

# Union Budget 2019 – Tax Proposals Highlights

## Direct Tax

### PERSONAL TAXATION:

- There is no change in tax slabs; However, an increased surcharge is levied on the higher income slabs as under:

Income exceeding Rs.50 Lakhs but not exceeding Rs.1 Cr	10% (existing)
Income exceeding Rs.1 Cr. but not exceeding 2 Cr.	15% (existing)
Income exceeding Rs.2 Cr. but not exceeding Rs.5 Cr.	25% (new)
Income exceeding Rs.5 Cr.	37% (new)

- Any gift of money or any property in India made on or after 5th July 2019 by a person resident in India to a person outside India who is not a relative shall be deemed to accrue or arise in India. (Section 9)
- Amendment is proposed to ensure the cancellation of registration of the Trust or Institution which deviates from its objects (Section 12AA).
- Pass through of loss other than business loss in cases of Category I and Category II Alternative Investment Fund (AIF) to investors is provided (Section 115UB).
- Computation of tax for the purpose of interest liability under the income tax act shall be made after allowing relief under section 89.
- Exemption for certain cases (to be notified) is given from the applicability of provisions of Section 50CA in deeming fair market value of unquoted shares for computing the capital gains from the transfer of shares.

### BUSINESS / CORPORATE TAXATION:

- Tax rate of 25% currently available for companies with turnover of less than 250 crore is extended to companies reporting turnover up to Rs. 400 crores.
- Income from Non-Performing Assets (NPAs) in respect of deposit-taking NBFCs and systemically important non deposit-taking NBFCs is to be taxed on receipt basis (Section 43D).

- Amendments are made to include other electronic modes as may be prescribed, in addition to the already existing permissible modes of payment in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account.
- Tax incentives to Start -ups are extended in the form of optional conditions for carry forward of losses in the year of share transfer (Section 79) and relaxation of conditions for investment in Start-ups for availing roll over benefit in respect of capital gain on transfer of residential property under Section 54GB.
- Amount received by venture capital undertakings from Category II Alternative Investment Fund is exempt from the glitches of Section 56 which taxes aggregate consideration received for shares issued by a company, not being a company in which the public are substantially interested as exceeds the fair market value of such shares.
- Benefit of deduction for carry forward of losses under Section 79 and Section 115JB (MAT) are extended to distressed companies for whom a resolution plan is approved by NCLT.
- Income distributed by way of buy-back of shares to shareholder in case of listed companies on or after 05-07-2019 is now taxable @ 20% (like unlisted company shares) as against the existing treatment of capital gain.
- Condition for tax neutral de-merger (i.e., recording property and liabilities of the resulting company at the value appearing in the books of accounts of the demerged company) is relaxed to comply with IND -AS requirements.
- Maintenance of Information and document and filing of required form by a constituent entity of an international group under Section 92D shall be applicable even when there is no international transaction undertaken by such constituent entity.
- An option is provided to assessee to make one-time payment of additional tax @ 18% on excess money arising on secondary adjustment of transfer pricing under section 92CE.
- In the case of the alternate reporting entity (ARE) of an international group, the parent entity of which is not resident in India, the reporting accounting year shall be the one applicable to such parent entity for the purpose of Country-by-Country Reporting (CbCR) under Section 286 with retrospective effect from Asst. Year 2017-2018.

- Consideration received by a private company for issue of shares which exceeds the face value of such shares would be deemed to be the income of the company for the previous year in which the failure to comply with the conditions subject to which exemption is given, takes place [Section 56 (2)(viib)].
- Concessional rate of tax for short-term capital gains @ 15% u/s.111A is extended to transfer of units of fund set up for disinvestment of Central Public Sector Enterprises (CPSEs).

## **DEDUCTIONS:**

- Relaxation in conditions of special taxation regime for offshore funds (Section 9A).
- Deduction for interest on loan taken for purchase of one electric vehicle from any financial institution (including NBFC) up to Rs.1,50,000/-p.a. (purchased during 01-04-2019 to 31-03-2023) (Section 80 EEB).
- Exemption for interest income earned by a non-resident during the period from 17-09-2018 to 31-03-2019 from the specified company in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, as referred to in section 194LC.
- Deduction for interest up to Rs.1,50,000/-p.a. on loan taken for affordable residential house property from any financial institution subject to certain conditions. (Section 80EEA)
- Certain conditions regarding the housing project eligible for deduction under section 80 IBA (100% profits from such business) modified to align with GST provisions.
- Exemption for payment from the NPS Trust to an assessee on closure of his account is enhanced from 40% to 60% (Section 10)
- Exemption limit for contribution made to NPS by the Central Government to the account of its employee is increased from 10% to 14%. (Section 80 CCD)
- Any amount paid or deposited by a Central Government employee as a contribution to his/her Tier-II account of the pension scheme is eligible for deduction under Section 80C upto a limit of Rs.1,50,000/-.
- Additional tax incentives in the form of exemption from capital gains, exemption of interest paid to non-residents, enhanced profit linked incentives under section 80LA are proposed to be extended to units located in International Financial Services Centre (IFSC)

## **TDS PROVISIONS:**

- Individuals and HUF who pay in aggregate exceeding 50 Lakhs in a financial year to a resident towards contract, professional fee must deduct TDS @ 5%. (Section 194M)
- TDS @ 1% on purchase of immovable property for a value of Rs.50 Lakhs or more would cover all charges of the nature of club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property. (Section 194IA)
- Anomaly existing in the treatment of non-deduction of tax in respect of payments to non-residents vis-a vis residents is removed.
- TDS on amount paid to a resident under a life insurance policy, which is not exempt under sub-section (10D) of section 10 is proposed @ 5% on income component of the sum paid by the person as against the present rate of 1% on the entire maturity value.
- TDS @ 2% is to be made on cash payments in excess of one crore rupees in aggregate made during the year, by a banking company or cooperative bank or post office, to any person from an account maintained by the recipient other than specified entities. (Section 194M)
- Online filing of application seeking determination of tax to be deducted at source on payment to non-residents is enabled from 01-11-2019.
- Electronic filing of statement of transactions on which tax has not been deducted and correction statement thereon are enabled from 01-09-2019 (Section 206A).

## **RETURN, ASSESSMENT & OTHER PROVISIONS:**

- Inter-changeability of PAN & Aadhaar and mandatory quoting of PAN /Aadhaar in prescribed transactions w.e.f 01-09-2019 (Section 139A).
- Following persons are required to file return of income even if they **do not** have taxable income:
  - has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more account maintained with a banking company or a co-operative bank; or
  - has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other person for travel to a foreign country; or

- has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity; or
  - fulfils such other prescribed conditions, as may be prescribed. (Section 139)
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- Person claiming rollover benefits on investment in a house or a bond or other assets, under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB of the Act, shall necessarily be required to furnish a return, if before claim of the rollover benefits, his total income is more than the maximum amount not chargeable to tax. (Section 139)
  - Widening the scope of Statement of Financial Transactions (SFT) (i.e. mandating furnishing of statement by certain prescribed persons) to facilitate pre-filing of income tax returns. (Section 285BA)
  - Refund claim is simplified by requiring assessee to file return of income instead of prescribed form and manner (Section 239).
  - Provision is introduced to clarify that the Assessing Officer has to merely modify the total income consequent to modification of return of income in pursuance to Advance Pricing Agreement (APA) and shall not do any fresh assessment /re-assessment in such cases.
  - Penalty provisions have been amended to include the cases where a person who has under-reported income and furnished his return for the first time under section 148 with retrospective effect from Asst. Year 2017-18 (Section 270A).
  - Threshold limit of tax payable for the purpose of prosecution for non-furnishing of return is enhanced from the existing Rs.3000/- to Rs.10,000/-. Also, in computing tax payable, the tax collected at source and self-assessment tax are to be considered. (Section 276CC)
  - Provision is made for tax recovery by both Indian Government and the foreign Governments in pursuance of agreements with foreign countries where details of property of the persons are not available, but the said person is a resident in India / resident of foreign country, as the case may be (Section 228A).
  - Limitation period for sale of attached property is extended from 3 years to 7 years and the Board may, for reasons to be recorded in writing, extend the aforesaid period of limitation by a further period of three years.

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# INDIRECT TAXES

## SERVICE TAX

Many may be wondering the need for budget proposals under the above head as the laws relating to service tax have since been repealed. However, these proposals are intended to remove difficulties in respect of pending cases.

- Consideration paid in the form of Upfront fee by whatever name called to any State Govt.'s industrial Dev. Corporations such as SIPCOT, MIDC, DDA, HUDA etc., is exempt from Service tax from 1<sup>st</sup> Oct. 2013 to 30<sup>th</sup> June 2017.

*Comment: There are several cases pending on this issue before various benches of CESTAT. Now in the light of the above provisions, the end will come for those pending cases.*

- Services rendered by various IITs to their students are proposed to be exempt from service tax from 1<sup>st</sup> July 2003 to 31<sup>st</sup> March 2016.

*Comment: This is subject to litigation before various forums. Now by bringing in beneficial amendment, the Govt. has ceased liability of various IITs.*

- A dispute resolution cum Amnesty Scheme is being introduced for resolution and settlement of legacy cases under Central Excise & Service Tax laws.

*Comment: This is likely to be a one-time affair to bring to an end the pending litigated cases under the repealed laws. Details about the scheme are being notified.*

## CUSTOMS

- **INCREASE IN THE RATE OF CUSTOMS DUTY**

- Newsprints & Printed Books from 0% to 5%
- PVC Pipes from 7.5% to 10%
- Stainless Steel from 5% to 7.5%
- Roofing tiles & other architectural ornaments from 10% to 15%
- Gold, Silver ^& Platinum from 10% to 12.5%
- Split Air-conditioner from 10% to 20%
- LED Lamps from 10% to 15%

- Glass mirrors from 10% to 15%
- Wall tiles, Mosaic Cubes, Ceramic Pavings from 10% to 15%
- Papers for printing magazines & newspapers from 0% to 10%
- Marble Slabs from 20% to 40%
- Stone crushing plants for construction of Roads from 0% to 7.5%.
- Cashew kernel from 45% to 75%
- Components of Motor Vehicles from 5%/7.5% to 10%/15%
- CC TV Camera & IP Camera from 15% to 20%
- Digital Video Recorder/Network Video Recorder from 15% to 20%
- Optic fibres & cables from 10% to 15%

#### **DECREASE IN THE RATE OF CUSTOMS DUTY**

- Goods used in the generation of nuclear power from 7.5% to 0%
- Hides & Skins from 60% to 40%
- Wool fibre & wool top from 5% to 2.5%
- Specified military equipments – Exempted
- Specified Capital Goods used in the production of PCB, Mobile charges and display panel.

#### **OTHER AMENDMENTS/PROPOSALS**

- Section 103 of the Act amended to enable Proper Officer with prior approval of Dy. Commissioner to scan or screen a person who carries any goods inside his body & which are liable for confiscation
- Section 104 of the Act amended to enable Customs officer to arrest a person for an offence outside India or Indian Customs water.
- Section 110 amended to enable Proper Officer to provisionally attach Bank Account for a period of 6 months for safeguarding the Govt. revenue & to prevent smuggling

- Any person who has obtained any instrument such as DEFB license etc., by means of fraud, collusion, wilful misrepresentation or suppression of facts and utilized the same for discharging duty, is liable to pay penalty up to the face value of such instrument.
- Section 117 amended to increase the maximum penalty from Rs. 1 lakh to Rs.4 lakhs.

## **GOODS AND SERVICES TAX**

- ✓ Aadhar authentication mandatory for certain specified category of taxpayers. This is in line with interchangeability of PAN with Aadhar.
- ✓ New Composition Scheme being introduced for supplier of services or mixed suppliers having annual turnover of up to Rs.50 lakhs with rate of tax being fixed @ 6%.
- ✓ Section 31A inserted in CGST Act to provide mandatory intimation to the recipients of electronic payment. This is intended to encourage shifting to electronic mode of payment in the present-day digital world.
- ✓ Section 39 being amended to allow Composition dealers to furnish annual return along-with quarterly payment of taxes.
- ✓ New proviso inserted in Sec. 44(1) so as to empower the Commissioner to extend due date for filing annual returns & monthly returns
- ✓ New sub-section introduced in Sec. 49 to facilitate transfer of amount (Cash) from one major head to another, i.e. from IGST to CGST etc., This is a welcome measure considering the concentration of amount under one head.
- ✓ New proviso created in Sec. 50(1) to make chargeability of interest on net amount of taxes due after set-off of eligible Input tax credit. This is a welcome measure in the light of Telangana High Court's recent decision in the case of M/s Megha Engineering & Infrastructures Ltd.'s case ( W.P. 44517/2018 ) wherein the Court held that interest is payable by the assessee on gross amount of tax payable before setting off of ITC.
- ✓ A new sub-section (8A) inserted in Section 54 to enable Central Govt. to disburse refunds due under State GST law.

- ✓ New Sections (101A, 101B & 101C) being introduced to provide for constitution of National Appellate Authority for Advance Ruling to hear appeals against conflicting advance rulings pronounced by various AARs.
- ✓ Section 171 being amended to empower National Anti-Profiteering Authority to impose penalty of 10% of profiteered amount.
- ✓ Proviso & Explanation to Section 22 inserted to provide for higher exemption limit from Rs. 20 lakhs to Rs.40 lakhs in the case of supplier of goods. This was earlier notified vide Notification No.10/2019 dt. 7<sup>th</sup> March 2019.

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