

Union Budget 2020 – Tax Proposals Highlights

Direct Tax

PERSONAL TAXATION:

- ❖ There is no change in tax slabs; However, an option is given to Individuals and HUF to pay tax under the newly inserted section 115BAC of the Act in the following slab on satisfaction of certain conditions:

Total Income (Rs)	Rate
Upto 2,50,000	Nil
From 2,50,001 to 5,00,000	5 per cent
From 5,00,001 to 7,50,000	10 per cent
From 7,50,001 to 10,00,000	15 per cent
From 10,00,001 to 12,50,000	20 per cent
From 12,50,001 to 15,00,000	25 per cent
Above 15,00,000	30 per cent

Conditions are:

1. The total income of the individual or HUF is computed:-
 - a) without any exemption or deduction as specified as below:
 - Leave travel concession;
 - House rent allowance;
 - Some of the allowance as contained in section 10 (14);
 - Allowances to MPs/MLAs;
 - Allowance for income of minor;
 - Exemption for SEZ unit;
 - Standard deduction, deduction for entertainment allowance and employment/professional tax;
 - Interest under section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of section 23;
 - Additional depreciation under clause (iia) of sub-section (1) of section 32;
 - Deductions under section 32AD, 33AB, 33ABA;
 - Various deduction for donation for or expenditure on scientific research contained in section 35 (1)(ii) or (iia) or (iii) or (2AA);
 - Deduction under section 35AD or section 35CCC;
 - Deduction from family pension under clause (iia) of section 57;
 - Any deduction under chapter VIA (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc);
 - b) without set off of any loss carried forward or depreciation in any earlier years, if such loss is attributable to the above said exemption or deduction;
 - c) by claiming depreciation under section 32 except section 32(1)(iia);

- d) without any exemption or deduction for allowance or perquisites under any other law.
 2. If the individual or HUF has a Unit in the International Financial Services Centre, the deduction under section 80LA shall be available to such Unit subject to fulfilment of the conditions contained in that section.
 3. The option shall be exercised for every previous year where the individual or the HUF has no business income, and in other cases the option once exercised for a previous year shall be valid for that previous year and all subsequent years.
 4. The option can be withdrawn only once where it was exercised by the individual or HUF having business income for a previous year other than the year in which it was exercised and thereafter, the individual or HUF shall never be eligible to exercise option under this section.
- ❖ Section 115JC of the Act is proposed to be amended to provide that the Alternate Minimum Tax (AMT) shall not apply to such individual or HUF having business income and exercises the option under new tax regime as mentioned above. It is also proposed to amend section 115JD of the Act to provide that the provisions relating to carry forward and set off of AMT credit, if any, shall not apply.
- ❖ Following allowances notified under section 10(14) of the Act alone are allowable to the Individual or HUF exercising option under the new tax regime:
1. Transport Allowance granted to an employee to meet expenditure for the purpose of commuting between place of residence and place of duty;
 2. Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office;
 3. Any Allowance granted to meet the cost of travel on tour or on transfer;
 4. Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.
- ❖ Rule 3 of the Income Tax Rules be amended to remove exemption in respect of free food and beverage through vouchers provided to the employee, being the person exercising option under the new tax regime, by the employer.
- ❖ Exemption on certain perquisites or allowances provided to Union Public Services Commission (UPSC) Chairman and members and Chief Election Commissioner and Election Commissioners is withdrawn.
- ❖ Time limit for sanctioning of loan for affordable housing for availing deduction up to Rs.1,50,000/- (subject to certain conditions) under section 80EEA of the Act is extended by 1 year i.e. upto 31st March 2021.
- ❖ Safe harbour limit of 5 per cent. under section 43CA, 50C and 56 of the Act (sections dealing with taxing income on land and building where the consideration declared to be received or accruing as a result of the transfer is less than the value adopted stamp valuation authority) is increased to 10 per cent.

- ❖ Exempting non-resident from filing of Income-tax return provided under Section 115A is extended to non-resident having income from royalty or fee for technical services which are subjected to TDS.
- ❖ Employer's contribution in a year to NPS, superannuation fund and recognised provident fund is subject to a combined upper limit of Rs.7,50,000/- and any excess thereon would be taxable in the hands of employee. Also, any annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme may be treated as perquisite to the extent it relates to the employer's contribution which is included in total income.
- ❖ Residency Provisions under section 6 is modified to effect that,
 1. Reduction of number of days stay in India in respect of visiting Indian Citizens from 182 days to 120 days;
 2. Single condition for a person to be called as "Not Ordinarily Resident" i.e., if the individual or the manager of the HUF has been a non-resident in India in seven out of ten previous years preceding that year;
 3. An Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India.
- ❖ Dividend or income from shares /units are taxable in the hands of shareholders or unit holders at the applicable rate and the domestic company or specified company or mutual funds are not required to pay any DDT. It is also proposed to provide that the deduction for expense under section 57 of the Act shall be maximum 20 per cent of the dividend or income from shares /units.
- ❖ In case of a capital asset, being land or building or both, the fair market value of such an asset on 1st April, 2001 shall not exceed the stamp duty value of such asset as on 1st April, 2001 where such stamp duty value is available for the purpose of computing capital gain on transfer.
- ❖ Rationalisation of provisions relating to trust, institution and funds to,
 - allow entities holding registration under section 12A/12AA to apply for notification under clause (46) of section 10;
 - the process of registration of trusts, institutions, funds, university, hospital etc and approval in the case of association, university, college, institution or company etc.;
 - Filing of statement of donation by donee to cross-check claim of donation by donor. (with effect from 01-06-2020).

BUSINESS / CORPORATE TAXATION:

- ❖ Exemption in respect of certain income of wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund.
- ❖ Exemption in respect of certain income of Indian Strategic Petroleum Reserves Limited.
- ❖ The provisions relating to 100% deduction of profits and gains for eligible start-ups under section 80-IAC of the Act are rationalised to provide that the deduction shall be available to an eligible start-up for a period of three consecutive assessment years out of ten years beginning from the year in which it is incorporated and if the total turnover of its business does not exceed one hundred crore rupees in any of the previous years beginning from the year in which it is incorporated.
- ❖ Time limit for approval of affordable housing project for availing 100% deduction under section 80-IBA of the Act is extended by 1 year i.e. upto 31st March 2021.
- ❖ Conditions for offshore funds' exemption from "business connection" under section 9A modified to give relaxations.
- ❖ Benefit of the concessional rate under section 115BAB of the Act @ 15% is extended to business of generation of electricity.
- ❖ Section 94B of the Act is amended to provide that provisions of restricting the interest or similar expenses allowability (i.e., restricted to 30 per cent. of its earnings before interest, taxes, depreciation and amortisation (EBITDA) or interest paid or payable to AE, whichever is less) would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident and is engaged in the business of banking, in India.
- ❖ An option is allowed to the assessee for not availing deduction under section 35AD (i.e., 100 per cent. deduction on capital expenditure (other than expenditure on land, goodwill and financial assets) incurred by the assessee on certain specified businesses).
- ❖ Carry forward of losses or depreciation is allowed in amalgamation in the case of public sector banks and public sector General Insurance Companies.
- ❖ Definition of "business trust" is modified to do away with the requirement of the units of business trust to be listed on a recognised stock exchange for availing the tax treatment provided under Section 115UA.

- ❖ Attribution of profit to Permanent Establishment of a non-resident is covered in Safe Harbour Rules under section 92CB and in Advance Pricing Agreement under section 92CC.
- ❖ Deduction is allowed for amount disallowed under section 43B to insurance companies on payment basis.
- ❖ It is proposed to amend the definition of royalty so as not to exclude consideration for the sale, distribution or exhibition of cinematographic films from its meaning for the purpose of income deemed to accrue or arise under section 9(1)(vi) of the Act.

TDS PROVISIONS:

- ❖ Monetary threshold limit for TDS obligation in respect of Individual or HUF is fixed at Rs.1 Cr. in case of the business or Rs. 50 Lakhs in case of the profession.
- ❖ Section 194LC of the Act is amended to extend the period of concessional rate of withholding tax @5% to 1st July, 2023 from 1st July, 2020 and also to provide for the concessional rate of withholding tax @4% to bonds listed in stock exchanges in IFSC.
- ❖ Section 194LD of the Act is amended to extend the period of concessional rate of withholding tax @ 5% to 1st July, 2023 from 1st July, 2020 and also to extend this concessional rate to municipal debt securities.
- ❖ TDS or tax payment in respect of income pertaining to Employee Stock Option Plan (ESOP) of start-ups is deferred upto a maximum period of 48 months from the end of the relevant assessment year.
- ❖ Rate for TDS in section 194J in case of fees for technical services (other than professional services) is reduced to two per cent from existing ten per cent.
- ❖ interest paid by large co-operative society (i.e., turnover exceeds fifty crore rupees during the financial year immediately preceding the financial year and the aggregate interest, credited or paid, during the financial year is more than 50,000/- in case of payee being a senior citizen and Rs.40,000/- in any other case) is brought under 10% TDS net under Section 194A.
- ❖ TDS is to be paid by e-commerce operator for sale of goods or provision of service facilitated by it through its digital or electronic facility or platform @ 1% on the gross amount of such sales or service or both under a new section 194O. E-commerce participant (being an individual or HUF) shall not be subjected to provision of this section, if the gross amount of sales or services or both of such individual or HUF, through e-commerce operator, during the previous year does not exceed five lakh

rupees and such e-commerce participant has furnished his Permanent Account Number (PAN) or Aadhaar number to the e-commerce operator.

- ❖ To bring clarity in the section and plug the leakage, it is proposed to amend the definition of “work” under section 194C to provide that in a contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of the ‘work’ under section 194C.
- ❖ Tax Collected at Source (TCS) is to be made on foreign remittance through Liberalised Remittance Scheme (LRS) for an aggregate of amounts of Rs.7,00,000/- or more in a financial year and on selling of overseas tour package at the rate of 5%. In non-PAN/Aadhaar cases the rate shall be 10%. Also, a seller of goods whose total sales, gross receipts or turnover from the business carried on by it exceed Rs.10 Cr. during the financial year immediately preceding the financial year, is liable to collect TCS at the rate of 0.1 % on consideration received from a buyer in a previous year in excess of fifty lakh rupees. In non-PAN/ Aadhaar cases the rate shall be 1%.

RETURN, ASSESSMENT & OTHER PROVISIONS:

- ❖ E-assessment scheme is expanded to include the best judgement assessment under Section 144 of the Act.
- ❖ Dispute Resolution Panel (DRP) scope under Section 144C of the Act is expanded to include cases, where the AO proposes to make any variation which is prejudicial to the interest of the assessee and is also made applicable to non-resident not being a company in addition to foreign company.
- ❖ Central Government to notify an e-appeal scheme for disposal of appeal so as to impart greater efficiency, transparency and accountability.
- ❖ To prevent the possible misuse of powers to carry out survey under section 133(6) of the Act, it is specified that prior approval of the Commissioner or the Director is required in cases other than case where the information has been received from the prescribed authority.
- ❖ A deposit of not less than 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act or furnishing of security of equal amount in respect thereof is required to grant stay by ITAT.
- ❖ Central Government may notify an e-scheme for the purposes of imposing penalty so as to impart greater efficiency, transparency and accountability.
- ❖ It is proposed to insert a new section 119A in the Act to empower the Board to adopt and declare a Taxpayer’s Charter.

- ❖ Penalty for fake invoice is introduced to the extent of the aggregate amount of false entries or omitted entry.
- ❖ Suitable amendments are made to align the purpose of entering into Double Taxation Avoidance Agreements (DTAA) with Multilateral Instrument (MLI) i.e., outcome of the G20-OECD project to tackle Base Erosion and Profit Shifting (the BEPS Project).
- ❖ New Provision for Significant Economic Presence (SEP) is to take effect from 01-04-2022.
- ❖ Source rule is amended to clarify that income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data collected from India, needs to be accounted for in Indian revenue (effective from 1st April, 2021 and will apply in relation to the assessment year 2021-22 onwards).
- ❖ Threshold limit for tax audit is increased from one crore rupees to five crore rupees in cases where aggregate of all receipts / payments in cash during the previous year does not exceed five per cent of such receipt / payment.
- ❖ To enable prefilling of returns in case of persons having income from business or profession, the audit reports are required to be furnished by the said assessee at least one month prior to the due date of filing of return of income.
- ❖ Due date for filing return in the case of companies and tax audit assessee including partners (both working and non-working) of the firm is changed to 31st October of Assessment year from 30th September.
- ❖ Annual financial statement featuring multiple information such as sale/purchase of immovable property, share transactions etc. shall be uploaded in the registered account of the assessee on the designated portal of the Income-tax Department replacing the existing Form 26AS.
- ❖ Amendments are proposed to enable any person, as may be prescribed by the Board to verify the return of income in the cases of a company and a limited liability partnership or as an authorized representative to appear before any Income-tax Authority or the Appellate Tribunal, on behalf of an assessee.

INDIRECT TAXES

CGST ACT:

- ❖ Time period to avail credit in respect of Debit note/s:

The proposed amendment seeks to provide the last date for availing input tax credit in respect of debit note/s which is to be counted from the date of issuance of such debit note/s rather than from the date of issuance of the invoice relating to such debit note/s. *[Section 16(4)]*

- ❖ Penalty on beneficiary of certain transactions:

A new sub-section has been inserted in Section 122 to levy penalty equivalent to tax evaded or input tax credit availed or passed on the beneficiary of such transactions at whose instances such transactions are conducted. *[Section 122(1A)]*

- ❖ Punishment for fraudulent availment of input tax credit:

Fraudulent availment of input tax credit without invoice or bill has been made a cognizable and a non-bailable offence under sub-section (1) of Section 69. Further, any person who retains the benefit of certain transactions and at whose instance such transactions are conducted shall also be liable for punishment. *[Section 132(1)]*

- ❖ Retrospective amendment in transitional provision:

Retrospective amendment w.e.f. 01.07.2017 has been introduced in Section 140 to prescribe the time limit and manner of availing transitional credit of un-availed credit under the existing laws. *[Section 140]*

- ❖ Power to notify time limit and manner for issuance of tax invoice for services & supplies:

The Central Government has been empowered to notify categories of services or supplies in respect of which a tax invoice shall be issued, within such time and in such manner as may be prescribed, in addition to the similar power enjoyed by the Government in respect of goods. *[Section 31(2)]*

- ❖ Form and manner of TDS certificate and waiver of late fee for failure to furnish certificate:

The Central Government has been empowered to make rules to provide for the form and manner in which a certificate of tax deduction at source shall be issued. Further, the late fee levied on the deductor for failure to furnish such certificate to the deductee has been omitted. *[Section 51(3)& (4)]*

❖ Retrospective change in rate of tax:

Retrospective exemption has been provided on supply of fish meal during 01.07.2017 to 30.09.2019. Further, rate of tax reduced to 12% on supply of pulley, wheels and other parts used as parts of agricultural machinery during 01.07.2017 to 31.12.2018. However, no refund of tax shall be made available for tax which has already been collected in respect of such supplies.

CUSTOMS ACT:

❖ Imports under Free Trade Agreement:

A new Chapter to be introduced to provide a mechanism to verify the claim for preferential rate of duty in terms of trade agreements. In terms of the proposed Chapter:

- The importer is required to comply with various requirements such as submission of requisite documents, to make a declaration having sufficient information, etc;
- The onus is on the importer to prove the genuineness of his claim for preferential rate of duty, in terms of any trade agreement.
- Proper officer has been given un-canalised powers to verify the correctness of the claims of the importer;
- Further, the proper officer has been allowed to refuse the preferential tariff treatment without verification in the following cases:
 - i.** Tariff item is not eligible for preferential tariff treatment
 - ii.** Complete description of goods is not contained in the certificate of origin
- Also, the Proper officer has been allowed to temporarily suspend the preferential tariff treatment to such goods and even disallow the claim, by recording reasons in writing.

❖ Safeguarding Measures:

Section 8B of the Custom Tariff Act has been substituted for the purpose of enhancing the scope relating to safeguard measures. Earlier, under the old Section 8B, the Central Government was only empowered to impose safeguard duty. However, the substituted Section 8B allows the Central Government to impose the safeguard measures where

the Central Government is satisfied that any article is imported in India in such increased quantity and under such condition so as to cause or threaten to cause serious injury to domestic industry.

Safeguard Measures shall include:

- (a) Imposing of Safeguard duty;
- (b) Application of tariff rate Quota;

or such other measures.

❖ Health Cess:

- A new chapter V of Finance Bill, 2020 has been introduced to impose Health Cess, a duty which shall be collected by the Union and will be considered as the duty of Customs.
- Health Cess shall be levied on the goods specified in fourth Schedule at the rate Specified therein.
- The purpose for collecting Health Cess is financing the health infrastructure and services.
- The value for the purpose of collecting the Health Cess shall be calculated in the same manner as the value calculated for the purpose of Customs duty under Customs Act.
- That a Notification bearing notification no. 8/2020 has been issued to exempt specified goods from Health Cess.

❖ Anti- Dumping

The Finance Minister in her Budget Speech also stated that the provisions for checking dumping of goods and imports of subsidized goods are also being strengthened for ensuring a level playing field for domestic industry. Hence, accordingly certain amendments have been brought by way of Notification No. 09/2020-Customs (N.T.) and Notification no. 10/2020-Customs (N.T.) which have introduced amendments in Customs Tariff (Identification, Assessment and Collection of Anti-dumping Duty on Dumped Articles and for Determination of Injury) Rules, 1995.
