

BUDGET PANORAMA 2020



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Foreword

India witnessed a very sluggish economy in the last one year. The job growth was limited, some sectors like real estate and auto went in for a very rough phase with negative growth. In order to arrest some of these negative factors and to bring back positive sentiments, the Government made quite a few big bang announcements without waiting for the budget. Such announcements did help the sentiments a little but did not create too much impact on the economy as a whole. Moreover, the Hon'ble Prime Minister set out a vision for the country by stating that India needs to be a \$5 trillion economy by 2024.

In this backdrop and with a very high expectation, the Hon'ble Finance Minister presented her budget on 1st February 2020. It was a historic more than 2 hours 40mins speech. The budget did touch upon all the relevant things from digitization to infrastructure spending to tax reforms. All the announcements and proposal made were seen to be impacting the economy in a long run. The time has to tell whether this revives the economy and the sentiments of people in the short to medium run.

The GST collections in the last quarter of calendar year 2019 remained stably above INR 1 lakh crore mark, which is certainly a positive development and something that the Government wishes would continue. However, the GST compliance has been a major disappointment with the GST portal not being upto the expectation of the taxpayers. It began with very ambitious targets and have been a major miss. The Income tax collections and the target for the coming year has fallen. It had shot up due to demonetisation and possible black money getting into the formal economy. Moreover, the corporate tax reduction will also have a significant impact on the direct tax collections.

The biggest matter of concern seems to be the fact that Government is considering raising substantial money from disinvestments and announcement of possible listing of LIC is one of those measures. A very careful effort to ensure this results into creating a good transition of Government owned to Public owned company for LIC and similar other companies would have to be planned out. If this doesn't go as well as planned, what would the Government's Plan B is not yet known. Hope that we don't get to Plan B at all.

The Government is also continuously trying to leverage technology in all the aspects of its administrative efforts. This is extremely welcome and needs to be pursued further. However, it is essential to tread this line with caution. Though faceless scrutiny and the currently proposed faceless appeals under Income tax are positive developments, it needs to be understood by the Government that scrutiny and appeals are not merely administrative procedures but they are quasi-judicial in nature and taking away the right to argue would remove the judicial fabric in these proceedings. This runs the risk of high pitched and mindless assessments, which will add more to tax litigation.

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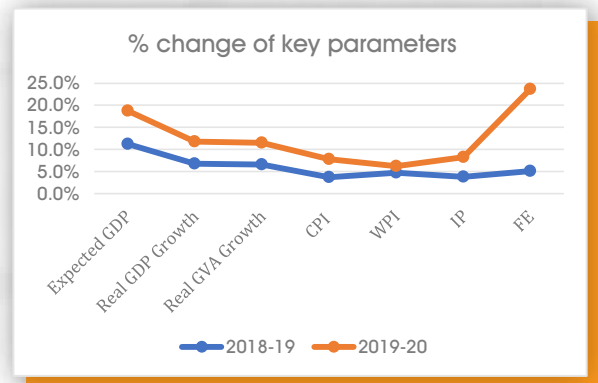
Macro-Economic Scenario

India has emerged as the fastest growing major economy in the world and is expected to be one of the top three economic powers of the world over the next 10-15 years, backed by its strong democracy and partnerships. India is now the 5th largest economy of the world, with foreign direct investment being elevated up to USD 284 Billion for the years 2014-19 from USD 190 Billion for the years 2009-14

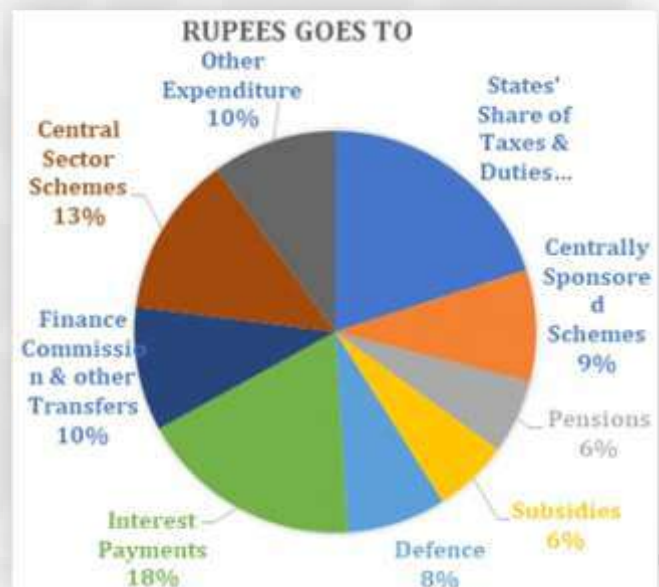
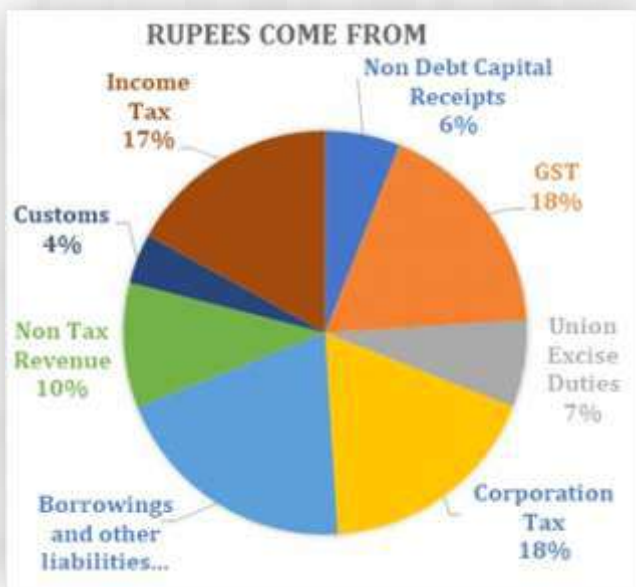
Macro-Economic Snapshot

► For year 2020-21, the GDP growth is estimated at 6-6.5%.

Particulars	2018-19	2019-20
Expected GDP	11.2%	7.5%
Real GDP Growth	6.8%	5.0%
Real GVA Growth	6.6%	4.9%
Consumer Price Index (CPI)	3.7%	4.1%
Wholesale Price Index (WPI)	4.7%	1.5%
Industrial Production(IP)	3.8%	4.4%
Foreign Exchange Reserve (FE)	5.1%	18.6%

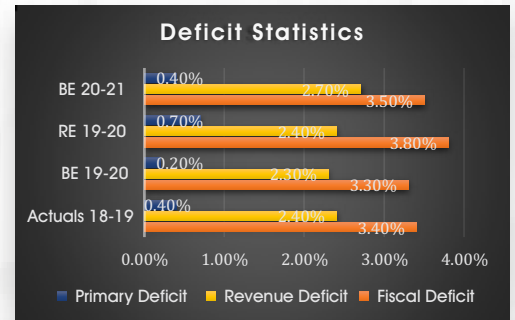


► Global economic slowdown and challenges in the domestic financial sector moderated the growth of Indian economy to 5.0 % in 2019-20 compared to 6.8 % in 2018-19. This moderation has had its impact on the Government finances.



- ▶ Estimated expenditure for the Financial Year 2019-20 are at a level of INR 26.99 lakh crore and the receipts are estimated at INR 19.32 lakh crore.
- ▶ The government has chosen to go for an expansionary budget and has budgeted a fiscal deficit of 3.5% for 2020-21.
- ▶ The fiscal deficit target of 3.5% of GDP in Financial Year 2020-21 is critically dependent on the ambitious disinvestment target of INR 2.1 lakh crore, which is 223% more than the Financial Year 2019-20 Revised Estimates (RE) at INR 65,000 crore.

Particulars	Actuals 18-19	BE 19-20	RE 19-20	BE 20-21
Fiscal Deficit	3.40%	3.30%	3.80%	3.50%
Revenue Deficit	2.40%	2.30%	2.40%	2.70%
Primary Deficit	0.40%	0.20%	0.70%	0.40%



- ▶ A good part of the borrowings would go towards capital expenditure. Around INR 22,000 crore have been allocated for equity to fund certain specified infrastructure finance companies.
- ▶ India has moved up from rank 65 in 2014 to 34 in 2019 in the Travel & Tourism Competitive Index (World Economic Forum).
- ▶ Revised estimate Growth in Government's gross tax revenues in Financial Year 2019-20 is 4% as compared with a budgeted growth of 18.3% for Financial Year 2019-20. This is due to the impact of economic slowdown reflected in a fall in the real and nominal GDP growth.
- ▶ Among direct taxes, growth in Corporate Income Tax (CIT) revenues is negative at (-)8% in Financial Year 2019-20 RE mainly due to the CIT reforms.
- ▶ Growth and buoyancy of Personal Income Tax (PIT) revenues are expected to be relatively high in financial year 2020-21 RE, possibly due to gains on account of "Vivad se Vishwas" Scheme for reducing direct tax litigation.



Economic Policies and Proposals

- ▶ As a backward linkage, a Village Storage scheme is proposed to be run by the Women Self Help Group (SHGs), which will provide farmers a good holding capacity and reduce their logistics cost.
- ▶ Government has proposed to involve youth in fishery extension through 3477 **Sagar Mitras** and 500 Fish Farmer Producer Organizations. On hoping to raise fishery exports to INR 1 lakh crore by 2024-25.
- ▶ With intention to introduce major reforms in recruitment to Non-Gazetted posts in governments and public sector banks and to ease the recruitment process it is proposed to set up a **National Recruitment Agency (NRA)** for conduct of a computer-based online Common Eligibility Test for recruitment.
- ▶ With education being given importance over 2 lakh crowd sourced suggestions were received in regard to the education policies. The government will soon announce the **New Education Policy**. Also, INR 99,300 crores for education sector in 2020-21 and about INR 3,000 crores for skill development is allocated.
- ▶ **IND-SAT test**: The government has also proposed to set up **IND-SAT test** for foreign students wishing to pursue higher education in India.
- ▶ Commitment to the goal of doubling farmers' incomes by 2022, the government has provided resilience for 6.11 crores farmers insured under **PM Fasal Bima Yojana**.
- ▶ Comprehensive measures are being taken for water stressed districts which is a serious concern in the country.
- ▶ **Kisan Rail** is set up by the Indian railways, to facilitate smooth and fast transport and to build a national cold supply chain for perishables, inclusive of milk, meat and fish, etc.
- ▶ The Government will also help 20 lakh farmers to set up standalone solar pumps.
- ▶ The government also proposed to expand **Jan Aushadhi Kendra Scheme** to all districts offering 2000 medicines and 300 surgicals by 2024.
- ▶ **Jal Jeevan Mission** is announced aiming to provide piped water supply to all households and has approved INR 3.60 lakh crore, which emphasis on augmenting local water sources, recharging existing sources and promote water harvesting and de-salination.
- ▶ **NIRVIK** is being launched to achieve higher export credit disbursement, which provides for higher insurance coverage, reduction in premium for small exporters and simplified procedure for claim settlements.
- ▶ **FASTag** a mechanism encouraging towards greater commercialization of highways enabling NHA to raise more resources. It is proposed to monetize at least **twelve lots of highway bundles** of over 6000 km before 2024.

- ▶ Policy for enabling private sector to build **data center parks** will be introduced which will enable firms to skilfully incorporate data in every step of their value chain.
- ▶ 100 more airports will be set up by 2024 under **UDAAN scheme**.
- ▶ There will be an allocation of INR 8,000 crore for National Mission on **Quantum Computing and Technology**.
- ▶ **National Logistics Policy** will be released soon for creation of a single window e-logistics market and focus on generation of employment, skills and making MSMEs competitive.

Direct Tax Related Proposals

1. Proposals specifically relating to Individual/HUF Tax payers

1.1. Tax slabs and rates

- ▶ The tax slab and tax rates are as under:

Up to INR 2,50,000*	Nil
INR 2,50,001 to INR 5,00,000	5%
INR 5,00,001 to INR 10,00,000	20%
Above INR 10,00,000	30%



Note (*): in the case of resident individual who is of the age 60 years INR or more, but less than 80 years INR is INR 3,00,000 and the next slab shall start from INR 3,00,001 and so on.

In the case of resident individual who is of the age 80 years INR or more total income up to INR 5,00,000 is exempt.

- ▶ A new section 115BAC is proposed to be inserted to provide the benefit of new tax rates which are provided as below, at the option of the taxpayer being an individual or HUF:

Up to INR 2,50,000*	Nil
INR 2,50,001 to INR 5,00,000	5%
INR 5,00,001 to INR 7,50,000	10%
INR 7,50,001 to INR 10,00,000	15%
INR 10,00,001 to INR 12,50,000	20%
INR 12,50,001 to INR 15,00,000	25%
Above INR 15,00,000	30%



A taxpayer opting for taxation under this scheme shall not be entitled to the following exemptions/deductions:

- Leave Travel Concession and House Rent Allowance
- Standard deduction, deduction for entertainment allowance and employment/professional tax as contained in section 16
- Daily Allowance, Constituency Allowance and any other allowance for a member of Parliament, State Legislature and Committee
- INR 1,500 in case of clubbing of incomes of minor child
- Interest on housing loan
- Additional depreciation of 20% on new machinery/plant acquired and installed by an Individual or HUF engaged in the business of manufacturing or production of any article or thing or in the business of generation, transmission or distribution of power.
- Deduction from family pension
- Any deduction under chapter VI-A (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 8-EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA) other than
 - 80CCD(2) - Contribution by employer into the notified pension scheme
 - 80JJAA - Deduction in respect of employment of new employees.

The proposed option shall be exercised for every previous year where the individual or the HUF has no business income, and in other cases the option once exercised for a previous year shall be valid for that previous year and all subsequent years.

The proposed option can be withdrawn only once where it was exercised by the individual or HUF having business income for a previous year other than the year in which it was exercised and thereafter, the individual or HUF shall never be eligible to exercise option under this section, except where such individual or HUF ceases to have any business income.

The proposed option shall become invalid for a previous year or previous years, as the case may be, if the individual or HUF fails to satisfy the conditions. In such cases, other provisions of the Act shall apply.

These provisions are applicable from AY 2021-22.

- ▶ Consequential amendments are proposed to be made u/s 115JC (Alternate Minimum Tax(AMT)) and 115JD (Tax credit for AMT) wherein that the provisions relating to AMT shall not apply to such individual or HUF having business income and that the provisions relating to carry forward and set off of AMT credit, if any, shall not apply to such individual or HUF having business income.

1.2. Residential status

▶ In the case of an individual being a **citizen of India** or a **person of an Indian Origin** who comes on a visit to India in any previous year, relaxation was available if he stays for less than 182 days. It is proposed to reduce the limit in number of days to **120 days**.

▶ A new clause is proposed to be inserted so as to **treat an individual as resident**, being a citizen of India, if he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

A clarification was issued on 2nd February, 2020 by CBDT through a press release wherein it is clarified that, an Indian Citizen who becomes deemed resident of India under this proposed provision, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession.

▶ The determination criteria for **“not ordinarily resident (NOR)”** in India in the previous year is proposed to be changed as below:

- In the case of an individual who is non-resident in India for **7 out of 10 previous years**
- In the case of an HUF, whose manager has been a non-resident in India for **7 out of 10 previous years**

1.3. Proposals relating to Salary Income

▶ It is proposed to amend section 17(2)(vii) so as to consider amount or aggregate amounts of **contribution made by the employer** to the account of the employee in the following funds in **excess of INR 7,50,000** in a previous year as prerequisite:

- Recognised Provident Fund (RPF)
- In the pension scheme referred to in section 80CCD(1)
- In an approved Superannuation Fund

▶ Further, annual accretion by way of interest, dividend or any other amounts of similar nature during the previous year to the balance at the credit of the above mentioned funds/scheme to the extent it relates to aforesaid limit of contribution, is proposed to be taxed as prerequisite.

▶ It is proposed to amend rule 3 of the Rules so as to remove exemption in respect of **free food and beverage** through vouchers provided to the employee, being the person exercising option under the proposed section, by the employer.



2. Proposals relating to Business Income

- ▶ Section 35AD is proposed to be amended so as to provide an option to the taxpayers for claiming whole of the **capital expenditure** incurred for the purpose of any **specified business** carried on by them during the previous year. Earlier the deduction should have been claimed in the year of its incurrence itself. Now, the **option is proposed** to be given for the taxpayer to claim the same in any other years.
- ▶ The **threshold limit for tax audit u/s 44AB** for the person carrying on business is proposed to be increased from **INR 1 crore to INR 5 crores** provided that, the aggregate amounts **received in cash** does not exceed 5% of total sales/turnover/gross receipts and the aggregate of **all payments made** including amount incurred for expenditure does not exceed 5% of the said payment. Otherwise, the original limit continues.

3. Proposals relating to Immovable property transactions

- ▶ At present, while taxing income from capital gains (section 50C), business profits (section 43CA) and other sources (section 56) arising out of transactions in immovable property, if the difference between the **sale consideration and stamp duty value** is 5%, such difference shall be ignored and actual sale consideration itself will be considered for the computation. If not, stamp duty value should be considered as sale consideration. Such difference is taxed as income both in the hands of the purchaser and the seller. Such safe harbour of 5% is proposed to be **increased to 10%**.
- ▶ As per explanation to section 55(2), while computing the capital gains, the **cost of acquisition** of the land or building or both which became property of the taxpayer before 01-04-2001, shall be Fair Market Value (FMV) as on 01-04-2001. It has been proposed to amend this explanation to state that such **FMV shall not exceed the stamp duty value** as on 01-04-2001. Similar amendment has also been made in section 56(2)(x), which provides for taxation in the hands of the recipient where immovable property is purchased at values less than FMV.

4. Proposals relating to Start-ups

- ▶ The existing provisions of section 80-IAC provide for a deduction of an amount equal to 100% of the profits and gains derived from an eligible business by an eligible start-up for 3 consecutive assessment years out of 7 years, at the option of the assessee, subject to the condition that the eligible start-up is incorporated on or after 1st April, 2016 but before 1st April, 2021 and the total turnover of its business does not exceed INR 25 crores.

It is proposed to amend section 80-IAC so as to provide that

- The deduction under the said section 80-IAC shall be available to an eligible start-up for a period of **3 consecutive assessment years out of 10 years** beginning from the year in which it is incorporated.
- The deduction under the said section shall be available to an eligible start-up, if the total turnover of its business **does not exceed INR 100 crores** in any of the previous years beginning from the year in which it is incorporated.

5. Taxation of dividends

▶ As per section 115-O, a domestic company is supposed to pay additional income-tax (Dividend Distribution Tax (DDT)) at the rate of 15% on the amount declared, distributed or paid by way of dividends. Such dividend is exempt in the hands of the recipient u/s 10(34) subject to an upper limit of INR 10,00,000 as per section 115BBDA.

Similarly u/s 115R, specified companies and Mutual Funds are liable to pay additional income-tax at the specified rate on any amount of income distributed by them to its unit holders. Such income is then exempt in the hands of unit holders u/s 10(35).

W.e.f. 01-04-2021, it is proposed to carry out amendments so that **dividend or income** from units are **taxable in the hands of shareholders or unit holders** at the applicable rate and the domestic company or specified company or mutual funds **are not required to pay any DDT**.

It is also proposed to remove reference of section 115-O in various sections like section 57, section 115A, section 115AC, section 115ACA, section 115AD, section 115BBDA and section 115C.

▶ Further, a new section 80M is proposed to be inserted to remove the cascading effect of dividend paid amongst the inter companies.

▶ It is proposed to amend section 194 to include **dividend for tax deduction**. At the same time the rates of 10% is proposed to be prescribed and threshold is proposed to be increased from INR 2,500 to INR Rs 5,000 for dividend paid other than cash. Further, at present the mode of payment is given as "an account payee cheque or warrant". It is proposed to change this to any mode.

▶ It is proposed to amend section 195 to **delete exemption provided to dividend**. Hence, in case of non-residents, TDS needs to be deducted at the time of payment of dividends.

6. Proposals relating to Trusts

6.1. Approval and registrations

The present process of registration of trusts, institutions, funds, university, hospital etc u/s 12AA or under 10(23C)(iv), (v),(vi) or (via) and approval of association, university, college, institution or company is proposed to be amended as below:

▶ Approval u/s 10(23C) or Approval u/s 80G -

Time limit for making the application for getting the approval:

- (i) Existing taxpayers must make an application within 3 months of the new provision coming into force which would be 30-09-2020. Approval shall be granted for 5 years.
- (ii) Where the approval under new proposed provision are granted, application to be made atleast 6 months prior to the expiry of such approval.
- (iii) Where provisional approval is granted, atleast 6 months to the expiry of provisional approval or within 6 months of commencement of its activities, whichever is earlier.

- (iv) In any other case including application for 1st time approval, application to be made atleast 1 month prior to the commencement of the previous year relevant to the assessment year from which the said approval is sought. In such cases, approval shall be granted for 3 years from the assessment year from which the registration is sought.

Further, all the applications which are currently pending before the Principal Commissioner or Commissioner shall on which no order has been passed before the date of the new provision coming into force, shall be deemed to be an application made under clause (iv) above.

These provisions are applicable from 01-06-2020.

► Registration of trusts/institutions u/s 12AA – substitution by new provision 12AB

A new provision for registration of trusts/institution is proposed to be inserted w.e.f 01-06-2020. The provision goes as under:

Time limit for making the application for seeking the registration u/s 12AB:

- (i) Existing taxpayers must make an application within 3 months of the new provision coming into force which would be 30-09-2020.
- (ii) Where the registration under new proposed provision is granted, application to be made atleast 6 months prior to the expiry of such registration.
- (iii) Where provisional registration is granted, atleast 6 months to the expiry of provisional registration or within 6 months of commencement of its activities, whichever is earlier.
- (iv) Where registration of the trust or institution has become inoperative due to the first proviso to section 11(7), atleast 6 months prior to the commencement of the assessment year from which the said registration is sought to be made operative.
- (v) Where the trust or institution has adopted or undertaken modifications of the objects which do not conform to the conditions of registration, within 30 days from the date of the said adoption or modification.
- (vi) In any other case including application for 1st time registration, application to be made atleast 1 month prior to the commencement of the previous year relevant to the assessment year from which the said registration is sought. In such cases, approval shall be granted for 3 years from the assessment year from which the registration is sought.

► It is also proposed to make amendments in various sections to give effect to section 12AB where the reference of 12AA is present.



7. Proposals relating to effective tax administration and compliance

- ▶ Filing of statement of donation by donee to cross-check claim of donation by donor

Certain provisions of the Act provide an exempt entity may accept donations or certain sum for utilisation towards their objects or activities in respect of which the payer, being the donor, gets deduction in computation of his income.

It is proposed to amend the provisions relating to such sections so as to make the entities receiving donation/sum to **furnish a statement** in respect thereof, and to issue a certificate to the donor/ payer and the claim for deduction to the donor/ payer may be allowed on that basis only. In this regard, amendments are proposed to following sections:

- **Section 35** where research association, university, college or other institution or a company are into scientific research or research in social science or statistical research
- **Section 80G** certain fund or charitable institution etc

Further, in order to ensure proper filing of the statement, levy of a fee u/s 234G and penalty u/s 271J are proposed to be provided in cases where there is a failure to furnish the statement by inserting aforesaid sections.

- ▶ Section 139(1) of the Act provides for due date for filing of Income Tax returns. The due date for a Partnership Firm or LLP which is subject to audit under Income tax Act or any other law was 30th September of every year. Moreover, the due date for working partners were also the same. In order to ensure that due date is aligned for non-working Partners, also, relevant amendment has been proposed. This ensures that the **due date for non-working Partners in a Firm or LLP also to have due date as that of the Firm/LLP.**

- ▶ Furthermore, the due date to file the income tax return in such cases where the due date was 30th September, it is proposed to extend that to **31st October.**

- ▶ However, the due date to furnish the tax audit report/TP audit report has been amended to make it 1 month prior to the due date of filing the IT returns by proposing to amend the term "specified date" as mentioned in explanation to section 44AB and in section 92F(iv).

Consequential amendments are proposed to be made to section 10, section 10A, section 12A, section 32AB, section 33AB, section 33ABA, section 35D, section 35E, section 44AB, section 44DA, section 50B, section 80-IA, section 80IB, section 80JJAA, section 115JB, section 115JC and section 115VV.

- ▶ A new section, 119A is proposed to be added to adopt a **Tax payers' charter** by the Central Board of Direct Taxes to ensure transparency in the rights of tax payers.

8. Proposals relating to International Taxation and Non-Residents

- ▶ **Section 9** provides for deeming fiction of incomes which will accrue or arise in India. One of such deeming fiction is for Business incomes that accrues or arises in India when a business connection exists in India. By Finance Act, 2018, an entity having **Significant Economic Presence (SEP)** in India was also considered to be having business connection in India. These provisions were to apply from 01-04-2019. However, since the monetary limit of its applicability was not notified, these provisions were not operative. In the backdrop that these provisions are still under negotiation at international levels, **the applicability has been deferred till FY 2021-22.**

▶ Furthermore, the source rule for determining Business connection is proposed to be enhanced to include **advertising incomes, sale of data collected from person residing in India and sale of goods or services using the data collected from person residing in India also**. Such amendment is proposed to be applicable from AY 2022-23.

▶ In order to allow Central Government to enter into **Multi Lateral Agreements (MLI)** to avoid Base erosion and profit shifting, **section 90 and 90A** are proposed to be amended to enable powers to the Government to enter into such agreements. A are proposed to be amended to enable powers to the Government to enter into such agreements.

9. Proposals relating to Transfer Pricing provisions

▶ Safe Harbour Rules are those which provide certain fixed percentage of Transfer Price (TP) margin, if retained by Associated enterprises, such margins will not be disputed by tax authorities. Similarly, Advance Pricing Arrangements (APA) are those agreements that Government signs off with multi nationals agreeing on a TP margin based on certain facts and circumstances, which again will be accepted by tax authorities. Amendments are proposed to extend **the benefit of Safe Harbour Rules and APA to profit attribution of Permanent Establishments with a view to avoid disputes**. Amendment are proposed to section 92CB and 92CC.

10. Proposals relating to deduction and collection of tax at source

▶ Section 192 provides for deduction of tax at source by employer on salary paid to his employees. Further, section 17(2) provides that Employee Stock Option Plan (ESOP) is a component of salary for this purpose. It has been proposed to defer the deduction of TDS on salary on ESOP by a registered start-up employer. Henceforth section 192 is proposed to be amended, only for employees of eligible start-up, whereby the TDS on ESOP is proposed to be applied in the following manner:

As if the ESOP is taxable within 14 days from:

- Expiry of 48 months from the end of the assessment year in which such ESOPs were exercised or
- From the date of sale of ESOP or
- From the date on which such employee ceases to be an employee of the start-up employer

Whichever is earlier.

This means that, even though the tax incidence is in the year of exercise of options under an ESOP or sweat equity scheme, the tax deduction by employer or tax payable by employees will be in the above-mentioned manner. Consequential amendments are also proposed in section 191(Direct payment by deductee), section 140A (calculation of self-assessment tax) and section 156 (notice of demand).

▶ **Section 194A** provides for TDS to be deducted on payment of interest by banks in certain circumstances and by also interest payment by others. It has been proposed to ensure that **large co-operative society** also are under the obligation to deduct tax at source at the rate of 10% and the following conditions have been prescribed for its applicability:

- Deductor co-operative society having total sales, gross receipts or turnover exceeding INR 50 crores (500mn)
- The amount of interest being paid is INR 50,000 in case the recipient is a senior citizen or INR 40,000 in case of others

▶ **Section 194C** provides for deduction of tax at sources for any contract involving works (which is defined to mean advertising, catering, carriage of goods, labour contract, contract manufacturing etc). In the definition of works for the contract manufacturing, it was stated that it will be a works contract only if the material is supplied by the same customer who is engaging the contractor and not in other situations.

It is proposed to amend this definition to include that in case the material is being purchased from other party but such party is an associate (u/s 40A(2)(b)) of the customer, even then it will be considered as works contract and will not fall within the exception.

▶ **Section 194J** provides for deduction of TDS at 10% fees paid for professional services, fee for technical services, royalty, non-executive Directors' remuneration and non-compete fees. It is proposed to lower the rate of **TDS at 2% for fees for technical services alone**. The term for fees for technical services is defined in the law to include fees for managerial, technical and consultancy services.

Interestingly, the term professional service also includes technical consultancy. This could lead to some amount of overlap and interpretational differences.

▶ A new **section 194K** is proposed to be inserted to ensure TDS by mutual funds or certain specified undertaking or companies **on incomes** that are paid out to the unit holders. The rate of TDS proposed is 10% and the threshold is above INR 5,000.

A clarification was issued on 4th February, 2020 by the Ministry of Finance that the new TDS provision will not apply for Capital gains arising to holders of Mutual fund units and it is proposed only for the dividends or similar incomes that are paid out.

▶ A new **section 194-O** is proposed to be inserted. This provision is proposed to cast a responsible on ecommerce operators to deduct **TDS at 1%** on the gross value of goods or services that ecommerce participants that are being paid through the ecommerce platform. Further, this provision is to apply only for those ecommerce participants whose value of the goods or services in a financial year exceeds a monetary threshold of INR 500,000. Furthermore, this provision would not apply to advertisement revenue that ecommerce operator would earn out of the platform. In case of non-furnishing of PAN, a higher rate of 20% is prescribed u/s 206AA, this is proposed to be partially modified to make such higher rate to 5% for the purpose of deductees covered under this new section.

▶ It is proposed to omit the provisions (Section 203AA) relating to **Form 26AS** – an aggregated statement of TDS which was available to all the tax-payers under their login in the income tax portal. In the place of this a new **Annual Information Statement** (Section 285BB) is proposed to be inserted w.e.f. 1st June, 2020.

▶ Amendments are proposed to section 206C, which provides for Tax Collection at source. The proposed amendments are:

- The **Authorised dealer of forex** is required to collect TCS at 5% from any person who requires transfer out of India an amount of **INR 750,000 or more** in aggregate under Liberalised Remittance Scheme.
- **A tour operator** is required to collect TCS at 5% on any amount received from his customers on **overseas tour package**. In case the customer is required to deduct TDS on such purchase, then such TCS provisions will not apply.
- **Every seller** is required to collect a TCS of 0.1% of the value of goods being sold if it exceeds a value or aggregate of value of INR 50,00,000. This however, will not apply to goods on which TCS is already there in 206C or for those goods where the buyer has to deduct TDS under any other provisions (ex: Sale of immovable property 194-IA). This provision is applicable only for those sellers whose turnover, gross receipts or sales exceeds INR 10 crores (INR 100 mn) in the previous financial year.

▶ For the **applicability of all the TDS related provisions**, the monetary threshold was fixed in line with thresholds of tax audit u/s 44AB. Since a new threshold of INR 5crores have been fixed for the applicability of tax audit under certain circumstances, amendments are proposed to ensure that though the threshold in such circumstances for audit may increase, the threshold for applicability of TDS and TCS provisions will still remain at **INR 1 crore (for sale of goods) and INR 50 lakhs (for sale of services)**.

11. Proposals relating to Appeals

▶ Provision of section 250 of the Act is proposed to be amended **to make appeals before Commissioner of Income Tax (Appeals) electronic and faceless appeals**. Detailed scheme about this is expected to be published anytime before 31st March 2022.

▶ Section 254 of the Act provides for appeals before Income Tax Appellate Tribunal (ITAT). Sub-section (2A) of the said section provides for granting of stay. An amendment is proposed in the explanation to the said sub-section where **payment of 20% of the demand has been mandated for grant of any stay**. Furthermore, amendments are proposed to ensure that no stay beyond 365 days in any case can be granted by the ITAT.

12. Proposals relating to Penalty Provisions

▶ A new **section 271AAD** is proposed to levy penalty for those tax payers who are found to have made **false entries** in the books of accounts or **omitted to make entries in a false manner**. Such penalty may also be levied on person who has facilitated such false entries to others. The penalty is proposed to be the aggregate value of such entries.

▶ A new **section 274** is proposed to be inserted whereby penalty proceedings would become faceless and through electronic mode.





13. Other Proposals

▶ A reduced rate of tax for domestic companies (section 115BAA) at 22% and newly set-up manufacturing companies (115BAB) at 15% was introduced recently. These provisions require that no deduction/exemption is claimed by those companies. A couple of carves out have been proposed where deductions can be claimed u/s 80JJAA – for providing additional employment and 80M – deduction of corporate dividend by intermediate holding company while calculating the date. The proposed amendments have been made in 115BAA and 115BAB.

▶ It is proposed to insert a new clause (23FE) in section 10 so as to provide exemption to any income of a specified person in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India, whether in the form of debt or equity, in a company or enterprise carrying on the business of developing, or operating and maintaining, or developing, operating or maintaining any infrastructure facility or such other business as may be notified by the Central Government in this behalf.

In order to be eligible for exemption, the investment is required to be made on or before 31st March, 2024 and is required to be held for at least 3 years.

For the purpose of this clause, “specified person” is proposed to be defined to mean,

- (a) a wholly owned subsidiary of the Abu Dhabi Investment Authority (ADIA), which is a resident of the United Arab Emirates (UAE) and which makes investment, directly or indirectly, out of the fund owned by the Government of the United Arab Emirates; and
- (b) a sovereign wealth fund which satisfies the conditions mentioned therein

▶ A new **provision u/s 115BAD** is proposed to be inserted for providing a **reduced rate of taxation at 22% to co-operative societies** for Assessment Year starting on or after 1st April, 2021. In order to avail such reduced rate, the co-operative society should not be claiming any exemptions or deductions except u/s 80JJAA or should not be claiming any set-off of losses or should not be claiming any additional depreciation

Indirect Tax Related Proposals

Proposals relating to Goods and Services Tax (GST)

- ▶ It is proposed to implement a **simplified GST return** from the 1st April, 2020. It will make return filing simple with features like SMS based filing for nil return, return pre-filing, improved input tax credit flow and overall simplification.
- ▶ There is a relaxation in restriction of 30th September - the annual return deadline for input tax credit on debit notes with it now being linked to the debit note date instead of the original invoice date.
- ▶ Fraudulent availment of input tax credit without invoice has been made cognizable and non-bailable offence.
- ▶ Several measures have proposed to be taken for improving compliance. In this regard, **Aadhaar based verification** of taxpayers is being introduced and Dynamic QR-code is proposed for consumer invoices. GST parameters will be captured when payment for purchases is made through the QR-code.
- ▶ It is proposed to fully automate and simplify the refund process system.
- ▶ It is proposed to amend Section 14 of the Goods and Services Tax (Compensation to States) Act retrospectively to extend the time limit provided for removal of difficulties thereunder **from 3 years to 5 years** with effect from the date of commencement of the said Act.

Proposals relating to Customs Law

- ▶ It is proposed to amend Section 28AAA of the Customs Act so as to provide for recovery of duty from a person against utilisation of instruments issued under any other law, or under any scheme of the Central Government, for the time being in force, in addition to the Foreign Trade (Development and Regulation) Act, 1992. It also proposed to **expand the scope of the term "instrument"** to include duty credit issued under section 51B.
- ▶ A new Section 51B proposed to be added in Customs Act to provide for creation of an **electronic duty credit ledger** in the customs automated system and manner of its utilisation.
- ▶ A new clause (q) in Section 111 proposed to be added in Custom Act to provide for **confiscation of improperly imported goods** for contravention of the provisions of Chapter VAA.
- ▶ Anti-Dumping Rules have been made comprehensive and wider to strengthen the anti-circumvention measures
- ▶ To promote the domestic healthcare manufacturing sector in India vide clause 139 of the Finance Bill, 2020, **Health Cess** is being imposed on the import of medical devices falling under headings 9018 to 9022, **at the rate of 5%** ad valorem on the import value of such goods as determined under Section 14 of the Customs Act, 1962.
- ▶ It is proposed to raised **rate of duty for footwear** from 25% to **35%**; and for "parts of footwear" from 15% to 20%.

- ▶ It is proposed to raised **rate of duty** for specified **Furniture** goods from 20% to **25%**.
- ▶ It is proposed to reduce basic customs duty on imports of **newsprint and lightweight coated paper** from 10% to 5%.

Other Proposals

- ▶ An increase is proposed in National Calamity Contingent Duty (NCCD) on Cigarettes and Tobacco products. NCCD on Bidis remains unchanged.



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