

Tax Wire



**Finance Act, 2020 – Passed with
multiple amendments**

2nd April, 2020

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Background

Indian Finance Minister had presented the Budget containing the Finance Bill, 2020 on 1st February, 2020. This was tabled in both the houses of Parliament and was supposed to be discussed. However, amidst the outbreak of Covid-19, the bill was passed by both the houses of Indian Parliament without the discussion on 24th March, 2020. It also received the assent of President of India on 27th March 2020 and became a law.

A number of amendments were made before passing the Bill. In this edition of Tax Wire, we have tried to capture the most important amendments that were made from the Finance Bill that was earlier tabled. Our budget publication containing the highlights of Finance Bill, 2020 can be read here – [Budget Panorama-2020](#)

We have tabulated some important amendments below:

Sl. No.	Original Provision of Law	Amendment that was proposed in Finance Bill 2020	Final provision as per Finance Act, 2020
1	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 was proposed to reduce the limit in number of days to 120 days	Such reduction in number of days threshold will only apply for individuals, who have total income sourced in India exceeding INR 15 lakhs (INR 1.50mn)
2	NA	A new clause was 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.	Such new provision will apply for individuals/HUF, who have total income sourced in India exceeding INR 15 lakhs (INR 1.50mn)
3	NA	NA	The deemed resident as per the above clause will be treated as Resident but not ordinarily resident
4	Not ordinary resident in India are those: a) Individual or Karta of HUF has been a non-resident in India for at least 9 years out of 10 years preceding the previous year; or b) Individual or Karta of HUF has been in India for	It was proposed to change as under: <ul style="list-style-type: none"> • 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 	The change has been omitted, which means the original conditions continue.

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	729 days or less during the period of 7 years preceding the previous year.		
5	NA	NA	Corpus donation received from entities registered u/s 10(23C) need not be considered for the purpose of computing application of income
6	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.	W.e.f. 01-04-2021, it was 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 . 80M was introduced to ensure that dividend received by a domestic co. from another domestic co. shall be reduced from the total income of that company that further distributes such dividend income to the shareholders within one month before the due date of filing of return.	To remove this ambiguity on taxation of dividend received post 1 st April but declared before 31 st March, 2020, changes have been made to section 10(34) to provide that dividend received by assessee on or after 01-04-2020 shall not be included in his income if tax has already been paid on such dividend under section 115-O or section 115BBDA, as the case may be. Changes have also been made to ensure that cascading deduction can be claimed on dividends received from Foreign companies , which are distributed as dividends between inter-companies.
7	Equalisation levy at 6% was applicable for certain transactions for consideration paid or payable to a non-resident person for the online advertisement services and such transactions were exempt from Income tax u/s 10(50)	NA	The scope of Equalisation levy has been extended to Sum received or receivable by an e-commerce operator from e-commerce supply of goods or services to specified persons, apart from online advertising. Therefore, such transactions are also included in exemption u/s 10(50)
8	NA	New Taxation regime for individuals was introduced u/s 115BAC where it was prescribed that any person having business income can choose this scheme before due date for filing IT returns and such choice will continue forever.	It is now added that person earning income from business or profession fall under this category where once opted such option will continue forever.

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9	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 was 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.	Lower rate of 2% has been made applicable for Royalty which is towards sale, distribution or exhibition of cinematography films also.
10	NA	<p>A new section 194K was 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.</p> <p>It was later clarified that such TDS will not apply for distribution of Capital gains.</p>	The clarification has now been brought into the section to exclude deduction of TDS on capital gain distribution.
11	Section 194N provided for deduction of TDS of 2% on sum exceeding Rs.1 crore on cash withdrawal made by its customers, from banking companies, post office or co-operative society engaged in banking company.	NA	<p>In case the recipient who is withdrawing the amount has not filed ITR for all the 3 years prior to the year of withdrawal, then the following would apply;</p> <p>a) Threshold for TDS reduced to INR 20lakhs b) TDS at 2% if the withdrawal is between INR 20lakhs and INR 1 crore or TDS at 5% if the withdrawal exceeds INR 5 crores</p> <p>Central Government may notify in consultation with Reserve Bank of India, such cases where the lower threshold and enhanced TDS rate would not apply.</p>
12	NA	A new section 194-O was 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.	<p>New insertions:</p> <ul style="list-style-type: none"> - Tax board has been conferred power to come out with guidelines to remove any difficulties - The definition of e-commerce had an ambiguity which has been removed by clarifying that e-commerce operator need

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		Further, this provision is to apply only for those e-commerce participants whose value of the goods or services in a financial year exceeds a monetary threshold of INR 500,000.	not be the one paying the e-commerce participant but may merely be a facilitator for such payment also.
13	NA	<p>Amendments were proposed to section 206C, which provides for Tax Collection at source on:</p> <ul style="list-style-type: none"> - Remittance under Liberalised Remittance Scheme(LRS) in excess of INR 7 lakhs – TCS at 5% - Tour operator on receiving money for overseas tour package – TCS at 5% - Receipt of INR 50lakhs & above as consideration towards sale of goods – TCS at 0.1% 	<ul style="list-style-type: none"> - Requirement of TCS on LRS would be required only when the remittance exceeds INR 7 lakhs and it is not required to collect tax on amount within the threshold, except if it is for overseas tour package. - a lower rate of 0.5% TCS by an authorised dealer where the amount being remitted out of India is a loan, which is obtained from financial institution) as defined u/s 80E, for the purpose of pursuing any education. - No TCS is required on sale proceeds from export of goods and on goods imported into India - These provisions to apply from 1st October, 2020

Advith Comments

It is interesting to see that, so many amendments were made before the passage of the Finance Act. This shows that the Government was listening to the feedback of the people once the Finance Bill was presented. The Hon'ble Finance Minister went through the country meeting various stake holders post the introduction of the Bill and looks like these amendments are a result of such consultation. The introduction of Equalization levy on e-commerce suggests that the Indian tax authorities have taken the BEPS Action plan way too seriously. It is essential to ensure that a levy of the kind of equalisation levy is not misused to tax such transactions which are genuinely not taxable in source country.

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Reach us at:

Advith Consulting LLP

No. 72/1, 1st Floor, Jnanodaya School Road
Shankarapark, Shankarpuram, Bangalore 560 004
Contact: 6364133111, 080 22426484;
e-mail: info@advithconsulting.in
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