

# FINANCE BILL 2020

# HIGHLIGHTS



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**DIRECT TAX PROPOSALS**

**Tax Rates for FY 2020-21**

**Individuals/HUF**

- Optional tax regime introduced to provide relief to **Individuals/HUF** at the following tax rate subject to the condition that certain exemptions/ losses/ deductions cannot be claimed.

Ind/ HUF	Existing Tax rate	Proposed Tax rate
Upto 2.5L	NIL	NIL
>2.5L-5.0L	5%	5%
>5.0L-7.5L	20%	10%
>7.5L-10.0L	20%	15%
>10.0L-12.5L	30%	20%
>12.5L-15L	30%	25%
>15L	30%	30%

- In case, the taxpayer intends to claim deductions /exemptions, the existing tax rates and slabs will continue to apply.

**Firms**

- Tax Rate for **firms** remains **unchanged @ 30%**

**Domestic Companies**

- Tax Rate for **Domestic Companies** remains **unchanged**

Turnover in FY 2018-19	Tax Rate in FY 2020-21
Turnover<400 Cr	25%
Turnover>400 Cr	30%

**Other than Domestic Companies**

- Tax rate remains **unchanged @ 40%**

**Surcharge Rates for FY 2020-21**

**Individuals and domestic companies -**

Income (in INR)	Individual (unchanged)	Company (unchanged)
Upto 50L	NIL	NIL
>50 L - 1Cr	10%	NIL
>1Cr - 2Cr	15%	7%*
>2Cr - 5Cr	25%	7%*
>5Cr - 10Cr	37%	7%*
> 10Cr	37%	12%**

\*2% in case of “other than domestic companies”  
 \*\*5% in case of “other than domestic companies”

**Firms**

- Surcharge @ 12% of income tax if net income exceeds 1 Cr

**The Health and Education Cess remains unchanged @ 4%**

**Maximum Marginal Rates**

**Companies**

Particulars	Income > 10 Cr
<b>Domestic Company:</b>	
Turnover<400Cr (in FY 18-19)	29.12%
Turnover>400Cr (in FY 18-19)	34.94%
Foreign Company	43.68%

**Firms**

- Maximum rate @ 34.94% if income exceeds INR 1Cr.

**Individuals**

- Maximum rate @ 42.744% if income exceeds INR 10Cr.



## Individual Taxation

- The option between the current tax regime and the new tax regime is available to the individuals / HUF (not having business income) for the FY 2020-21 and subsequent FYs.
- Individuals and HUF having business income who have opted for such a regime can opt out only once and would not be eligible to exercise such an option again, unless the individual ceases to have business income.
- Under new regime, a salaried taxpayer would have to forego deductions and exemptions, such as
  - House Rent Allowance,
  - Leave Travel Concession,
  - Certain exemptions under section 10(14)
  - Standard deduction,
  - Professional tax
  - Most of the deductions available under Chapter VI-A of the Act.

Hence, the tax benefit would be based on the facts and case-specific.

### Changes in residential status conditions

- For determination of residential status, stay of 182 days has been 120 days for an **Indian citizen or a person of an Indian origin**, who being outside India, comes to India for the purpose of visit.

- A citizen of India will be deemed to be a resident if he is not liable to pay tax in any country outside India on account of his domicile, residence, or any other criteria of a similar nature.
- An individual or an HUF shall be said to be “not ordinarily resident”, if the individual or the manager of the HUF has been a non-resident in India in seven out of ten previous years preceding that year.  
The condition for physical stay of 730 days during preceding 7 previous years has been removed.

### Taxability of dividend

- Dividends will be taxable only in the hands of Dividend receiver as per applicable tax slab (Dividend Distribution Tax abolished).
- Exemption in the hands of the shareholder/unit holder will not be applicable on or after 1 April 2020.
- Section 115BBDA (which provides for tax on dividend income in the hands of shareholders at the rate of 10% in excess of INR 10L) shall not be applicable on or after 1 April 2020.
- Deduction will be allowed to the shareholder only in respect of interest expense under section 57 of the Act, not exceeding 20% of dividend income.

*Moving to classical system of taxing dividend in the hands of Shareholders and applicability of TDS on Dividends*

## Deferring tax payment in respect of income pertaining to ESOP of start-ups.

- Tax on ESOPs arising at the time of exercise in the hands of employees of eligible start-ups can now be deferred from exercise date to:
  - Sale of shares; or
  - Exit from the start-up; or
  - after the expiry of forty-eight months from the end of the relevant assessment year

whichever is earlier.

- Further, the rates in force in the financial year in which the shares and security is allotted or transferred will be applicable

## Rationalization of tax treatment of employer's contribution to recognized PFs, superannuation funds and NPS

- Combined upper limit of INR 7.5 Lakh in respect of employer's contribution in a year to NPS, superannuation fund and recognised PF and any excess contribution will be taxable in hands of employee. Any accretion on the said funds will also be taxable.

## Deduction for interest on loan for affordable housing

- An additional deduction up to INR 1.5 lakh will be continued to be provided for purchase of first residential house property, if the loan has been sanctioned between 01 April 2019 and 31 March 2021. The time limit for loan sanction has been extended from 31 March 2020 to 31 March 2021.

## FMV of immovable property acquired before 1 April 2001- For the purpose of computation of cost of acquisition

- In case of a capital asset, being land or building or both, the fair market value of such an asset on 1st April, 2001 shall not exceed the stamp duty value of such asset as on 1st April, 2001 where such stamp duty value is available.

## Deduction in respect of certain donations for scientific research or rural development

Deduction of cash donation under section 80GGA shall be restricted to Rs 2,000/- only.



## **Corporate Taxation**

### **Tax Holidays to Start-Ups**

Deduction u/s 80-IAC shall be available to an eligible start-up for a period of three consecutive assessment years out of ten years (earlier seven) and turnover limit is also increased from INR 25Crore to INR 100 Crore

### **Deduction in respect profits and gains derived from affordable housing projects, under section 80-IBA**

- For availing 100% deduction, period of approval of the project by the competent authority is extended to 31st March, 2021

### **Concessional Tax Regime**

- The Taxation Law Amendment Act, 2019 provides for 22% CTR to existing domestic companies and 15% CTR to new domestic manufacturing companies set up after 1 October 2019, subject to certain conditions.
- One of the conditions is that the taxpayer cannot claim specified deductions and incentives. This condition has been relaxed to provide that the eligible taxpayers can claim deduction with respect to intercorporate dividends.
- Concessional rate of 15% for new domestic manufacturing companies will now be applicable to electricity-generating companies as well.

### **Deduction in respect of capital expenditure incurred for specified business**

- It is proposed to make a deduction under section 35AD of the Act optional (deduction will be allowed only if the taxpayer opts for the same).
- In case any taxpayer opts not to claim deduction under section 35AD of the Act, then depreciation can be claimed under section 32 of the Act in respect of such capital expenditure.

### **Exemption in respect of certain income of wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund.**

- Exemption to any income of a 'specified person' in the nature of dividend, interest or long-term capital gains arising from an investment made 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 other notified business
- Investment is required to be made on or before 31 March 2024 and is required to be held for at least three years.
- For the purpose of this exemption, 'specified person' means:
  - A wholly owned subsidiary of the ADIA, which is a resident of the UAE and which makes investment, directly or indirectly, out of the fund owned by the Government of the UAE; and
  - A sovereign wealth fund (which satisfies certain specified conditions).

### **Removal of the cascading effect of tax on dividend received by a domestic company**

- Set off will be allowed only for dividend distributed by the company





**Reducing TDS rates on fee for technical services (other than professional services)**

- It is proposed to reduce rate for TDS in section 194J in case of fees for technical services (other than professional services) to 2% from existing 10%

**Tax deduction at source on interest other than ‘interest on securities’**

- It is proposed that a co-operative society shall be liable to deduct tax under section 194A where:
  - Total sales, gross receipts or turnover of such co-operative society exceeds INR 50 Crore in the preceding financial year; and
  - Interest credited or paid by co-operative society to a payee exceeds INR 40,000 (in case of senior citizens, INR 50,000).

**TCS on foreign remittance**

- An authorised dealer shall be liable to collect TCS at the rate of 5% on receiving an amount or an aggregate of amounts of INR 7 Lakh or more in a financial year for remittance out of India under the LRS of RBI. In non-PAN/Aadhaar cases the rate shall be 10%.

- A seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS at the rate of 5%. In non-PAN/ Aadhaar cases the rate shall be 10%
- Above provision shall not apply where buyer has deducted tax under any other provision of the Act and he has deducted such amount.

**TCS on sale of goods above specified limit**

- Levy of TCS at the rate of 0.1 % on consideration received from a buyer in a FY in excess of INR 50 Lakh. In non-PAN/ Aadhaar cases the rate shall be 1%.
- However only those sellers whose total sales, gross receipts or turnover from the business carried on by it exceed INR 10 crore rupees during the immediately preceding the FY, shall be liable to collect such TCS.

**Definition of “work” in section 194C**

- Definition of work is proposed to be amended to include contract manufacturing, where the material has been provided by the customer or its associate.
- The term ‘associate’ has been prescribed to include person as provided under section 40A(2)(b) of the Act.

**Threshold for TDS Liability**

- It is also proposed that an individual or HUF carrying on business or profession will be required to deduct taxes under section 194A, 194C, 194H, 194I, 194J and 206C of the Act if their total sales, gross receipts or turnover in the immediately preceding FY exceeds INR

1 Crore in case of business carried on or INR 50 Lakh in case they are carrying on a profession. (Earlier tax deduction liability was based on tax audit)

## **Amendment in section 194- TDS on Dividend Income**

- Section 194 has been amended to provide for levy of TDS at the rate of 10% on the dividend paid to a resident shareholder by a domestic company. Further, there shall be no TDS where the aggregate payment does not exceed INR 5,000 during a year, if paid by any mode other than cash; and
- NR shareholders may seek to claim relief in respect of lower TDS, if any, under the respective DTAA as well as for credit in their home country.

## **TDS on income from Mutual Funds - section 194K**

- It is proposed that mutual funds will not be required to pay additional income tax on income distributed to unit holders on or after 31 March 2020. (in alignment with removal of DDT)
- Consequentially, section 194K has been inserted to provide for levy of TDS at the rate of 10% on any income, in respect of units of Mutual Fund specified under section 10(23D) or units from the Administrator of the specified undertaking or units from the specified company. Therefore, tax will be withheld on the dividend/income accrued on mutual funds.

## **Tax deduction at source on E-commerce transactions**

- The TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its

digital or electronic facility or platform at the rate of 1%.

- E-commerce operator is required to deduct tax at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.

Sum credited\paid to an e-commerce participant (being an individual or HUF) by the e-commerce operator shall not be liable for TDS under this section, if the gross amount of sales or services or both of such individual *or* HUF, through e-commerce operator, during the previous year does not exceed INR 5 lakh and such e-commerce participant has furnished his PAN or Aadhaar number to e-commerce operator.



## International Taxation

### Relaxation in conditions for offshore fund exemption from business connection

- Section 9A of the IT Act provides for special regime in respect of offshore investment funds carrying out investment activities through fund managers in India by providing them exemption from creating a “business connection” in India on fulfilment of certain conditions.
- Following relaxations have been proposed to an investment fund to be eligible for the exemption:
  - Investments by investment managers up to INR 250m during the first 3 years of fund operation should not be considered for computing aggregate participation by residents in the fund.
  - The time limit is proposed to be amended to comply with the condition of the monthly average corpus to 12 months from the last day of the month of its establishment or incorporation.

### Aligning purpose of entering into DTAA with Multilateral Instrument (MLI)

- To prevent the granting of DTAA benefits in inappropriate circumstances and to align it with MLI, an amendment

is proposed in sections 90 and 90A of the Act which provide that the Government shall enter into said agreement for the avoidance of double taxation without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the said agreement for the indirect benefit to residents of any other country or territory).

### Deferment of Significance Economic Presence (SEP) provisions

- The Finance Act, 2018, inserted new explanation to Section 9 to clarify that the SEP of a non-resident in India shall constitute "business connection" in India although it was a non-recommended option for countries to adopt.
- Since discussion on this issue is still going on in G20-OECD BEPS project, the SEP provisions will be deferred by one year.

### Widening the definition of royalty

- Amendment in the definition of royalty to include consideration for the sale, distribution or exhibition of cinematographic films from its meaning.





**Widening the scope of income attributable to operations in India**

- It is proposed to insertion of new Explanation 3A to provide that the income attributable to the operations carried out in India, as referred to in explanation 1, shall include income from:
  - Such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through an Internet protocol address located in India;
  - Sale of data collected from a person who resides in India or from a person who uses an Internet protocol address located in India; and
  - Sale of goods or services using data collected from a person who resides in India or from a person who uses an Internet protocol address located in India.



**Miscellaneous**

**Increase in the threshold limit for tax audit**

- From INR 1 Crore to INR 5 Crore in cases where: -
  - cash receipts during the FY does not exceed 5% of total receipts; **and**
  - cash payments during the FY does not exceed 5% of such payment.

**Change in the due date for filing the tax return**

- With initiative to provide pre-filled tax return forms to ensure ease of compliance, following changes are proposed summarized are as under:

Assessee liable for tax audit	Due date for furnishing tax audit/ other report	Due date for furnishing return of income
Non-transfer pricing cases	30th Sep	31 <sup>st</sup> Oct
Transfer pricing cases	31 <sup>st</sup> Oct	30 <sup>th</sup> Nov

**Removal of distinction between a working and a non-working partner with respect to due date of ITR**

- The tax return is now proposed to be filed by 31<sup>st</sup> Oct of the AY for partners in a firm having tax audit.

**Exempting non-resident from filing of Income-tax return in certain conditions.**

- Non-resident taxpayers/ foreign companies will not be required to furnish their tax returns in India, if the following conditions are fulfilled:
  - their total income consists only of dividend or interest, or royalty or FTS; and
  - the TDS on such income has been deducted under the provisions of Chapter XVII-B of the Act at the rates which are not lower than the prescribed rates under sub-section (1) of section 115A.

**Increase in safe harbour limit of 5 % under section 43CA, 50C and 56 of the Act to 10 %**

In case of transfer of immovable property being land\building, if sale consideration is less than value adopted or assessable for stamp duty, then the stamp duty value is taken as the full value of consideration for computing business profits (section 43CA of the Act) or capital gains (section 50C of the Act).

- For the purposes of section 43CA, 50C and 56(2)(x) of the Act, where safe harbour is provided to the extent of 5%. In other words, if the stamp duty value does not exceed 105% of the consideration, then there are no implications under sections 43CA, 50C and 56(2)(x) of the Act.
- It is proposed to increase such safe harbour from 5% to 10%.

## Penalty for false entry in books of accounts-271AAD

- Levy of penalty for false entry or any omission of entry relevant for tax computation in books of account to evade tax liability
- Penalty shall be payable equal to the aggregate amount of false entries or omitted entry.
- 'False Entry' has been defined to include use or intention to use:
  - a) forged or falsified documents, such as false invoice or false piece of documentary evidence;
  - b) invoice for supply or receipt of goods and/ or services without actual supply or receipt; and
  - c) invoice for supply or receipt of goods and/ or services to or from a non-existent person.

## Vivad se Vishwas Scheme (Dispute resolution scheme)

- It is proposed to bring a scheme for settling existing direct tax litigation.
- There is no amendment in this respect in the Finance Bill. Detailed guidelines and provisions would be announced in due course of time.
- The scheme will remain open till 30 June 2020.

**Complete waiver of interest and penalty where payment of disputed taxes is made by 31 March 2020.**

## Form 26AS will be replaced by the comprehensive annual information statement

- Comprehensive annual information statement will also include other financial information such as sale or purchase of immovable property and shares in possession of the income-tax authority.

## Powers of Tribunal to grant stay of demand

- It is proposed that a payment of 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of the Act or on furnishing of security of same amount shall be made a pre-condition for grant of stay by the Tribunal.
- The total stay granted by ITAT cannot exceed 365 days.

**Introduction of Taxpayer's Charter to build trust among taxpayers and to enhance efficiency of the delivery system**



## **INDIRECT TAX PROPOSALS**

- Health cess of 5% will be levied and collected as duty of customs on import value of medical devices.
  - Introduction of new simplified return system from 1 April 2020 and implementation of e-invoicing in phased manner will be re-emphasized
  - Amendments will be made to align GST provisions with reorganization of (i) Jammu & Kashmir and Ladakh and (ii) Daman & Diu and Dadra & Nagar Haveli
  - Time limit for availing ITC basis debit note will be considered from date of issuance of debit note and not the date of original invoice.
- Punishment for offences will be extended to also cover a person who causes to commit the offence and retains benefit arising from such offence.
  - Fraudulent availment of Input Tax Credit (ITC) without invoice will be made cognizable and non-bailable offence.
  - Penalty provisions are extended to cover persons who retain the benefits and at whose instance the following offences are committed:
    - Supplies made without issuing invoice or on issuing false invoice
    - Issue of invoice without actual supply in violation of the provisions of the GST law
    - Availing or utilizing ITC without actual receipt of goods or services
    - Taking or distributing ITC in contravention of provisions of input service distributor (ISD)

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