



Know Your Budget 2020
Detailed analysis

February 2020

Contents

State of the Economy

Regulatory Landscape

Policy Update

Direct Tax

Indirect Tax

Glossary

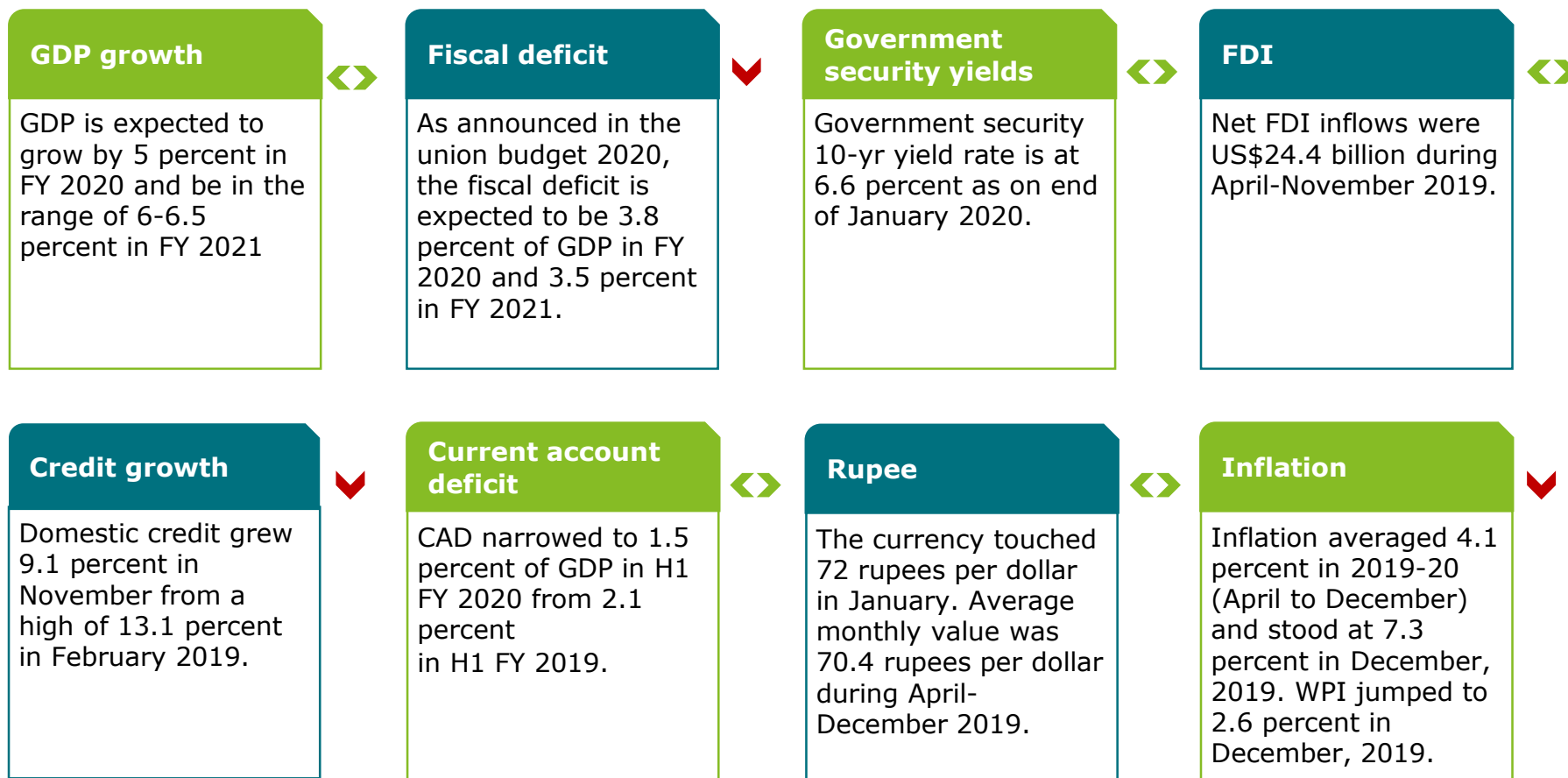


State of the Economy



Economy snapshot

Economic growth projected at 5 percent in FY2020

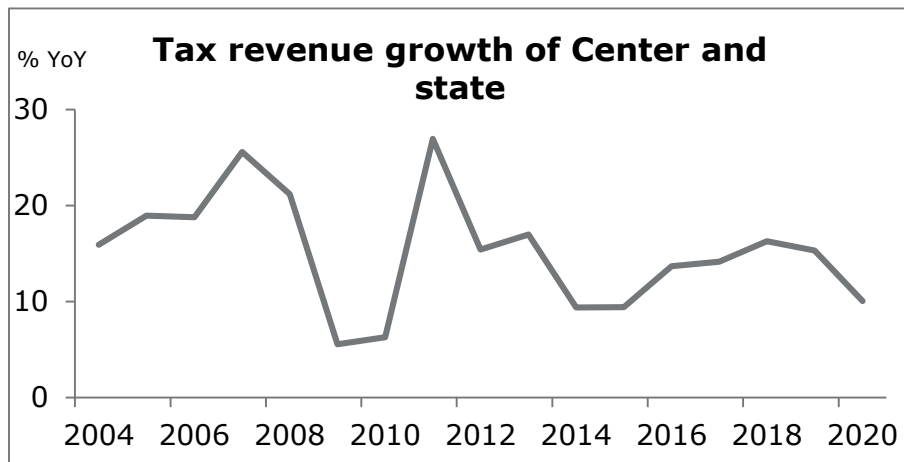
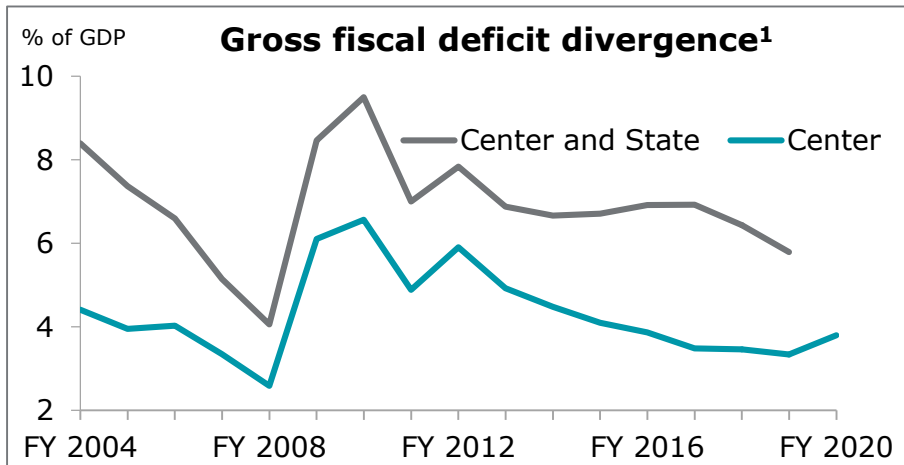


Source: CMIE, RBI

Notes: 1. The FY 2020 numbers are as announced during budget for FY 2021. All percentage growth measures are in year on year unless specified otherwise.

Budget 2020 opts for fiscal expansion

Concerns around fiscal math due to decreasing tax revenue



Source: CMIE, RBI

Notes: 1. The FY 2020 numbers are as announced during budget for FY 2021

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- The GoI upped the targeted fiscal deficit to 3.8 percent of GDP in FY 2020 from 3.3 percent in July last year.
- Used the escape clause provided under the FRBM Act to allow a relaxation of the target.
- Revised expenditure estimate for FY20 at INR 26.99 lakh crore.
- Revised receipts for FY21 at INR 19.32 lakh crore and total expenditure at INR 30.42 lakh crore.

Loss of substantial revenue in short term due to

- corporate tax rate cut.
- INR 40,000 crore per annum revenue foregone from new income tax rates for individuals.
- Rs 25,000 crore revenue foregone due to DDT abolition.

The fiscal deficit relaxation is on expected lines. The target deficit for FY 2021 is 3.5 percent.

Key Budget announcements

Economic Highlights (1)

Agriculture

FM lists 16 action points to boost agriculture infrastructure

- Allocating INR 2.83 lakh crore for agriculture and allied activities for FY 2021
- Providing farmers insurance (a total of 6.11 crore farmers insured under Fasal Bima)
- Incentivising farmers to go solar
- Making agriculture credit worth INR 15 lakh crore available

Education and skill development

- Emphasis on improving skill-sets; a total of INR 3,000 crore to be given for skill development
- The FM allocated INR 99,300 crore for education

Industry and Infrastructure

- Proposed allocation of INR 27,300 crore for industry and commerce in FY21
 - 6500 projects under National Infrastructure Pipeline to encompass
 - A total of 9,000 km of economic corridor to set up and a total of 12 lots of highway bundles to be monetised by 2024
 - Allocation of INR 1.7 lakh crore for transport infrastructure in FY 2021
 - Five new smart cities to be developed
 - 100 more airports to be developed by 2025 to make travel easier and support the UDAAN scheme
 - 150 trains to run under the PPP mode
- Digitisation: INR 6,000 crore will be allocated for the BharatNet programme in 2020-21 to further enhance broadband connectivity in rural areas. The FTTH connection through BharatNet will link 100,000 gram panchayats this year.

Key Budget announcements

Economic Highlights (2)

Start-ups

FM says entrepreneurship has always been the "strength of India"

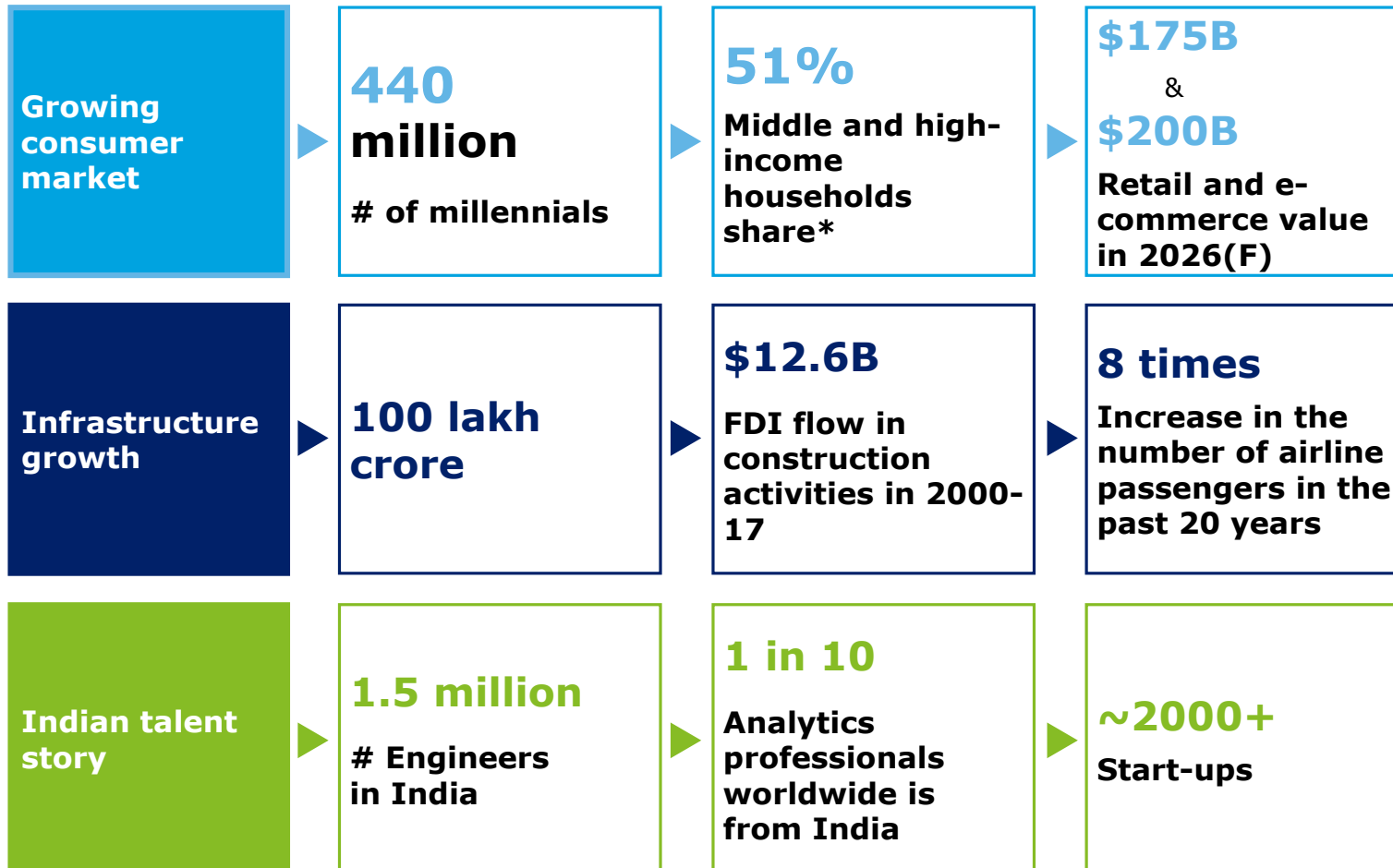
- A proposal of deferment of tax payment by employees on ESOPs from start-ups by five years
- The turnover limit raised from existing INR 25 crore to INR 100 crore for an eligible start-up to avail a deduction of 100 percent of its profits for three consecutive assessment years from a total of seven years
- The government to create a single investment cell to expedite the grant of licences and promote entrepreneurship

MSME

- The government has asked the RBI to consider extending the restructuring scheme for MSMEs by another year until 31 March 2021.
- National Logistics Policy will be launched soon to make MSMEs more competitive.
- Amendments will be made to enable NBFCs to extend invoice financing to MSMEs.
- A scheme announced to provide subordinate debt to entrepreneurs of MSMEs; the debt will be provided by banks as quasi equity and would be fully guaranteed through credit guarantee trust for medium and small entrepreneurs.

India continues to have a strong growth potential

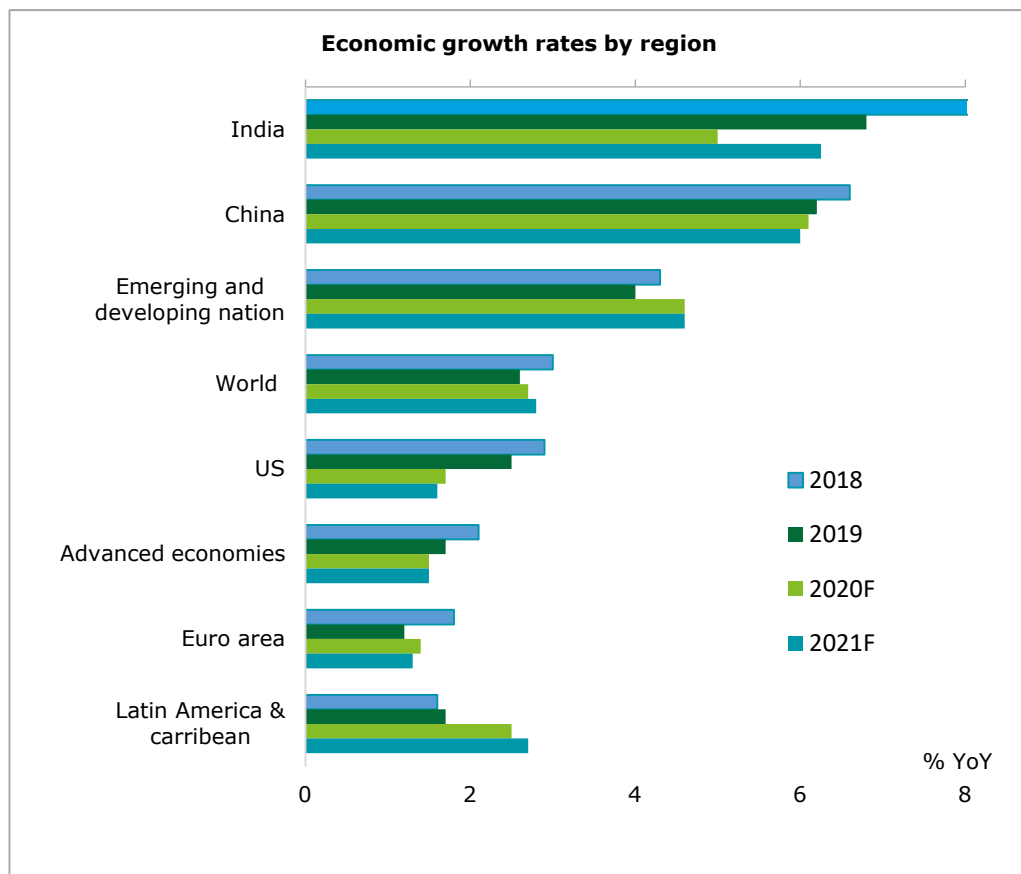
Three drivers that will make India an attractive investment destination



Source: *WEF report, 2019; **Steel consumption data from World Steel Association, as reported by Business Standard

Growing with strong fundamentals

India aspiring to be a US\$ 10 trillion economy by 2030



Source: Oxford economics, RBI, MOSPI
 Note: *The budget estimate as per Union Budget 2020.
 CAGR stands for cumulative aggregate growth rate between the years mentioned.

Economic fundamentals have been the strongest pillars

<p>FDI increased at a CAGR of 18.4 percent in the past 15 years.</p>	<p>The equity market's capitalisation increased more than 10 times in the past 15 years.</p>
<p>India's ranking surged in the World Bank's Ease of Doing Business Index by 67 spots to 63rd position in three years.</p>	<p>Foreign exchange reserves touched a record high of US\$ 437.6 billion from US\$ 5.8 billion in March 1991.</p>
<p>India's fiscal deficit fell from -7.2 percent in FY 2010 to -3.8 percent in FY 2020*.</p>	<p>The current account deficit fell from -5.0 percent in FY 2013 during taper tantrum to 2.1 percent in FY 2019.</p>

Regulatory landscape



Banking and finance sector

Guidelines for “on-tap” licensing for small finance banks in the private sector issued by RBI



Eligible promoters

- Individuals (Indian resident) with 10 years in FSI at senior level
- Private sector companies/societies, NBFC, MFI, LAB, Payments Bank (controlled by residents) with five years of experience
- Not allowed:
 - JV by different promoter group
 - Public sector entities and large business house (> INR 50 billion assets)¹
 - AIF



Scope of activities

- Can undertake basic banking services
- Non-risk sharing activities subject to RBI approval
- Act as Category II authorised dealer
- Promoters’ financial and non-financial services to be ring-fenced



Minimum capital requirement

- Minimum paid-up capital of INR 2 billion
- Initial minimum capital requirement for Urban Cooperative Banks converting into SFB is INR 1 billion, which should be raised to INR 2 billion within five years of business commencement
- Minimum capital adequacy ratio of 15 percent of risk-weighted assets



Promoter’s contribution

- Minimum initial paid-up voting equity capital of at least 40 percent² with a lock-in period of five years
- Minimum promoter contribution for converting NBFC, MFI, LAB, and UCB is capped at 26 percent instead of 40 percent with lock-in period of five years
- Promoter’s stake to be reduced to 40 percent within five years to 30 percent within 10 years and 15 percent in 15 years
- Material change (10 percent or more) between the time of application till grant of bank license should be brought to RBI’s prior notice. Further, any material change post grant of bank license will require prior RBI approval



Corporate structure

- Can either be set up as a standalone entity or under a holding company
- For holding company:
 - Promoter to set up an NOFHC or
 - Promoter to be registered as an NBFC – CIC
- Payments bank can function together with a SFB under the NOFHC structure
- SFB and NBFC/MFI cannot co-exist



Others

- Applicants to furnish viable business plans
- Preference to applicants who set up in a cluster of unbanked states/regions, such as north-east, east, and central regions
- Minimum 50 percent of loan portfolio constitute of loans of INR 2.5 million
- To meet CRR and SLR as maintained by commercial banks
- 75 percent priority sector lending requirement, with 40 percent Adjusted Net Bank Credit in various sub-sectors

¹ Non-FSI business accounting for > 40 percent in terms of total assets / gross income

² NBFC/MFI/LAB with promoter shareholding between 26 percent and 40 percent allowed to apply

Changes in FDI

Bifurcation of powers between the Government and RBI

- With a view to give the Government greater control over equity inflows in the country, Foreign Exchange Management (Non-debt Instruments) Rules, 2019 (NDI Rules) were notified on 17 October 2019 by MoF.
- Power to regulate debt instruments will continue to be under RBI's domain and will be governed by Foreign Exchange Management (Debt Instruments) Regulations, 2019 (DI Regulations).

Key features of new regime are summarised below:

- List of debt and non-debt instruments are specified as under:

Debt instruments (governed by RBI)

- Government bonds
- Corporate bonds
- All tranches of securitisation structure, which are not equity tranche
- Borrowings by Indian firms through loans
- Depository receipts whose underlying securities are debt securities

Non-debt instruments (governed by the Central Government)

- All investments in equity in incorporated entities (public, private, listed, and unlisted)
 - Capital participation in LLPs
 - All instruments of investment as recognised in the FDI policy as notified from time to time
 - Investment in units of AIFs, REITs and InvITs
 - Investment in units of mutual funds and ETFs, which invest more than 50 percent in equity
 - The junior-most layer (i.e., equity tranche) of securitisation structure
 - Acquisition, sale of or dealing directly in immovable property
 - Contribution to trusts
 - Depository receipts issued against equity instruments
-

- FVCIs have been permitted to invest in equity, equity linked instruments or debt instruments of Indian start-ups (irrespective of the sector in which the start-up is engaged in).
- NRIs and OCI can also purchase or sell units of domestic mutual funds, which invest more than 50 percent in equity both on repatriation and non-repatriation basis, without any limit.
- Aggregate limit of investment by FPI of 24 percent in Indian company increased to respective sectoral cap/statutory ceiling, as applicable to the Indian Company, with effect from 1 April 2020. The companies may, however, increase or decrease the aggregate limit with the approval of its board of directors and its shareholders by a special resolution.
- NRIs and OCI can also purchase or sell exchange traded funds, which invest less than or equal to 50 percent in equity on repatriation and non-repatriation basis without any limit.

Changes in FDI

Sector-specific changes

The Government has liberalised the FDI in following sectors with effect from 5 December 2019:

Coal and lignite: 100 percent FDI under automatic route permitted for the following:

- Sale of coal
- Coal mining activities, including associated processing infrastructure (which would include coal washery, crushing, coal handling, and separation [magnetic and non-magnetic])

Manufacturing: 100 percent FDI under the automatic route permitted in “contract manufacturing”

Digital media: FDI up to 26 percent permitted under government route for uploading or streaming of news and current affairs through digital media

E-commerce: E-commerce marketplace entity with FDI shall have to obtain and maintain a report of statutory auditor by 30 September every year for the preceding financial year confirming compliance of the e-commerce guidelines

Single Brand Product Retail Trading (SBRT): 100 percent FDI under automatic route is permitted:

- For FDI of more than 51 percent, sourcing of 30 percent of value of goods procured shall be done from India. Further, the local sourcing requirements can be met as an average during the first five years, and thereafter on an annual basis towards its India operations. Further, local sourcing requirements can be met as under:
 - All procurements made from India by the SBRT entity for that single brand shall be counted towards 30 percent local sourcing, irrespective of whether the goods procured are sold in India or exported
 - Sourcing of goods from India for global operations can now be done directly by the entity undertaking SBRT or its group companies (resident or non-resident) or indirectly by them through a third party under a legally tenable contract; and
 - To consider the entire sourcing from India for global operations for meeting the 30 percent local sourcing requirements
- Retail trading through e-commerce can also be undertaken prior to opening of brick and mortar stores, subject to the condition that the entity opens brick and mortar stores within two years from date of start of online retail

Securities laws

Relaxation in debt investment norms for FPIs and re-opened the VRR

On 23 January 2020, RBI announced a few relaxations in the General Investments Limits route. It increased the limits under VRR and re-opened the allocation of investment limits under VRR.

General Investment Limits route:

- **Existing framework:** At any point in time, an FPI's investment in bonds maturing within one year should not exceed 20 percent of its total investment in the respective category of bonds (e.g., government securities, corporate bonds)
- **Relaxation:** The 20 percent threshold mentioned above has been increased to 30 percent, which means an FPI's investment in bonds maturing within one year can go upto 30 percent of the FPI's total investment in the respective category of bonds
- **Existing framework:** FPI investments in security receipts are not subject to following restrictions applicable to corporate debt investments:
 - At the time of investment, the debt instrument should have minimum residual maturity of at least one year
 - At any point in time, investments in securities maturing within one year should not exceed 20 percent (now 30 percent) of FPI's total portfolio in corporate debt securities
 - Investment by a single FPI or a group of related FPIs should not exceed 50 percent of the issue size of a debt security
- **Relaxation:** Henceforth, the above mentioned exemptions will also apply to investments in the following securities:
 - Investments in debt instruments issued by asset reconstruction companies
 - Debt instruments issued by an entity under the CIRP as per the resolution plan approved by the NCLT under the IBC

This relaxation brings all types of debt investments in stressed assets in par with security receipts.

VRR:

The relaxations/amendments in the VRR framework are as follows:

The allocation of limits that were hitherto available upto 31 December 2019 has been re-opened effective 24 January 2020.

- The overall investment limits have been increased from INR 750 billion to INR 1.5 trillion
- FPIs that have been allotted investment limits under VRR can transfer their investments made under the general investments limits to VRR
- Though mutual fund investments are not permitted under VRR, investments in exchange traded funds have been specifically allowed the ETF invests only in debt securities

Insolvency for financial service providers under IBC

Framework on insolvency of financial service providers under IBC

On 15 November 2019, the Government extended the scope of IBC to cover FSPs and notified Insolvency and Bankruptcy (Insolvency and Liquidation Proceedings of Financial Service Providers (FSP) and Application to Adjudicating Authority) Rules, 2019 (Rules) for insolvency resolution and liquidation proceedings of NBFCs including HFCs with asset size of INR 5 billion or more.

The key highlights of Rules are as follows:

• **CIRP of FSPs:**

- CIRP of a FSP, who has committed a default per IBC, shall be initiated only based on an application made by the appropriate regulator, i.e., RBI and it shall be dealt with by the adjudicating authority, i.e., NCLT
- NCLT shall appoint an individual as an administrator proposed by RBI who shall act as an insolvency professional, interim resolution professional, resolution professional or liquidator, as the case may be
- Interim moratorium from the date of filing of the application of CIRP by RBI until its admission or rejection by NCLT. However, the business of FSP remains uninterrupted and its license or registration shall not be suspended or cancelled during interim moratorium
- Such moratorium shall not apply to any third-party assets or properties in custody or possession of the FSP.
- The administrator has been empowered to take control and custody of such assets/properties, only for the purpose of dealing with them in the manner as may be notified by the Government.
- RBI may constitute an advisory committee of three or more experts within 45 days of the insolvency commencement date, if deemed necessary, to advise the administrator in the operations of the FSP during CIRP.
- Once a resolution plan has been approved by the Committee of Creditors, the administrator shall seek a “no objection” from RBI to the effect that it has no objection to the persons, who would be in control or management of FSP after approval of the resolution plan.

• **Voluntary liquidation/dissolution:**

- FSP is required to obtain a prior permission of RBI before initiating voluntary liquidation.
- NCLT shall provide RBI with an opportunity of being heard before passing an order for liquidation or dissolution of FSP under IBC.

Policy updates



Policy updates

Banking and finance

- Factor Regulation Act, 2011 to be amended to enable NBFCs (not registered as NBFC-factors) to extend invoice financing to the MSMEs through TReDS
- To enhance working capital credit for MSME entrepreneurs, a scheme to be introduced to provide subordinate debt by banks
- To address the liquidity constraints of the NBFCs/HFCs, existing Partial Credit Guarantee scheme introduced in Union Budget 2019-20 for NBFCs to be further supported by devising a mechanism, wherein the Government will offer support by guaranteeing securities so floated
- Governance reforms to be carried out in PSU banks to make them more competitive and certain PSU banks to be encouraged to approach capital market to raise additional capital
- DICGC permitted to increase Deposit Insurance Coverage for a depositor, which is now INR 1,00,000 to INR 5,00,000 per depositor
- Banking Regulation Act, 1949 to be amended to strengthen the Cooperative Banks' regulatory framework and governance norms
- Debt recovery under SARFAESI will now also be available to NBFCs with asset size of INR 1 billion (as against current threshold of INR 5 billion) or loan size of INR 5 million (as against current threshold of INR 10 million)

Policy updates

Foreign investment

- To attract skilled teachers, innovate, and build better labs steps to be taken to enable sourcing of ECBs and FDI to deliver higher quality education
- Investment Clearance Cell to be set up through a portal to provide “end to end” facilitation and support, including pre-investment advisory, information related to land banks and facilitate clearances at centre and state level
- Specified categories of government securities would be opened fully for non-resident investors

Securities laws

- Limit for FPI investment in corporate bonds to be increased to 15 percent of the outstanding stock of corporate bonds (as against existing threshold of 9 percent)
- To improve investors’ confidence, and to expand the scope of credit default swaps, new legislation to be introduced for providing a mechanism for netting of financial contracts
- The Government to float a new debt ETF consisting primarily government securities

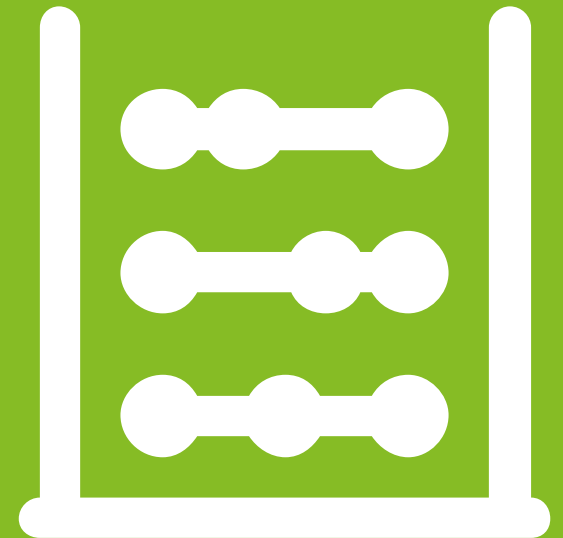
IFSC

- International Bullion exchange(s) to be set up in GIFT-IFSC as an additional option for trade by global market participants
- Stamp duty exemption proposed for instruments of transaction in stock exchanges and depositories established in any IFSC

Others

- Companies Act, 2013 and other laws will be amended to do away with criminal liability for acts that are civil in nature
- Amendments to be carried out in Pension Fund Regulatory and Development Authority Act, 2013 to facilitate separation of NPS trust for government employees from PFRDA
- To promote affordable housing projects, the date of approval of affordable housing projects for availing tax holiday (presently 31 March 2020) extended by one more year

Direct / Corporate tax



Corporate taxation

Corporate tax rate card

Tax rate, as amended by The Taxation Laws (Amendment) Act, 2019, remains unchanged for domestic companies (including manufacturing companies satisfying prescribed conditions), LLPs and foreign companies

Concessional rate of tax in case of resident co-operative society not availing tax incentive or exemptions or tax holiday on similar lines with domestic company

Abolition of DDT and moving to classical system of taxing dividend in the hands of the shareholders/ unit holder

Corporate taxation

Corporate tax rate card

Types of companies	Income up to INR10 million		Above INR10 million up to INR100 million		Above INR100 million	
	Effective tax rate (Normal)	Effective tax rate (MAT)	Effective tax rate (Normal)	Effective tax rate (MAT)	Effective tax rate (Normal)	Effective tax rate (MAT)
Domestic company With turnover up to INR4,000 million in FY 2018-19 and avails any tax incentives or exemptions or tax holiday	26%	15.60%	27.82%**	16.69%**	29.12%**	17.47%**
Other domestic company	31.20%	15.60%	33.38%**	16.69%**	34.94%**	17.47%**
Domestic company who do not avail any tax incentives or exemptions or tax holiday#@	25.17%***	NIL	25.17%***	NIL	25.17%***	NIL
New domestic manufacturing including companies engaged in business of generation of electricity (set up and registered on or after 1 October 2019 and does not avail of any tax incentives or exemptions and commences production on or before 31 March 2023)#	17.16%***	NIL	17.16%***	NIL	17.16%***	NIL
Foreign company	41.60%^	19.24%^	42.43%^	19.62%^	43.68%^	20.20%^

** Includes surcharge at the rate of 7% in case of income from INR10 million upto INR100 million and 12% in case of income above INR100 million

*** Includes surcharge at the rate of 10%

#other than the provisions of section 80JJAA and section 80M of the Act

@ same would apply to co-operative society not availing tax incentive or exemptions or tax holiday.

^ Includes surcharge at the rate of 2% in case of income from INR10 million upto INR100 million and 5% in case of income above INR100 million

Further all the above rates are further increased by EC of 4%

LLP taxation

Tax rate card

Income up to INR10 million		Above INR10 million	
Surcharge rate	Effective tax rate	Surcharge rate	Effective tax rate
Nil	31.20%	12%	34.94%

AMT

Location of LLP	Income up to INR10 million		Above INR10 million	
	Surcharge rate	Effective tax rate	Surcharge rate	Effective tax rate
Other than in IFSC	Nil	19.24%	12%	21.55%
In IFSC	Nil	9.36%	12%	10.48%

Note:

- EC of 4% has been considered for determining the tax rates above

Illustration

Comparison of taxation between company, branch and LLP

Particulars	Branch	LLP	Company			
			25%* (Turnover based)	30%* (Not opting for section 115BAA /115BAB)	22%* (Section 115BAA of the Act)	15%* (Section 115BAB of the Act)
Taxable income	100.00	100.00	100.00	100.00	100.00	100.00
Less: Indian tax liability (A)	43.68	34.94	29.12	34.94	25.17	17.16
Profit after tax	56.32	65.06	70.88	65.06	74.83	82.84
Profit available for distribution	56.32	65.06	70.88	65.06	74.83	82.84
Less: DDT (B)	0.00	0.00	12.09	11.09	12.76	14.13
Distributed amount	56.32	65.06	58.79	53.96	62.07	68.71
Total tax outflow (A+B)	43.68	34.94	41.21	46.04	37.93	31.29
Total tax outflow on DDT abolition (A)	43.68	34.94	29.12	34.94	25.17	17.16

* Tax rates to be increased by surcharge and EC

Corporate taxation

Abolition of DDT

Background

- Currently, a domestic company is required to pay DDT at the rate of 15 percent (plus applicable surcharge and EC) on the dividend declared, distributed or paid. Similarly, mutual funds and business trusts are also liable to pay tax at the specified rate on the income distributed to the unit-holders. Such dividend is exempt in the hands of shareholders / unit-holders
- Prior to 1997, dividend was taxable in the hands of the shareholders. In 1997, DDT was introduced to shift the levy of tax to the company distributing the dividend. In 2002, DDT was replaced with the earlier system of taxing the dividends in the hands of the shareholder. However in 2003, DDT was re-introduced as it was easier to collect tax at single point and mitigate the compliance burden
- Since dividend is income in the hands of shareholders, the incidence of the tax will devolve on the shareholders based on applicable rate at which the shareholder is taxed

Proposed amendment

- It is proposed to tax the dividend income in the hands of the shareholder / unit-holders respectively. Domestic companies / mutual funds / business trusts will no longer be required to pay DDT but will be required to withhold taxes

Corporate taxation

Abolition of DDT

Rationale

- DDT was introduced as it was easier to collect tax from the company rather than from the numerous shareholders
- Non-availability of credit of DDT to most of the foreign investors in their home country results in reduction of rate of return on equity capital for them. In order to increase the attractiveness of the Indian Equity Market and to provide relief to a large class of investors, DDT is proposed to be abolished
- With the advent of technology and easy tracking systems available, it is proposed to move to classical system of taxing dividend in the hands of the shareholders / unit-holders

Consequence of the proposed amendment

- Dividend income shall be taxable in the hands of shareholders / unit-holders
- Domestic company / mutual funds / business trust shall be liable to withhold tax on dividend
- Lower rate of withholding tax can be availed under the tax treaties for NR including foreign company. Such lower rate would be subject to satisfying conditions relating to treaty eligibility including beneficial ownership
- Interest expenses, if any, up to 20 percent of the dividend shall be allowed as a deduction. No other expense shall be allowed as a deduction
- Exemption from tax on dividend in the hands of the shareholders leads to a disallowance under section 14A of the expenditure incurred by the shareholder to earn such exempt dividend. This results in litigation regarding the quantum of disallowable expenditure . Abolition of DDT and making dividends taxable in the hands of the shareholders would reduce such litigation

Corporate taxation

Abolition of DDT

- Currently, section 115BBDA taxes dividend income in excess of INR 1 million in the hands of specified shareholders at a rate of ten per cent. This provision will now apply only to dividends declared, distributed or paid by a domestic company on or before 31 March, 2020

Corporate taxation

Abolition of DDT

Withholding tax applicable on dividends

Payer	Recipient	Nature of dividend income	Withholding rate under the Act*
Domestic company	Resident shareholders (in excess of INR5,000)	Dividend on shares	10 percent
	NR including foreign company	Dividend on shares	20 percent
	NR including foreign company	Dividend on foreign currency bonds	10 percent
	FII	Dividend on shares	20 percent
	Individual being a NR	Dividend on specified foreign currency bonds	10 percent

*Subject to benefits of a lower rate under tax treaties for NR including foreign company. Such lower rate would be subject to satisfying conditions relating to treaty eligibility including beneficial ownership

Corporate taxation

Abolition of DDT

Introduction of section 80M of the Act

- Section 80M has been introduced to remove the cascading effect of taxes on inter-corporate dividend.
- A domestic company shall be eligible to deduct the amount of dividend paid by it from its dividend income received from any other domestic company.
- Such deduction shall be restricted to the amount of dividend distributed in turn by the shareholder company.
- The deduction will be available in respect of dividend distributed on or before the due date. Due date means the date one month prior to date of filing the return of income
- The benefit available under section 80M of the Act is illustrated below:

Particulars	Scenario I	Scenario II
Dividend received by the company (A)	100	100
Dividend paid by the company	70	130
Deduction under section 80M of the Act (B)	70	100
Dividend income taxable in the hands of the company (A-B)	30	Nil

Ambiguity on deduction under section 80M of the Act if the dividend is distributed after the 'due date' as per section 80M

Corporate taxation

Other Amendments

Insertion of Taxpayer's charter in the Act

To build trust between the taxpayers and the tax administration, it is proposed to insert a new section 119A in the Act to empower the CBDT to:

- adopt and declare a taxpayer's charter; and
- issue such orders, instructions, directions, or guidelines to other income-tax authorities, as it may deem fit for the administration of the charter

Corporate taxation

Incentives for start-ups

Background

Currently, section 80-IAC provides for deduction of an amount equal to 100% of the profits and gains derived by an eligible start-up from an eligible business for three consecutive assessment years out of seven years

The total turnover of 'eligible start-ups' should not exceed INR 250 million in the previous year for which the deduction is claimed

Proposed Amendment:

It is now proposed to:

- Extend the period of benefit of deduction to start-ups for three consecutive years out of ten years
- Increase the threshold of turnover of the startups to INR 1 billion for being eligible for the deduction

Corporate taxation

Incentive to affordable housing extended

Background for section 80-IBA

- Per section 80-IBA, the profits and gains derived from the business of developing and building affordable housing projects is eligible for deduction of an amount equal to 100 percent of the profits and gains derived from such business, subject to fulfilment of certain conditions
- Currently, the tax holiday provisions of section 80-IBA relating to affordable housing apply to the projects approved by competent authority during the period from 1 June 2016 to 31 March 2020

Proposed amendments

To incentivise building affordable housing, the date before which the competent authority approves the project is proposed to be extended to 31 March 2021

*In the memorandum, it is mentioned that the **stamp duty** does not exceed INR 4,500,000. However, as per the provisions of the Act and notes on clauses, the **stamp duty value** of the property should not exceed INR 4,500,000.

Corporate taxation

Incentive to affordable housing extended

Background for section 80EEA

Currently, a deduction of up to INR 150,000 is allowed under section 80EEA for interest paid on loan that has been sanctioned by the financial institution during the period from 1 April 2019 to 31 March 2020. The said deduction is aimed to incentivise first-time buyers to invest in residential house property whose stamp duty value* does not exceed INR 4,500,000

Proposed amendments

To continue promoting the purchase of affordable housing, the period of sanctioning of loan by the financial institution is proposed to be extended to 31 March 2021

*In the memorandum, it is mentioned that the **stamp duty** does not exceed INR 4,500,000. However, as per the provisions of the Act and notes on clauses, the **stamp duty value** of the property should not exceed INR 4,500,000.

Corporate taxation

Lower tax rate for electricity generating companies

Background

The Taxation Laws Amendment Act, 2019, *inter-alia*, inserted section 115BAB which provides that new manufacturing domestic companies set up on or after 1 October 2019, which commence manufacturing or production by 31 March 2023 and do not avail of any specified incentives or deductions, may opt to pay tax at a concessional rate of 15 percent. Further, the said section did not specifically exclude or include corporates engaged in the business of generation of electricity

Proposed amendments

Manufacturing or production of an article or thing, eligible for lower tax rate of 15 percent shall now include generation of electricity. The said proposal will be effective from assessment year 2020-21

*In the memorandum, it is mentioned that the **stamp duty** does not exceed INR 4,500,000. However, as per the provisions of the Act and notes on clauses, the **stamp duty value** of the property should not exceed INR 4,500,000.

Corporate taxation

Amendment to Rule 5 of First Schedule

Rationale

- Section 44 read with Rule 5 to the First Schedule is a separate code for taxation of insurance companies other than life insurance companies.
- Currently, as is the case for any other taxpayer, any expenditure debited to profit and loss account not admissible under the provisions of section 30 to 43B is to be added back in computing taxable income of such insurance companies. However, correspondingly, the payment specified under section 43B is currently not being allowed subsequently when actually paid.

Proposed amendments

It is proposed to provide that any sum payable by such insurance company which was disallowed as per Rule 5 to be allowed as deduction as per section 43B in computing the income in the previous year in which such sum is actually paid.

This amendment to be effective from assessment year 2020-2021

Corporate taxation

Interest paid or payable to Indian PE of a NR Bank

Background

- Section 94B provides that interest or similar expenses exceeding INR 10,000,000 of an Indian company, or PE of a foreign company, paid to the AE is restricted to 30 percent of its earnings before interest, taxes, depreciation and amortisation (EBITDA) or interest paid or payable to AE, whichever is less.
- Also, in cases where the lender is a PE of a foreign company (which has extended loans aggregating to 51% or more of the book value of the total assets of the borrowing company), the lender and the borrower are deemed to be AEs for the purposes of section 94B.

Proposed amendments

- It is proposed to amend section 94B to provide that in a situation –
 - where the borrower is an Indian company/ Indian PE of a NR company and
 - lender is the Indian PE of a non-resident engaged in the business of banking,then the provisions of deemed AE (and consequently the disallowance of interest deduction) under section 94B will not apply.
- This amendment is proposed to be applicable from AY 2021-22 and onwards.

Corporate taxation

Option to avail deduction under section 35AD

Background

- Currently, section 35AD provides for a 100% deduction of the capital expenditure incurred on certain specified business. Further, it provides that no deduction shall be allowed in respect of the said deduction under any other section. Currently, an assessee does not have an option of not availing the incentive.
- Due to this, a possible interpretation is that a domestic company opting for concessional tax rate under section 115BAA or 115BAB, which does not claim deduction under section 35AD, would also be denied normal depreciation under section 32.

Proposed amendments

- To provide clarity, it is proposed to make the deduction under section 35AD optional so that a taxpayer can now claim deduction under section 35AD or depreciation under section 32.
- Further, no deduction will be allowed in respect of expenditure incurred as aforesaid in any other section in any previous year or under this section in any other previous year, if the deduction has been claimed by the assessee and allowed to him/her under this section.
- This amendment will apply from AY 2020-21.

Corporate taxation

Deduction for scientific research expenditure

Proposed amendments to section 35

- Deduction for any sum paid to an approved company to be used for by it for scientific research, not to be denied merely on the ground that, subsequent to the payment of such sum, the approval granted to the company has been withdrawn.
- Every notification issued specifying the concerned research association, university, college or other institution or the approval granted to the company, on or before 1 June 2020, shall be deemed to have been withdrawn unless
 - such entity makes an intimation to the prescribed authority by 31 August 2020, and
 - subject to such intimation, the notification shall be valid for a period of five consecutive assessment years beginning with the assessment year 2021-22.
- Any notification issued to the research association, university, college or other institution, after the date on which the Finance Bill, 2020 receives the assent of the President, to have effect for a period not exceeding five assessment years as may be specified therein.
- The notified research association, university, colleges, or other institutions or the approved company to be allowed deduction only if they:
 - Prepare and deliver statement of the donations received to the prescribed authority within the prescribed time; and
 - Furnish certificate to the donor as prescribed.
- Failure to furnish the aforesaid statement or certificate to be subject to penalty of a sum not less than INR 10,000 but which may extend to INR 100,000

The proposed amendment to be effective from 1 June 2020

Incentives for investments by Sovereign Wealth Funds (1/2)

Amendment to section 10

Rationale

- There is a need to attract investment into key infrastructure projects and sovereign wealth funds could potentially be significant investors.
- In order to encourage such funds to invest into Indian infrastructure projects, it is proposed to exempt certain income, arising from investments made in the form of debt or equity for these funds

Proposed amendments

- The Finance Bill proposes to insert a new clause to provide exemption in respect of any income being in the nature of dividend, interest or long-term capital gains, arising from investments made by a “specified person” in India, in the form of debt or equity, subject to the following conditions :
 - The investment should be made on or before 31 March 2024;
 - The investment should be held for a period of at least three years;
 - The investment is in a company or enterprise which carries on the business of (a) developing, or (b) operating and maintaining, or (c) developing, operating or maintaining any infrastructure facility as defined under the Act or such other business as may be notified by the CGT in this behalf.

Incentives for investments by Sovereign Wealth Funds (1/2)

Amendment to section 10

Proposed amendments

- For the purpose of availing this exemption, “specified person” is proposed to be defined to mean –
 - A wholly owned subsidiary of the Abu Dhabi Investment Authority which is a resident of the United Arab Emirates and which makes investment, directly or indirectly, out of the fund owned by the Government of the United Arab Emirates;
 - a sovereign wealth fund which satisfies the following conditions:
 - It is wholly owned and controlled, directly or indirectly, by Government of a foreign country;
 - It is set up and regulated under the law of the foreign country;
 - Its earnings are credited either to the account of the Government of the foreign country or to any other account designated by that Government such that no portion of the earnings inures any benefit to any private person;
 - Its asset vest in the Government of the foreign country upon dissolution;
 - It does not undertake any commercial activity whether within or outside India; and
 - It is notified by the Central Government in the Official Gazette for this purpose.

Corporate taxation

Alignment of the Act with MLI

Rationale

- Section 90 of the Act empowers the CGT to enter into DTAA with foreign countries/specified territory for granting relief in respect of double taxation, exchange of information and recovery of income-tax
- Similar provisions are laid down under section 90A of the Act where the CGT is empowered to enter into agreements with a specified association in the specified territory outside India
- India has signed the MLI to implement tax treaty related measures to prevent BEPS along with representatives of various companies, which has since been ratified
- In order to align the provisions of the Act relating to providing relief through application of DTAAs with the recently ratified MLI, the following amendments are proposed

Proposed amendments

- It is proposed to amend section 90 and section 90A of the Act to include text specified in the preamble to Article 6 of the MLI. Section 90/90A will now provide that the CGT may enter into an agreement with the Government of any country or specified territory for, *inter alia*, the avoidance of double taxation of income under the Act and under the corresponding law in force in that country or specified territory, 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 this agreement for the indirect benefit of residents of any other country or territory)

This amendment will take effect from assessment year 2021-22.

Amendment to source rules

Significant Economic Presence

Background

- The scope of business connection of a non-resident in India was expanded through the introduction of the concept of “Significant Economic Presence” (SEP) in section 9(1)(i) of the Act.
- The monetary and number of users thresholds which were to be prescribed for applicability of SEP provision have not been notified till date in light of on-going discussions on the subject in G20-OECD BEPS project.

SEP provisions deferred and amended

- In view of the on-going discussion, the applicability of SEP provision is proposed to be deferred to AY 2022-23 and onwards.
- SEP definition is also proposed to be revised to mean –
 - transaction in respect of any goods, services or property carried out by a non-resident **with any person** in India including provision of download of data or software in India, provided the revenue therefrom exceeds monetary threshold as may be prescribed; or
 - systematic and continuous soliciting of business activities or engaging in interaction with users (exceeding the number as may be prescribed) in India.

Revised definition is proposed to be applicable from AY 2022-23 and onwards.

Amendment to source rules

Expansion of business connection

Business connection – Scope of income attributable to operations in India

- In case of a “business connection”, it is proposed to clarify that income attributable to operations carried out in India shall include income from:
 - advertisement which targets a customer who resides in India or a customer who accesses the advertisement through IP address located in India
 - sale of data collected from a person who resides in India or who uses IP address located in India; and
 - sale of goods and services using data collected from a person who resides in India or who uses IP address located in India.

The proposed amendment to be effective from assessment year 2021-22 and onwards.

It is also proposed to apply the amended provision to cases covered under SEP from assessment year 2022-23 and onwards.

Corporate taxation

IBFM regime

Background

- Section 9A of the Act lays down the taxation framework for offshore funds to appoint an IBFM, subject to satisfaction of conditions by the offshore fund.

Existing Provision

- One of the conditions for eligibility of the fund requires that the aggregate participation or investment in the fund, directly or indirectly, by persons resident in India does not exceed five per cent of the corpus of the fund.
- Another condition requires that the monthly average of the corpus of the fund shall not be less than INR 1000 million. Where the fund has been established/incorporated in the previous year, the corpus of fund shall not be less than INR 1000 million at the end of six months from the last day of the month of its establishment or incorporation, or at the end of such previous year, whichever is later.

Proposed relaxation in the above conditions

- It is proposed:
 - that for the purpose of calculation of the aggregate participation or investment in the fund, directly or indirectly, by Indian resident, contribution of the eligible fund manager during first three years up to INR 250 million shall not be taken into account;
 - to allow the offshore fund to satisfy the aforesaid corpus condition where the fund has been established/incorporated in the previous year, within twelve months from the last day of the month of its establishment/incorporation.

Amendment to source rules

Amendments pursuant to change in FPI Regulations

Rationale

- Explanation 5 to section 9(1)(i) provides exemption from indirect transfer provisions for investment by non-resident in Category-I or Category-II FPI under the SEBI (FPI) Regulations, 2014.
- SEBI (FPI) Regulations, 2019 have repealed the aforesaid Regulations, vide which the broad basing criteria for the purposes of categorization of portfolios has been done away with and has reduced the categories from three to two.

Proposed amendments

- It is proposed to grandfather the exemption from indirect transfer provisions for investments by non-resident in erstwhile Category I and II FPIs.
- The exception as per Explanation 5 is proposed to be provided in respect of investment in Category-I FPI under the SEBI (FPI) Regulations, 2019.

The proposed amendments to be effective from assessment year 2020-21.

Amendment to source rules

Amendment to the definition of “Royalty”

Rationale

- Currently, the definition of “royalty” under section 9(1)(vi) excludes consideration for the sale, distribution or exhibition of cinematographic films.
- However, similar exclusion in the definition of royalty is absent in India’s tax treaties (DTAA)

Proposed amendments

- It is proposed to remove the above exclusion (with regard to cinematographic films) from the definition of “royalty” under section 9(1)(vi)

The proposed amendment to be effective from assessment year 2021-22 onwards

Corporate taxation

Rationalization of withholding tax rates on certain incomes of NRs

Rationale

- The Act provides for a reduced withholding tax rate of five percent under section 194LC of the Act on interest on loans raised by a specified company / business trust from NR before 1 July 2020
- Similar reduced withholding tax rate of five percent under section 194LD of the Act was provided on interest payments to FII and QFI on their investment in rupee denominated bonds of an Indian company or government securities before 1 July 2020
- To attract more foreign investment in India, the following amendments are proposed

Proposed amendments

- It is proposed that the period for applying the concessional withholding tax rate under section 194LC and 194LD of the Act be extended from 1 July 2020 to 1 July 2023
- Further, it is proposed that a lower withholding tax rate of four percent will be applicable on monies borrowed by a specified company / business trust from a source outside India by way of issue of any long-term bonds/ rupee denominated bonds after 1 April 2020 and before 1 July 2023, which is listed on a recognized stock exchange in an IFSC

This amendment will take effect from 1 April 2020

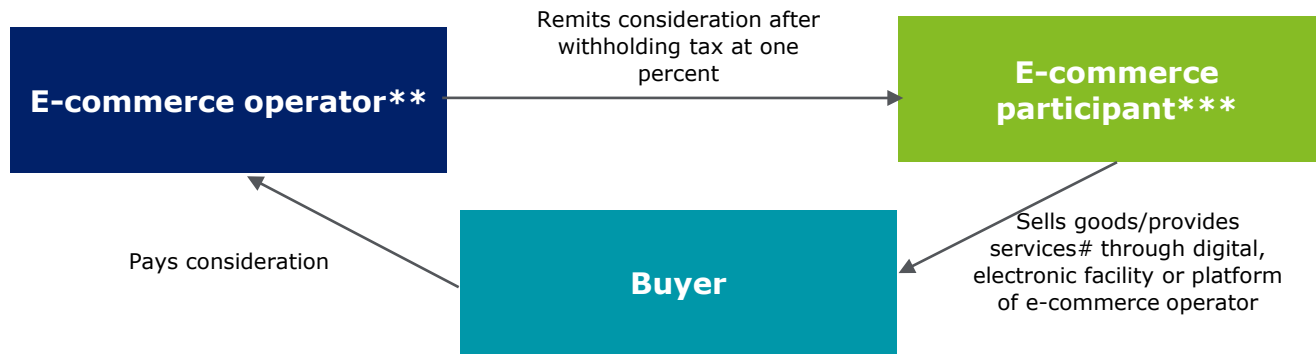
The corresponding amendment to the section 115A of the Act pertaining to the taxability of interest income has not been introduced – continues at five percent

Corporate taxation

Withholding tax provisions

Withholding tax on e-commerce transactions

- To widen and deepen the tax net by bringing participants engaged in electronic commerce* within tax net, it is proposed to introduce withholding tax at one percent on e-commerce transactions



- The e-commerce operator is required to withhold taxes at the time of crediting the amount to the account of e-commerce participant or at the time of payment (by any mode), whichever is earlier
- Higher withholding tax rate of five percent will apply where e-commerce participant does not furnish PAN to the e-commerce operator

*Electronic commerce is defined to mean the supply of goods or services or both, including digital products over digital or electronic network.

**E-commerce operator means any person who owns, operates or manages digital, electronic facility or platform for electronic commerce and is a person responsible for paying to e-commerce participant

***E-commerce participant means a person resident in India selling goods or providing services or both, including digital products through digital, electronic facility or platform for electronic commerce

#Services is defined to include FTS and fees for professional services, as defined in section 194J of the Act

Corporate taxation

Withholding tax provisions

- Any payment made by a buyer (i.e. purchaser of goods or recipient of services) directly to an e-commerce participant will be deemed as payment by the e-commerce operator to the e-commerce participant for the purpose of withholding taxes
- Taxes are not required to be withheld in case of an e-commerce participant who is an individual or HUF if:
 - Gross consideration does not exceed INR 0.5 million during the PY; and
 - E-commerce participant has furnished PAN or Aadhaar number to the e-commerce operator
- Transactions covered under this provision shall not be subject to any other existing withholding tax provisions in order to avoid multiple withholding tax
- It has been clarified that existing withholding tax provisions continue to apply to amount received by e-commerce operators for hosting advertisements or providing any services which are not connected with sale of goods or provision of services
- It is proposed to amend section 197 of the Act to allow a payee (e-commerce participant) to seek a lower/nil withholding tax certificate for sums covered under the newly introduced withholding tax provisions on e-commerce transactions
- These amendments will take effect from 1 April 2020.

Corporate taxation

Exemption for a non-resident from filing an income tax return

Background

- The existing provisions of section 115A of the Act provide for determination of tax for a non-resident whose total income consists of dividend, specified interest income, royalty or fees for technical services referred to therein
- A non-resident is not required to file a return of income if the total income consists only of dividend or specified interest income referred to above and tax deductible at source has been deducted from such income
- Currently, there is no such exemption for income from royalty or fees for technical services

Proposed amendments

- It is proposed to amend section 115A of the Act to provide that a non-resident shall not be required to file return of income if-
 - The total income consists of only dividend, specified interest income, royalty or fees for technical services referred to section 115A; and
 - Tax has been deducted on such income at the rate which is not lower than the rates prescribed under section 115A(1)
- The amendment is proposed to be effective from assessment year 2020-21

Exemption not available where treaty rate is lower and treaty benefits are availed

Corporate taxation

Other amendments relating to NRs

Meaning of “person responsible for paying” for the purpose of TDS provisions expanded

- In the case of a NR, it would mean -
 - the person himself; or
 - any person authorized by such NR; or
 - the agent of such NR in India including any person treated as an agent under section of the Act

Corporate taxation

Scope of section 206C widened

Proposed amendment

- Following amounts to be subject to TCS at five percent:
 - Amount received by an Authorised dealer exceeding INR 700,000 in a financial year for remittance out of India under the RBI's LRS.
 - Amount received by seller of an overseas tour program package.
- Above provisions not to apply to a buyer:
 - who is liable to TDS and has deducted such tax at source;
 - being the Central Government, a State Government , an embassy, etc. as defined in Explanation to section 10(20) of the Act or any other person to be notified.
- Every seller, who receives sale consideration of any goods exceeding INR 5 million in any previous year, other than specified goods* shall collect from the buyer TCS of 0.1 percent of the sale consideration exceeding INR 5 million.
- Where the buyer does not furnishes his PAN or Aadhaar number to the seller, then the tax shall be collected by the seller at the rate of one per cent. This provision not to apply if the buyer is liable to TDS and has deducted such tax at source.
- "Seller" to mean a person whose total sales, gross receipts or turnover from the business carried on by him exceed INR 100 million during the financial year immediately preceding the financial year in which the sale of goods is carried out, not being a person to be notified.
- Whether non-resident buyer or seller covered?

**Alcoholic Liquor for human consumption, tendu leaves, timber obtained under forest lease or any other mode, any other forest produce, scrap, coal, lignite, iron ore, motor vehicle of value exceeding INR 1 million, remittance under LRS or overseas tour program package*

The proposed amendment is effective from 1 April 2020.

Corporate taxation

Reduced rate of tax withholding on fees for technical services

Background

- Existing provisions of section 194J of the Act provide for tax withholding at the rate of 10 percent on specified payments including fees for technical services
- The provisions of section 194C of the Act provide for tax withholding at the rate of one percent or two percent on payments for carrying out any work (including supply of labour for carrying out any work) in pursuance of a contract
- Applicability of section 194C vis-à-vis 194J of the Act on payments has been a subject matter of dispute. This dispute relates to whether the payment is for contractual serviced (section 194C) or technical services (section 194J)

Proposed amendments

- In order to reduce litigation, it is proposed to equalize the rate of withholding tax in case of fees for technical services under section 194J to two percent in line with the rate of withholding tax on contractual service under section 194C
- Rate of withholding tax on other payments including fees for professional services to remain the same
- The amendment is proposed to be effective from assessment year 2020-21

Corporate taxation

Rationalization of applicability of TDS under section 194C

Background

Section provides for the deduction of tax on payments made to contractors. Currently, a specific exclusion has been provided for manufacturing / supplying a product according to the requirement or specification of a customer by using material purchased from a person, other than such customer. Some tax payers are using the escape clause of the section by getting the contract manufacturer to procure the raw material supplied through its related parties

Proposed amendments

- It is proposed to amend the definition of "work" under section 194C to provide that the raw material provided by the customer or its associate shall fall within the purview of the 'definition of 'work' in contract manufacturing
- Associate is proposed to be defined to mean a person under Section 40A(2)(b) in relation to the customer

Corporate taxation

Modification of e-assessment scheme

Currently, e-assessment scheme covers only the assessment under section 143(3) of the Act. The Scheme shall now also gets extended to “best judgment assessment” passed under section 144 of the Act.

The time limit for issuance of any directions by Central Government to ensure proper implementation of e-assessment scheme has been extended from March 31, 2020 to March 31, 2022.

Corporate taxation

Provision for e-appeal and e-penalty

Background

- In order to impart greater efficiency, transparency and accountability to the assessment process under the Act a new e-assessment scheme has already been introduced
- However, the first appeal process which is one of the major functions/ processes is not yet in electronic or faceless mode except filing of appeal
- Similarly, penalty proceedings also require the tax payer or his authorized representative to visit the tax office

Proposed amendments

- In order to launch an e-appeal scheme on the lines of e-assessment scheme, it is proposed to insert sub-section (6B) in section 250 of the Act to provide for empowering the Central Government to notify an e-appeal scheme for disposal of appeal so as to impart greater efficiency, transparency and accountability by -
 - eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible
 - optimizing utilization of the resources through economies of scale and functional specialisation
 - introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more Commissioner (Appeals)

Similar amendments are also proposed for penalty proceedings by amending section 274 of the Act

Corporate taxation

Amendment in DRP scheme

Background

- Currently under the DRP Scheme, an Assessing Officer has to forward a draft assessment order to the assessee, if he proposes to make any variation in the income or loss returned by the assessee. In such a case, the assessee may file an objection to the DRP.

Proposed amendments

- It is now proposed that if the AO proposes any change which is prejudicial to the interest of the assessee (even if such change does not impact the income / loss returned) such draft order will also be sent to the assessee. The assessee can take up this order before the DRP.
- The scope of 'eligible assessee' is extended to include all non-residents.
- These provisions will apply to any variation proposed by the AO after April 01, 2020.

Corporate taxation

Other amendments

Clarity on stay by the ITAT

- Currently, the ITAT has powers to grant stay for a period not exceeding one hundred and eighty days and thereafter, to extend the same such that the total period of stay granted does not exceed three hundred and sixty five days
- The extension can be granted by the ITAT on an application being made by the assessee provided the delay in disposing of the appeal is not attributable to the assessee
- It is proposed that the powers of the ITAT to grant stay and extension thereof shall also be subject to the assessee –
 - depositing not less than 20 percent of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of the Act; or
 - furnishing security of equal amount in respect thereof
- The amendment proposed to be effective from assessment year 2020-21

The amended provisions may apply even where the stay granted earlier comes in for extension

Corporate taxation

Approval of Survey Operation under section 133A of the Act

Background

- Currently, an Income Tax Authority (below the rank of Joint Director or Joint Commissioner of Income-tax) can conduct a survey (section 133A) after taking prior approval of a Joint Director / Joint Commissioner.

Proposed amendment

- These provisions have now been amended so that a higher level of Income Tax Authority is involved in approving such a survey. Accordingly, a survey (133A) is now proposed to be conducted by a subordinate Income Tax Authority only with the prior approval of the higher authority i.e.. Commissioner / Director of Income -tax

Corporate taxation

Other amendments

Verification of the return of income

- The existing provisions of section 140 of the Act provide for who shall verify the return of income of various categories of assessees
- In case of companies and LLP, it is proposed to provide that any other person as may be prescribed by the CBDT shall also be able to verify the return of income
- This amendment will take effect from assessment year 2020-21

Appearance of authorised representative

- The existing provisions of section 288 of the Act provide for the persons entitled to appear before any income-tax authority or the ITAT, on behalf of an assessee, as its authorised representative
- Due to lack of explicit reference for an Insolvency Professional to act as an authorised representative of the corporate debtor and practical difficulties arising as a result thereof, it is proposed to enable any other person, as may be prescribed by the CBDT, to appear as an authorised representative.
- The proposed amendment to be effective from assessment year 2020-21

Corporate taxation

Other amendments

Penalty for fake invoices

Background

- Based on the audit conducted by the GST authorities, it was observed that in order to reduce the GST liability, fraudulent claim of input tax credit was made by various taxpayers by obtaining fake invoices from suppliers registered under GST. The GST charged on such invoices is neither paid nor is intended to be paid
- Accordingly, penal provisions are proposed to be introduced vide section 271AAD in order to curb and deal with such fraudulent arrangements

Proposed amendment

Particulars	Provision detail
Penalty liable when	If it is found that in the books of accounts maintained <ul style="list-style-type: none"> • There is a false entry; or • There is an omission of any entry which is relevant for computation of total income of such person, to evade tax liability
Penalty quantum	Aggregate amount of false or omitted entry
Applicable to	Subject to the directions of the Assessing Officer: <ul style="list-style-type: none"> • Person who has made the false or omitted entry; and • The person who causes the person to make such false or omitted entry
Meaning of false entry	Inclusive definition - "false entry" includes use or intention to use- <ul style="list-style-type: none"> (a) forged or falsified documents such as a false invoice or, in general, a false piece of documentary evidence; or (b) invoice in respect of supply or receipt of goods or services or both issued by the person or any other person without actual supply or receipt of such goods or services or both; or (c) invoice in respect of supply or receipt of goods or services or both to or from a person who does not exist

- The proposed amendment to be effective from assessment year 2020-21

Corporate taxation

Amendments relating to tax audit in certain cases

Background

- The existing provisions of section 44AB of the Act *inter alia* provide that every person carrying on business is required to get his accounts audited, if his total sales, turnover or gross receipts in business exceed/s INR 10 million in the relevant tax year;

Proposed amendment (effective from assessment year 2020-21)

Increase in monetary limit

- In order to reduce the compliance burden on small and medium enterprises, it is proposed to increase the threshold limit for a person carrying on business from INR 10 million to INR 50 million in cases where:
 - aggregate of all receipts in cash during the year does not exceed five percent of such receipt; and
 - aggregate of all payments in cash during the year does not exceed five percent of such payment

Change in due date

- In order to enable pre-filing of returns in case of persons having income from business or profession, the due date for furnishing the tax audit report is proposed to be amended to one month prior to the due date of filing of return of income
 - Similar amendments are also proposed in various sections (for instance, section 50B) which mandate filing of accountant's report along with / by due date of filing return of income

Corporate taxation

Rationalisation of provisions relating to tax audit in certain cases

Proposed amendment

Amendment in the due date for filing return of income

- It is proposed to amend the existing return filing due date of 30 September to 31 October
- Currently, the list of assessees required to file return of income by 30 September, *inter alia*, includes a working partner of a firm whose accounts are required to be audited under the Act or under any other law
- It is proposed to remove the distinction between a working and a non-working partner
 - A non-working partner to be now required file return of income by 31 October as against the existing due date of 31 July
- The proposed amendments are effective from assessment year 2020-21

Corporate taxation

Changes in due date for filing of return of income for certain taxpayers

- Currently, in case of a firm that is liable to tax audit, the due date for filing of return of income for its working partners is 30 September and other partners is 31 July.
- It is now proposed that the due date for filing the return of income of the firm's partners (which is liable to tax audit) will be 31 October.
- The due date for filing of income tax return for companies and other assesseees (whose accounts are required to be audited under the Act) is proposed to be extended from 30 September to 31 October.

Corporate taxation

Other amendments

Rationalisation of provision relating to Form 26AS

Background

- Section 203AA of the Act, *inter alia*, provides for issuance of Form 26AS by tax authorities to a tax payer which covers information in respect of tax payments i.e. TDS, advance tax, etc.
- With the advancement in technology and enhancement in the capacity of system, multiple information in respect of a person (e.g. sale / purchase of immovable property, share transactions etc.) are being captured or proposed to be captured

Proposed amendment – deletion of section 203AA and insertion of section 285BB

- As the mandate of Form 26AS would be required to be extended beyond the information about tax deducted/paid, it is proposed to delete section 203AA and introduce a new section 285BB in the Act regarding annual financial statement
- Section 285BB proposes to mandate the tax authorities to upload in the registered account of the tax payer a statement, in the prescribed form and manner, setting forth such information, which is in the possession of an income-tax authority, and within such time, as may be prescribed
- The amendment to be effective from 1 June 2020

Annual financial statement with wider information coverage to replace Form 26AS

Corporate taxation

Other amendments

Section 80G and Section 80GGA

Proposed amendments to section 80G and section 80GGA

- It is proposed that an entity already approved under section 80G to apply for approval with the Principal Commissioner or Commissioner
- An entity making fresh application for approval under section 80G to be provisionally approved for three years on the basis of application without detailed enquiry even in the cases where activities of the entity are yet to begin and then it has to apply again for approval which, if granted, shall be valid from the date of such provisional registration.
- The application of registration subsequent to provisional registration should be at least six months prior to expiry of provisional registration or within six months of start of activities, whichever is earlier.
- Deduction under section 80G/ 80GGA to a donor shall be allowed only if a statement is furnished by the donee who shall be required to furnish a statement in respect of donations received and in the event of failure to do so, fee of INR 200 per day and penalty shall be levied.
- Deduction of cash donation under section 80GGA shall be restricted to INR 2,000.

Corporate taxation

Other amendments

Rationalisation of provisions relating to trust, institution and funds

Rationale

- Provisions governing trust or institution constitute a complete code and in case conditions for exemption are violated, no other provisions should operate so as to exclude such income or part thereof
- While the said provisions provide exclusion to institutions or fund registered under section 10(23C), the same exclusion is not available to entities constituted under Central or State Act or by a Central or State Government claiming exemption under section 10(46) of the Act.

Proposed amendment

- It is proposed that –
 - exemption under section 10(46) to be allowed to an entity even if it is registered under section 12AA subject to the condition that the registration shall become inoperative. If the entity wishes to make it operative in the future, it will have to file an application and then it would not be entitled for deduction under section 10(46) from the date on which the registration becomes operative
 - registration under section 12A/12AA/12AB of the Act to become inoperative from the date on which the trust or institution is approved under section 10(23C) or notified under section 10(46);
 - the trust or institution whose registration has become inoperative may apply to get its registration operative under section 12AB subject to the condition that on doing so, approval under section 10(23C) or notification under section 10(46) of the Act shall cease to have any effect and thereafter, it shall not be entitled to exemption under the respective sections
 - Section 115TD which deals with taxing accretion of income to be amended to include entities registered under section 12AB.
- The amendment is proposed to be effective from 1 June 2020

Procedural and miscellaneous

Proposed Dispute Resolution Scheme ('Vivad Se Vishwas')

The Finance Minister made the following announcements in the Budget speech:

- Currently, there are 483,000 direct tax cases pending in various appellate forums.
- In the last budget, the Sabka Vishwas Scheme was launched to reduce litigation in indirect taxes. It has resulted in settling more than 189,000 cases.
- It is proposed to bring a scheme (Vivad Se Vishwas) on similar lines for reducing litigations in direct taxes.
- Key features of the proposed scheme will be the following:
 - A tax payer would be required to pay only the amount of the disputed taxes and get complete waiver of interest and penalty provided he/she pays by 31 March 2020.
 - Those who avail this scheme after 31 March 2020 will have to pay some additional amount.
 - The scheme will remain open until 30 June 2020.
 - Tax payers in whose cases appeals are pending at any level can benefit from this scheme.

Corporate taxation

Other amendments

Amendments to Commodities Transaction Tax (CTT) provisions

Section 116(7) – Taxable commodities transaction amended

- The definition amended to include sale of option in goods, and sale of commodity derivatives **based on prices or indices of prices of commodity derivatives** or option in goods in respect of commodities, other than agricultural commodities, traded in recognized stock exchange

Section 116(8) – Expressions substituted

- “words and expressions used but not defined in this Chapter and defined in **the Securities Contracts (Regulation) Act, 1956***, the Income-tax Act, 1961 (43 of 1961), or the rules made **or the notifications issued** made thereunder, shall have the meanings respectively assigned to them in those Acts

**Earlier - Forward Contracts (Regulation) Act, 1952 , or the rules made :*

Section 118 – Value of taxable commodities transaction

- Value of taxable commodities transaction to be the price at which the commodity derivative or commodity derivative based on prices or indices of commodity derivatives is traded.

Section 119, 120 and 132A

- The amendment in respective sections to substitute words “recognized stock exchange” for the words “recognized association”

Corporate taxation

Other amendments

Amendments to CTT provisions

Sr. No.	Taxable commodities transaction	Rate	Payable by
1.	Sale of commodity derivative	0.01 per cent	Seller
2.	Sale of commodity derivatives based on prices or indices of prices of commodity derivatives	0.01 per cent	Seller
3.	Sale of option on commodity derivative	0.05 per cent	Seller
4.	Sale of option in goods	0.05 per cent	Seller
5.	Sale of option on commodity derivative, where option is exercised	0.0001 per cent	Purchaser
6.	Sale of option in goods, where option is exercised resulting in actual delivery of goods	0.0001 per cent	Purchaser
7.	Sale of option in goods, where option is exercised resulting in a settlement otherwise than by the actual delivery of goods	0.125 per cent	Purchaser

This amendment to be effective from 1 April 2020

Individual taxation

Proposed simplified regime

1 Option for individuals and HUF to apply for the simplified tax regime subject to satisfaction of certain conditions

Individuals and HUF with no business income can exercise this option every year at the time of filing of return in the prescribed manner

2

3 Individuals and HUFs with business income can exercise this option before the due date of filing the return. Once this option is exercised, they will have to continue with the new regime for that year and all subsequent years.

Individuals and HUFs with business income have only one chance to revert to the old regime. Once reverted, they become ineligible to exercise this option for any future years (unless they cease to have business income)

4

5 To avail simplified regime, the tax payer needs to file the return within the due dates specified under section 139(1)

Proposed simplified regime

Following deductions/exemptions are not allowed under Proposed Simplified Regime

Deductions under chapter VIA (other than employers' contribution to NPS under section 80CCD(2) and deduction for employment of new employees under section 80JJAA)



Exemptions such as House Rent allowance, Leave Travel Allowance, income of minor child, allowances received by a member of parliament, SEZ exemption and deductions such as standard deduction, profession tax, family pension deduction

Allowances granted to employees **other than** transport allowance, conveyance allowance, per-diems and travel and transfer allowance



Certain deductions for business income such as depreciation, investment in new plant and machinery, tea coffee rubber development, specified business, agriculture extension projects, scientific research expenditure, etc.

Exemption in respect of voucher granted for free food and beverages



Set-off of loss from House property with any other head of income. Such loss will deemed to have been utilized and will not be allowed to carry forward to future years

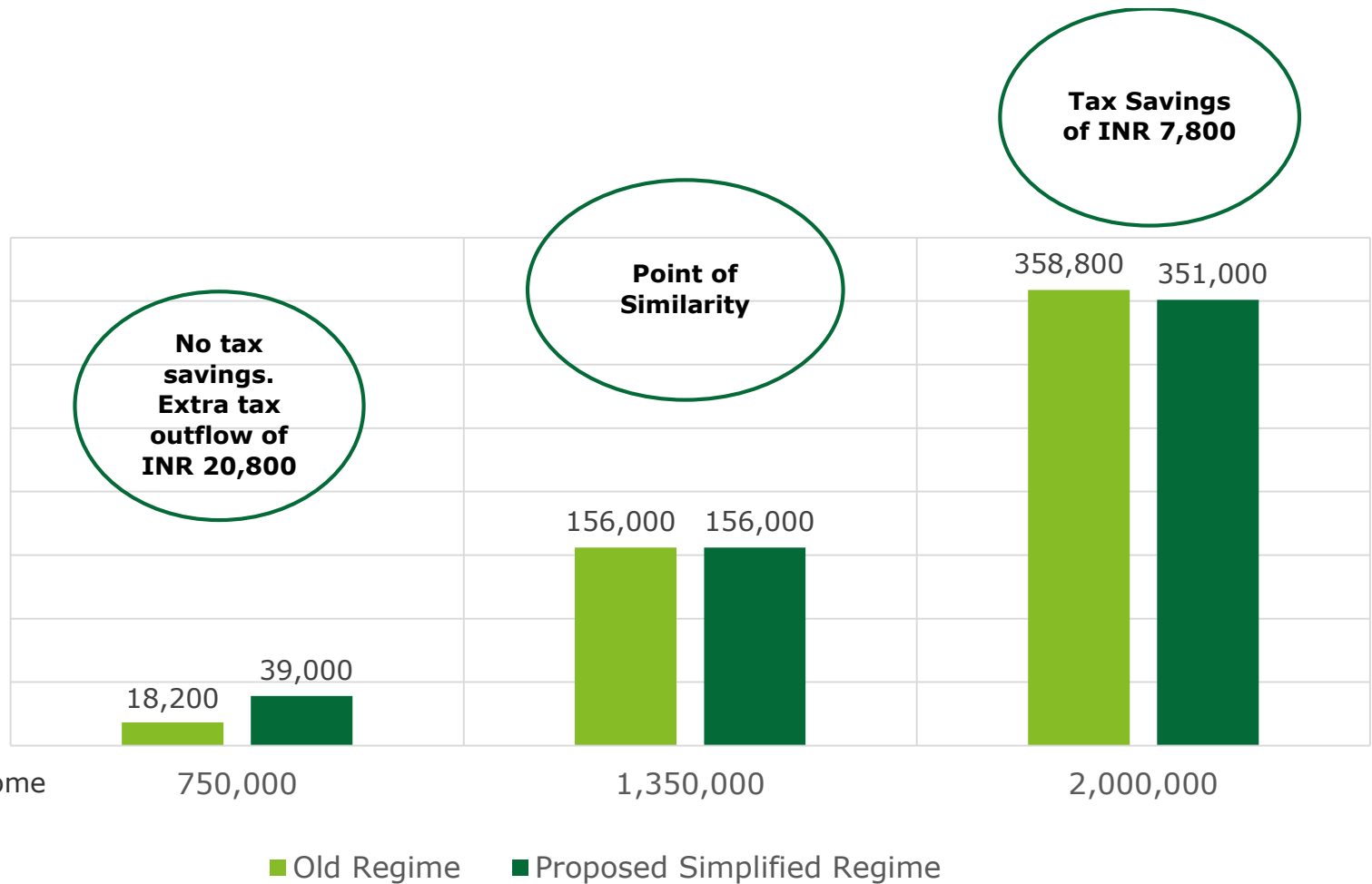
Simplified personal tax regime

The new tax slabs as compared to the earlier slab rates are

Income slabs (in INR)	Rate of Tax (percent) (under proposed simplified regime)	Rate of Tax (percent) (under the old regime)
Upto 250,000	NIL	NIL
250,000 to 500,000	5	5
500,000 to 750,000	10	20
750,000 to 1,000,000	15	20
1,000,000 to 1,250,000	20	30
1,250,000 to 1,500,000	25	30
Above 1,500,000	30	30

- It may be noted that the regular surcharge would be applicable based on the income levels.
- AMT shall not apply if this option is exercised

Tax impact



For the above tax impact, we have assumed claim of standard deduction (INR 50,000) and Chapter VIA deduction (INR 1,75,000) totaling to INR 2,25,000 were claimed under old regime.

Determination of residential status

Existing

- Indian citizens or Person of Indian Origin visiting India are considered as resident if their stay is 182 days or more in current year.
- Individual or HUF is considered as 'Not Ordinarily Resident' if the following conditions are satisfied –
 - he has been a non-resident in India in nine out of ten previous year, or
 - he has been in India for 729 days or less in seven previous years

Residential Status

Proposed

- Indian citizens or Person of Indian Origin visiting India will be considered as resident if their stay is 120 days or more in the current year.
- A person would be considered as 'Not Ordinarily Resident' if he has been non-resident in India in seven out of ten previous years.

Additionally, Indian citizen shall be deemed to be resident in India if they are not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature

Taxation of retiral benefits

Employer contributions to retiral funds in excess of specified limits now liable to tax [Section 17(2)]

Currently, employer contribution to following retirals are liable to tax only if -

- Provident Fund contribution is in excess of 12 per cent of the salary
- NPS contribution is in excess of 14 per cent of salary for Central Government employees and 10 per cent of salary in any other case
- Superannuation Fund contribution is in excess of INR 1,50,000

Also, employee is not taxable on accruals on such contributions.

It was observed that the above resulted in an undue benefit to the higher salary income earners due to EEE regime. In order to restrict the benefit, the following amendment is proposed.

Proposed Amendment to section 17(2)(vii)

It is proposed to introduce an aggregate monetary limit of INR 7,50,000 in respect of employer contribution to aforesaid schemes. Contribution in excess of this limit would be a taxable perquisite.

Further the annual accretion on these contributions (in excess of monetary limits) will be treated as a perquisite.

Operational challenges in income bifurcation, tax withholding and double taxation need to be addressed. Further, reference of NPS contribution of employer has been wrongly referred as being under section 80CCD(1) instead of section 80CCD(2).

Tax deferment of stock benefit

Deferment of tax on stock benefits of start-ups [Section 191/192]

Currently, the specified security and sweat equity shares are taxable as perquisite at the time of exercise. This creates a cash flow issue for the employees as it may not be possible to sell the shares immediately.

Proposed Amendment to section 17(2)(vii)

To ease the tax burden of employees of eligible start-ups, it is proposed to defer the taxation of this perquisite to the earlier of the three events namely

- Expiry 48 months from end of the relevant assessment year or
- Sale of shares by employee or
- An employee's resignation

Appropriate changes are proposed to facilitate payment of taxes by the employee through self assessment in cases where there is no tax withholding or a demand is raised.

Challenge

The start-ups need to address challenges of tracking the tax triggering event to ensure compliance.

The benefit should have been extended to all stock award of unlisted companies as they face a similar challenge

Deduction for interest on loan

Loan for affordable housing - Section 80EEA

- Currently interest on loan sanctioned by specified financial institution during the period 1 April 2019 to 31 March 2020 for the acquisition of residential house property is eligible for an additional deduction of upto INR 150,000

Proposed Amendment

This deduction is now extended for one year in the case of loans sanctioned upto 31 March 2021.

Other conditions (no change)

- The stamp duty value of the residential house property should not exceed INR 4,500,000
- Tax payer should not own any other residential house property on the date of sanction of the loan
- This benefit is available over and above existing deduction available under section 24 for interest on housing of upto INR 200,000 and is available.

The memorandum refers to limit of 4,500,000 for stamp duty instead of stamp duty value

Exemption withdrawal for notified government employees

Withdrawal of exemption on certain perquisites or allowances to members of UPSC and election commission [Section 10(45)/ section 8 of the Election Commission Act]

- Currently, the Chairman and members of Union Public Service Commission (UPSC), Chief Election Commissioner and Election Commissioner are eligible for tax exemption on certain allowances/perquisites by virtue of section 10(45) of the Act. These tax exemptions are now proposed to be withdrawn.
- For this purpose, amendments are also being made to the relevant Acts (which govern the services of these officials) besides the Income tax Act.

Mergers and Acquisitions (Tax)

Tax laws extended to unlisted / private InvITs

Amendment to section 2(13A)

Rationale

- Section 2(13A) of the Act currently defines “business trust” as a trust registered as an InvIT or REIT (under the relevant SEBI regulations of 2014), and the units of such trust are also required to be listed on a recognised stock exchange.
- SEBI has amended the 2014 Regulations (in 2019), and done away with the requirement of mandatory stock exchange listing of InvIT units.

Proposed amendments

- It is proposed to amend the definition of “business trust” to exclude reference to mandatory listing of units of the business trust on the stock exchange.

Source:
Note:

Miscellaneous provisions

Amendment to section 55

Cost of acquisition of real estate acquired prior to 1 April 2001

Background

Under existing provisions of Section 55, in respect of asset acquired before 1 April, 2001, an option has been given to the assessee either to taking the 'fair market value' of the asset (as on 1 April, 2001) or the actual cost as his 'cost of acquisition'.

Proposed amendment

- It is proposed that in case the capital asset is land or building, its 'fair market value' as on 1 April 2001 shall not exceed its 'stamp duty value' as on 1 April, 2001.
- The aforesaid amendment is proposed to be applicable from assessment year 2021-22 and onwards.

Miscellaneous provisions

Amendment to section 43CA, section 50C and section 56(2)(x)

Safe harbor limit for real estate transactions

Rationale

- The current provisions of section 43CA and 50C (sellers) and 56(2)(x) (purchaser) provide that the consideration on transfer of land or building should be in accordance with stamp duty valuation and allow a safe harbor of five percent of consideration
- Considering that both the seller and the buyer could pay tax on this difference, it is proposed to provide a broader safe harbor for such transaction

Proposed amendment

- The Finance Bill proposes to enhance the safe harbor limit described above to ten percent of consideration.
- The aforesaid amendment is proposed to be applicable from assessment year 2021-22 and onwards.

Miscellaneous provisions

Amendment to section 44AB

Change in due date for filing of accountant's report for slump sale

Background

- In case of slump sale, assessee is required to file report from a Chartered Accountant along with the return of income.
- To enable pre-filing of returns in case of persons having income from business or profession, it is proposed to amend the specified date under section 44AB

Proposed amendment

- It is proposed amend definition of 'specified date' under section 44AB so that the date of submitting tax audit report is one month prior to the due date of filing of return of income under section 139(1) of the Act.
- In case of a slump sale, the date of filing of report from Chartered Account is linked to specified date as provided under section 44AB of the Act. This report shall also have to be furnished one month prior to the due date of filing of return of income.
- The aforesaid amendment is proposed to be applicable from assessment year 2020-21 and onwards.

Mutual funds: Period of holding and cost of acquisition for segregated portfolios

Amendment to section 2(42A) and 49

Rationale

- SEBI now permits creation of segregated portfolios within debt and money market Mutual Fund schemes. All the unit holders in the main scheme are allotted the same number of units in the segregated portfolio.

Proposed amendment

- For taxation purposes, the period of holding of the units in the segregated portfolio is proposed to include the earlier period of holding of the units in the main scheme. Further, it is proposed that for computing the "cost of acquisition" of the units in the segregated portfolio, the "cost of acquisition" of the units in the main scheme will be pro-rated in the ratio of the NAV of the assets transferred to the segregated portfolio. The "cost of acquisition" of the units in the main scheme will simultaneously be reduced by the "cost of acquisition" of the units in segregated portfolio.
- These amendments will apply in relation to the assessment year 2020-21 and subsequent years.

PSU – bank and insurance mergers

Amendment to section 72AA (Loss carry forward on mergers)

Rationale

- Currently [under section 72AA of the Act], business loss and unabsorbed depreciation of an amalgamating banking company is allowed to be carried forward to the amalgamated banking company / banking institution / nationalized public sector bank etc.

Proposed amendment

- It is proposed to also extend the above benefit to:
 - Amalgamation of the nationalized public sector banks with each other
 - Amalgamation of nationalized public sector general insurance companies with each other
- The aforesaid amendment is proposed to be applicable from assessment year 2020-21.

Dividends are now taxable to the recipients – even through REITs / InvITs

Amendment to section 10(23FC), 10(23FD), 115UA, 194LBA

Rationale

- Under the current provisions of the Act, dividend is exempt in the hands of the unitholders of a business trust
- It is now proposed to tax the dividends received by the unitholders of a business trust.

Proposed amendment

- Dividends distributed by companies are proposed to be made taxable in the hands of the shareholders
- REITs / InvITs as shareholders continue to remain exempt from tax on such dividends. It is proposed to amend section 10(23FC) wherein dividend income received or receivable from a special purpose vehicle by a business trust is exempt. The reference to section 115-O(7) is proposed to be deleted. However, investors in such REITs / InvITs are proposed to be taxed on such dividends directly
- It is also proposed to amend section 10(23FD) and section 115UA thereby removing exemption available for dividend income in the hands of unit holder.
- Additionally, it is proposed that the REIT / InvIT will withhold tax at 10 percent on dividends it distributes

The aforesaid amendments (except amendment to section 194LBA) is proposed to be applicable from 1 April, 2021. Amendment under section 194LBA will take effect from 1 April, 2020.

Source:

Note:

Transfer Pricing

Transfer Pricing

Key amendments

Due date of filing accountant's report (Form 3CEB) brought forward

- To enable pre-filed annual income tax returns, the due date of filing Form 3CEB has been advanced by a month.
- Due date of filing Form 3CEB **has been** proposed to be one month prior to the due date of filing the annual income tax return. For FY 2019–20, the due date of filing 3CEB is proposed to be 31 October 2020.
- Consequently, **for FY 2019–20, the** due date for maintaining the contemporaneous **transfer pricing (TP)** documentation **will** also be **31 October 2020**.

APA provisions to cover determination of profit attributable to a PE

- It was proposed to expand the scope of the Advance Pricing Agreement (APA) provisions to include determination of profit attributable [under section 9(1)(i) of the Act] to a Permanent Establishment (PE). The benefit of the rollback can also be availed by such PEs.
- The provisions will apply to an APA entered into on, or, after 1 April 2020.

Safe harbour rules to cover determination of profit attributable to a PE

- The safe harbor rules [under section 92CB read with Rule 10TA to 10TF] have been proposed to be expanded to cover profits attributable [under section 9(1)(i) of the Act] to a PE. This will be applicable for AY 2020–21, and subsequent assessment years.

Indirect Tax



Indirect Tax Budget Proposals

Key changes

- Time limit for availment of input tax credit in debit notes relaxed.
- Penal provisions expanded to cover persons who have retained the benefit and at whose instance fraudulent transactions of input tax credit have been conducted.
- Punishment for prescribed offences now extended to person who causes to commit such offence or retains the benefit arising out of such offence.
- Fraudulent availment of input tax credit without an invoice or bill is now prescribed to be cognizable and non-bailable offence.
- Introduction of Health Cess on specified medical devices at the rate of 5%
- Introduction of facility of electronic duty credit ledger in Customs automated system
- Withdrawal of exemption/concessions resulting in increase of effective Customs duty rates on specified goods

Goods and Services Tax

Legislative amendments

Goods and Services Tax

Legislative amendments

- Definition of Union Territory in CGST Act, 2017 and UTGST Act, 2017 amended to notify Ladakh and Dadra and Nagar Haveli and Daman and Diu.
- To harmonise the provisions between the supplier of goods along with services, provision of supply of the following services has been excluded from the ambit of GST Composition Scheme:-
 - Services which are not leviable to tax;
 - Inter-state supply of services;
 - Provision of supply of services through e-commerce operator
- Time limit for availment of input tax credit on debit notes to be determined based on the date of issue of such debit note thereby delinking the same from the corresponding invoice.
- Registration of taxpayers who have voluntarily registered under the GST laws are now allowed be cancelled either by themselves or by Tax authorities

Goods and Services Tax

Legislative amendments

- Timelines for filing application for revocation of cancellation of registration can be extended by Commissioner / Additional / Joint Commissioner as prescribed.
- Provision to prescribe time limit and manner of issue of tax invoice for specific categories of services or supplies incorporated in the Act
- The requirement for issuance of GST – TDS certificate by Deductor omitted from the Act– the form and manner for issuance of TDS certificate to be prescribed by the Government. Further provision of late fee for failure to furnish GST-TDS certificate has also been omitted.
- Powers for constitution of Appellate Tribunal and Benches for the Union Territories of Jammu and Kashmir and Ladakh prescribed.

Goods and Services Tax

Legislative amendments

- Penal provisions expanded to cover persons who have retained the benefit and at whose instance fraudulent transactions of input tax credit have been conducted.
- Punishment for prescribed offences now extended to person who causes to commit such offence or retains the benefit arising out of such offence.
- Fraudulent availment of input tax credit without an invoice or bill is now prescribed to be cognizable and non-bailable offence.
- Restriction on power of the Board to issue instructions / directions to Commissioner who conducts Special Audit and to Commissioner who grants extension of time limit for return of goods from job worker.
- Availment of transitional credit within prescribed timelines incorporated retrospectively with effect from 1 July 2017.
- Timelines enabling the Government to issue orders for removal of difficulties in implementation of provisions under GST laws extended from 3 years to 5 years from commencement of the relevant GST statutes.
- Retrospective amendment made with effect from 1 July 2017 to exclude transfer or permitting use of business assets without consideration from the ambit of Schedule II

Customs

Legislative changes

Customs – Legislative changes

Changes in Customs Law

- Powers to prohibit importation or exportation of goods expanded to include within its ambit 'any other goods' in addition to gold or silver with an objective to prevent injury to the economy against uncontrolled imports.
- Explanation inserted to explicitly clarify that any notice issued for recovery of duties not levied/paid or short levied/ paid or erroneously refunded, shall continue to be governed as per provisions as they existed before 29 March 2018. This includes, inter-alia the following –
 - Concept of pre-notice consultation before issue of notice
 - Issue of supplementary notice
- New provision has been introduced to facilitate creation of electronic duty credit ledger in Customs automated system –
 - Duty credit may be issued in lieu of remission of duty for export of goods or other financial benefits available to exporters
 - It shall be maintained in the automated system for the recipient of such duty credit
 - It may be used by the person to whom it is issued or by the person to whom it is transferred, to be used towards payment of duty payable
 - Provision has been inserted for recovery of duties in case Electronic Duty Credit has been obtained through fraudulent means

Note: Changes effective from the date of enactment of Finance Bill 2020

Customs – Legislative changes (Contd.)

Changes in Customs Law

- A new Chapter incorporated in the Customs Act with the following enabling provisions to administer the procedure regarding claim of preferential rate of duty under Trade Agreements.
 - Impose obligations on the importer with regard to –
 - the origin criteria, including regional content and product specific criteria, specified under rules of origin as per respective Trade Agreements.
 - Furnish information in a time bound manner
 - Officers empowered to seek additional information to satisfy whether country of origin criteria has been met and temporarily suspend of preferential rate of duty, pending verification
 - On suspension, goods may be released subject to furnishing of security equivalent to differential rate of duty or deposit of differential duty in cash ledger
 - Preferential rate of tax could be denied even without verification on specified conditions
 - Goods imported on claim of preferential rate of duty in contravention of the new Chapter are liable for confiscation
 - Government empowered to make rules in this regard

Note: Changes effective from the date of enactment of Finance Bill 2020

Customs – Legislative changes (Contd.)

Changes in Customs Tariff Law

- Section 8B of Customs Tariff Act, 1975, is being substituted to empower Central Government to apply safeguard measures with regard to any article imported into India causing or with a potential to cause serious injury to domestic industry.
 - Safeguard measures to include imposition of Safeguard Duty or application of Tariff Quota or other measures to curb increased quantity of imports of an article
 - Safeguard Measures to be valid for four years, unless revoked earlier
 - Provisional Safeguard measures may be imposed based on preliminary determination and shall be valid for two hundred days
 - Provisions would not apply to 100% export-oriented undertakings or unit in a Special Economic Zone, subject to prescribed conditions
 - Refund of Safeguard duty would be made on final determination by Central Government in the event it is established that the imports have not caused or threatened to cause serious injury to domestic industry

Note: Changes effective from the date of enactment of Finance Bill 2020

- Customs Tariff (Identification, Assessment and Collection of Anti-Dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995 amended to strengthen the anti-circumvention measures by making them more comprehensive
- Customs Tariff (Identification, Assessment and Collection of Countervailing Duty on Subsidized Articles and for Determination of Injury) Rules, 1995 has been amended to include a provision to enable investigation in case of circumvention of countervailing duties.

Note: Changes effective w.e.f. 2 February 2020

Customs Tariff – Other legislative changes

Health cess

A new duty of customs, 'Health Cess', has been introduced on import of medical devices falling under specified headings

Description of goods	From 2 February 2020
All goods falling under CTH 9018, 9019, 9020, 9021, and 9022 of the first Schedule to the Customs Tariff Act, 1975	5 percent ad valorem

Notes:

- Exemption from payment of Health Cess on import of above medical devices where no BCD is payable and also on inputs/parts used in the manufacturing of specified medical devices
- Value for applying ad valorem rate of Health Cess to be based on provisions of section 14 of the Customs Act
- Duty credit scrips shall not be used for payment of Health Cess

**Only key rate amendments have been captured*

Customs – Legislative changes (Contd.)

Changes in Customs Tariff Law

New tariff heading and relevant tariff rate has been prescribed for the following goods:

Tariff items	Description of goods	Tariff rate*
8414 51 50	Wall fans	20%
8529 90 30	Open cell for television set	15%
8541 40 11	Solar cells not assembled	20%
8541 40 12	Solar cells assembled in modules or made up in panels	20%

* Effective rate to be determined based on the relevant notifications

**Only key rate amendments have been captured*

Customs Rate movement

Customs

Rate movement

BCD has been increased on the following goods

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Specified house hold items- Tableware, kitchenware, glassware, padlocks, brooms, brushes, combs, etc.	10%	20%
Specified household appliances – Fans, grinders, dryers, coffee and tea maker, fluid heaters, etc.	10%	20%
Specified footwear	25%	35%
Specified toys	20%	60%
Specified stationery items	10%	20%
Compressor of refrigerator and air conditioner	10%	12.5%
Industrial fans, railway carriage fans, air circulator	7.5%	10%
Fingerprint readers for use in mobile phone	Nil	15%
Headphones and earphones	Applicable BCD	15%
Specified freezers, specified refrigerating equipment/devices, heat pumps, ice-making machinery	7.5%	15%
Water cooler, vending machine	10%	15%
Specified gemstones, precious and semi-precious stones	Nil	0.5%

**Only key rate amendments have been captured*

Customs

Rate movement

BCD has been increased on the following goods

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Pressure vessels, welding and plasma cutting machines, motors like single phase AC motors, stepper motors, and wiper motors	7.5%	10%
Specified goods and their parts used in manufacturing of catalytic converter including parts of catalytic converter	5%	7.5%
Noble metal solutions and compounds used in manufacturing of catalytic converter and their parts	5%	Applicable BCD
Platinum or palladium used in manufacturing of catalytic converter and their parts	5%	Applicable BCD
Other chemicals products and preparations falling under CTH 3824 99 00	10%	17.5%
Specified static converters	15%	20%
Copper and articles thereof used in manufacturing of specified electronic items	Nil	Applicable BCD

**Only key rate amendments have been captured*

Customs

Rate movement

BCD has been increased on the following goods

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Dip bridge rectifier; printed circuit board (populated, loaded, or stuffed)	10%	20%
Specified chargers and power adapters	Applicable BCD	20%
Specified catalytic convertor	10%	15%
Specified goods used for construction/repair of road	Nil	Applicable BCD
Specified goods used in high voltage power transmission project	5%	7.5%
Rotary tillers/weeder	2.5%	7.5%
Gold used in the manufacture of semiconductor devices or light emitting diodes	Nil	12.5%

**Only key rate amendments have been captured*

Customs

Rate movement

BCD has been increased on the following goods

Description of goods	Up to 31 Mar 2020	From 1 Apr 2020
PCBA of cellular mobile phones	10%	20%
Vibrator/Ringer of cellular mobile phones	Nil	10%
Completely built units of commercial vehicles under CTH 8702, 8704 (excl. electric vehicles)	30%	40%
Completely built units of commercial electric vehicles under CTH 8702, 8704	25%	40%
Semi knocked down forms of electric passenger vehicles under CTH 8703	15%	30%
Semi knocked down forms of electric vehicles – bus, trucks, and two wheelers under CTH 8702, 8704, 8711	15%	25%
Completely knocked down forms of electric vehicles - passenger vehicles, three wheelers, two wheelers, bus, and trucks under 8702, 8703, 8704, 8711	10%	15%

Description of goods	Up to 30 Sep 2020	From 1 Oct 2020
Display panel and touch assembly of cellular mobile Phones	Nil	10%

**Only key rate amendments have been captured*

Customs

Rate movement

BCD has been decreased on the following goods

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Newsprint, uncoated paper used for printing newspaper and lightweight coated (subject to specified conditions); calendared plastic sheets (used for smart cards)	10%	5%
Parts used in the manufacturing of microphone	10%	Nil
Platinum or palladium used in the manufacture of specified goods, including catalyst, metal compounds, metal solutions	12.5%	7.5%
Polyester liquid crystal polymers for use in manufacturing connectors	7.5%	Nil
Calcined petroleum coke	10%	7.5%
Spent catalyst/ash containing precious metals	12.5%	11.85%
Very low sulphur fuel oil meeting specified certification and conditions for import	10%	Nil
Micro-fuse base, sub-miniature fuse base, and their covers	7.5%	Nil

**Only key rate amendments have been captured*

Customs

Rate movement

Amendment in Social Welfare Surcharge for the following products

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Tiles, cubes of specified dimension; monumental or building stone simply cut sawn with a flat surface	10%	Nil
Marble, marble block/tile, travertine, and alabaster	10%	Nil
Whey, almonds, walnuts, maize, specified orange juice	10%	Nil

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Printed circuit assemblies for the following goods:		
Automatic teller machines, specified static convertors and inductors, specified microphones and loud speakers, telephone answering machines, specified electronic switches, specified plugs and socket for co-axial cables, proximity cards and tags, specified electrical machines	Nil	10%
Printed circuit boards for specified transmission apparatus, digital still image video cameras cameras	Nil	10%
Information technology software, falling under CTH 8523	Nil	10%

**Only key rate amendments have been captured*

Customs

Rate movement

Amendment in Social Welfare Surcharge for the following products

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Flat panel display falling under CTH 853180 and parts of indicator panel incorporating LCD & LED falling under CTH 853190	Nil	10%
Specified electronic switches, specified electro mechanical, snap-action switches	Nil	10%
Units of automatic data processing machines, facsimile machines, and tele printers	Nil	10%
Drawing and drafting machines under CTH 9017 and its printed circuit assemblies	Nil	10%
Specified electric conductors of voltage not exceeding 1,000 volts with connectors	Nil	10%

Description of goods	Up to 31 Mar 2020	From 1 Apr 2020
All commercial vehicles (including electric vehicles), if imported or completely built unit falling under heading 8702 or 8704	10%	Nil

**Only key rate amendments have been captured*

Customs

Pruning of exemptions leading to increase in effective rate of duty

Increase in effective BCD rate on account of withdrawal of exemptions and concessions

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Specified edible oils and refined vegetable oils of edible grade under chapter 15	85%	100%
Glycerol water, glycerol iyes falling under CTH 1520	20%	30%
Parts used for manufacturing specified printers	Nil	Applicable duty
Colour television tubes	Nil	10%
Specified MP3 or MP4 or MPEG 4 player	5%	Applicable duty
Specified audio cassettes for blinds and pre-recorded cassettes	Nil	Applicable duty
Kyanite salts, in a form indicative of their use for manurial purpose	5%	Applicable duty
Isolated soya protein	10%	30%
Instant print film	5%	10%
Specified polymers of ethylene	7.5%	10%

**Only key rate amendments have been captured*

Customs

Pruning of exemptions leading to increase in effective rate of duty

Increase in effective BCD rate on account of withdrawal of exemptions and concessions

Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
Polymers of styrene in primary forms	7.5%	10%
Lead bars, rods, profiles, and wires	5%	10%
Zinc tubes, pipes and tube, or pipe fittings	7.5%	10%
Tin plates, sheets, and strip of specified thickness; tin powder and flakes	5%	10%
Sprinklers and drip irrigation systems for agriculture and horticulture purposes	5%	7.5%
Specified goods for manufacturing of optical disk drives	Nil	Applicable duty
Dextrose monohydrate	20%	30%
Propane, butane	5%	10%
Phosphoric acid, for the manufacture of fertilisers	5%	20%

**Only key rate amendments have been captured*

Customs

Rate movement

Miscellaneous changes

- New tariff heading and relevant rates have been prescribed for wall fans, open cell for television set, unassembled solar cells, solar cells assembled in modules or made up in panels.
- Certain redundant custom duty exemption notifications have been withdrawn.
- Existing exemption notification to be pruned further after taking stakeholders' suggestion.
- Certain product-specific clarification technical in nature has been provided for the following products:
 - Dyed woven fabric of yarn falling under CTH 5407 52
 - Satellite/payloads
 - Scientific and technical instruments

**Only key rate amendments have been captured*

Excise Duty

Rate movement

Excise Duty

Rate movement

Increase in National Calamity Contingent duty structure for Cigarettes and Tobacco

Tariff items	Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
2402 20 90	Other	Rs.235 per thousand	Rs. 735 per thousand
2402 90 10	Cigarettes of tobacco substitutes	Rs.150 per thousand	Rs. 600 per thousand
2403 11 10	Hookah or gudaku tobacco	10%	25%
2403 19 10	Smoking mixtures for pipes and cigarettes	45%	60%
2403 19 21	Other than paper rolled biris, manufactured without the aid of machine	Nil	Rs. 1.00 per thousand
2403 19 29	Other	Nil	Rs. 2.00 per thousand

**Only key rate amendments have been captured*

Excise Duty

Rate movement

Increase in National Calamity Contingent duty structure for Cigarettes and Tobacco

Tariff items	Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
2402 20 10	Other than filter cigarettes, of length not exceeding 65 millimetres	Rs.90 per thousand	Rs.200 per thousand
2402 20 20	Other than filter cigarettes, of length exceeding 65 millimetres but not exceeding 70 millimetres	Rs. 145 per thousand	Rs. 250 per thousand
2402 20 30	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) not exceeding 65 Millimetres	Rs.90 per thousand	Rs. 440 per thousand
2402 20 40	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 65 millimetres but not exceeding 70 millimetres	Rs.90 per thousand	Rs. 440 per thousand
2402 20 50	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimetres or its actual length, whichever is more) exceeding 70 millimetres but not exceeding 75 millimetres	Rs.145 Per thousand	Rs. 545 per thousand

**Only key rate amendments have been captured*

Excise Duty

Rate movement

Increase in National Calamity Contingent duty structure for Cigarettes and Tobacco

Tariff items	Description of goods	Up to 01 Feb 2020	From 02 Feb 2020
2403 19 90	Other	10%	25%
2403 91 00	"Homogenised" or "reconstituted" tobacco	10%	25%
2403 99 10	Chewing tobacco	10%	25%
2403 99 20	Preparations containing chewing tobacco	10%	25%
2403 99 30	Jarda scented tobacco	10%	25%
2403 99 40	Snuff	10%	25%
2403 99 50	Preparations containing snuff	10%	25%

**Only key rate amendments have been captured*

Excise Duty Rate movement

Increase in National Calamity Contingent duty structure for Tobacco and Cigarettes

Tariff items	Description of goods	Up to 1 Feb 2020	From 2 Feb 2020
2403 99 60	Tobacco extracts and essence	10%	25%
2403 99 90	Other	10%	25%

**Only key rate amendments have been captured*

Glossary

Glossary

AAR	Authority for Advance Rulings	CAD	Current account deficit
Act	The Income-tax Act, 1961	CAT	Common Admission Test
ADR	American Depository Receipt	CbCR	Country-by-Country Report
AE	Associated Enterprises	CBDT	Central Board of Direct Taxes
AGM	Annual General Meeting	CCR, 2004	CENVAT Credit Rules, 2004
AIBP	Accelerated Irrigation Benefits Programme	CENVAT	Central Value Added Tax
AIF	Alternative Investment Fund	CETA	Central Excise Tariff Act, 1985
AML	Anti money laundering legislation	CG	Capital Gain
AMT	Alternate Minimum Tax	CGT	Central Government
AO	Assessing Officer	CIC	Core Investment Company
AOP	Association of Persons	CIT	Commissioner of Income Tax
APA	Advance Pricing Agreements	CIT(A)	Commissioner of Income Tax (Appeals)
ARE	Alternate Reporting Entity	CKD	Completely Knocked Down
AY	Assessment Year	CPSE	Central public sector enterprise
BBT	Buy Back Tax	CSR	Corporate Social Responsibility
BCD	Basic Customs Duty	CTA	Covered Tax Agreements
BEPS	Base Erosion and Profit Shifting	CTT	Commodity Transaction Tax
BOE	Bill of Entry	CVD	Counter Vailing Duty
BOI	Body of Individuals	DAPE	Dependent Agent Permanent Establishment
CAAR	Customs Authority for Advance Ruling	DDT	Dividend Distribution Tax

Glossary

DGH	Director General of Hydrocarbon
DIPP	Department of Industrial Policy and Promotion
DRP	Dispute Resolution Panel
DTA	Domestic Tariff Area
DTAA	Double Taxation Avoidance Agreements
DTC	Direct Tax Code
EC	Health and Education Cess
ECB	External Commercial Borrowings
EOU	Export Oriented Units
EPF	Employees' Provident Fund
EPFS	Employee Provident Fund Scheme, 1952
FDI	Foreign Direct Investment
FEMA	The Foreign Exchange Management Act, 1999
FERA	Foreign Exchange Regulations Act
FII	Foreign Institutional Investor
FIPB	Foreign Investment Promotion Board
FMV	Fair Market Value
FPI	Foreign Portfolio Investor
FTC	Foreign Tax Credit
FTCR	Foreign Tax Credit Rules

FTP	Foreign Trade Policy
FTS	Fees for Technical Services
FVCI	Foreign Venture Capital Investor
FY	Financial Year
GAAR	General Anti-Avoidance Rules
GDP	Gross Domestic Product
GDR	Global Depository Receipt
GIFT	Gujarat International Finance Tec City
GOI	Government of India
GST	Goods and Services Tax
GSTN	Goods and Services Tax Network
GTA	Goods Transport Agent
GTI	Gross Total Income
HC	High Court
HUF	Hindu Undivided Family
IBC	The Insolvency and Bankruptcy Code, 2016
ICDS	Income Computation and Disclosure Standards
IFC	Internal financial controls
IFSC	International Financial Services Centre
IGST	Integrated Goods and Services Tax

Glossary

Ind AS	Indian Accounting Standards
InvIT	Infrastructure Investment Trusts
InvIT Regulations	SEBI (Infrastructure Investment Trusts) Regulations 2019
IT Rules	Income-tax Rules, 1962
ITAT	Income Tax Appellate Tribunal
ITC	Input Tax Credit
LED	Light Emitting Diode
LLP	Limited Liability Partnership
LOB	Limitation of Benefit
LTCG	Long Term Capital Gains
MAP	Mutual Agreement Procedures
MAT	Minimum Alternate Tax
MCA	Ministry of Corporate Affairs
MCAA	Multilateral Competent Authority Agreement
MGNREGA	Mahatma Gandhi National Rural Employment Guarantee Act
MLI	Multilateral Instrument
MSME	Micro, Small and Medium Enterprise
MSP	Minimum Support Price
MT	Metric ton

MTM	Marked to Market
NABARD	National Bank For Agriculture & Rural Development
NAV	Net Asset Value
NBFC	Non Banking Financial Company
NOC	No Objection Certificate
NONG	non oil, non gold
NPA	Non Performing Assets
NPS	National Pension Scheme
NR	Non-Resident
NRE	Non-Resident External
NRI	Non-Resident Indian
NTRO	National Technical Research Organisation
OCI	Overseas Citizen of India
ODI	Outward Direct Investment
OECD	Organization for Economic Cooperation and Development
PAN	Permanent Account Number
PCBA	Printed circuit board assembly
PE	Permanent Establishment
PMLA	Prevention of Money Laundering Act, 2002
POEM	Place of Effective Management
PPT	Principal Purpose Test

Glossary

PY	Previous Year
QFI	Qualified Foreign Investor
QIB	Qualified Institutional Buyers
R&D	Research and Development
R&I	Road & Infrastructure cess
RBI	Reserve Bank of India
RCS	Regional Connectivity Scheme
RDBs	Rupee Denominated Bonds
REER	Real effective exchange rate
REIT	Real Estate Investment Trust
RO	Reverse Osmosis
ROC	Registrar of Companies
RPT	Related Party Transaction
SAD	Special additional duty
SARFAESI	The Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002
SAT	Securities Appellate Tribunal
SBO	Significant beneficial owner
SBRT	Single Brand Retail Trading
SC	Supreme Court

SCM	Settlement Commission
SCN	Show cause notice
SCRA	The Securities Contracts (Regulation) Act, 1956
SEBI	The Securities and Exchange Board of India
SEP	Significant Economic Presence
SEZ	Special Economic Zone
SFT	Statement of Financial Transactions
SHEC	Secondary and Higher education cess
SLM	Straight Line Method
SLP	Special Leave Petition
SME	Small and Medium Enterprise
SPV	Special Purpose Vehicle
SR	Security Receipts
STCG	Short-term Capital Gain
STT	Securities Transaction Tax
SWS	Social Welfare Surcharge
TA	Tax Authorities
TAN	Tax Deduction / Collection Account Number
TCS	Tax Collected at Source
TDS	Tax Deducted at Source



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