawing on the psychology of human behaviour, Behavioural Economics, advocated by Nobel psychology laureate Mr. Richard Thaler provides significant insights into the realm of how to 'nudge' people towards desirable behaviour. The key principle of behavioural economics is that peoples' behaviour is greatly influenced by social norms; and understanding the drivers behind this behaviour can enable smooth transition to change.

- Public Policy can be implemented from the laissez faire system to the mandate structure.
- Nudging falls in the middle of the spectrum which tries to touch the "moral fabric" of the individual to do or not to do.

- The Swachh Bharat Mission (SBM) and the Beti Bachao, Beti Padhao (BBBP) scheme are categorized in the 'nudging' form of policy which has been successfully implemented.
- The power of clear and unambiguous messaging plays a vital role in delivering the content. Namami Gange, Ujjwala, Jan Dhan Yojna and Ayushman Bharat are some of the key schemes which have been immensely successful on account of clear branding and messaging.
- The final frontier to bring a radical change in the way a society thinks is by leap frogging from BBBP to BADLAV (Beti Aapki Dhan Lakshmi Aur Vijay Lakshmi).

MSME Sector – The Engine of Growth

MSME plays a major role in the productivity of the nation and contributing to the job creation. However, the current policies only fosters MSME 'dwarfs' which though being more than half of the organized firms in the manufacturing sector, contribute to only 14 percent of employment and mere 8 percent of productivity. In contrast to this, large firms (having more than 100 employees) account for ~75 percent of employment and close to 90 percent of productivity.

- The contribution of small firms to output and employment in the manufacturing sector is insignificant, though they account for close to 85 per cent of all firms.
- Even among the small firms, entities with less than 50 employees though forming dominant portion of total small firms, create the least jobs and continue to be the least productive.
- As compared to small firms, young firms (less than 10 years' old) contribute to ~30 percent of employment and nearly 50 percent of productivity. What this implies is that the old small firms (more than 10 years' old) have suffered on account of poor policies which is not the legacy of new young firms.
- Policies such as Industrial Disputes Act

(IDA), 1947 which mandates companies to take prior permission from Government for retrenching employees is not applicable to firms with less than 100 employees.

- The Small Scale Industries (SSI) reservation policy introduced in 1967 to promote employment growth and income re-distribution have remained dwarf whereas young firms in the un-reserved products have added jobs and improved productivity.

Data Analytics – Key to Social Welfare

The result is as good as the ingredients put in to achieve the desired result. Navigating the economy requires robust set of numbers which can impact the way one thinks and the way policies are devised and implemented. Government has a large repository of data and information collated from various sources but remains scattered and disjointed. Sophisticated technologies can be put to good use to collate the data and make verifiable and authentic judgments on various policy parameters.

- Global data infrastructure has proved largely proved to be reliable, fast and secure enough to handle the deluge of data, as stated by a Mckinsey Report.
- In addition to the accuracy of data, the cost of storing such data has also considerably fallen. For e.g. cost of storing 1 GB of data was fallen from ~ Rs. 61,000 in 1981 to ~ Rs. 3.50 today.
- Online activities have further increased the scope of collating data put forth by individuals by leaving digital footprints.
- Collating and processing the data as on date is relatively expensive since this includes lot of inconsistencies and noise.
- Improvements in processing of data would lead to a tremendous change in how the processed information is used since dissemination of information is practically free on the internet.
- This dissemination of information has the potential to change the way one conducts business, grow crops or sell products or services.
- Though data disseminated can be for public good, it has to be ensured that privacy is being maintained as well as the veracity of the data being circulated in above question.
- Linking of database to create a Central Welfare Database of citizens as a coordinated step by various Ministries could be used for public good.
- With this objective, the Government has launched 'Digitize India', an initiative to convert the paper based data into digital form.

Judiciary – Elephant in the Room

The single biggest constraint to Ease of Doing Business in India is the inability to enforce contracts and resolve disputes. The major problem lies in the lower District and subordinated courts. As on date over 3.5 crore cases are pending in various courts across the country. As per an analysis conducted, merely an addition of ~2300 judges in the lower courts and ~100 judges in the High Court can result in a 100 percent clearance rate with the existing level of efficiency. Without a well functioning judicial system, the potential benefits of economic growth cannot be fully capitalized.

- As per last year's Economic Survey, the backlog of cases in the judicial system, economic tribunals and tax department are severely constraining economic growth.
- Though India has considerably improved in the overall Ease of Doing Business (EODB) rankings, it has only risen from 164 to 163 in enforcing contracts.
- Pendency rate is highest for states which are not only the worst performing on economic parameters but also the poorest such as Odisha, Bihar & West Bengal.
- The highest disposal time is also taken by the states with the highest pendency rate.
- To clear the legal logjam, two key issues need to be addressed, first being 100 percent clearance rate must be achieved to have zero accumulation and secondly to clear the backlog of cases.

Policy Uncertainty – Bugbear of the Industry

- Economic Uncertainty is the single largest dampener for investment climate in the country. Frequent changes to the policy lowers the investment making capacity because of irreversibility of investment. Economic uncertainty on account of external factors is uncontrollable and the dampener of investments can be seen since the past year and a half in the country. Policy changes should be consistent and in line so that a sense of comfort is developed and the right climate for investment is generated.
- Economic Policy uncertainty reached the peak in 2011 and 2012 and thereafter it has been on a declining trend.
- Economic uncertainty is primarily on account of factors which are not under control such as poor monsoons or crude oil shock.
- Economic Policy Uncertainty (EPU) matters significantly since this refers to uncertainty that policy makers controls and have an influence over economic activity.
- EPU index is very strongly correlated to volatility in exchange rate, stock market & inflation and various other macro-economic variables.
- Continued resolution of the twin balance sheet problem with implementation of IBC 2016 and recapitalization of banks has increased investment.
- Foreign Direct Investment (FDI) flows and Foreign Institutional Investment (FII) flows are negatively correlated to EPU index.

Demographics – From here to where

India is expected to witness a drastic fall in its population growth over the next two decades. As indicated in the Survey, population in the 0-19 age bracket has already peaked due to sharp decline in Total Fertility Rates (TFR). Southern India, Himachal Pradesh, Punjab, West Bengal and Maharashtra have fertility rates well below the replacement rate, thus leading to a situation akin to Japan.

- The population growth that was seen growing at a growth rate of 2.5 percent in the 1971-1981 period has come down to 1.3 percent in 2011-2016 period.
- India has transitioning to a stage of low population growth along with a significant increase in the working age population.
- The higher level of aging population is on account of better healthcare, living conditions and better dietary habits.
- Existing levels of hospital facilities with a rising population over the next two decades (even with slowing population growth rate) shall reduce the per capita availability of hospital beds.
- Life expectancy for both males and females in India is shall continue to rise thereby leading to an increase in the retirement age for both men and women.

Swachh Bharat to Sundar Bharat – A much needed Behavioural change

- Swachh Bharat Mission (SBM) has today become arguably the worlds' largest cleanliness drive covering ~100 percent of rural area India over the last four years. As of June 19, 30 States/UT are covered under the IHHL (Individual Household Latrine) and over 9.5 Crore toilets have been constructed since October 14. This has led to a significant improvement in the health outcomes with reduced cases of diarrhoea and malaria among children, still birth and low birth weight.
- Swachh Bharat (Clean India) Mission was conceived to enhance the quality of life by promoting cleanliness, hygiene and eliminating open defecation. This has been achieved through the following:
- Ensuring Community participation.
- Flexibility in choice of construction / building
- Building capacities of Implementing Agencies
- Initiating Behavioural changes through multi pronged activities
- Solid and Liquid Waste Management

(SLWM) has been another key component of the Swachh Bharat Mission. Scientific disposal of waste and processing the waste have been the buzzwords with many Municipal bodies taking up this effort earnestly.

Sustainable Energy – An idea whose time has come

Energy is the driver for sustainable development and economic progress of a country. India uses only ~ 6 percent of world's energy against a population share of ~18 percent. Energy poverty (lack of adequate energy) is even more pervasive than economic poverty in India. Energy efficiency programs have led to cost savings of ~ Rs. 50,000 crores and a reduction of about 110 million tons of CO2 emission in 2017-18. In addition, the share of renewable power in total generation capacity has increased from 6 per cent in 2014-15 to 10 per cent in 2018-19.

- Government has been conscious in their decision to provide clean cooking fuel to all households. Pradhan Mantri Ujjwala Yojna launched in 2016 aims to safeguard the health of women and children by providing clean cooking fuel.
- Bureau of Energy Efficiency (BEE) states that energy efficiency programs resulted in a total cost savings of ~ Rs. 53,000 crore in 2017- 18 reduced CO2 emission by 108.28 Million Tons.
- As per NITI Aayog EV sales penetration of 30 per cent for private cars, 70 per cent for commercial cars, 40 per cent for buses, and 80 per cent for 2 and 3 wheelers by 2030 can result in savings of 846 million tons of net CO2 emissions and oil savings of 474 million tons of Oil Equivalent (MTOE).

Technology for Welfare Schemes – Reaching Grassroot Level

- Technology was leveraged for implementation of Direct Benefit Transfer (DBT) and linking it to Aadhaar Linked Payments (ALP). The linking of Jan Dhan, Aadhaar and Mobile (JAM) trinity to credit wages directly into MGNREGS workers' bank accounts, thereby reducing scope for delays and slippages in payment. This benefit has reached the grassroot level especially the vulnerable sections of the society including women, persons with disabilities and Scheduled Castes and Scheduled Tribes.
- Before the implementation of DBT, MGNREGS wages were transferred to the panchayat bank accounts and a large number of workers had to collect their wages in cash from the gram panchayat office. Verification of genuine beneficiaries used to pose a significant issue.
- The JAM trinity enabled the roll-out of DBT by streamlining the validation / verification of beneficiaries as well as process for release of funds.
- To streamline the system of fund flow and ensure timely payment of wages, National Electronic Fund Management System (NeFMS) was implemented in 2016.

- With an increase in the amount disbursed to bank accounts, post implementation of ALP and a decline in delayed payments, an increase in demand for work under MGNREGS is expected.
- The immense success of the DBT and ALP in MGNREGS has the potential to replicate such use of technology to promote other welfare programmes.

Inclusive Growth – the Final Frontier

Despite India's tremendous progress over the last few years, wage disparity remains a sad fact. The existing minimum wage policy is not only complex but riddled with definitions and categories which are not relevant and leaves out approximately one third of the workers. An effective minimum wage policy that targets the lowest level of wage earners can help in driving aggregate demand, building and strengthening the middle class thereby spurring the next round of sustainable and inclusive growth.

- India was one of the first developing countries to introduce minimum wages with the enactment of the Minimum Wages Act way back in 1948.
- Over the last 70 years, the minimum wage system in India has become complex and arcane.
- The first set of complexities arose from issues relating to its coverage.
- The second set of complexities arose from lack of uniform criteria for fixing the minimum wage rate.
- The third set of complexities arose from the fact that the Minimum Wages Act did not cover all the workers.
- Persistent levels of minimum wages in different states is on account of different levels of economic development.
- The different levels of minimum wage rates and scheduled employment results in strong deterrence to compliance.

Indian Economy 2018-19

Key Takeaways – Looking Back

- The growth of Indian economy moderated in 2018-19 with a growth of 6.8 per cent compared to 7.2 per cent in 2017-18. Despite moderate growth, India continues to remain the fastest growing major economy in the world in 2018-19.
- The ratio of current account deficit to GDP was higher in 2018-19 as compared to 2017-18 mainly due to slump in oil prices.
- The growth in fixed investment increased from 8.3 per cent in 2016-17 to 9.3 per cent in 2017-18 and finally to 10 per cent in 2018-19.
- Net FDI inflows grew by 14.2 per cent and the capital expenditure by the Central Government grew by 15.1 per cent in 2018-19.
- India is the 7th largest economy in terms of GDP in US$ and has emerged as the fastest growing major economy.

- Headline WPI inflation stood at 4.3 per cent in 2018-19, higher as compared to 3.0 per cent in 2017-18
- Foreign Exchange reserves decreased by US$ 11.6 billion at the end of 2018-19. As on 14th June 2019, the said reserves are US$ 422.2 billion.
- Increase in Non-Performing Assets (NPA) of banks led to stress on balance sheets of banks, with the Public Sector Banks (PSBs) taking a major brunt.

Sectoral Economic Performance

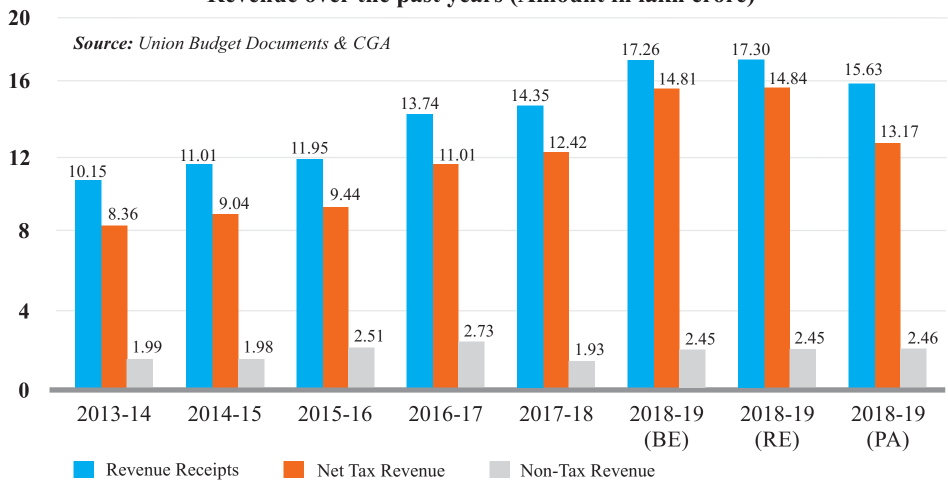
Fiscal Development

Revenue augmentation and expenditure reprioritisation and rationalisation continues to be integral to fiscal reforms. Over the last six years, budgetary expenditure of the Central Government, as a percentage of GDP has seen considerable moderation with most of the reduction in the revenue expenditure. Improving the quality of expenditure remains a key priority.

Revenues

- Budget 2018-19 envisaged a growth in revenue receipts over the amount of 2017-18 due to growth in both tax revenues and non-tax revenues (as provided in table).

Revenue over the past years (Amount in lakh crore)



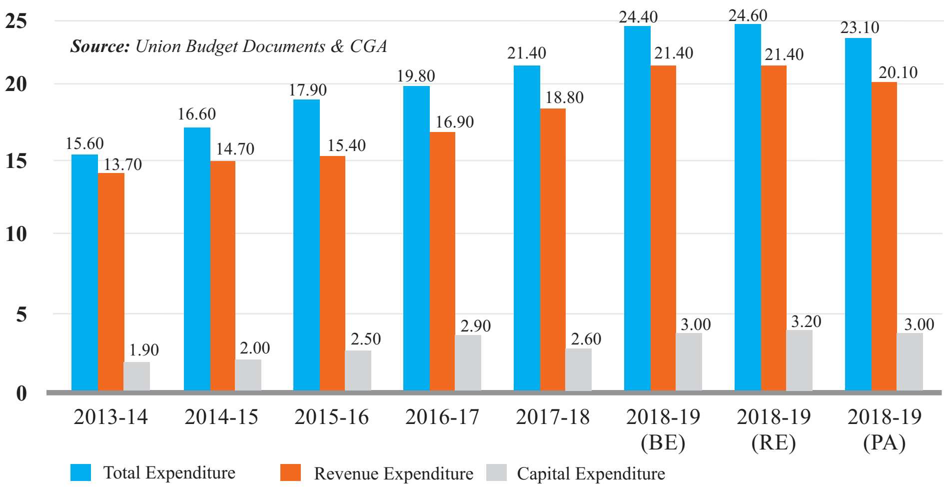
BE: Budget Estimates, **RE:** Revised Estimates (as per Interim Budget), **PA:** Provisional Actuals

- Indirect taxes have fallen short of budget estimates by about 16 per cent owing to the shortfall in GST revenues. The GST collections are yet to stabilise, and several changes have been carried out following decisions of the GST Council during the year.
- The Budget Estimate for disinvestment was fixed at INR 0.80 lakh crore for 2018-19. The disinvestment target was achieved as INR 0.85 lakh crore was collected using a variety of instruments like Initial Public Offers (IPOs), Offer for Sale (OFS), Buyback, Exchange Traded Funds (ETF), etc.
- Progress was made in respect of 28 cases of Strategic Disinvestment approved by the Government, which currently are at different stages, with 3 companies strategically sold off during 2018-19.

Expenditure

- Expenditure on defence, salaries, pensions, interest payments and subsidies account for significant part of total expenditure.
- Subsidies have seen significant moderation. There has been considerable restructuring and reclassification of Central sector and Centrally Sponsored Schemes in the recent past.
- The total liabilities of Central Government as a ratio of GDP, has been consistently declining from 55 per cent (approx.) in 2004-05 to 45 per cent (approx.) in 2018-19.

Expenditure over the past years (Amount in lakh crore)



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Forward Looking Statement:

- Both central and state governments have been on the path of fiscal consolidation and fiscal discipline.
- Several challenges may be faced on the fiscal front in 2019-20 which includes revenue implications on account of apprehensions of slow growth, revenue buoyancy of GST and provisioning for schemes such as Pradhan Mantri Kisan Samman Nidhi (PM-KISAN) and Ayushmaan Bharat without compromising the fiscal deficit target.

Monetary Management

- During 2018-19, the growth rate of monetary aggregates increased after experiencing unusual behaviour in 2016-17 due to de-monetisation and again in 2017-18 due to the process of re-monetisation.
- The banking system faced huge shortage of liquidity for the first time in the fiscal in September 2018 and the deficit was nearly INR 1.18 lakh crore.
- Gross Non-Performing Advances (GNPA) ratio of Public Sector Banks (PSB) decreased from 15.5 per cent to 13.9 per cent between March 2018 and December 2018.
- NBFCs experienced difficult times in 2018-19 due to rating downgrades and default of IL&FS Group.
- Insurance penetration, which was 2.71 per cent in 2001, has steadily increased to 3.69 per cent in 2017 (Life 2.76 per cent and Non-Life 0.93 per cent).
- During 2018-19, 123 companies raised INR16,087 crore through public equity issue and 25 debt public issues raised INR 36,679 crore as compared to 202 companies amounting INR 83,696 crore and 8 debt public issues raising INR 5,173 crore in 2017-18.
- Secondary Markets saw both the Sensex and Nifty scaling all-time highs in August '18, with Sensex reaching an all-time high of 38,897 and Nifty touching 11,739.
- As of February 2019, i.e. within 27 months of operationalization of the Insolvency and Bankruptcy Code (IBC), 14,000 applications had been filed for initiation of Corporate Insolvency Resolution Process (CIRPs) under the IBC.

Price and Inflation

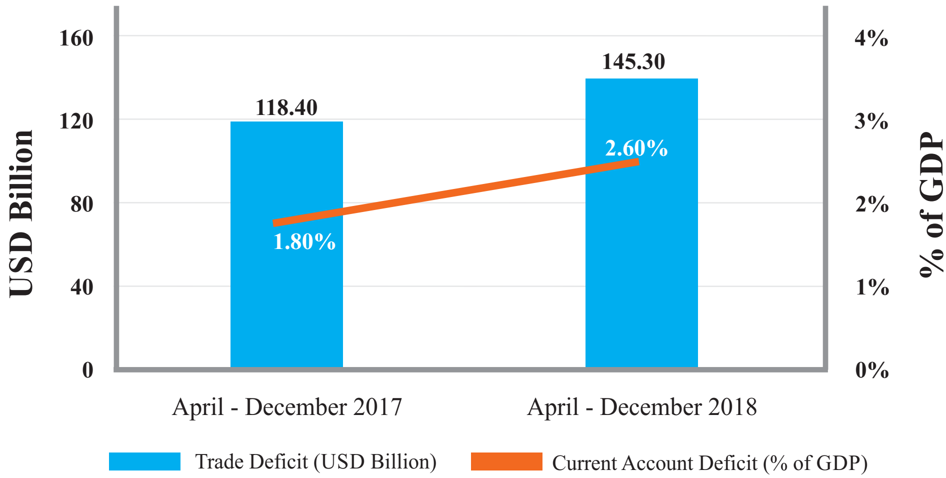
- Inflation based on the Consumer Price Index - Combined (CPI-C) is on a declining trend, which has declined to 3.4 per cent in 2018-19 from 3.6 per cent in 2017-18.
- Inflation based on Wholesale Price Index (WPI) had increased to 4.3 per cent from 3.0 per cent in 2017-18.
- Inflation in 23 States / Union Territories (UTs) was below 4 per cent in 2018-19. 16 States / Union Territories had inflation rate lower than all India average inflation rate for FY 2018-19.

External Sector

The global economy is expected to decline from 3.6% in 2018 to 3.3% in 2019 in light of the heightened US-China trade tensions. India's balance of payment situation showed some adverse signs on account of rise in international crude oil prices. Because of this, Current Account Deficit (CAD) increased to 2.6% of GDP during April-December 2018, as compared to 1.8% of GDP a year ago for the same period.

- The trade deficit increased to US$145.3 billion during April-December 2018 from US$118.4 billion in the corresponding period of previous year.

Trade Deficit and CAD



- Merchandise exports have shown a declining growth of 8.8% in 2018-19 as against 10% in 2017-18.
- Merchandise imports have shown a declining growth of 10.4% in 2018-19 as against 21.1% in 2017-18.
- India remained a top remittance recipient country in 2018, followed by China, Mexico, Philippines, and Egypt, with remittance inflows peaking at all-time high at US$78.6 billion.
- India's External Debt was US$521.1 billion at the end of December 2018, 1.6% lower than its level at the end of March 2018.
- In 2018-19, petroleum products continued to be the largest exported commodity, in value terms, with a share of 14.1% in the country's export basket.

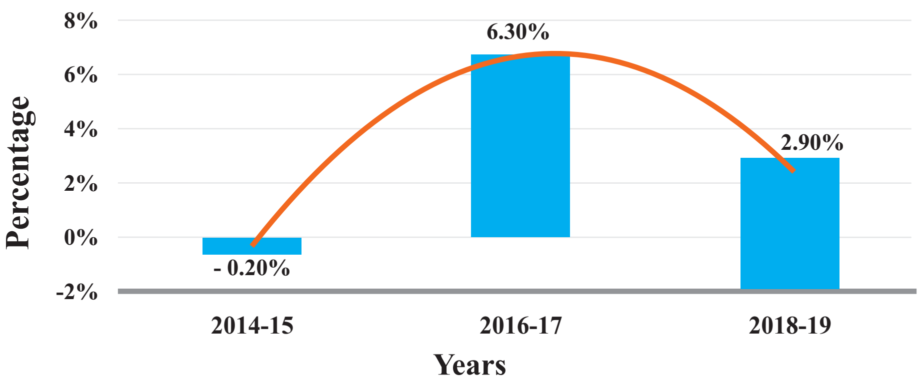
Industry and Infrastructure

- India has considerably improved its ranking to 77th position in 2018 from 100th position in 2017 among 190 countries assessed by the World Bank Doing Business Report, 2019.
- The growth of industry real Gross Value Added (GVA) was higher at 6.9% in 2018-19 as compared to 5.9% in 2017-18.
- The industrial growth rate in terms of Index of Industrial Production (IIP) during 2018-19 stood at 3.6% as compared to 4.4% growth rate in 2017-18.
- During 2018-19, total FDI equity inflows were US$44.36 billion as compared to US$44.85 billion during 2017-18, showing a marginal change. Out of total FDI equity inflows, more than 70% have come mainly from Singapore, Mauritius, Netherlands, Japan and United Kingdom.
- As on March 1, 2019, 16,578 new start-ups were recognized in India. Maharashtra, Karnataka and Delhi are the front runners amongst all the states with recognized start-ups.

Agriculture and Food Management

- Agriculture remains the pre-dominant occupation in India for vast sections of the population.
- The Gross Value Added (GVA) in agriculture improved from a negative 0.2% in 2014-15 to 6.3% in 2016-17 only to decelerate to 2.9% in 2018-19.

Gross Value Added (GVA) in agriculture



- Average annual growth rate in real terms in agricultural & allied sectors has remained at around 2.88% during 2014-15 to 2018-19.
- India continues to rank 1st in milk production, accounting for 20% of world production.

Sustainable Development and Climate Change

- Kerala and Himachal Pradesh are the front runners amongst all the states with a Sustainable Development Goal (SDG) Index score of 69.
- Chandigarh and Puducherry are the front runners with an SDG Index score of 68 and 65 respectively among the UTs.
- Namami Gange Mission was launched as a priority programme with a budget outlay of INR 20,000 crore for the period 2015-2020.

Service Sector

The services sector which accounts for 54 per cent of India's Gross Value Added (GVA) grew at a moderated rate of 7.5 per cent in 2018-19 as compared to 8.1 per cent in 2017-18 on account of deceleration of tourism, trade, hotels, transport, communication and services related to broadcasting, public administration and defence. The service categories which accelerated were financial, real estate and professional services. India's services sector does not generate jobs in proportion to its share in GVA. However, the IT-BPM industry which grew by 8.4 per cent in 2017-18 to US$167 billion is estimated to reach US$181 billion in 2018-19.

- The share of services sector in India's employment stands at 34 per cent which is significantly lower than services share in GVA which stands at 54 per cent.
- FDI equity inflows into the services sector accounted for more than 60 per cent of total FDI equity inflows into India with a decline of ~1.3% over the last year.
- As per Ministry of Tourism statistics, number of approved hotels grew at a rate of 75.71 per cent in span of 2 years to 1,961 as on December 2018 from 1,116 as on December 2014.

- The IT-BPM industry grew by 8.4 per cent in 2017-18 to US$167 billion and is estimated to reach US$181 billion in 2018-19.

Social Infrastructure, Employment and Human Development

- India's HDI value increased from 0.427 to 0.640 over the years between 1990 and 2017.
- The Government of India has initiated several programmes like Beti Bachao, Beti Padhao (BBBP), Ujjwala Scheme, Poshan Abhiyaan, Pradhan Mantri Matra Vandana Yojana etc., to mainstream women and make women active agents of change in the society.
- The expenditure on social services by the Centre and States as a proportion of GDP has registered an increase of more than 1% points from 6.2% during 2014-15 to 7.3% during 2018-19.

Budget Highlights

Direct Tax

Tax Rates

- Reduced Corporate tax rate of 25% extended to Domestic Company with annual turnover up to Rs. 400 crores in FY 2017-18 (earlier, the limit was Rs. 250 crores in FY 2016-17)
- No change in the tax slab for individual except increase in rate of surcharge for rich individuals
- Enhanced surcharge rate of 25% for individuals with taxable income exceeding Rs. 2 crores and 37% for individuals with taxable income exceeding Rs.5 crores. This has the effect of increase in effective rate of tax to 39% and 42.744% to such category of individuals
- Buyback Tax @ 20% plus applicable surcharge and cess is now applicable to the listed companies post 5th July 2019

Business Taxation

- Transactions through prescribed electronic means to be treated similar to Bank Account transactions
- Extension of sunset date from March 31, 2019 to March 31, 2021 for transfer of residential house property for claiming exemption under section 54GB in respect of investment made in eligible start-up
- Relaxation in the condition for carrying forward of losses in the case of start-ups if the shareholders continues to hold more than 51% voting share.
- 100% profit linked deduction available u/s 80-IB for affordable housing project with stamp duty value not exceeding Rs.45 Lakhs
- Investment-linked incentives proposed to be introduced u/s. 35AD for Mega-manufacturing plants in sunrise and advanced technology sectors
- Interest on bad and doubtful debts in the case of specified NBFCs to be taxable on receipt basis. Further, payment of interest to NBFCs to be allowed as deduction on actual payment basis u/s 43B.
- 2% TDS proposed on cash withdrawals of more than Rs. one crore p.a. from bank account and account with post office
- Increase in tax incentives for units in IFSC being 100% profit linked deductions in any 10 year blocks out of 15 years and exemption from dividend distribution tax out of accumulated profit.
- Exemption from deeming provisions u/s 50CA substituting FMV as consideration on transfer of shares for certain class of persons yet to be notified
- Relaxation of demerger conditions for Ind-AS compliant companies by enabling them to record the assets and liabilities of the demerged entity at a value other than the book value
- Category I & II AIF investments excluded from deemed gift income provision u/s 56(2)(viib) on issue of shares
- Exemption from provision u/s 56(2)(x) (deeming gift) to certain class of persons yet to be notified

International Tax

- No disallowance in respect of payments to non-residents as a result of non-deduction of tax, in case non-residents declares such income in the return of income and pays necessary tax thereon
- Receipt based taxation u/s 56(2)(x) now deemed to accrue or arise in India on gift / transfer of property situated in India from person resident to person outside India
- Exemption from Secondary Adjustments for AY 2016-17 and preceding years
- Repatriation towards secondary adjustment can be from any associated enterprise which is not resident in India.
- Option given to taxpayers to make one-time payment of the excess amount paid to the associated enterprises in lieu of secondary adjustments by paying 18% tax (plus SC & Cess) on such excess amount.
- Master file to be maintained by Constituent Entities of International Group even if no international transactions
- Accounting year for CbCR will be the Financial Year of Parent Company even if the Alternate Reporting Entity for CbCR is an Indian Entity.
- Exemption to Interest payable to non-resident on Rupee bonds issued by Company / Business Trust.
- Application for determining rate of TDS under section 195 to be made electronically

Personal Taxation

- Taxpayer are now allowed to withdraw 60% of the total amount from NPS as tax free as against existing limit of only of 40%
- Additional Housing loan interest deduction up to Rs. 1.5 Lakhs if the loan is sanction in FY 2019-20 and the stamp duty value thereof is less than Rs. 45 Lakhs
- Deduction up to Rs. 1.5 Lakhs for interest on loan for purchase of one Electric Vehicle and where the loan is sanctioned between 01 April 2019 and 31 March 2023
- Increased deduction for central government employees w.r.t. contribution to pension schemes
- Filing of income tax return mandatory if a person has deposited Rs. 1 crore or more in one or more current accounts or he has incurred expenditure of Rs. 2 lakhs or

more on foreign travel or he has incurred expenditure of Rs. 1 lakh or more on electricity consumption

- Tax to be deducted at the rate of 5% only on the income component of life insurance payout as against the existing rate of 1% of gross amount
- TDS on purchase of immovable property to include fees for club membership, car parking, water facility, maintenance, etc.
- Individuals/ HUF who are not liable to tax audit are also required to deduct tax @ 5% from sum paid to a contractor or professional if the aggregate payment exceeds Rs. 50 lakhs during the year.

Indirect Tax

- Introduced composite scheme for service provider under CGST Act
- Aadhar Card is additional documents for obtaining GST registration for specified class of tax payer
- Proposed to pay interest on net tax liability / net of Input Tax Credit
- Hike by rupees one in special additional duty- on Motor spirit & high-speed oil
- Incremental rise of rupees one of special additional duty – on Motor Spirit & high-speed oil
- Constitute National Appellate Authority for Advance Ruling
- Introduced Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019
- Proposed penalty equal to the face value of an instrument, wherein the instrument may obtain and utilised for payment of tax- not clear under Customs?
- Time limit is proposed for amendment in import & export documentations
- Increase penalty up to rupees two lakh for contravention of any rule or regulation
- National Anti-profiteering Authority empowered to levy penalty up to 10% of profiteering amount

Other Amendments

- At present only ordinarily resident were covered under Black Money Act. Now, Non-Resident and resident but not-ordinary resident will also be covered if they were resident in the year in which undisclosed income/asset was generated/acquired
- Interchangeability of PAN and Aadhaar for ITR for those who don't have PAN cards
- A scheme of faceless electronic assessment involving no human interface to be launched this year
- Penalty may be imposed u/s 270A for underreporting or mis reporting of income even where return is furnished if it is furnished for first time u/s 148

Direct Tax

Corporate Tax

25% Tax Rate for Companies with Turnover up to Rs. 400 crores

Corporate Income Tax of Domestic Companies having turnover of less than 400 Crores in Financial Year 2017-18 is proposed to be reduced from 30% to 25%. This continues to be in line with the promise made earlier by the Government to gradually reduce the Corporate Income Tax Rate to 25%. It will effectively cover 99.3% of the total corporates in India. This provision will incentivise non-corporate entities like sole proprietors, firms, etc. to opt for conversion into a corporate entity. Apart from above, there is no change in corporate tax rates.

In absence of any relief under Minimum Alternate Tax (MAT), it is important to consider these provisions since the gap between the normal income tax at 25% and MAT at 18.5% (on book profits) is at the lowest level.

Personal Tax

No Change in Tax Rates

No changes have been proposed in slab rates as well as the rate of surcharge for personal taxation. Rebate u/s 87A has already been increased to Rs. 12,500 by Finance Act 2019. Accordingly, a person with total income up to Rs. 5 lakh shall have no tax liability.

Change in Surcharge

There has been a substantial increase in the rates of surcharge in case of individuals, HUF, AOP, BOI and Artificial Juridical Person as follows:

Taxable Income	Existing Rate of Surcharge	New Rate of Surcharge
More than INR 50 Lakh but not exceeding INR 1 Crore	10%	10%
More than INR 1 Crore but not exceeding INR 2 Crore	15%	15%
More than INR 2 Crore but not exceeding INR 5 Crore	15%	25%
More than INR 5 Crore	15%	37%

Considering these rates of tax, the effective tax rate in the highest bracket (more than INR 5 crore) reaches to 42.74%.

Category of person	Total Income of Rs. 2 to 5 Crore	Total Income of Rs. 5 to 10 Crore
Resident Individual	39.00%	42.74%
LLP / Partnership Firm	34.94%	34.94%
Domestic Company (without repatriation)*	27.82%	27.82%
Domestic Company (with repatriation – including DDT)*	40.13%	40.13%
Domestic Company (with repatriation – including DDT and section 115BBDA)*	47.91%	48.66%
Foreign Company	42.43%	42.43%

*** Turnover of up to Rs. 400 crore**

As can be observed from the Table above, in select class of individuals, the tax rate goes up to as high as 42.74% which is even higher than the tax rate for foreign companies. Further, it is very important to note that in cases of companies having turnover of more than Rs. 400 Crore, the effective tax rate would go up to as high as 53.73% (including Corporate Tax Rate, Dividend Distribution Tax and Dividend Tax at the highest rate). While there was a buzz in the industry around a possible introduction of Estate Duty / Inheritance Tax, the increase in rate of surcharge would effectively mean a levy of "super-rich tax" leading to increase in the effective tax rate by as high as 7%.

Considering this move of the Government, Sole Proprietorships may be attracted to move their businesses to LLPs/ Partnership Firms considering the difference in effective tax rates.

Business Taxation

Business Income

Interest on certain bad or doubtful receivables by NBFC to be taxable upon receipt under section 43D

As per the existing provisions of section 43D of the Income-tax Act, 1961 ("the Act"), interest income earned by certain financial institutions or banks or corporations or public companies on certain type of bad or doubtful debts is chargeable to tax in the previous year in which it is credited in the books of accounts or in the year in which the interest income is actually received, whichever is earlier. Although, it follows the real income principle, this provision is an exception to the accrual system of accounting which is generally followed in the industry.

The benefit of this provision is presently available to scheduled banks, public financial institutions, State financial corporations, certain public companies and certain co-operative banks (other than a primary agricultural credit society or a primary co-operative agricultural and rural development bank). With a view to provide same benefit to the Non-Banking Finance Companies, it is proposed to amend the provisions of section 43D of the Act so as to enable a deposit taking Non-Banking Finance Company and a systemically important non deposit taking Non-Banking Finance Companies to offer interest income on such bad or doubtful debts only upon receipt or credit in books of account.

Business Deduction

Extending benefits of section 35AD to Mega-manufacturing plants in sunrise and advanced technology

Finance Minister, in her speech, has mentioned that in order to set up mega-manufacturing plants in India, the model of Global Competitive Bidding shall be put in place.

She has further mentioned that taxpayers setting up such plants shall be eligible for an investment linked deduction under the provisions of section 35AD of the Act. These provisions shall apply to Mega-manufacturing plants set up in sunrise and advanced technology sectors. Some of the sectors include semi - conductor fabrication, solar photo voltaic cells, lithium storage batteries, solar electric charging infrastructure, computer servers, laptops, etc.

No amendment has currently been proposed in the Bill in respect of the above in section 35AD of the Act and hence, specific details about this incentive are awaited.

Extending relaxation given in second proviso to section 40(a)(ia) in respect of payment to non-residents referred in section 40(a)(i)

Section 40(a)(i) provides for disallowance of expenditure in the nature of royalty, fees for technical services, or any other sum chargeable to tax if the tax is not deducted at source or after deduction has not been paid on or before the due date of filing of tax return.

Similarly, the provision of section 40(a)(ia) provides that where any person fails to deduct tax or after deducting fails to deposit tax in respect of payments to residents under provisions of Chapter XVII-B of the Act, a sum equal to 30% of such payment shall be disallowed in the hands of deductor while computing taxable income However, second proviso to section 40(a)(ia) provides that in case of non-deduction, the deductor shall be allowed deduction of such sum so disallowed in the earlier year (being 30% of payment made to residents) if the payee has filed return of income wherein he has offered tax said income, paid taxes thereon and obtained certificate from an accountant in accordance with proviso section 201(1) for not treating the assessee as assessee in default.

However, similar relief is not available in respect of disallowance attracted on account of non-deduction of tax in case of payment made to non-residents under section 40(a)(ia).

The Bill proposes to amend section 201(1) so as not to treat the assessee as the an assessee in default where the payee being non-resident pays the tax, files the returns and offered the said income to tax. Consequently section 40(a)(i) is also proposed to be amended to provide that if such conditions are being fulfilled, the deductor shall be entitled to the deduction of expenditure in the year in which the conditions as provided in proviso to section 201(1) is fulfilled.

Thus, in case where tax is not deducted or after deduction same is not deposited in respect of payment to non-residents, the same shall be disallowed in tax computation of such deductee in the year which such expense is incurred. However, when such non-resident payee furnishes return of income u/s 139 disclosing such payment as his income, pays taxes due thereon and furnishes certificate from an accountant to that effect, the payer shall be allowed deduction, for an amount which was disallowed earlier, in the year in which such return of income is furnished by non-resident.

Interest to NBFC etc. brought within the ambit of Section 43B

Section 43B of the Act allows the deduction of certain expenditure only on actual payment basis.

Currently, deduction of interest expense on actual payment basis was applicable to public financial institutions, state financial corporation, state industrial investment corporation, schedule bank and certain co-operative banks.

As discussed earlier, in order to bring NBFCs at par with banking companies, the provisions pertaining to taxability of interest in the hands of NBFCs are proposed to be amended. In order to follow the matching principles of taxation from the perspective of payer, and with a view to encourage the timely payment of interest to non-banking financial company (including systemically important non-deposit taking non-banking financial company), it is proposed to insert clause (da) to section 43B wherein payment of interest on loan or borrowing from a deposit taking Non - Banking Finance Company or a systemically important non deposit taking Non-Banking Finance Companies shall also be allowed only on actual payment basis.

Expanding the tax Incentives to promote Units in International Financial Service Centre (IFSC)

The current provision of the section 80LA of the Act, grants profit linked deduction to certain banks having an offshore banking unit in a Special Economic Zone and units of IFSC to the extent of

(i) an amount equal to 100% of income for the first 5 consecutive assessment years

(ii) an amount equal to 50% of income for the next 5 consecutive assessment years,

With an objective of promoting the development of financial infrastructure in India, above tax concessions are proposed to be extended to business carried on from an IFSC.

The Bill proposes to provide that units in IFSC shall be allowed to claim 100% of such profit linked deduction for any 10 consecutive assessment years, at his option, out of 15 years beginning with the year in which the necessary permission was obtained. Effectively, instead of 50%, now the units in IFSC shall be entitled to claim 100% deduction of eligible income for the remaining 5 consecutive years. Additionally, Units in IFSC may at his option select 10 consecutive years of profit linked deduction out of any 15 years commencing with year in which necessary approval was obtained. This shall provide some flexibility to IFSC units.

Deductions u/s 80-IBA - "Affordable Housing Projects" - Modifications in conditions for "Eligible Projects"

The provisions of existing section 80-IBA provides for a deduction of 100% of the profits and gains derived from business of developing and building housing projects (affordable housing projects) when the assessee and its project fulfils certain conditions as laid down under sub-section (2) of section 80-IBA of the Act.

The Bill proposes to amend conditions prescribed in clause (d) to clause (i) in sub-section (2) of section 80-IBA for projects to be approved on or after 1st September 2019 and claiming deduction u/s 80-IBA on or after AY 2020-21. Such conditions are modified in order to align the definition of 'affordable housing" under the Income Tax Act with that is under GST Act.

For projects which are being undertaken & approved after 1st September 2019, following changes has been proposed to existing conditions for availing deduction of 100% of profits from affordable housing projects u/s 80-IBA of the Act.

a) It is proposed to insert a new condition that stamp duty value of residential unit of housing project should not exceed 45 lakhs (there is no such condition applicable in respect of housing projects approved on or before 31st August 2019)

b) The requirement of minimum plot area for project has been proposed to reduce from 2000 sq. mtrs. to 1000 sq. mtrs. for project located in Bengaluru, Hyderabad, Noida, Greater Noida, Ghaziabad, Gurugram and Faridabad in addition to projects located in four metro cities [now referred as Metropolitan Cities] . In other cities the project should have minimum plot area of 1000 sq. mtrs.

c) The requirement of minimum floor area utilisation ratio has been proposed to be from 85% to 90% for project located in Bengaluru, Hyderabad, Noida, Greater Noida, Ghaziabad, Gurugram and Faridabad in addition to projects located in four metro cities. In other cities the project should have minimum floor area utilisation ratio of 85%.

d) Requirement of maximum carpet area of residential unit has been proposed to be 60 sq. mtrs. for project located in Metropolitan Cities and 90 sq. mtrs. for project located in other places.

Encouraging other electronic mode of payment for business and financial transactions

The government always intended to discourage transaction undertaken in cash and has been desirous to promote payment through banking channels / electronic modes. Accordingly, on many occasions, the Government has inserted or amended various provisions of the Act viz. prohibiting receipt of amount in excess of 2 lakhs in cash under section 269ST, concessional presumptive tax rate @ 6 % in case of amount received through banking channel under section 44AD.

Payment by electronic modes

Further, there are various sections, as mentioned below, which prescribe payment / receipt by way of account payee cheques, account payee bank drafts and use of electronic clearing system through a bank account ("permitted mode") for the purpose of allowability of deduction/exemption etc.

Section	Description of the related provisions of Section
13A	Exemption to a political party is not available if it receives donation exceeding Rs.2,000 in other than permitted mode.
35AD	Benefit of deduction under section 35AD is not available in respect of payment made for capital expenditure in by way of other than permitted mode.
40A(3) & (3A)	Payment of business expenditure for an amount exceeding Rs. 10,000 through modes other than permitted mode results into disallowance of expenditure.
40A (4)	Payment through permitted mode, considered as valid payment under contract or under law in force.
43	Depreciation under section 32 of the Act is not allowable in respect of payment of capital expenditure exceeding Rs. 10,000 in other than permitted mode.
43CA, 50C, 56(2)(x)	The benefit of adopting stamp duty value as on date of agreement to sale / transfer for the purpose of considering income under the respective provisions shall be available only if the payment or part of payment is made through permitted mode on the date of agreement to sale.
80JJAA	Additional deduction of 30% of the remuneration paid to new employees is not granted, if remuneration to such employee is paid through other than permitted mode.
269SS & 269T	These sections debar the person from taking or accepting/repayment of amount loan, deposits, specified sum (including earlier unpaid amount) for an amount of 20,000 or more through other than permitted mode.
269ST	This section prohibits the receipt of an amount of 2 lakhs or more in aggregate from a person in a day; in respect of a single transaction; in respect of transactions relating to one event or occasion from a person though other than permitted mode.

Currently, the permitted mode does not consider other latest electronic modes of payment used to carry out commercial transactions in digital world.

The Bill has proposed to amend various sections as mentioned in above table, to widen the scope of permitted mode of payment so as to include various new modes of payment/receipt electronically.

The power has been given to CBDT to prescribe such new electronic modes of payment.

Further, in order to operationalise the acceptability of the new electronic mode of payment, the Bill proposes to insert new section 269SU wherein it has been provided that every person carrying on business shall be required to provide such facility of accepting payment through prescribed electronic modes, if his total sales, turnover, gross receipt exceeds by Rs. 50 crores in a preceding previous year. In case of non-compliance of such provisions, the Bill vide insertion of section 271DB, proposes to levy penalty of Rs.5,000 per day during which such failure continues unless there were sufficient reason for such failure.

Carry forward and set-off of losses

Taxability of Alternative Investment Funds ("AIFs")

The taxability of AIFs was rationalized vide Finance Act, 2015 through insertion of Section 115UB, wherein Category I & II AIFs were accorded "tax pass through" status except in case of business income whereby income (other than business income) of these funds were made taxable in the hands of the investors of the funds, instead of the funds. Further, under the current provisions of Section 115UB, if in a previous year, investment fund suffers a loss under any head which cannot be set off against income from any other head, the same shall be carried forward for set off in accordance with the provisions of Chapter VI.

There existed a disparity to the extent that the income other that business income of the AIFs were passed on to its investors while the loss incurred other than the loss from business activities were not passed on to its investors. This lead to a lopsided position wherein on one hand the income (other than business income) was taxed in the hands of the investors without the benefit of pass through of loss (other than business loss) from the AIFs to the investors and on the other hand the loss (other than business loss) was carried forward by the AIFs without it being able to claim the benefit of setting off the same against

other income in the future years as that other income was passed through to the investors. To do away with this disparity, amendments are proposed to be made to section 115UB whereby:

i. Business loss of the AIF shall be carried forward at AIF and the same shall not be passed on to the Investors

ii. Losses (other than business loss) will be passed on to the investors, provided that the investor has held the unit for at least 12 months

iii. The losses (other than business loss) incurred till 31st March 2019 will be passed on to the investors who held units of the AIF as on 31st March 2019 in proportion to the investments held and the same shall not be available to AIF.

Carry forward & set off of losses in case of Start-ups

The Finance Act 2017 had amended section 79 to liberalise restriction for carry forward and set-off of losses on account of change in shareholding pattern in case of Eligible Start-ups as provided u/s 80-IAC of the Act. It has been provided that in case of Start-up, the only condition required to be fulfilled for carry forward & set off of losses is that shareholders holding voting shares on last date of the year of occurrence of loss, continue to be hold those shares on last date of the year of intended set-off of loss. This provision was inserted by way of a separate clause in section 79 (Clause (b)). The drafting of such law lead to confusion that whether the condition given in clause (a) of section 79 of the Act i.e. change in shareholding beyond 50% of the shareholding of the year in which subject loss was incurred is applicable to Start-ups or not. Since clause (b) of section 79 was mutually exclusive, start-ups were facing implications of section 79 even where a single shareholder transfers even 1 share in company. Existing law provides that in case of Start-ups, change in value of holding shall not be tested but change in shareholders should be tested.

Accordingly, the provisions of section 79 have been proposed to be amended so as to re-draft the law to clarify the intention that start-ups would not be allowed to set-off losses incurred by them in the earlier years, only if following two conditions are cumulatively fulfilled;

a) Shareholders holding not less than 51% of voting power as on the last day of the previous year were not beneficially holding shares of the company carrying not less than 51% of voting power on the last date of the previous year in which the loss was incurred;

b) All the shareholders of the company as on the last date of the previous year were not shareholders of the company as on the last date of the previous year in which the loss was incurred.

Further, it has also been provided that provisions of section 79 of the Act shall not be applicable in case of companies (including their subsidiary and subsidiary of such subsidiary) whose board of directors has been suspended and new directors are nominated by the NCLT on petition moved by Central Government u/s 241 of the Companies Act 2013 and which has resulted into change in shareholding of such company, its subsidiary and subsidiary of such subsidiary as per resolution plan approved u/s 242 of Companies Act 2013 by NCLT, duly approved by jurisdictional Principal Commissioner.

Dividend Taxation

Rationalization of exemption of tax on dividend by International Financial Service Center (IFSC)

Finance Act, 2016 introduced an amendment in Section 115-O, by providing relief from Dividend Distribution Tax (DDT), on dividend declared by a company located in IFSC. This was subject to two conditions:

1. Earnings are derived solely from foreign exchange, and
2. Dividend is repatriated from current profits

The condition of current profits seems to stem from the fact that certain companies may re-locate from a non-IFSC to an IFSC. In such a case, the intent was to restrict the benefit only to profits earned after such relocation. However, the way the section is worded currently, if dividend is declared from accumulated profits which was earned after relocation, the same will not enjoy benefit of exemption.

To remove such unintended consequence, the Bill proposes to widen the scope by including 'profits accumulated as a unit of IFSC, post 1/4/2017. This will ensure that all the profits earned as an IFSC unit will be exempt from DDT. Rather than making this clarificatory provision (which has retrospective application), the amendment has been introduced with effect from 01 September 2019. This may mean that the dividend declared in FY 2018-19 out of profits in FY 2017-18 may still be subject to DDT. Post the proposed amendment, the section would read as:

'... , no tax on distributed profits shall be chargeable ..... for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after the 1st day of April, 2017, out of its current income or out of income accumulated as a unit of International Financial Services Centre after 1st day of April, 2017..... ."

Considering the same, although it is proposed to amend the section from 01 September 2019, a question that could arise is whether the amendment could have a retrospective effect, and will apply even to dividends paid prior to 1/9/2019. In our view, the amendment shall continue to have a prospective application and should ideally apply to cases of dividend distribution on or after 01 September 2019.

Though not in context of the amendment, we would like to highlight an issue with the existing provision:

The provision provides exemption to DDT payable by companies as well as tax on dividend payable by the shareholders. However, the provision is relevant only for Section 115-O and not for section 115BBDA – the latter taxes dividend paid by a domestic company to a resident shareholder, if the same exceeds INR 10 lacs. Based on the way the provisions have been worded, Section 115BBDA is a superior provision compared to 115-O.

Hence, dividend from IFSC may be subject to tax on dividend to resident shareholders. A possible view may be that the same is not the intention of the legislature, considering that it is mentioned unambiguously that such dividend will not be taxed either in the hands of the company or its shareholders. Also, the principle of interpretation requires a beneficial provision to be interpreted liberally. Based on this, exemption may be claimed by a resident shareholder. However, a clarity under the Act is required.

No Additional Tax on income distributed to unit holders of Mutual Funds which are set up in an IFSC

Currently, Section 115R provides for charging of additional Income-tax on income distributed by Mutual Funds to its investors. In order to promote setting up and relocation of Mutual Funds in IFSC, it has been proposed to exclude certain mutual funds which are set up in an IFSC from the profit distribution tax provisions under Section 115R.

The list of conditions for obtaining such benefit is as follows:

- Distribution of income should be post 1/9/2019
- Income is derived from transactions made on a recognised stock exchange located in IFSC
- Income is derived by a Specified Mutual Fund. A specified Mutual Fund will have to fulfil the following conditions:
    - o It is specified under section 10(23D) – i.e. it is registered under SEBI / public sector bank / public financial institution / etc.
    - o It is located in an IFSC
    - o It derives income solely in convertible foreign currency
    - o All the units are held by non-residents

This amendment would not only incentivise setting up of mutual funds in IFSC but it would also make India a more lucrative investment destination for non-residents.

A point to note is that it seems that exemption will be available even to a mutual fund located outside IFSC, which earns income from dealing in an IFSC located stock exchange, provided that it distributes its income after re-location to IFSC.

Tax on buyback of shares

Tax on income distributed to shareholder in case of listed companies under section 115QA and exemption under section 10(34A)

Section 115QA of the Act provides for the levy of additional Income-tax at the rate of 20% of the distributed income on account of buy-back of unlisted shares by the company.

As additional income-tax has been levied at the level of company, the consequential income arising in the hands of shareholders has been exempted from tax under clause (34A) of section 10 of the Act.

The provision of buy-back of shares by unlisted companies was introduced by Finance Act, 2013 as an anti - abuse provision as the unlisted companies were taking the undue advantage of tax arbitrage available particularly where the capital gains arising to the shareholders are either not chargeable to tax in view of the provisions of Double Taxation Avoidance Agreement (DTAA) or are taxable at lower rate and accordingly avoiding the payment of tax by way of Dividend Distribution Tax (DDT).

Recently, investors in listed companies in India have witnessed significant buyback announcements by several companies. There are generally no tax implications in the hands of listed company on buyback of its shares under the modes prescribed under Securities and Exchange Board of India (Buy back of Securities) Regulations, 1998, since Dividend Distribution Tax (DDT) and buyback tax u/s 115QA (BBT) are not triggered. The buyback of shares listed on a stock exchange can be considered as a tax-efficient mode of surplus cash distribution from the company's standpoint. In the hands of the shareholders (irrespective of residential status), a buyback triggers capital gain tax since exemption under Section 10(34A) is available only in cases where BBT is paid by the company. Accordingly, the possibility of tax arbitrage is there in case of listed companies as well, since the tax rate for capital gains is lower than the rate of DDT.

In view thereof, many of the listed companies are opting for buy-back mechanism for distribution of surplus cash instead of payment of dividends. Therefore, the similar tax arbitrage opportunity arises in the case of listed shares as well.

Accordingly, in order to curb such tax avoidance practice adopted by the listed companies, the existing anti- abuse provision under Section 115QA of the Act, pertaining to buy-back of shares from shareholders by companies not listed on a recognised stock exchange, is proposed to be extended to all companies including companies listed on recognised stock exchange. Thus, any buy back of shares from a shareholder by a company listed on recognised stock exchange, on or after 5th July 2019, shall also be covered by the provision of section 115QA of the Act. Accordingly, it is also proposed to extend exemption under clause (34A) of section 10 of the Act to shareholders of the listed company on account of buy-back of shares on which additional income -tax has been paid by the company.

These amendments will take effect from 5th July, 2019.

Minimum Alternate Tax

Relief in MAT to Companies for which an application has been filed by the Central Government under section 241 of the Companies Act, 2013

Clause (iih) of Explanation 1 to section 115JB was introduced vide Finance Act, 2018 whereby relief was granted to the companies, in whose case application for

Insolvency Proceedings under the IBC were admitted in form of a deduction of the aggregate of the brought forward loss and unabsorbed depreciation, instead of lesser of the two while computing "Book Profits" for computing MAT liability.

The relief granted under this clause is now proposed to be extended to those companies (including its subsidiary and subsidiary of such subsidiary) for which the Central Government has made an application to the NCLT for relief of oppression and mismanagement (Section 241 of the Companies Act, 2013) and where the NCLT, pursuant to such an application filed by the Central Government, has suspended the Board of Directors of a company and appointed a new Board. In such cases, the company would also be allowed a deduction of the aggregate of the brought forward loss and unabsorbed depreciation as per the proposed provisions of Clause (iih) of Explanation 1 to section 115JB instead of lesser of the two. Further, for the purpose of this section, a company would qualify as a subsidiary of another company if the other company owns more than 50% of the nominal share capital of the first mentioned company.

Section 241 of the Companies Act, 2013 also provides for a mechanism wherein any aggrieved member may apply to NCLT for relief of oppression and mismanagement. However, under the proposed amendment to Clause (iih) of Explanation 1 to section 115JB, the benefit of claiming the aggregate of the brought forward loss and unabsorbed depreciation has only been restricted to cases where an application under section 241 has been moved by the Central Government. In cases where an application for relief from oppression and mis-management has been made by a member of the company then the provisions of Clause (iih) of Explanation 1 to section 115JB would not apply.

Demerger condition for Ind-AS compliant companies

As per section 47 of the Act, transfer or issue of shares by a resulting company to the shareholders of the demerged company upon demerger is exempt from tax subject to the fulfilment of various conditions of section 2(19AA) of the Act.

One of such conditions, under section 2(19AA)(iii) is that the property and the liabilities of the undertaking should be transferred by the demerged company at book value.

In certain cases, the companies complying with the Ind AS are required to record the assets and the liabilities of the demerged undertaking at the value different from the book value as specified in Ind-AS rules. Ind AS 103 provides for accounting of assets and liabilities in case business combination between two non-controlled entities at value other than book value.

Therefore, one possible view is that the demerger of the undertaking to Ind-AS compliant companies was not tax neutral. In view of the same, it is proposed in the Bill to amend the provisions of section 2(19AA) by inserting a proviso to the said condition. As per the said proviso, the condition of transfer of properties and liabilities at book value shall not apply to the companies which are required to record the assets and the liabilities at value, other than book value, in compliance with applicable Ind-AS.

It is to be noted that the condition of clause(iii) of section 2(19AA) talks about transferring assets and liabilities at book value by the demerged company and does not specifically talk about recording of the said assets and liabilities at the book value by the resulting company. Therefore, the proposed amendment does not completely resolve the litigation where in case of demerger, Ind-AS is not applicable and resulting company records the transactions at value other than book value as per the applicable accounting standards.

Rationalization of provisions relating to mode of payment

Section 50C deals with a situation where land and building are transferred for a price less than the stamp duty value. In such a case, such stamp duty value will be considered as the deemed sale price, and capital gains will be computed on that basis, rather than the actual selling price.

There is an option granted to the taxpayer for considering the stamp duty value as on the date of agreement, rather than the date of registration. However, such benefit is available only in case the payment is made by through a bank account, on or before the date of the agreement.

The Bill proposes to expand the eligible modes of payment by including payment made by way of specified electronic mode, apart from payment via account payee cheque or account payee bank draft or by use of electronic clearing system through a bank account.

Deemed sales consideration on sale of shares

As per Section 50CA, in case unquoted securities are transferred for an amount less than the Fair Market Value (FMV), such FMV will be substituted as the deemed sales consideration, and capital gains will be chargeable based on such deemed gains. Additionally, there is a formula provided for computing the FMV. Note that there is a similar provision which is applicable to the recipient of such shares, section 56(2)(x). In this case, inadequate consideration (excess of FMV over transaction value) will be deemed income.

These provisions have been brought in with an intention to curb unaccounted income. However, the way these provisions have been worded, even genuine transactions are covered, and where the transaction value is lower than the FMV, there are dire tax consequences.

It has been proposed that there will be a carve-out provided for specified persons, and such carve-out will be subject to certain conditions. It appears from the Memorandum explaining the Bill, that such exemption will be available in case of distressed companies where the resolution plan and consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination.

This amendment shall be effective for AY 2020-21 and subsequent years.

Investment in Start-up by selling residential house property

Section 54GB provides exemption from capital gains on sale of residential property – i.e. a house property or a plot of land owned by an individual or an HUF. To claim the exemption:

- investment is to be made in an Eligible Start-up, and
- such investment is to be utilized by such Eligible Start-up within 1 year, to acquire a New Asset

There are certain restrictions imposed in the section, to limit the exemption availability and to ensure that a taxpayer doesn't obtain undue benefit of the provisions. Such provisions are as follows:

1. The shares obtained by making such investment should be held for at least 5 years – in case the same is transferred within that period, the entire exemption on Property provided earlier will be withdrawn.
2. In case the amount of investment is not utilized for acquiring a New Asset by the start up, proportionate exemption will be withdrawn.
3. Eligible Start-up
   a. It should be a new company: if the capital gains arise in a particular year, say in July 2018, the company should be incorporated from 1st April 2018 (i.e. the start of the financial year) to the due date for filing return (generally, 31st July 2019)
   b. It is engaged in specific activities
   c. Taxpayer should have more 50% investment in the capital OR be eligible for more than 50% of the voting power.
4. New Asset means new plant and machinery.

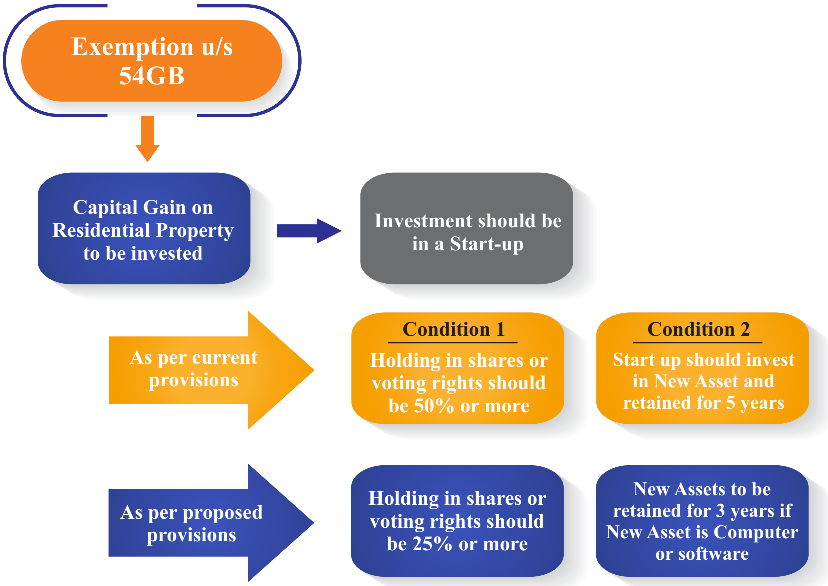
Note that earlier, this section applied to Eligible Start-ups as well as non-Eligible Start-ups / others. Since 31 March 2017, the exemption is not applicable for investment in the latter.

As is apparent, although new companies

and innovative Start-ups have been granted certain benefits, the restrictions imposed are severe. It makes the process of claiming exemption very difficult. One such condition is that the investment has to be more than 50%. This rules out many investors, like start-ups formed by more than one promoter, start-ups where major funding is from seed or angel investors, etc. This provision is proposed to be amended to provide a threshold of 25% instead of 50%.

Currently, New Asset should be retained for a period of 5 years to retain the exemption. It is proposed that the period will be 3 years in case the New Asset is a computer or a computer software. This is a welcome move as a major chunk of assets of start-ups that are technology oriented would be constituted by computers / computer software.

Further, currently, the exemption is limited to gains arising before 31-3-2019. This period is being proposed to be extended to upto 31-3-2021.



The Government has made efforts to provide a wider scope for claiming exemptions. However, the same seems inadequate and further liberalisation is warranted. Exemption may be provided for investment in start-ups which are older than 1-year, pure investors may be considered as being eligible for claiming exemption, any capital gains may be considered for exemption rather than capital gains only from residential property, etc.

Exemption on transfer in IFSC-based stock exchange

Currently, Section 47(viiab) exempts certain transfers. It exempts transfer of certain securities by a non-resident, if the transaction takes place in a recognised stock exchange which is located in an IFSC, provided that the consideration is in foreign currency. The Bill proposes to add any other specified securities to the list of exempted instruments. Additionally, apart from transfer by a non-resident, even transfer by a specified fund is proposed to be covered in this provision.

A Specified Fund has been defined as having the following features:

- Registered as Category III Alternate Investment Fund and is regulated under SEBI
- It is located in an IFSC
- It derives income solely in convertible foreign currency
- All its units are held by a non-resident

To recapitulate, the present and the proposed criteria for exemption are as follows:

- There is a transfer
- Transfer is of a capital asset
- The instrument transferred are bonds, GDR, RDB, derivative and other specified instruments
- Transfer is by a non-resident OR a Specified Fund
- Transfer is on a recognised stock exchange located in IFSC
- The consideration in foreign currency

GDR: Global Depository Receipts, RDB: Rupee Denominated Bonds

The implication of this provision is that the transfer will be exempted from tax. Since there is no corresponding provision under Section 49, the transferee will get a cost mark-up as well. Hence, this is a pure exemption and not just deferral of tax.

Concessional rate of Short-term Capital Gains (STCG) tax to certain equity-oriented fund of funds

The existing provisions of section 111A provides for concessional rate of tax at 15% on STCG arising from the transfer of a short-term capital asset being an equity share in a company or a unit of an "equity-oriented fund" as defined u/s 10(38) of the Act.

"Equity oriented fund" as defined u/s 10(38) of the Act means a fund set up under a scheme of a Mutual Fund specified u/s 10(23D) of the Act, where the investible funds are invested by way of equity shares in domestic companies to the extent of more than 65% of the total proceeds of such fund. Accordingly, the equity-oriented fund as defined u/s 10(38) of the Act does not cover the fund which invests in the units of another fund.

Therefore, the existing provisions of concessional rate of tax on STCG under section 111A applies only to a unit of such equity-oriented fund which invests only by way of equity shares in domestic companies.

Finance Act, 2018, with effect from AY

2019-20, introduced section 112A to levy tax at the rate of 10% on capital gains arising on transfer of long-term capital asset being an equity shares in a company or a unit of an equity-oriented fund or a unit of a business trust. The term equity-oriented fund is also defined u/s 112A of the Act as introduced by Finance Act 2018 to mean a fund set up under a scheme of a Mutual Fund specified u/s 10(23D) of the Act and –

(i) Which invests a minimum of 90% in the units of another fund which is traded on a recognised stock exchange and such other fund in turn invests a minimum of 90% of its total proceeds in the equity shares of domestic companies listed on a recognised stock exchange

Or

(ii) Which invests a minimum of 65% of the total proceeds in the equity shares of domestic companies listed on a recognised stock exchange

In the recent years, few fund of funds have been set up for disinvestment of Central Public Sector Enterprises (CPSEs). This fund of funds also invests in the units of another fund i.e. exchange traded funds like CPSE ETF by Reliance Mutual Fund, Bharat 22 ETF by ICICI Prudential Mutual Fund etc. The Finance Act, 2018 has provided concessional rate of long-term capital gains tax u/s 112A of the Act for transfer of units of such fund of funds by covering it under the meaning of equity-oriented fund as defined u/s 112A of the Act.

The Finance Act, 2018 also amended section 10(38) of the Act that the exemption shall not apply if the transfer takes place on or after 01-04-2018. In view of the above, at present, the provisions of section 112A is the only governing provisions which deals with the capital gains arising on transfer of long-term capital asset being an equity shares in a company or a unit of an equity-oriented fund and the provisions of section 10(38) becomes redundant. Accordingly, the reference is now being made to the definition as provided in section 112A which has a wider coverage so as to include fund of funds.

To extend the benefit of concessional rate of tax to equity-oriented fund u/s 111A of the Act as well and to align the provisions with that of section 112A, it is proposed to amend section 111A of the Act by changing the reference to the term 'equity-oriented fund' to the one as defined u/s 112A as against the reference given to the definition as provided u/s 10(38) of the Act.

This amendment will take effect from 1st April 2020 and will, accordingly, apply in relation to AY 2020-21 and subsequent assessment years.

Exemption from section 56(2)(viib) to Category II Alternate Investment Funds

Under the current provisions of section 56(2)(viib) of the Act, if any private company or unlisted public company receives any consideration for issue of shares from a resident person for a consideration which exceeds the face value of such shares, then the excess consideration so received shall be taxable in the hands of such company. However, exemption is granted when the consideration is received for issue of shares by a Venture Capital Undertaking from a Venture Capital Company or a Venture Capital Fund (Category I Alternative Investment Funds).

However, considering the funds raised by the Category II Alternative Investment Funds viz. Private Equity Funds and Debt Funds has surpassed 80,000 crores by March'19 and realising the potential investment which can be made by these funds in the Indian economy, it has been proposed to extend the exemption to the funds raised from this Category also.

Accordingly, an amendment is proposed in section 56(2)(viib) of the Act by amending the first proviso to section 56(2)(viib) whereby if funds are raised form a "Venture Capital Fund" or a "Specified Fund" then the provisions of section 56(2)(viib) will not be applicable. "Specified Funds" has been defined to include such funds which are granted registration as a Category II Alternative Investment Fund.

It is to be noted that the provision of section 56(2)(viib) shall not be applicable to a company if it receives any consideration for issuance of shares from certain classes of companies as notified by the Central Government. The Bill proposed to provide that if the condition provided by the Central Government is not satisfied by the company, than the provision of section 56(2)(viib) shall be applicable to such issue of shares and the amount that exceeds the face value of shares shall be treated as income in the hands of such company in year in which such failure has taken place.

Provisions of section 56(2)(x) not to apply in certain cases

Section 56(2)(x) of the Act provides that where any person receives any sum of money or any immovable property or any other property from any other person, without consideration or for an inadequate consideration, such transactions shall be taxed under the head "Income from other sources" in the hands of the recipient.

However, the proviso to section 56(2)(x) of the Act states that the provisions of the said section are not applicable to sum of money or property received from certain persons or from certain transactions. This proviso has now been amended to extend the exemption to such classes of persons and subject to certain conditions as may be prescribed by the CBDT in order to remove genuine hardship in certain cases. It is believed that such provision has been amended to cover the cases of stressed assets.

Taxation of gifts in the hands of Non-Residents

Taxation of gift by way of transfer of cash, immovable property, shares & securities and other specified movable properties received without consideration or for inadequate consideration on or after April 1, 2017 was brought into the tax net vide section 56(2)(x) by the Finance Act, 2017.

For taxation of a non-resident, the charging section of the Act i.e. section 5 provides that any income, for being chargeable to tax in India to a non-resident, should either be received in India or deemed to be received in India; or be accruing or arising in India or deemed to be accruing or arising in India. Further section 9 provides various instances where the income shall be deemed to accrue or arise in India.

Having regard to taxation of gifts in the hands of non-residents in India, it was often argued that taxability of gift would coincide with the receipt of gift and hence, it would only be the 'receipt' of such gifts that would decide the taxability and accordingly, gift (i.e. cash, immovable property, shares & securities or specified movable properties received without consideration or for inadequate consideration) received outside India by a non-resident shall not be taxable in India since such gift was neither received or deemed to be received in India nor accruing, arising or deemed to be accruing or arising in India.

With a view to bring to tax such transactions, the Bill proposes to expand the scope of section 9 of the Act to cover within the purview of deeming provisions, transactions of receipt of any cash, immovable property, shares & securities or specified movable properties received without consideration or for inadequate consideration on or after July 5, 2019. It may further be mentioned that the exemptions provided vide section 56(2)(x) for receipt of gift from any relative, on occasion of marriage, under a will or by way of inheritance, etc. shall continue to apply to such gifts received by non-residents.

Provisions of the relevant Treaty shall continue to govern transactions of these nature in case of a Treaty situation.

Also, the newly amended section brings into the tax net such transfers from resident to person outside India (being non-resident as it should be), the provisions have not envisaged the taxation of transfer from non-resident to non-resident in respect of the money or property lying in India which in fact used a possible tool for tax planning to transfer assets lying in India.

Conditions for offshore funds

A specific regime under Section 9A had been introduced vide Finance Act, 2015 which provides that, subject to fulfilment of certain conditions by offshore funds and fund managers, the income of offshore funds shall not be taxable in India merely due to presence and operations of its fund manager in India, and tax liability of such offshore funds in India shall be tax neutral, whether the investment is made by the fund directly, or through fund managers located in India.

The conditions to be fulfilled by an eligible offshore fund have been enlisted under subsection (3) of Section 9A. With a view to relax few conditions laid therein, the following amendments are proposed:

Currently, in case of a new fund, it is provided that in order to be an "eligible investment fund", corpus of the fund shall not be less than INR 100 crores by the end of the previous year. In case of a newly set up fund (set up towards the end of the year), it may difficult to achieve such corpus. This condition is proposed to be relaxed to the extent that now it provides that corpus of the fund shall not be less than INR 100 crore at the end of a period of six months from the end of the month of its establishment or incorporation or at the end of such previous year, whichever is later. This amendment would provide more breathing room to the funds which are established in the latter half of a previous year to qualify as an "eligible investment fund"

Currently, the eligible fund manager of the investment fund is required to be remunerated at Arm's Length Price. This requirement is proposed to be replaced by remunerating the fund manager in a prescribed manner, which is yet to be announced. Currently, the remuneration is to be decided on an Arm's Length Price method and as there are numerous ways to determine the ALP. In order to provide consistency, a method shall be prescribed to determine the remuneration of fund manager.

Amendment under section 115A

The provisions of section 115A applies to a non-resident and a foreign company having income by way of dividends (other than referred in section 115-O), interest, royalty and fees for technical service. The provisions of section 115A provides the method of calculation of income tax payable by a non-resident including foreign company. As per the provisions of section 115A(4), where the Assessee is liable to be taxed as per the provisions of section 115A of the Act, no deduction shall be allowed to the Assessee under Chapter VI-A in respect of such income.

The provisions of section 80LA provides for deduction in respect of certain incomes to a unit located in an International Financial Services Centre (IFSC). However, the provisions of section 115A(4) prohibits a unit located in an IFSC in taking deduction under Chapter VI-A which includes section 80LA.

In order to ensure that units located in IFSC, being a foreign company, do not have to pay tax on gross basis and are allowed to claim full deduction u/s 80LA, it is proposed to amend section 115A of the Act so as to provide that the conditions contained u/s 115A(4) of the Act shall not apply to a unit of an IFSC.

This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

Exemption of interest income of Rupee Bond

The existing provisions of section 194LC of the Act provide that the interest income payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond, or rupee denominated bond shall be eligible for TDS at a concessional rate of five per cent.

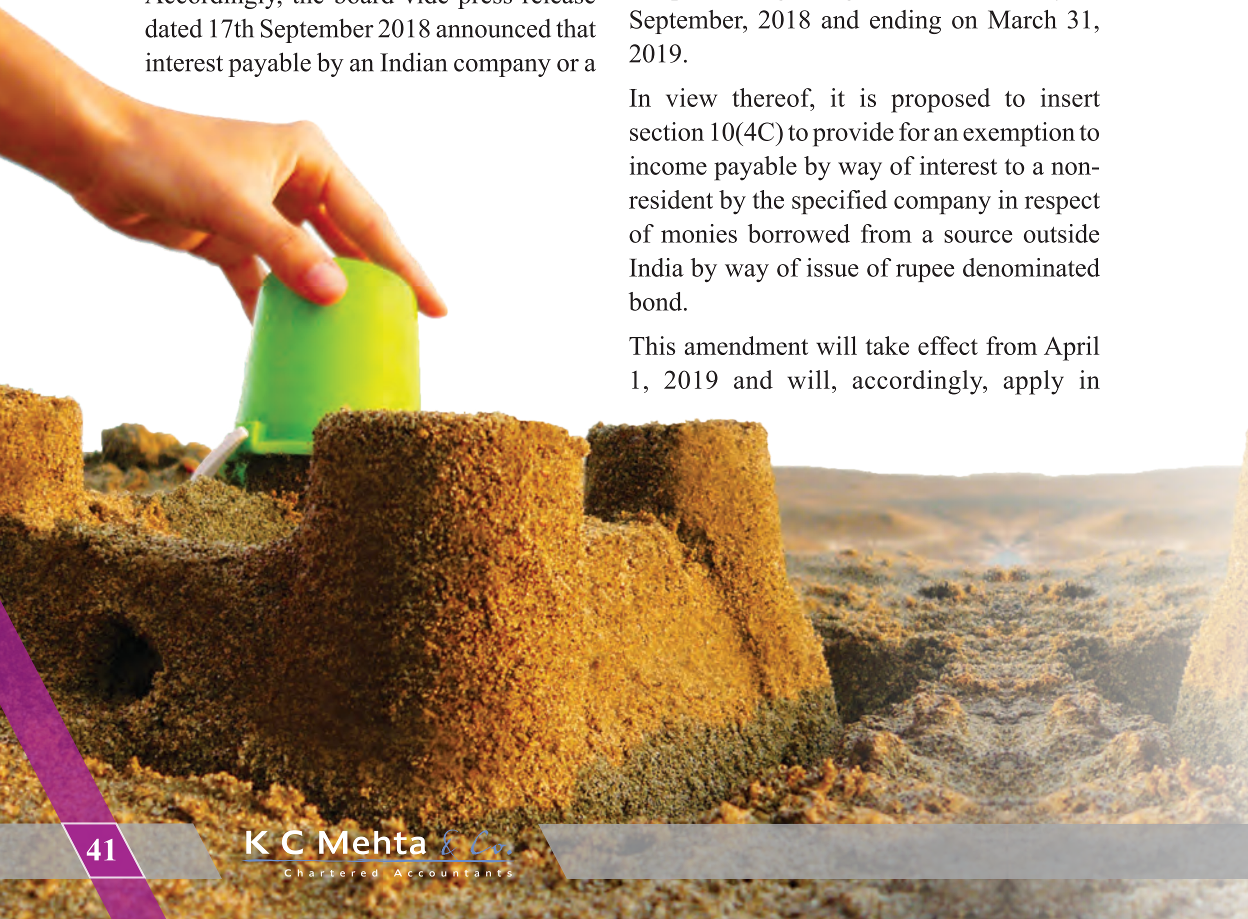
Consequent to review of the state of economy on 14th September 2018 by the Prime Minister, the Finance Minister has announced a multi-pronged strategy to contain the Current Account Deficit (CAD) and augment the foreign exchange inflow. Therefore, low cost foreign borrowings through off-shore rupee denominated bond have been incentivised to increase the foreign exchange inflow in the country.

Accordingly, the board vide press release dated 17th September 2018 announced that interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India during the period from September 17, 2018 to March 31, 2019 shall be exempt from tax and consequently, no tax shall be deducted on the payment of interest in respect of the said bond u/s 194LC of the Act.

The exemption announced through the said press release is proposed to be incorporated in the law by amending the relevant sections of the Act so as to provide exemption to income payable by way of interest to a non-resident by the specified company in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in section 194LC, during the period beginning from the 17th day of September, 2018 and ending on March 31, 2019.

In view thereof, it is proposed to insert section 10(4C) to provide for an exemption to income payable by way of interest to a non-resident by the specified company in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond.

This amendment will take effect from April 1, 2019 and will, accordingly, apply in



relation to AY 2019-20 and subsequent assessment years.

The corresponding amendment u/s 194LC to exclude such interest income from deduction of tax has, however, not been proposed. The important question which arises here is that in absence of such corresponding proposal to amend section 194LC to provide relief from deduction of tax from such payment of interest to a non-resident including foreign companies, can one take the inference from the press release dated 17th September 2018 and claim that the tax is not required to be deducted.

Unlike the provisions of section 195 where it is required to deduct tax if the income is chargeable to tax in India, the provisions of section 194LC refers to the income by way of interest as referred to in subsection (2) of section 194LC. Therefore, if the income by way of interest is covered by subsection (2) of section 194LC then the payer must deduct tax therefrom irrespective of any exemption provided u/s 10 of the Act. Does it mean that payer is required to deduct tax from the payment of interest u/s 194LC at the time of credit or payment and subsequently the non-resident payee can claim such income in his hands as exempt u/s 10 of the Act and claim tax deducted as refund? In view of the above discussion, an amendment u/s 194LC should be brought in to clarify that there should not be a withholding tax obligation in such cases.

Exemption on interest income from a unit located in an IFSC

With a view to facilitate external borrowing by the units located in IFSC, it is proposed to amend the section 10 of the Act so as to provide that any income by way of interest payable to a non-resident by a unit located in IFSC in respect of monies borrowed by it on or after 1st day of September, 2019, shall be exempt.

This amendment will take effect from 1st April 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.

However, as per the provisions of section 194LC, tax is required to be deducted where any income by way of interest as referred to in sub-section (2) of section 194LC is payable to a non-resident or to a foreign company in respect of monies borrowed in foreign currency from a source outside India. The provisions of clause (i) of subsection (2) of section 194LC covers various modes of borrowing monies in foreign currency from a source outside India.

If the monies borrowed by a unit located in an IFSC is in foreign currency and from a source outside India and it is classified as monies borrowed through modes as prescribed under clause (i) of subsection (2) of section 194LC, a question that could arise is whether a unit located in an IFSC is required to deduct tax u/s 194LC even if it is exempt in the hands of non-resident payee under the proposed amendment under section 10(15)(ix).

In view of the above discussion, an amendment u/s 194LC should be brought in.

Power of Assessing Officer for return of income filed pursuant to APA

As per the provisions of the Act, any person, for the purpose of determination of Arm's Length Price or for specifying the manner in which the Arm's Length Price shall be computed, may enter into an APA with the Central Board of Direct Taxes (CBDT). Such APA shall be valid for a period of five years and may also be applied to four years immediately preceding the above-mentioned period of five years in the manner prescribed by the Rules.

Since the application for APA, discussions with the CBDT officials, submission of additional documents and finalization of the Agreement may take a long time, it is possible that the APA is signed after return of income has already been filed, processed or assessed by the Assessing Officer. Hence, in order to give effect to the APA, the assessee is required to furnish modified return of income for the years covered by the said APA and already lapsed, as per the provisions of the Act.

Further, the Act also provides that where the assessment proceeding for any assessment year covered by the said APA has already been concluded before due date of furnishing modified return of income, the assessing officer shall, upon receipt of modified return of income, proceed to assess, reassess or recompute the total income of the assessee having regard to the APA.

Various stakeholders had questioned the use of the words "assess, reassess or recompute" as mentioned above because on a literal reading of the section, it appears that the section gives the assessing officer a power to assess or reassess the income of the assessee again as a fresh assessment or reassessment. To clarify the intent of the legislature, the said provision is sought to be modified by the Bill to provide that where the assessment or reassessment has already been completed for any assessment year covered by APA and the assessee has filed a modified return of income, the assessing officer shall pass an order modifying the total income of the relevant assessment year having regard to and in accordance with the APA entered into.

Appeal to CIT(A) in case of order u/s 92CD(3) – to be clubbed with 92CD

It is proposed to amend sub-section (3) to section 92CD so as to restrict the powers of the AO to only pass an order determining the modified total income in accordance with the advance pricing arrangement (APA) without initiating fresh assessment / reassessment proceedings.

Consequent to the above amendment, it is proposed to amend section 246A(1)(bb) which provides for appeal to CIT(A) against an assessment or reassessment made u/s 92CD(3). Since the powers to conduct fresh assessment or reassessment u/s 92CD(3) have been abolished, the language of section 246A(1)(bb) has been amended so as to remove "assessment or reassessment" made under section 92CD(3). The order modifying the total income in accordance with the APA would be appealable u/s 246A(1)(bb).

The above amendment is effective from 1st September 2019.

Secondary Adjustments

Finance Act 2017 had introduced the provisions of secondary adjustments with a view to align the economic benefit of the transaction with the arm's length position. As per OECD Transfer Pricing Guidelines, a secondary adjustment could be in form of constructive dividends, constructive equity contributions or constructive loans. It is understood from section 92CE that a secondary adjustment as per the provisions of the Act partakes the characteristic of a constructive loan.

Section 92CE, as it currently stands, provides that where a primary adjustment to transfer price (i) has been made suo moto by the assessee, or (ii) has been made by the assessing officer and accepted by the assessee, or (iii) is determined by an APA, or (iv) is made as per the safe harbour rules, or (v) is arising as a result of resolution of an assessment by way of mutual agreement procedure, the assessee shall make a secondary adjustment.

An exemption is granted in cases where the amount of primary adjustment does not exceed Rs. 1 Crore and the primary adjustment is made in respect of assessment year 2016-17 or earlier years.

In order to address concerns over effective implementation of the legislature intent, following amendments are proposed by the Bill:

- The provisions of secondary adjustment shall only be applicable to assessment years commencing from AY 2017-18
- Exemption from making a secondary adjustment shall be available if the amount of primary adjustment in any previous year does not exceed Rs. 1 Crore
- Secondary adjustment, pursuant to an APA, is required only where the APA has been entered into on or after April 1, 2017. It may be noted that if, pursuant to an APA entered into before April 1, 2017, any assessee has paid any tax by virtue of provisions as they stood immediately prior to this proposed amendment, this amendment does not enable claim or allowance of any refund for such taxes paid.
- Any excess money after adjusting money already repatriated i.e. excess money or part thereof shall be considered to be an advance given to the associated enterprise, and interest shall be calculated on such excess money or part thereof
- Any associated enterprise who is not a resident in India, can repatriate the said excess money or part thereof. This is especially relevant in case of transactions with multiple associated enterprises benchmarked using Transactional Net Margin Method by aggregating various transactions, since in the extant provisions of the Act, in

absence of a mechanism to determine the amounts to be treated as receivable from different associated enterprises in case of aggregated transactions has not been envisaged.

The above provisions are proposed to be made effective from April 1, 2018.

- Where the excess money or part thereof has not been repatriated within the prescribed time, the assessee has the option to pay tax @ 18% (plus surcharge) on such excess money or part thereof including interest, as prescribed, till the date of payment of such tax. Upon payment of such tax (including interest), the assessee shall neither be required to make any secondary adjustment nor shall be there be an interest liability from the date of payment of tax. It would be better if the Government can clarify the manner in which a secondary adjustment already made shall be cancelled or nullified in order to give effect to this amendment.
- It may be noted that the tax @ 18% (plus surcharge) paid above shall be considered to be final payment of tax in respect of excess money or part thereof and no further credit for the same shall be available to the assessee or any other person in respect of such tax. Further, the said payment of tax shall not be eligible for any deduction under any of the provisions of the Act.

The above provisions are proposed to be made effective from September 1, 2019.

Preparation and filing of Master File

Vide Finance Act 2016, an additional documentation requirement was introduced (Rule 10DA read with Section 92D) which required maintenance and submission of information relating to business of an international group including the nature of its global operations, its overall transfer pricing policies and global allocation of its income and economic activity to assist the tax officers in evaluating the presence of significant transfer pricing risks. The said requirement was in line with Action Plan 13 of the Base Erosion and Profit Shifting of OECD.

The requirement of maintenance of this additional documentation was prescribed as a proviso to Section 92D(1) of the Act, which earlier provided for maintenance of documentation in respect of international transactions entered into by the assessee.

A literal reading of the extant section implies that an assessee is required to maintain information and documents prescribed by Rule 10DA i.e. Master File only if it has entered into international transaction during the year under consideration.

In order to correct this anomaly and to rationalise the provisions relating to maintenance of information and documents for either international transactions entered into by the assessee i.e. transfer pricing documentation, or for the business of the international group i.e. master file, the said section has been re-drafted whereby the requirement of filing a Master File is now being provided by way of a sub-section and not as a proviso to sub-section (1).

This proposed amendment reiterates the understanding that arose out of conjoined reading of Section 92D and Rule 10DA by rectifying the language of the main section. It gets clarified that Part A containing basic details of the Group (i.e. name of the group, reporting year, etc.) is required to be submitted by a constituent entity irrespective of whether it has entered into any international transactions during the year. Part B containing detailed requirements of the Master File are required to be prepared and submitted only if the prescribed thresholds are met.

Meaning of “accounting year” for preparation of CbCR

Section 286 of the Act (inserted by Finance Act 2016) mandates for preparation and furnishing of CbCR for certain constituent entities of international groups that meet the prescribed thresholds. CbCR is a report (notified by Rule 10DB of the Rules) giving aggregate tax-jurisdiction-wise information relating to global allocation of income, taxes paid, and certain other indicators of location of economic activity among tax jurisdictions in which the Group operates.

The extant provisions require the group parent or alternate reporting entity (“ARE” - an entity designated by the group parent entity for furnishing CbCR on its behalf) which is resident in India to furnish the CbCR in prescribed form.

The provisions are currently drafted in a way which implies that in case the parent entity or alternate reporting entity is a resident in India and is required to furnish the CbCR, it shall do so for the "previous year", i.e. 01 April of a year to 31 March of the succeeding year. This gives rise to compliance issues for the alternate reporting entities in India, whose parent entity outside India may follow a different accounting year for the purpose of consolidation of financial statements (for example January – December).

With a view to correcting such irregularity, the provisions are proposed to be amended to provide that for a parent entity resident in India, the CbCR shall be filed for "previous year" followed by such parent entity and where the parent entity is not resident in India, the CbCR shall be filed for accounting year followed by the ultimate group parent even in cases where the ARE is a resident in India.

This amendment is clarificatory in nature and shall be applicable retrospectively from April 1, 2017 (AY 2017-18).

Personal Taxation

Incentives to NPS subscribers on withdrawal

Under the existing provisions of section 10(12A) of the Act, any payment from the NPS trust to an assessee on closure of his account or on his opting out of the pension scheme, to the extent it does not exceed 40% of the total amount payable to him at the time of such closure or on his opting out of the scheme, is exempt from tax. Meaning thereby, the 40% of corpus amount payable from pension account at the time of closure of account or opting out of pension scheme is exempt from tax u/s 10(12A) of the Act.

As per the scheme, 40% of the corpus amount must be compulsorily used to purchase an annuity and balance sixty percent can be withdrawn from the account on closure of the account. However, out of sixty percent amount, only 40% percent is tax exempt and tax is payable on balance 20% percent of the amount payable.

Therefore, with a view to enable the pensioner to have more disposable funds, it is proposed to amend section 10(12A) so as to increase the exemption from 40% to 60% of the total amount payable to the person at the time of closure or his opting out of the scheme.

Further, the existing provisions of section 80CCD of the Income-tax Act, in respect of any contribution by the Central Government or any other employer to the account of the employee referred to in the section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government or any other employer, as does not exceed ten per cent of his salary in the previous year. In order to ensure that the Central Government employees get full deduction of the enhanced contribution, it is proposed to increase the limit from ten to fourteen per cent. of contribution made by the Central Government to the account of its employee.

To enable the Central Government employees to have more options of tax saving investments under National Pension System, it is proposed to amend the section 80C so as to provide that any amount paid or deposited by a Central Government employee as a contribution to his Tier-II account of the pension scheme shall be eligible for deduction under the said section provided it has lock in period of not less than three years.

These amendments will take effect from 1st April 2020 and will, accordingly, apply in relation to AY 2020-21 and subsequent assessment years.

Deduction of Housing Loan Interest

The existing provisions of section 80EE provide a deduction of up to Rs.50,000 rupees in respect of interest paid on loan taken during financial year 2016-17 by an individual for acquisition of a residential house property. This benefit is available from assessment year beginning on the 1st day of April 2017 and subsequent assessment years.

In furtherance of the goal of the Government of providing 'housing for all', it is proposed to introduce a new section, section 80EEA to incentivize first-home buyers availing home loans, by providing additional deduction in respect of interest on loan taken for residential house property from any financial institution up to Rs. 1,50,000. This incentive is proposed to be extended to a house property having stamp duty value up to Rs. 45 lakhs in respect of which a loan has been sanctioned during the period from the 1st day of April 2019 to the 31st day of March 2020. It is also proposed to extend the benefit of deduction till the repayment of loan continues. It may be noted that deduction under the new section 80EEA cannot be claimed if a person is eligible to claim deduction u/s. 80EE.

Stamp duty value has been defined to means value adopted or assessed by the central/state government for the purpose of payment of stamp duty in respect of such house property.

The deduction under the proposed section is over and above the limit of Rs 2,00,000 provided for a self-occupied property under section 24 of the Act. It has also been provided that if the deduction of interest has been claimed under section 80EE, no deduction of such interest claimed shall be allowable as deduction under any provision under the Act.

Deduction of Interest on purchase of Electric Vehicle

With a view to improve environment and to reduce vehicular pollution, it is proposed to insert a new section 80EEB in the Act so as to provide for a deduction in respect of interest on loan taken for purchase of an electric vehicle from any financial institution up to Rs. 1,50,000 subjects to the condition that the loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 1st April 2019 to 31st March 2023;

It is also proposed that where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year.

It may be noted that the deduction under the new provision is available only to an individual. For persons including an individuals engaged in a business, in addition to deduction of claim of interest, the benefit of higher depreciation @ 40 % is available on electric vehicles under item no. III(3)(xiii)(o) of New-Appendix – I being "Renewable energy devices being – Electrically operated vehicles including battery powered or fuel-cell powered vehicles".

This amendment will take effect from 1st April 2020 and will, accordingly, apply in relation to AY 2020-2021 and subsequent assessment years.

It is interesting to note that the memorandum to the Bill also provides that the benefit of such deduction shall not be available if an individual is owing any other electric vehicle on the date of sanction of the loan. However, no such condition exists in the proposed Section 80EEB. In absence of any provision under section 80EEB, in our view the memorandum containing such condition does not attract any force of law.

Credit of relief claimed under section 89

Section 89 of the Income-tax Act contains provisions for providing tax relief where salary, etc. is paid in arrears or in advance in current year is taxable at higher rate than the rate applicable to the previous year to which they pertain.

The existing section 140A contains provisions relating to computation of self-assessment tax allowing credit for prepaid taxes and certain admissible reliefs, credits etc. However, the relief under section 89 is not specifically mentioned in these sections, which resulted in hardship to taxpayer claiming the said relief and lead to unnecessary litigation.

In view of the above, it is proposed to amend section 140A to take into account relief under section 89 while computing self-assessment tax.

Similar amendment has also been made to Section 143 where for computation of sum of tax payable/ refundable, there is no mention of relief under section 89 which is now proposed to be amended to include the same.

Similarly, the existing provisions of section 234A, 234B & 234C provide for levy of interest in respect of late/non filing of return of income, non-payment of advance tax and deferment in payment of advance tax respectively. Interest is levied on the amount of tax payable as reduced by certain amounts allowed as credit to the Assessee like advance tax, TDS etc.

However, there was no provision for deducting tax credit u/s 89 while computing the interest chargeable u/s section 234A, 234B and 234C. As a result, even where the tax liability got reduced by the tax credit u/s 89, the interest liability remained unchanged.

It is now proposed to provide for a reduction in respect of tax credit u/s 89 while computing the interest u/s 234A, 234B & 234C.

This amendment is effective retrospectively from 1st April 2007 and hence will be applicable from AY 2007-08 onwards.

Payment in respect of life insurance policy

As per the existing provision of section194DA, where any person is responsible for making payment to any resident person under the Life Insurance Policy including allocation of bonus is required to withhold tax at the rate of 1% on the gross amount other than the amount exempt under Section 10(10D). The amendment proposes to provide that TDS is required to be deducted only on the amount representing the income. At the same time the rate of TDS is proposed to be increased from 1 % to 5%. Effectively, TDS would be deducted only on the income component.

This amendment will be effective from 1st September 2019.

Transfer of Immovable Property

Section 194IA has been introduced in the statute with effect of 1st October 2013. It provides that a buyer is required to withhold tax at the rate of 1% on the amount of consideration paid for purchase of an immovable property (other than agricultural land). The provision of section 194IA defines immovable property however the term “consideration” was not defined. The Bill provides for an inclusive definition to the term “consideration for immovable property” so as to include charges in the nature of club membership fees, car parking fees, electricity or water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property.

In view of the proposed amendment the buyer would now be required to deduct tax from these types of payments even if the payment for these facilities is made by way of separate agreement.

It is important to note that if maintenance charges are not paid to the seller but directly to the society or association, then TDS is not required to be deducted u/s 194IA. However, applicability of section 194C should be evaluated in such a scenario.

This amendment will be effective from 1st September 2019.

Personal Payments by Individual / HUF to contractors and professionals

Under the existing provisions of the law, individuals and HUFs are not required to deduct tax at source on payments to contractors or professional when it is for personal use. Similarly, an individual or HUF were not required to deduct tax at source if the individual or HUF was not required to get its books of accounts audited as required u/s. 44AB. Due to this exemption, substantial amount by way of payments made by individuals or HUFs in respect of contractual work or for professional service is escaping the levy of TDS, leaving a loophole for possible tax evasion.

To plug this loophole, it is proposed to insert a new section 194M in the Act to provide for levy of TDS at the rate of 5% on the sum, or the aggregate of sums, paid or credited in a year on account of contractual work or professional fees by an individual or a Hindu undivided family, not required to deduct tax at source under section 194C and 194J of the Act, if such sum, or aggregate of such sums, exceeds fifty lakh rupees in a year.

In order to reduce the compliance burden, such individuals or HUFs shall be able to deposit the TDS using their PAN and shall not be required to obtain TAN.

Also, it is proposed to amend Section 197 (certificate for deduction at lower rate), to include Section 194M within its scope. Hence, the recipient may apply for lower TDS on the said payment by filing prescribed application electronically.

This amendment will be effective from September 1, 2019.

TDS on Cash withdrawal

The Digital India programme is a flagship programme of the Government of India with a vision to transform India into a digitally empowered society and knowledge economy. "Faceless, Paperless, Cashless" is one of professed role of Digital India.

In order to promote digitalisation and discourage cash transactions, the Bill proposes to insert a new Section 194N to levy TDS at the rate of 2% on cash withdrawal of more than Rs 1 crore from a bank account in one financial year. Such TDS is also to be deducted by a cooperative society engaged in carrying on a banking business and post office if the payment from an account maintained by it exceeds Rs.1 crore.

Rumours were already doing the rounds that the government will introduce such a tax. While such TDS on cash withdrawals may look scary, but it seems that a majority of Indian citizens will not be impacted by the move (large portion of India's population carries out small cash transactions only).

It is also proposed to exempt payment made to certain recipients, such as the Government, banking company, cooperative society engaged in carrying on the business of banking, post office, banking correspondents and white label ATM operators, who are involved in the handling of substantial amounts of cash as a part of their business operation, from the application of this provision. It is proposed to empower the Central Government to exempt other recipients, through a notification in the official Gazette in consultation with the Reserve Bank of India.

It is interesting to note that the above provision has been inserted under Part-B of Chapter XVII dealing with "Deduction at source" As per section 199 of the Act read with Rule 37BA(2)(i), the credit of such tax deducted at source shall be given to the payee in the year in which the corresponding income is chargeable to tax. The proposed amendment, however, imposes liability of deduction of tax at source on the payment in cash from accounts of the assessee held with bank, post office, and co-operative society engaged in the business.

The amount withdrawn from such specified account is not regarded as income under the Act. The withholding tax liability, if any, on the amount credited in such bank accounts rest upon the person crediting the amount in such specified accounts in accordance with the applicable provision under the Act. The payment from such specified bank account is therefore, merely a withdrawal of money of the assessee which shall not be regarded as income under the Act. The proposed section therefore provides the levy of withholding tax on the items which are not income under the Act. Also, the provision of section 197 of the Act dealing with lower/nil withholding of tax is not made applicable to the proposed section 194N.

Accordingly, unless a necessary amendment is made in section 199 of the Act for allowability of credit of such TDS, there may arise a dispute with respect to the claim of credit of such TDS as no corresponding amount of withdrawal per se is required to be offered to tax.

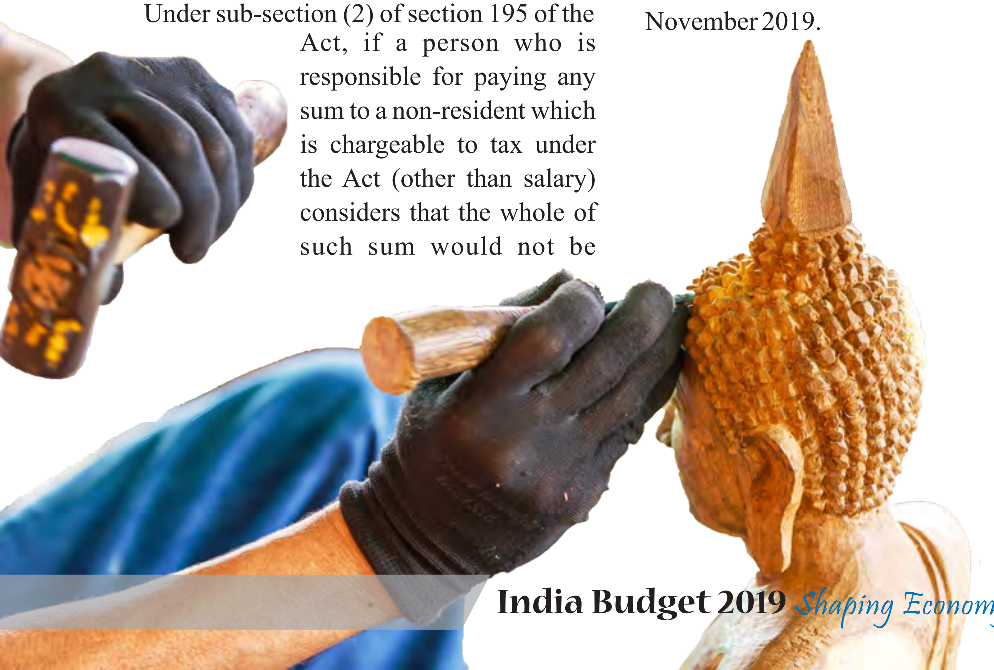
The amendment will be effective from 1st September 2019.

Online filing of application us 195(2)

Under sub-section (2) of section 195 of the Act, if a person who is responsible for paying any sum to a non-resident which is chargeable to tax under the Act (other than salary) considers that the whole of such sum would not be income chargeable in the case of the recipient, he can make an application to the Assessing Officer to determine the appropriate proportion of such sum chargeable. This provision is used by a person making payment to a non-resident to obtain certificate/order from the Assessing Officer for lower or nil withholding-tax. However, the process is currently manual. In order to use technology to streamline the process, which will not only reduce the time for processing of such applications, but shall also help tax administration in monitoring such payments, it is proposed to amend the provisions of this section to allow for prescribing the form and manner of application to the Assessing Officer and also for the manner of determination of appropriate portion of sum chargeable to tax by the Assessing Officer.

Similar amendment is also proposed to be made in sub-section (7) of section 195 which is applicable to specified class of persons or cases.

This amendment will take effect from 1st November 2019.



Era of Pre-Filled Tax Returns & Face-less assessments on the anvil

In order to curb undesirable practices during filing of income-tax returns and scrutiny assessments and to enhance the accuracy of reporting of income and taxes, the Hon'ble Finance Minister has proposed to introduce the concept of pre-filling of income-tax returns and faceless assessments. The detailed scheme and guideline for the same is yet to be issued.

As a result, income tax returns of the taxpayer will be prefilled in future to come. As announced in the speech of the Finance Minister, details of the taxpayers such as salary income, capital gain from securities, bank interest, dividends, total tax deducted etc. will be directly sourced from banks, stock exchanges, mutual funds, EPFO, state registrations departments etc. and will be prefilled in the tax returns. Further, "faceless assessment" concept which has been initialised, will also be further refined in a phased manner wherein there will be no human intervention while scrutinising the income-tax returns. To start with, such e-assessments shall be carried out in cases requiring verification of certain specified transactions or discrepancies. Cases selected for e-assessments shall be randomly allocated to the assessment units and the notices shall be issued to the taxpayers electronically without disclosing the name, designation or location of the Assessing Officer.

It has also been announced by the Finance Minister that in case of Start-Ups, no verification of investment made by the angel investor shall be done by the tax officers, provided that such start-ups provide various details of such investment as required in the tax return including any further information and details to be communicated and provided online without any involvement of the tax officer.

Claims for Refund – Section 239

As per the existing provision of section 239, a claim of refund shall be made in accordance with the manner prescribed and in prescribed form. The manner of claiming the refund is prescribed in Rule 41.

As per Rule 41, the claim for refund shall be made in Form 30 accompanied with return of income as prescribed in section 139. It may be noted that under the existing provisions of the Act, there was no requirement of filing of return of income within the time specified u/s. 139 of the Act. The existing provisions facilitated the Assessee to claim refund even otherwise where no return u/s. 139 was filed provided such claim has been made within one year from the last day of the assessment year in which such income is assessable.

As per the proposed amendment a refund can be claimed only by way of filing return of income in accordance with the provisions of section 139. The requirement to follow Rule 41 has been completely done away with.

It is to be noted that belated return can be filed latest by the end of the relevant assessment year. In view of the same, though the memorandum explains that such amendment is beneficial to an assessee, in fact such amendment could be restrictive in nature as no refund claim can be filed if the time limit for filing of belated return is expired. This provision may also contradict the existing provisions of section 239(2)(c) which provides for a time limit of one year from the end of the assessment year.

The proposed amendment will be effective from 1st September 2019.

Expansion of scope of section 201(1) to cover payments to Non-residents

Section 201 of the Act provides that where any person, including the principal officer of a company or an employer (hereinafter called 'the deductor'), who is required to deduct tax at source on any sum in accordance with the provisions of the Act, does not deduct or does not pay such tax or fails to pay such tax after making the deduction, then such person shall be deemed to be an assessee in default in respect of such tax.

The first proviso to sub-section (1) of section 201 specifies that the deductor shall not be deemed to be an assessee in default if he fails to deduct tax on a payment made to a resident, if such resident has furnished his return of income under section 139, disclosed such payment for computing his income in his return of income, paid the tax due on the income declared by him in his return of income and furnished an accountant's certificate to this effect.

This relief in section 201 is available to the deductor, only in respect of payments made to a resident. In case of similar failure on payments made to a non-resident, such relief is not available to the deductor. To remove this anomaly, it is proposed to amend the proviso to sub-section (1) of section 201 to extend the benefit of this proviso to a deductor, even in respect of failure to deduct tax on payment to non-resident.

Consequent to this amendment, it is also proposed to amend the proviso to sub-section (1A) of section 201 to provide for levy of interest till the date of filing of return by the non-resident payee (as is the case at present with resident payee).

These amendments will take effect from 1st September 2019.

Electronic filing of statement of transactions on which tax has not been deducted

Currently, Section 206A provides for filing of statements (in respect of payment of interest to residents where no tax has been deducted) on a floppy, diskette, magnetic tape, CD-ROM, or any other furnishing of computer readable media. In order to enable online filing of such statements, the Bill proposes to substitute this section so as to provide for filing of statement in prescribed form in the prescribed manner. Further, provision is made for correction of such statements for rectification of any mistake or to add, delete or update the information furnished.

The threshold limit for furnishing prescribed statement on payment of interest by a banking company or cooperative society or public company is proposed to be raised to Rs. 40,000 from existing limit of Rs.10,000.

This amendment will take effect from 1st September 2019.

Recovery of tax in pursuance of agreements with foreign countries

Existing provisions of Section 228A provides that where an agreement is entered into by the Central Government with the Government of any foreign country for recovery of income-tax under the Income-tax Act and the corresponding law in force in that country and where such foreign country sends a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board, on receipt of such certificate may, forward it to the Tax Recovery Officer within whose jurisdiction such property is situated for the recovery of tax in pursuance of agreement with such foreign country.

In order to provide assistance in recovery of tax as per treaty obligation with the other country, it is proposed to amend the said section so as to provide for tax recovery where details of property of the persons are not available, but the said person is a resident in India.

It is also proposed to amend the said section so as to provide for tax recovery, where details of property of an assessee in default under the Act are not available but the said assessee is a resident in a foreign country.

These amendments will take effect from 1st September 2019.

Other Amendments

Widening of Tax Base

Expansion in the requirements of Statement of Financial Transactions (SFT)

Prevention of accumulation of black money has always been one of the major objectives of various government initiatives. In 2003, 'Annual Information Return' (AIR) was introduced vide section 285BA for automatic collection of data relating to material financial transactions entered into by a taxpayer. Later, the said section was substituted in 2014 and the Annual Information Return was is substance replaced by 'Statement of Specified Financial Transactions and Reportable Account' with increased scope of specified persons and other provisions.

As per the extant provisions, reporting is required for various transactions like purchase, sale or exchange of goods or property or right or interest in a property, transaction for rendering any service, transaction under a works contract, transaction by way of an investment made or an expenditure incurred, transaction for taking or accepting any loan or deposit, etc. meeting certain prescribed thresholds for reporting taxpayers.

The Bill proposes to widen the scope of Section 285BA to include such other persons as the Rules may prescribe. It is also proposed to remove the aggregate threshold of Rs. 50,000 for reporting of financial transactions so as to cover a greater number of transactions within its ambit.

In addition to the above, the extant section 285BA provides that in case where the income-tax officer (ITO) considers that the SFT as submitted by the assessee is defective, the ITO may intimate such defect to the assessee and give him a prescribed time period to furnish corrected SFT, failing which it shall be considered as invalid statement. In order to further discourage furnishing of incorrect information, it is proposed that in failure to furnish a revised SFT, it shall be considered that the assessee has furnished inaccurate information, and other provisions of the Act, including penalties, shall apply accordingly.

Procedure for recovery of Tax

Enhancing time limit for sale of attached property under Rule 68B of the second schedule of the Act

Rule 68A gives power to the department to accept the property in satisfaction of amount due from the defaulter.

Rule 68B is a time frame for the revenue to sell the attached property of the assessee within 3 years from the end of financial year in which the order of giving rise to a demand of any tax, interest, fine, penalty or any other sum has been passed.

With intent to remove any time barrier in relation to sale of such attached property of the assessee for recovery of tax and to prevent any loss of revenue of the department, it has been proposed to enhance the time limit to sell such attached property of the assessee from 3 years to 7 years.

Further, insertion of new proviso also give power to the board that for reasons to be recorded in writing, they can extend the aforesaid period of limitation by a further period of 3 years. This amendment is effective from 1st September 2019.

Registrations, Returns & Assessment

Mandatory Furnishing of Return of income by certain persons

The Bill seeks to amend the existing section 139(1) with effect from 1 April 2020 to widen the scope of persons required to furnish the return of income. Currently, persons, other than a company and firm, are required to file return of income only if their total income exceeds the maximum amount not chargeable to tax subject to certain exemptions.

The amendment proposed in section 139(1) now mandates every assessee to compulsorily file a tax return even if the total income does not exceed the maximum amount which is not chargeable to tax, if any of the following conditions are fulfilled, during the previous year:

- Such person has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current account maintained with a banking company or a co-operative bank; or
- Such person has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other person for travel to a foreign country; or
- Such person has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity; or
- Such fulfils such other prescribed conditions, as may be prescribed.

Further as per the existing provisions of the Act, if the total income of persons (other than a company and firm) claiming benefit under Sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA, 54GB is below the maximum amount not chargeable to tax, then they were not required to file return of income. These sections pertain to exemption on Capital gain arising on sale of residential property, agricultural land, compulsory acquisition or certain long-term capital asset if the consideration so received from sale is invested in the prescribed assets/bonds within prescribed time limit. As per the proposed amendment, if total income of these persons exceeds the maximum amount chargeable to tax before claiming exemption under the above sections, then they will be required to furnish return of income, even if their income after claiming deduction does not exceed maximum amount chargeable to tax.

The above amendments shall be applicable in return of return of income of AY 2020-21 and onwards.

Inter-changeability of PAN & Aadhaar and quoting in prescribed transactions.

Existing sub-section (1) of section 139A of the Act, inter alia, provides that every person specified therein, who has not been allotted a PAN, shall apply to the Assessing Officer for allotment of PAN.

It has been observed that in many cases, persons entering into high value transactions, such as purchase of foreign currency or huge withdrawal from the banks, do not possess a PAN. In order to keep an audit trail of such transactions, for widening and deepening of the tax base, it is proposed to insert a new clause (vii) in the aforesaid sub-section so as to provide that every person, who intends to enter into certain prescribed transactions and has not been allotted a PAN, shall also apply for allotment of a PAN.

To ensure ease of compliance, it is also proposed to provide for inter-changeability of PAN with the Aadhaar number. Accordingly, the provisions of section 139A are proposed to be amended so as to provide that,-

(i) every person who is required to furnish or intimate or quote his PAN under the Act, and who, has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;

(ii) every person who has been allotted a PAN, and who has linked his Aadhaar number under section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.

Section 139A, inter alia, provides that every person, receiving a document relating to a transaction for which PAN is required to be quoted shall ensure that the PAN has been duly quoted therein. It is proposed to provide that every person receiving such documents shall also ensure that the PAN or the Aadhaar number, as the case may be, has been duly quoted. A new sub-section (6A) is also proposed to be inserted to ensure quoting of PAN or Aadhaar number for entering into prescribed transactions and authentication thereof in the prescribed manner. Duty is also proposed to be cast upon the person receiving any document relating to such transactions, through newly proposed sub-section (6B), to ensure that PAN or Aadhaar number, as the case may be, is duly quoted, and authenticated.

In order to ensure proper compliance of the provisions relating to quoting and authentication of PAN or Aadhaar, the penalty provision contained in section 272B is proposed to be amended suitably.

These amendments will take effect from 1st September 2019.

Consequence of not linking PAN with Aadhaar

The existing proviso to the sub-section (2) of section 139AA, provides that the PAN allotted to a person shall be deemed to be invalid, in case the person fails to intimate the Aadhaar number, on or before the notified date.

In order to protect validity of transactions previously carried out through such PAN, it is proposed to amend the said proviso so as to provide that if a person fails to intimate the Aadhaar number, the PAN allotted to such person shall be made inoperative in the prescribed manner.

This amendment will take effect from 1st September 2019.

Penalty and Prosecution

Penalty for furnishing inaccurate Statement of Financial Transaction

Section 285BA of the Act requires the persons specified therein to furnish statement of specified financial transactions if the value or aggregate value of such transactions during the financial year exceeds the prescribed limit. To avoid incomplete or inaccurate information in such statements, the Act mandates the person furnishing such statement to comply with due diligence.

Further, under existing provisions of section 271FAA of the Act, if a prescribed financial institution, which is required to furnish a statement u/s 285BA, fails to comply with the due diligence requirements or deliberately furnishes inaccurate information or fails to rectify the mistake in the statement within 10 days, then such prescribed financial institution shall be liable to penalty of Rs. 50,000. Presently, section 271FAA covers within its ambit only prescribed reporting financial institutions.

To ensure all the reporting persons u/s 285BA adhere with the requirement of due diligence while furnishing the statement and do not make intentional mistakes in the statements, it is now proposed to cover all the reporting persons within the ambit of section 271FAA of the Act. Consequently, with effect from 1st September 2019, any person required to furnish the statement u/s 285BA, if fails to comply with the due diligence requirements or deliberately furnishes inaccurate information or fails to rectify the mistake in the statement within 10 days, shall be liable to pay penalty of Rs. 50,000.

Penalty for under-reporting and misreporting of income

As per the existing section 270A, penalty is levied for under-reporting of income. As per section 270A(2), in a case where no return of income has been filed, a person shall be considered to have under-reported his income when income or deemed total income u/s 115JB or 115JC assessed is higher than the maximum amount not chargeable to tax.

Further, as per section 270A(3), in a case where no return of income has been filed, the amount of under-reported income shall be amount of income assessed in case of company, firm or local authority and difference of income assessed and maximum amount not chargeable to tax in case of other persons.

It is proposed to widen the scope of section 270A by also including the returns filed for the first time in response to notice u/s 148 of the Act. The proposed amendment seeks to ignore the return filed for the first-time u/s 148 for determining under-reporting of income and computing the amount of under-reported income u/s 270A(2) and 270A(3) respectively. Hence, even if the amount of income offered in return filed for the first time u/s 148 is accepted in the reassessment proceedings, if the income offered is above the maximum amount not chargeable to tax, penalty u/s 270A may still be levied and under-reported income would be the entire income offered in the return of income. Another way to look at it is where the

Assessee files the return of income for the first time in response to notice u/s 148, then for the purpose of section 270A, it shall be deemed that no return has been filed by the Assessee. The provisions of section 270A(2) and 270A(3) are proposed to be amended retrospectively from 1st April 2017.

Rationalization of the provisions of Section 276CC

Currently, Section 276CC provides for prosecution proceedings in case of failure to furnish returns u/s. 139, 148, 153A etc. The proviso to section 276CC states that no person shall be punishable if he has failed to file the return income u/s. 139(1) if the tax payable by such person on the total income determined on regular assessment as reduced by the advance tax and TDS does not exceed Rs. 3,000.

The existing provisions does not provide for credit of prepaid taxes in the form of self-assessment tax and tax collected at source for computing the amount of default. The proposed amendment clarifies the position and the intention of the legislature to allow the credit of prepaid taxes in the form of advance tax, self-assessment tax, TDS and also TCS for computing the amount of default.

It is to be noted that for the purpose of computing the tax payable limit for invoking section 276CC, the credit for self-assessment tax is available only if the said assessment tax has been paid on or before the expiry of the said assessment year. Any tax which has been paid post the said period but before completion of assessment shall not be considered for the said purpose.

The amendment also proposes to increase the threshold limit of tax payable from Rs.3,000 to Rs.10,000.

This amendment will take effect from 1st April 2020 and will, accordingly, apply in relation to AY 2020-2021 and subsequent assessment years.

Taxation of Charitable Trust

Procedure for Registration and cancellation of registration

Section 12AA deals with procedure of registration of charitable trusts. As per the existing procedure, the Principal Commissioner or Commissioner on receipt of an application for registration by a charitable trust or institution shall call for such documents or information from the trust or institution as he thinks necessary in order to satisfy himself about the genuineness of activities of the trust or institution and may also make such inquiries as he may deem necessary in this behalf. Once the Principal Commissioner or Commissioner satisfies himself about the objects of the trust or institution and the genuineness of its activities, he shall pass an order granting registration to the trust or institution or if he is not satisfied shall pass an order refusing the registration to the trust or institution.

By way of present amendment, the scope of inquiry prior to granting of registration has been enlarged so as to include the compliance and requirements of any other law for the time in force which are material for the purpose of achieving the objects of the trust or institution. Before issuing the certificate of registration, the Principal Commissioner or Commissioner has to satisfy himself about the genuineness of the activities carried out by the trust or institution and also the compliance of requirements of any other law which are material for the purpose of achieving the objects of the trust or institution.

Similarly, the amendment also proposes for cancellation of registration if it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality.

The above amendment is proposed to be made effective from 1st September 2019. It may be noted that the applications for registration of trust or institution filed prior to 1st September 2019 would be governed by the existing provisions of section 12AA and would not be hit by the proposed amendment.

Amendment in Black money (Undisclosed Foreign Income and Assets) and Imposition of Tax Act, 2015 ("the BM Act")

BM Act now covers "Non-resident" and "Resident but Not Ordinarily Resident" within its ambit

The BM Act has been introduced to deal with the undisclosed foreign income and assets held outside India. The BM Act provides for separate taxation of any undisclosed income in relation to foreign income and assets. The provisions of the BM Act are applicable with effect from 1st July 2015.

Currently, the BM Act is applicable to only person who are residents (other than those who are not ordinarily residents) as per the provision of section 6(6) of the Act by whom any tax in respect of undisclosed foreign income or assets is payable under the Act. If the person is either a non-resident or a not ordinary resident, he would fall outside the purview of the stringent provision of the BM Act.

The Bill proposes to replace the existing definition of "Assessee". The definition of "Assessee" now includes NRI or RNOR person as "Assessee" under the BM Act if he was Resident in India either during the year in which foreign income was earned or during the previous year in which the Foreign Asset was acquired by him.

Earlier, provisions of Section 72 of the BM Act provides that in respect of the asset which were acquired prior to the BM Act coming into force and the benefit of the compliance window is not taken then by such person then such asset shall be deemed to have been acquired in the year in which notice U/s. 10 is issued. The proceeding under the BM Act will be initiated only after the information about the foreign assets or income is received from the Income Tax Authority or from any other Authority. Therefore, if a person is a non-resident or not ordinarily resident in the year in which the assessment is sought to be made u/s 10 of BM Act, he may escape the taxation under the BM Act despite the fact that he was resident in the year in which the undisclosed income was earned or the undisclosed asset was acquired.

The proposed amendment effectively provides that the residential status of the person in the year in which such income is assessed under the BM Act is not relevant. Secondly, the requirement of tax or other sum being payable in respect of undisclosed foreign income and asset under the BM Act was also one of the essential conditions which is not part of the amended definition. In other words, the proceeding under the BM Act can be initiated against any person including NRI after the enactment of the Act, irrespective of the fact whether he is liable to make any payment under the BM Act or not.

The above amendment is proposed to be effective with retrospective effect from 1st July 2015. In fact, this is the only retrospective amendment which has severe consequences in the hands of a taxpayer.

Assessment Include Reassessment

Section 10 of the BM Act deals with the procedure for assessment and reassessment under the BM Act. Section 11 provides for the time limit for completion of the assessment as well as reassessment under the Act. The existing provision of section 10 however only make references to order of assessment under the Act. There is no specific reference to reassessment order under the said provision.

The Bill accordingly proposes to make consequential amendment in section 10 to include even power to make reassessment order. Consequent to this amendment, the Assessing Officer can now pass the reassessment order u/s 10 of the BM Act. It is to be noted that unlike section 147 of the ITA, the provision of section 10 of the BM Act does not provide any stipulated timeframe within which an assessment can be reopened. **Hence, effectively under the BM Act, the AO can reopen the Assessment at any time**. The requirement of recording reasons before reopening of the assessment or approval of higher authority is not required under the BM Act.

The definition of "assessment" includes "Reassessment" and hence, it is to be noted that the proposed amendment is clarificatory in nature only. The above amendment will be applicable with effect from 1st July 2015.

Power of the CIT(A) to reduce or wave the penalty leviable under the BM Act

The provision of section 17 deals with the power of the CIT(A). The existing provision provides that the CIT(A) while disposing the penalty appeal can either confirm or cancel the quantum of penalty. However, the CIT(A) has no power to reduce or enhance the penalty. The Bill proposes to amend section 17 and consequently, now the CIT(A) will have power to either reduce or enhance the penalty under the BM Act.

The proposed amendment will be applicable with effect from 1st September 2019. Thus, any appeals filed and pending before the CIT(A) would be governed by the old provision.

Application of the provisions of the Act to BM Act

Section 84 of the BM Act provides that certain provision of the Act will also apply to the BM Act with necessary modification. The Bill proposes to include new section 144A. In view of the above amendment, the Joint Commissioner of Income Tax (JCIT) can issue appropriate direction to the AO for the purpose of assessment under the BM Act.

The proposed amendment will be applicable with effect from 1st September 2019.

Indirect Tax

Composition Scheme

A new sub-section (2A) has been inserted to Section 10 of the CGST Act so as to provide an supply of service by composition supplier of goods to the extent of composition scheme for supplier

a) 10% of Turnover in a state or union territory

b) Rs. 5 lakh –

whichever is higher

Turnover excludes interest or discount received for providing exempt services like extending deposits, loans or advances.

A casual taxable person and a non-resident taxable person cannot opt for the Composition Scheme

Interest Payable on net tax liability

- Introduced new section 50(1) of CGST Act
- Interest on Tax payable for delay in filling of the return shall be levied on that portion of Tax which is paid by debiting Electronic Cash Ledger (Net of the Input Tax Credit)
- Not applicable wherein the returns are filed subsequent to initiation of proceeding under section 73 or 74 of the CGST Act

Registration

- Aadhaar authentication for registration is proposed to be mandatory for specified class of new taxpayers in addition to PAN.
- Procedure to be prescribed (Section 25 of CGST Act)

Digital Payment

- Government may prescribe a class of registered persons who shall provide prescribed modes of electronic payment to the recipient.
- Option to be given to recipient for making payment. (Introduced new Section 31 CGST Act)

Retrospective Exemption

Uranium Ore Concentrate – Exemption during from 01.07.2017 to 14.11.2017

(Notification No. 42/2017-Central Tax (Rate), dated 14-11-2017 - w.e.f. 15-11-2017)

National Appellate Authority for Advance Ruling (NAAAR)

- The definition of 'adjudicating authority' amended to exclude the NAAAR
- New sections 101A, 101B and 101C are being inserted in the CGST Act to provide constitution, qualification, appointment, tenure, conditions of services of NAAAR
- Appeal can be filed for divergent ruling given by AAR of the two or more different states of distinct person by following person

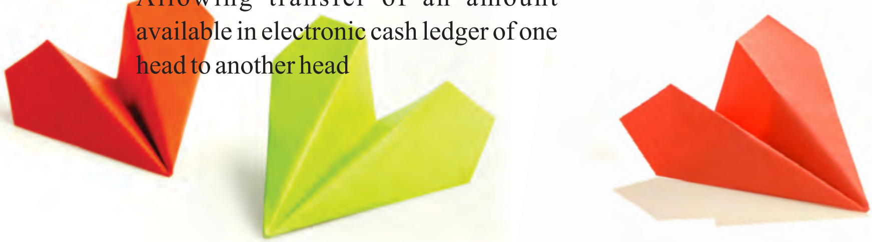
  a) Officer authorised by the commissioner

  b) Applicant, being distinct person referred to in Section 25
- NAAAR shall pass order within 90 days from the date of filing of the appeal
- NAAAR may amend order passed within 6 months from the date of the order

- Advance ruling pronounced by NAAAR shall be binding on
  - a) Applicants being distinct person
  - b) All registered persons having the same PAN
  - c) Concerned officers or the jurisdictional officers in respect of the said applicants
- Advance ruling pronounced by NAAAR shall be void in case the ruling has been obtained
  - a) By fraud or suppression of material facts
  - b) Misrepresentation of facts
- NAAAR shall have all the powers regulate its own procedure under a civil court under the Code of Civil Procedure, 1908

Other amendment

- Power is proposed to be given to the commissioner to extend the due date for furnishing monthly return in Form GSTR-8 and annual statement in Forms GSTR-9B by an e-commerce operator
- Central Government may disburse refund amount of state taxes to the taxpayers.
- Power is proposed to be given to the commissioner to extend the due date for furnishing monthly return in Form GSTR-8 and annual statement in Forms GSTR-9B by an e-commerce operator Allowing transfer of an amount available in electronic cash ledger of one head to another head
- Central Government may disburse refund amount of state taxes to the taxpayers.
- Power is proposed to be given to the Commissioner or Joint Secretary with approval of the Board to issue instruction or direction with regards to furnishing:
  - a) Annual return in Form GSTR-9 by taxpayer
  - b) Monthly return in Form GSTR-8 and annual statement in Forms GSTR-9B by an e-commerce operator
- Power is proposed to be given to National Anti-profiteering Authority to impose penalty equivalent to 10% of the profiteered amount.
  - a) Not passing the benefit of reduction in tax rate
  - b) Not passing benefit of input tax credit to the recipient by way of commensurate reduction in the price



Service Tax

Exemption - Retrospective Amendments

- Services by way of grant of liquor license by State Government – for the period from 1st April 2016 to 30th June 2017
- Services provided for long duration degree or diploma programmes except Executive Development Programme provided by the Indian Institutes of Management to the students from 1st July 2003 to 3st March 2016
- In case of service tax payment made for one time upfront amount called (called as premium, salami, cost, price, development charges or by whatever name called) for grant of long term lease of industrial plot "30 year or more" by state Government Industrial Development undertaking to Industrial units from Service Tax. Industrial plot holders with a lease of 30 years or more can apply for refund of Service Tax, already paid (to GIDC/ MIDC/such other Government Industrial Development undertaking) within a period of six months from the date on which the Bill receives assent of the President.
- Refund application shall be filed within a period of six months from the date on which the Bill receives assent of the President.

Excise

Major Announcement

- Special Additional Duty- on Motor spirit is increased from Rs.7 to Rs.8 per litre
- Road & Infrastructure cess on Motor Spirit is increased from Rs.8 to Rs.9 per litre.
- Special Additional Duty- on Diesel is increased from Rs.1 to Rs.2 per litre
- Road & Infrastructure cess on Diesel is increased from Rs.8 to Rs.9 per litre.

Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019

- The government proposed Sabka Vishwas (Legacy Dispute Resolution) Scheme (SVS), 2019 to unlock pending cases related to demand raised under Excise and Service Tax Law along with other specified taxes
- Interest & Penalty under this scheme would be completely waived.
- Relief of duty under the scheme varies from 40% to 70% of the tax dues depending on type of cases.
- Voluntary payment of taxes can be made where there is no litigation pending to avail benefit of the waiver of interest and penalty.
- Ineligible to opt for the scheme in case of:
  - a) Appeal filed by the person which is finally heard on or before the 30th June 2019
  - b) Person who have been convicted for any offence punishable under indirect tax enactment for which he intends to file a declaration
  - c) SCN issued and final hearing completed on or before 30th June 2019
  - d) SCN issued for claim of refund of tax
  - e) Amount of tax payable has not been quantified in any enquiry or investigation or audit on or before the 30th June 2019
- Deduction for the amount paid as pre-deposit against Appeal filed would be available from the final amount payable under the scheme
- Restrictions
  - a) Final amount payable under the scheme can be made in cash only. ITC cannot be used for making these payments.
  - b) If the pre-deposit amount in Appeal exceeds the final amount payable, the same would not be refunded.
  - c) Order passed under the scheme by the designated committee would be final and conclusive.
  - d) No Appeal can be filed before any former against the said order.

Relief Offered

Nature of tax due	Quantum of tax due	Relief
Show cause notice or one or more appeals arising out of such notice which is pending as on or before 30.06.2019 (pendency of appeal filed by assesses and/or revenue)	Less than Rs. 50 Lakh	70% of tax due
	More than Rs. 50 Lakh	50% of tax due
Show cause notice for only for late fee or penalty	-	Entire amount of late fee or Penalty
Arrears	Less than Rs. 50 Lakh	60% of tax due
	More than Rs. 50 Lakh	40% of tax due
Declared in return but not paid	Less than Rs. 50 Lakh	60% of tax due
	More than Rs. 50 Lakh	40% of tax due
An enquiry, investigation or audit against the declarant and the amount is quantified on or before 30.06.2019	Less than Rs. 50 Lakh	70% of tax due
	More than Rs. 50 Lakh	50% of tax due

Amendments

Non-submission of export documents/ departure manifesto or export report under specified format shall attract penalty not exceeding rupees fifty thousand. (Section 41(1))

Proposed to expedite legal procedure in case of any person has any goods liable to confiscation secreted inside his body. (Section 103)

Removal of geographical barrier for the customs officer to arrest defaulter, either within or outside India. (Section 104(1))

Proposed additional power to arrest for cognizable offences

a) Malafide intention for attempting or availing any benefit of duty drawback or any exemption under the Customs Act

b) Illegal obtaining & utilisation of an instruments for value exceeds rupees fifty lakhs. Instrument such as duty credit script or licence or certificate or any such other documents.

Proposed for additional offices under Evasion of Duty

a) In case of malafied intention for attempting or availing any benefit of duty drawback or any exemption under the Customs Act

b) For illegal obtaining & utilisation of an instruments for value exceeds rupees fifty lakhs. Instrument such as duty credit script or licence or certificate or any such other documents

These activities are covered under the evasion of duty and shall be punishable under Section 135 of Customs Act.

Seizure of Goods/Documents (Section 110)

a) Proposed to transfer ownership of seized goods on execution of undertaking, wherein such goods are impossible to remove, transport, store or take physical possession. However, the owner shall not remove goods prior approval of the officer.

b) In case of the goods are impracticable to seize, then the officer may issue an order to the owner and the owner shall not remove goods prior approval of the officer.

c) For any legal disputes, the power is proposed to be given to the Principal Commissioner or Commissioner of Customs for issuance of order or attach bank accounts up to six months. Period of attachment can be extended for further six months with due approval.

This is additionally provided. The provisions are more elaborately provided where it says that where the goods are not practicable to remove, transport, store or take physical possession, the custody of the same may be continue with the owner.

Proposed penalty equal to the face value of an instrument, wherein the instrument may obtain and utilised for payment of tax. (Section 114AB)

Increase penalty up to rupees four lakh for contravention of any provisions or to comply with any provision (Section 117) (Penalty no else where prescribed)

Time limit is proposed for amendment in import & export documentations (section 149)

Increase penalty up to rupees two lakh for contravention of any rule or regulation (Section 158)

Customs Tariff

Increase in Basic Custom Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
		Construction Materials		
1	3918	Floor covering of plastics, Wall or ceiling coverings of plastics	10%	15%
2	6905, 6907	Ceramic roofing tiles and ceramic flags and paving', hearth or wall tiles	10%	15%
3	8302	Base metal fittings, mountings and similar articles suitable for furniture, doors, staircases, windows, blinds, hinge for auto mobiles 1	10%	15%
		Precious Metals		
4	71 or 98	(a) Gold (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage Silver (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage	10%	12.5%
5	7106	Silver (including silver plated with gold or platinum) unwrought or in semi manufactured forms, or in powdered form 1	10%	12.5%
6	7106	Silver doer bar, having silver content not exceeding 95%	8.5%	11%
7	7107 00 00	Base metals clad with silver, not further worked than semi-manufactured	10%	12.5%

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
8	7108	Gold (including gold plated with platinum) unwrought or in semi-manufactured forms, or in powder form	10%	12.5%
9	7108	Gold doer bar, having gold content not exceeding 95%	9.35%	11.85%
10	7109 00 00	Base metals or silver, clad with gold, not further worked than semi- manufactured	10%	12.5%
11	7110	Platinum, unwrought or in semi-manufactured form, or in powder form	10%	12.5%
12	7111 00 00	Base metals, silver or gold, clad with platinum, not further worked than semi-manufactured	10%	12.5%
13	7112	Waste and scrap of precious metals or of metal clad with precious metals; other waste and scrap containing precious metal compounds, of a kind used principally for the recovery of precious metal	10%	12.5%
		Automobile parts		
14	6813	Friction material and articles thereof (for example, sheets, rolls, strips, segments, discs, washers, pads), not mounted, for brakes, for clutches or the like, with a basis of asbestos, of other mineral substances or of cellulose, whether or not combined with textile or other materials.	10%	15%
15	7009	Glass mirrors, whether framed, including rear-view mirrors	10%	15%
16	8301 20 00	Locks of a kind used in motor vehicles	10%	15%
17	8421 23 00	Oil or petrol filters for internal combustion engines	7.5%	10%
18	8421 31 00	Intake air-filters for internal combustion engines	7.5%	10%

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
19	8421 39 20, 8421 39 90	Air purifiers or cleaners and other filtering or purifying machinery and apparatus for gases	7.5%	10%
20	8512 10 00, 8512 20 10, 8512 20 20	Lighting or visual signaling equipment of a kind used in bicycles or motor vehicles	10%	15%
21	8512 20 90, 8512 30 90	Other visual or sound signaling equipment for bicycles or motor vehicles	7.5%	15%
22	8512 30 10	Horns for vehicles	10%	15%
23	8512 90 00	Parts of visual or sound signaling equipment for bicycles or motor vehicles	7.5%	10%
24	8512 40 00, 8539 10 00, 8539 21 20, 8539 29 40	Windscreen wipers, defrosters and demisters, Sealed beam lamp units and other lamps for automobiles	10%	15%
25	8706	Chassis fitted with engines, for the motor vehicles of headings 8701 to 8705.	10%	15%
26	8707	Bodies (including cabs), for the motor vehicles of headings 8701 to 8705	10%	15%
		Electronics and Electrical equipment		
27	8415 90 00	Indoor and outdoor unit of split –ystem air conditioner	10%	20%
28	8518 21 00, 8518 22 00	Loudspeaker	10%	15%
29	8521 90 90	Digital Video Recorder (DVR) and Network Video Recorder (NVR)	15%	20%
30	8525 80	CCTV camera and IP camera	15%	20%
31	9001 10 00	Optical Fibers, optical fiber bundles and cables	10%	15%

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
		Food processing		
32	0801 32 10	Cashew kernel broken	Rs 60/ Kg or 45%, whichever is higher	70%
33	0801 32 20, 0801 32 90	Cashew kernel whole, Cashew nuts shelled, others	Rs 75/ Kg or 45%, whichever is higher	70%
		Oils and associated chemicals		
34	Chapter 15, 2915 70, 3823 11 00, 3823 12 00, 3823 13 00, 3823 19 00	Palm stearin and other oils, having 20% or more free fatty acid, Palm Fatty Acid Distillate and other industrial monocarboxylic fatty acids, acid oils from refining, for use in manufacture of soap and oleochemicals.	Nil	7.5%
		Petroleum and Petrochemicals		
35	2709 00 00	Petroleum Crude	Nil	Re. 1 per ton
		Plastic and Rubber		
36	3904	Poly Vinyl Chloride	7.5%	10%
37	3926 90 91, 3926 90 99	Articles of plastics	10%	15%
38	4002 31 00	All goods i.e. Butyl Rubber	5%	10%
39	4002 39 00	Chornobyl rubber or Bromo butyl rubber	5%	10%
		Paper and Paper products		
40	48	a. Newsprint b. Uncoated paper used for printing of newspapers Lightweight coated paper used for printing of magazines	Nil	10%

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
41	4901 10 10, 4901 91 00, 4901 99 00	Printed books (including covers for printed books) and printed manuals, in bound form or in loose-leaf form with binder, executed on paper or any other material including transparencies.	Nil	5%
		Flooring materials		
42	2515 12 20, 6802 10 00, 6802 21 10, 6802 21 20, 6802 21 90, 6802 91 00, 6802 92 00	Marble Slabs	20%	40%
		Inputs for Optical Fibers		
43	5603 94 00	Water blocking tapes for manufacture of optical fiber cable	Nil	20%
		Iron and Steel, Other base metals		
44	7218	Stainless steel in ingots or other primary forms; semi-finished products of stainless less	5%	7.5%
45	7224	Other alloy steel in ingots or other primary forms; semi-finished products of another alloy steel	5%	7.5%
46	7229	Wire of other alloy steel (other than INVAR)	5%	7.5%
		Capital goods		
47	8474 20 10	Stone crushing (cone type) plants for the construction of roads	Nil	7.5%
48	84, 85 or 90	Capital goods used for manufacturing of specified electronic items, namely- Cathode Ray tubes; CD/CD-R/DVD/DVD-R; Deflection components, CRT monitors/CTVs; Plasma Display Panel	Nil	Applicable

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
		Electronics		
49	85	Specified electronic items like plugs, sockets, switches, connectors, relays.	Nil	Applicable rate
50	8504 40	Charger/Power adapter for CCTV camera/IP camera/DVR/NVR	Nil	15%
		Automobile and automobile parts		
51	8421 39 20, 8421 39 90	Catalytic convertor (All goods under these tariff items other than catalytic converters will continue at 7.5%)	5%	10%
52	8702, 8704	Completely Built Unit (CBU) of vehicles falling under heading 8702, 8704	25%	30%

Decrease in Basic Custom Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
		Defense		
1	Any Chapter	Specified Defense equipment and their parts imported by the Ministry of Defense or the Armed Forces	Applicable rate	Nil
		Medical Devices		
2	Any Chapter	Raw material, parts or accessories for use manufacture of artificial kidneys, disposable sterilized dialyzer and micro-barrier of artificial kidney	Applicable rate	Nil
		Nuclear Fuels and Nuclear Energy projects		
3	2612 10 00	All forms of Uranium ores and Concentrates for generation of nuclear power (Uranium concentrate U3O8 already exempt)	2.5%	Nil

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
4	2844 20 00	All goods for use in generation of Nuclear power (Certain goods such as sintered natural uranium dioxide already exempt)	7.5%	Nil
5	9801	All goods required for setting up of the following power projects under project imports a) Mahi Bashara Atomic Power project- 1 to 4, Mahi Bashara site Rajasthan b) Kaiga Atomic Power project –5 & 6, Kaiga site, Karnataka c) Gorakhpur Atomic Power project- 3 & 4, GHAVP, Haryana Chutka Atomic Power project- 1 & 2, Chutka site, Madhya Pradesh	Applicable rate	Nil
		Petroleum and Petrochemicals		
6	2710	Naphtha	5%	4 %
7	2903 15 00	Ethylene dichloride (EDC)	2%	Nil
8	2910 20 00	Methyl oxirane (Propylene Oxide)	7.5%	5%
		Textiles		
9	5101	Wool Fiber	5%	2.5%
10	5105	Wool Tops	5%	2.5%
		Inputs for Optical Fibers		
11	28 or 70	Raw materials used in manufacture of Preform of Silica: - (i) Refrigerated Helium Liquid (2804 29 10) (ii) Silicon Tetra Chloride and (iii) Germanium Tetra Chloride (2812 19 20, 2812) (iv) Silica Tube (7002 31 00) (v) Silica Rods (7002 20 90)	Applicable Rate	Nil

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
		Iron and Steel, Other base metals		
12	7225, 7225 19 90	Inputs for the manufacture of CRGO steel: - MgO coated cold rolled steel coils Hot rolled coils Cold-rolled MgO coated and annealed steel Hot rolled annealed and pickled coils Cold rolled full hard	5%	2.5%
13	7226 99 30	Amorphous alloy ribbon	10%	5%
14	8105 20 10	Cobalt mattes and other intermediate products of cobalt metallurgy	5%	2.5%
		Capital goods		
15	82, 84, 85 or 90	Capital goods used for manufacturing of following electronica teems, namely- Populated PCBA Camera module of cellular mobile phones Charger/Adapter of cellular mobile phone Lithium Ion Cell Display Module Set Top Box Compact Camera Module	Applicable rate	Nil
		Automobile and automobile parts		
16	Any Chapter	Following parts of electric vehicles: - E-Drive assembly, On board charger, E-compressor and Charging Gun	Applicable rate	Nil
		Export Promotion for Sports goods		
17	39, 4407	Foam/EVA foam (39) and Pine Wood (4407) are being included in the list of items allowed duty free import up to 3% of FOB value of sports goods exported in the preceding financial year subject to specified conditions	Applicable rate	Nil

Following entries shall be omitted

(withdrawal of the full/partial exemption covered in Mega Exemption Notification No 50/2017 -CUS (Tariff)

Sr. No.		Export duty changes	From	To
1	41	EI tanned Leather	15%	Nil
2	41	Hides, skins and leathers, tanned and untanned, all sorts	60%	40%

Miscellaneous changes in Tariff Schedule

Sr. No.	Heading, sub-heading tariff item	Commodity
1	9804	Chapter Note 7 to be inserted in Chapter 98 to exclude printed books imported for personal use from the purview of heading 9804. This heading covers all dutiable articles imported for personal use and attracts 28% IGST. This amendment would exclude printed books from this heading, and they would be subject to the applicable merit rate.
2	84 or Any other Chapter	Condition no 48 (Serial No 404) of notification no 50/2017 -Customs dated 30.06.2017 is being amendment so as to provide option to pay BCD at the rate 7.5% at transaction value on goods imported without payment of custom duty for petroleum or coal bed methane operations , where disposal is made in unserviceable and mutilated conditions

Amendments not affecting rates of duty

Sr. No.	Commodity
30	First Schedule to the Customs Tariff Act, 1975 is amended to: (i) Create specific tariff lines for specific products, presently classified as others; (ii) Rectify the errors to align it with HSN. These changes would come into effect from a date to be notified by the Central Government in the official gazette.

Increase in Rate of Excise Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	2402 20 10	Other than filter cigarettes, of length not exceeding 65 millimeters	Nil	Rs 5 per thousand
2	2402 20 20	Other than filter cigarettes, of length exceeding 65 millimeters but not exceeding 70 millimeters	Nil	Rs. 5 per thousand
3	2402 20 30	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) not exceeding 65 millimeters	Nil	Rs. 5 per thousand
4	2402 20 40	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 65 millimeters but not exceeding 70 millimeters	Nil	Rs. 5 per thousand
5	2402 20 50	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 70 millimeters but not exceeding 75 millimeters	Nil	Rs. 5 per thousand
6	2402 20 90	Other (Cigarettes containing tobacco)	Nil	Rs. 10 per thousand
7	2402 90 10	Cigarettes of tobacco substitutes	Nil	Rs. 5 per thousand
8	2403 11 10	Hookah or gudok tobacco	Nil	0.5%
9	2403 19 10	Smoking mixtures for pipes and cigarettes	Nil	1%
10	2403 19 21	Other than paper rolled biros, manufactured without the aid of machine	Nil	5 paisa per thousand
11	2403 19 29	Other (Biros)	Nil	10 paisa per thousand
12	2403 19 90	Other smoking tobacco	Nil	0.5%
13	2403 91 00	"omogenized"or "econstituted" tobacco	Nil	0.5%
14	2403 99 10	Chewing tobacco	Nil	0.5%

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
15	2403 99 20	Preparations containing chewing tobacco	Nil	0.5%
16	2403 99 30	Jada scented tobacco	Nil	0.5%
17	2403 99 40	Snuff	Nil	0.5%
18	2403 99 50	Preparations containing snuff	Nil	0.5%
19	2403 99 60	Tobacco extracts and essence	Nil	0.5%
20	2403 99 90	Other (manufactured tobacco and substitutes)	Nil	0.5%

Decrease in Basic Excise Duty

Sr. No.	Chapter	Commodity	Rate of Duty	
			Existing	Proposed
1	2709 20 00	Crude Petroleum oil produced in specified oil fields under production sharing contracts or in the exploration blocks offered under the New Exploration Licensing Policy (NELP) through international competitive bidding	Rzze. 1 per ton	Nil

Effective change in rate of Special Additional Excise Duty and Road and Infrastructure Cess on Petrol and Diesel

Sr. No.	Description	Rate of Duty	
A	Increase in effective rate of Special Additional Excise Duty on Petrol and Diesel	From	To
1	Motor spirit commonly known as petrol	Rs. 7 per liter	Rs. 8 per liter
2	High speed diesel oil	Rs. 1 per liter	Rs. 2 per liter

Sr. No.	Description	Rate of Duty	
B	Increase in effective rate of Road and Infrastructure Cess, levied as additional duty of excise, on Petrol and Diesel	From	To
1	Motor spirit commonly known as petrol	Rs. 8 per liter	Rs. 9 per liter
2	High speed diesel oil	Rs. 8 per liter	Rs. 9 per liter

References

Tax Rates* for AY 2020-21

***[To be increased by applicable surcharge and health & education cess (see Notes)]**

Individual, HUF, AOP & BOI

Taxable Income	All Individual, HUF, AOP & BOI	Resident Individual of 60 years or more age	Resident Individual of 80 years or more age
Upto Rs. 2,50,000	Nil	Nil	Nil
Rs. 2,50,001 to Rs. 3,00,000	5%	Nil	Nil
Rs. 3,00,001 to Rs. 5,00,000	5%	5%	Nil
Rs. 5,00,001 to Rs. 10,00,000	20%	20%	20%
Rs. 10,00,000 and above	30%	30%	30%

Partnership Firm, LLP & Companies

Particulars	General Tax Rate
Partnership Firm & LLP	30%
New Domestic Company [Section 115BA] [Irrespective of value of Turnover / Gross Receipts] [Subject to fulfilment of certain conditions]	25%
Domestic Company with Turnover / Gross Receipts up to Rs. 400 Crores in FY 2017-18	25%
Other Domestic Company	30%
Foreign Company	40%

Co-operative Society

Total Income	General Tax Rate
Upto Rs. 10,000	10%
Rs. 10,001 to 20,000	20%
Rs. 20,001 and above	30%

Special Rates of Tax (applicable to all assessees)

Nature of Income	Rate of Tax
Minimum Alternate Tax (Section 115JB) / Alternate Minimum Tax (Section 115JC)	18.5%
STCG on listed securities (Section 111A)	15%
LTCG on listed equity share, units equity oriented mutual funds or business trust exceeding Rs. 1,00,000 (Section 112A)	10%
LTCG on unlisted securities or shares of a company in which the public are not substantially interested derived by **Non Resident** (Section 112)	10%
LTCG on assets other than listed securities and zero coupon bonds (Section 112)	20%
Royalty & Fees for Technical Services derived by **Non Resident** (Section 115A)	10%
Dividend Distribution Tax payable by Domestic Company (Section 115-O)	15%
Dividend Distribution Tax payable on deemed dividend covered by Section - 2(22)(e) (Section 115-O)	30%
Tax payable by any Company (other than Foreign) on Buy-back of Shares /(Section 115QA)	20%
Tax payable by **Resident** assessees (except domestic company and certain funds, trust institutions) on receipt of Dividend from all Domestic Company together exceeding Rs. 10 Lacs (Section 115BBDA)	10%
Income by way of Royalty in respect of a patent developed and registered in India derived by **Resident** (Section 115BBF)	10%
Dividend Income received from Certain Specified Foreign Companies (Section 115BBD)	15%

Note 1: Surcharge on Income Tax

Total Income	Upto Rs. 50 Lacs	Rs. 50 Lacs to Rs. 1 Cr.	Rs. 1 Cr. to Rs. 2 Cr.	Rs. 2 Cr. to Rs. 5 Cr.	Rs. 5 Cr. to Rs. 10 Cr.	Above Rs. 10 Cr.
Individual / HUF AOP / BOI	Nil	10%	15%	25%	37%	37%
Co-operative Society / Local Authority	Nil	Nil	12%	12%	12%	12%
Partnership Firm / LLP	Nil	Nil	12%	12%	12%	12%
Domestic Company	Nil	Nil	7%	7%	7%	12%
Foreign Company	Nil	Nil	2%	2%	2%	5%

Note 2: Health & Education Cess: 4% of Income Tax & Surcharge [Applicable to all assessees]

TDS Rates for FY 2019-20

Rates of Tax Deducted at Source (See Notes)

Section	Nature of Payment	Threshold Limit	Rate
192	Salary	As per Slab	As per Slab
192A	Premature Withdrawal of Provident Fund	50,000	10%
193	Interest on Securities		
	(1) Interest on Debentures or Securities (Listed/Unlisted)	5,000**	10%
	(2) Interest on 7.75% Savings (Taxable) Bonds, 2018	10,000	10%
	(3) Any Other Interest on Securities (Unlisted)	0	10%
194	Dividend other than dividend covered by Section 115-O	2,500*	10%
194A	(1) Interest paid by Banking Company, Co-operative Society/Banks engaged in banking business, Post Office under a deposit scheme framed by Central Government	40,000***	10%
	(2) Interest other than Interest on Securities (Other than above)	5,000	10%
194B	Winning from Lotteries	10,000	30%
194BB	Winnings from Horse Races	10,000	30%
194C	Payments to Contractors		
	(1) Payment to Transporter covered by Section 44AE [2]	NA	NIL[2]
	(2) Payment to Individual / HUF (other than above)	30,000[2a]	1%
	(3) Payment to Others (other than above)	30,000[2a]	2%
194D	Insurance Commission	15,000	5%
194DA	Income component received from LIC which are not covered u/s 10(10D) (w.e.f 01/09/2019)	0	5%
194E	Non-Resident Sportsman /Sports Association / Entertainer	0	20%[1]
194EE	Deposits under NSS to Resident / Non-Resident	2,500	10% [1]
194F	Repurchase of units of Mutual Fund /UTI from Resident / Non-Resident	0	20%[1]
194G	Commission on Sale of lottery tickets to Resident / Non-Resident	15,000	5%[1]

Rates of Tax Deducted at Source (See Notes)

Section	Nature of Payment	Threshold Limit	Rate
194H	Commission or Brokerage to Resident	15,000	5%
194I	Rent to Resident		
	(a) Rent for machinery / plant / equipment	2,40,000	2%
	(b) Rent for other than in (a)	2,40,000	10%
194-IA	Payment on transfer or certain immovable properties (Other than agricultural land)	50,00,000	1%
194-IB	Payment of Rent by certain Individuals or HUF (other than those who are covered u/s 194I) to a resident	50,000 p.m.	5%
194-IC	Payment under specified agreement (in case of joint development agreement excluding payment in kind)	0	10%
194J	Fees payable to a resident assessee for professional / technical services (other than assessee engaged in the business of call centre)	30,000	10%
	Fees payable to a resident assessee engaged in the business of call centre for professional / technical services	30,000	2%
	Remuneration, fees, commission paid to Director which is not in the nature of Salary	0	10%
194LA	Compensation to a resident on acquisition of immovable property (excluding compensation received under RFCTLAAR Act, 2013)	2,50,000	10%
194LB	Interest paid to a Non-Resident by the Notified Infrastructure Debt	0	5%[1]
194LBA	Payment to a resident Unit Holder specified in Section 115UA	0	10%
	Payment to a non- resident Unit Holder specified in Section 115UA	0	5%[1]
194LBB	Income in respect of units of investment fund under Section 115UB		
	(1) In case of Payee being Resident	0	10%
	(2) In case of Payee being Non-Resident	0	Rate in Force [1]

Rates of Tax Deducted at Source (See Notes)

Section	Nature of Payment	Threshold Limit	Rate
194LBC	Income distribution to an investor by Securitisation Trust in respect of Section 115TCA		
	(1) In case of Payee being Resident Ind/HUF	NA	25%
	(2) In case of Payee being Resident any other person	NA	30%
	(3) In case of Payee being Non-Resident	NA	Rate in Force[1]
194LC	Interest paid by Specified Company to a Non-Resident on ECB	0	5%[1]
	Interest paid by Specified Company to a Non-Resident on Rupee Denominated Bonds	0	5%[1]
194M	Payment by Individual/HUF, to Contractors & Professionals (not covered by 194C & 194J) (w.e.f. 01/09/2019)	Rs. 50 Lacs	5%
194N	TDS on cash withdrawal (w.e.f. 01/09/2019)	Rs. 1 Crore	2%
195	Payment of other sums to Non-Resident (Other than those specified in Section 194LB)	Rates specified under Part II of First Schedule of Bill, including applicable surcharge and education cess subject to rate specified under applicable DTAA	
196B	Income from units (including long term capital gain on transfer of such units) to an offshore fund	0	10%[1]
196C	Income from foreign currency bonds or GDR of Indian Company	0	10%[1]
196D	Income of FII from securities not being dividend, long term and short term capital gain	0	20%[1]
Equilisation Levy	Equalisation Levy in respect of online advertisement payment made to Non-Resident (not having PE in India)	0	6%

(* in case of Resident Individual only) (** in case of Resident Individual / HUF only) (*** Rs. 50,000 in case of Resident Senior Citizen)

[1] All rates of TDS for Non-Resident Assessee shall be increased by applicable Surcharge, Health & Education Cess.

[2] Transporter means persons engaged in plying, hiring and leasing of Goods Carriages having Income u/s. 44AE and not owning more than 10 goods carriage. Nil rates will be applicable if the transporter quotes his PAN and furnishes prescribed declaration.

[2a] This limit is for individual transaction. However, if aggregate payment to contractors during the year exceeds Rs.1,00,000 then tax will have required to be deducted even where individual transaction is less than the threshold limit of Rs. 30,000.

Note:

- In order to strengthen the PAN Mechanism, any person whose receipts are subject to deduction of tax at source i.e. the deductee, shall mandatorily furnish his PAN to the deductor failing which the deductor shall deduct tax at source at higher of the following rates:
  - (i) prescribed in the Act;
  - (ii) at the rate in force i.e. the rate mentioned in the Finance Act; <u>Or</u>
  - (iii) 20%

TCS Rates

Rates of Tax Collected at Source

Section	Nature of Payment	Threshold Limit	Rate
206C	Alcoholic Liquor for human consumption & Indian made foreign Liquor	0	1%
206C	Timber obtained by any mode and any other forest produce	0	2.5%
206C	Scrap	0	1%
206C	Parking Lot/ Toll plaza/Mining and Quarrying	0	2%
206C	Tendu Leaves	0	5%
206C	Minerals, being coal or lignite or iron ore	0	1%
206C(1F)	Sale of Motor Car	10,00,000	1%

*No TCS will be applicable in case where the buyer already deducts TDS.

Note:

In order to strengthen the PAN Mechanism, any person-

- who makes above payment are subject to collection of tax at source with information of PAN of collectee i.e. the collectee, shall mandatorily furnish his PAN to the collector failing which the collector shall collect tax at source at higher of the following rates:
  - (i) at twice the rate specified in the section, or
  - (ii) at the rate of 5%

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