



# BUDGET 2020

**Amendment in Finance  
Act, 2020 vis-à-vis Finance  
Bill 2020**

**April 2020**

## Amendments made by Lok Sabha in Finance Bill, 2020

The Finance Bill, 2020 ('the Fin Bill') has been passed by the Parliament on March 23, 2020 with around 50 plus amendments but some of them without any discussion in Bill. This Tax Alert aims to provide a brief understanding of these amendments as it stands in the Finance Act, 2020 ('the Fin Act'). It would be imperative to understand the **proposed law** with **the amendment to the proposed law**.

Sr. no	Finance Bill, 2020	Finance Act, 2020
<b>1.</b>	<b>Section 2 : Clause (15A) definition of Chief Commissioner</b>	
		<p><b>In the definition of Chief Commissioner</b> the words "or a Director General of Income-tax", and "or a Principal Director General of Income-tax" shall be inserted.</p> <p>Now the term "Chief Commissioner" means a person appointed to be a Chief Commissioner of Income-tax or a Director General of Income-tax or a Principal Chief Commissioner of Income-tax or a Principal Director General of Income-tax under sub-section (1) of section 117.</p>
<b>2.</b>	<b>Section 6 : Changes in Provisions relating to Residential Status</b>	
<b>(i)</b>	<b>Amendment in Section 6 for substituting 182 days with 120 days if total income from Indian sources exceeds Rs. 15,00,000</b>	
	The Fin Bill proposed an amendment in the Explanation 1(b) to provide that the period of stay in India, for an Indian citizen and Person of India origin, shall be reduced from 182 days to 120 days.	<p>The Fin Act has provided that the new threshold of 120 days or more (instead of 182 days or more) shall only be applicable to Indian Citizen / Person of Indian origin (PIO) having total income other than income from foreign sources exceeding Rs. 15,00,000 during the previous year.</p> <p>Accordingly, Indian Citizen / PIO having total income, other than income from foreign sources, less than Rs. 15,00,000 during previous year shall continue to be governed by the old threshold of 182 days or more for becoming a resident in India.</p>
<b>(ii)</b>	<b>Provision of 'Deemed Resident' applicable if total income from Indian sources exceeds Rs. 15 lakhs</b>	
	The Fin Bill proposed to insert a new clause (1A) to section 6 of the Income-tax Act ('the Act') to provide that an Indian citizen shall be deemed to be resident in India if he is not liable to tax in any country or jurisdiction by reason of his domicile or residence or any other criteria of similar nature.	The Fin Act has made an amendment in section 6(1A) of the Act to provide that an Indian citizen shall be deemed to be resident in India only if his total income, other than income from foreign sources, exceeds Rs. 15,00,000 during the previous year and he is not liable to tax in any other country or territory by reason of his domicile or residence or any other criteria of similar nature.

Sr. no	Finance Bill, 2020	Finance Act, 2020
(iii)	<b>Amendment in provision of section 6(6) which defines Resident but Not ordinary Resident (RNOR)</b>	
	<p>As per Section 6(6) of the Act, a resident individual or HUF is deemed as Resident but Not Ordinarily Resident in India, if he satisfies any of the following conditions:</p> <p>a) Individual or Karta of HUF been a non-resident in 9 out of 10 preceding years; or</p> <p>b) Stay of individual or Karta of HUF in India for 729 days or less in preceding 7 years.</p> <p>The Fin Bill proposed amendment in the clause by providing that:</p> <p>An Individual / HUF shall be deemed to be Resident but Not Ordinarily Resident if he / Karta of HUF has been a non-resident in any 7 out of the 10 immediately preceding years;</p> <p>The second condition related to stay of individual or Karta of HUF in India for 729 days or less in preceding 7 years was proposed to be removed.</p>	<p>The proposed amendment has been withdrawn by The Fin Act. Therefore, the existing conditions as contained under section 6(6) of the Act shall continue.</p> <p>However, The Fin Act has inserted the following two more situations wherein a person resident in India is deemed to be 'Not Ordinarily Resident' in India:</p> <p>a) An Indian Citizen or a PIO whose total income (other than income from foreign sources) exceeds Rs. 15,00,000 during the previous year and who has been in India for a period of 120 days or more but less than 182 days;</p> <p>b) An Indian Citizen who is deemed to be resident in India as per new Section 6(1A) of the Act.</p> <p>Further income from foreign sources has been defined to mean income which accrues or arises outside India (except income derived from a business controlled in or a profession set up in India).</p>
<b>3.</b>	<b>Section 10(23C) : Implication of Corpus donation received / paid by the funds or institutions</b>	
		<p>The Fin Act provides that the corpus donations shall not form part of the income of the funds or institutions availing the benefit of section 10(23C) of the Act. A consequential amendment has also been made that corpus donations by one such entity to another entity shall not be treated as application of income.</p>
<b>4.</b>	<b>Section 11 : No Deduction of Corpus Donations made to Section 10(23C) approved Institutions, etc</b>	
		<p>The Fin Act provides that corpus donation given by a Section 12AA registered institution to section 10(23C) approved institution will not be treated as an application of income. This amendment has been introduced so that these institutions do not avail the dual benefit of exemption as the corpus donations received by institutions approved under section 10(23C) shall not be treated as an income in their hands.</p>

Sr. no	Finance Bill, 2020	Finance Act, 2020
5.	<b>Section 10(23FD): Taxability of dividend income in the hands of unit holders</b>	
		The Fin Act makes an amendment to section 10(23FD) of the Act to provide that no exemption shall be available to a unit holder of business trust in respect of a dividend received from SPV if such SPV has exercised the option of section 115BAA of the Act.
6.	<b>Sec 10(23FE) regarding Exemption of certain income of wholly owned subsidiary of Abu Dhabi Investment Authority and Sovereign Wealth Fund.</b>	
	To promote investment in <b>Infrastructure development</b> , it was proposed to exempt income in nature of dividend, interest or long-term capital gains arising from investment in debt or <b>equity</b> , by a sovereign wealth fund, provided, the Investment is made <b>on or before 31<sup>st</sup> March 2024</b> and the it is to be held for at least 3 years.	<ol style="list-style-type: none"> <li>1) It is now amended that the investment can be made in share capital or unit as against earlier term used as “<b>equity</b>” in The Fin Bill</li> <li>2) Exemption is restricted to investment made during the period from <b>1<sup>st</sup> April 2020 to 31<sup>st</sup> March 2024</b></li> <li>3) Expanding the scope of entities, investment in which would qualify for exemption. Thus, exemption would also be available to investment made in <b>business trust</b> or <b>category I or II Alternative investment Fund</b> regulated by SEBI having 100% investment in the specified companies</li> <li>4) The amendment also authorizes CBDT to issue guidelines for interpretation of the above eligibility clause which have to be laid before the Parliament.</li> <li>5) The amendment further provides that if a person avails exemption and subsequently, it fails to satisfy any condition for exemption, then the said income for which the exemption is claimed would be taxable in the year in which such failure takes place.</li> <li>6) As per amended provision, the eligible entities would also include <b>specified pension funds</b> in addition to wholly owned subsidiary of Abu Dhabi Investment authority and a sovereign wealth fund.</li> </ol>
7.	<b>Section 10(34) : Dividend received on or after 1<sup>st</sup> April 2020 shall not be taxable if DDT is already paid by the Company</b>	
	It was proposed to make dividend taxable in the hands of shareholders by withdrawing the exemptions u/s 10(34) of the Act since the domestic companies are not required to pay any DDT u/s 115-O of	The Fin Act has made suitable amendments in Section 10(34) of the Act to provide that if a company has paid DDT u/s 115-O of the Act on amount of dividend before 1 <sup>st</sup> April 2020, then the said amount of such dividend received on or after

Sr. no	Finance Bill, 2020	Finance Act, 2020
	the Act.	1 <sup>st</sup> April 2020 will be exempt in the hands of shareholder u/s 10(34) of the Act.
8.	<b>Section 10(50) : Enlarging scope of exemption for e-commerce supply or services which is chargeable to Equalisation levy</b>	
		Section 10(50) of the Act to provide that income arising from e-commerce supply or services chargeable to Equalisation levy would be exempt.
9.	<b>Section 80M: Benefit of inter-corporate dividend deduction</b>	
	To avoid double taxation to domestic companies, which have received dividend income from another domestic company and redistributed dividends to its shareholders, it was proposed to exempt such dividend income received under newly inserted Section 80M of the Act. It was proposed that such dividend should be redistributed at least one month prior to the due date of filing of ROI.	The Fin Act expanded the scope of deduction available under Section 80M of the Act to include the dividend received from a <b>foreign company and business trust</b> . Thus, a domestic company can claim deduction under section 80M even in those cases where dividend received from a foreign company or business trust is further distributed to shareholders within one month before the due date of filing of return.
10.	<b>Section 92CB: Widening the scope of safe harbor</b>	
	Presently, the provision of safe harbor rule u/s 92CB of the Act includes determination of ALP u/s 92C or section 92CA of the Act. In order to widen the provisions of section 92CB, it was proposed to include income referred under section 9(1)(i) within their ambit.	Corresponding amendment is also brought in the explanation to Sub-section 2 of Section 92CB of the Act to include income referred under section 9(1)(i) within their ambit.
11.	<b>Section 115A: Taxation in case of foreign company</b>	
		<p>Section 115A of the Act specifies the tax rates for specified incomes in the hands of a non-resident assessee, <i>inter-alia</i>, dividend income, interest income, capital gains, royalty and fee for technical services. Clause (BA) of Section 115A of the Act provides that the following incomes received by a non-resident person shall be taxable at the rate of 5%:</p> <ul style="list-style-type: none"> <li>a) Interest received from an infrastructure debt fund as referred to in section 10(47);</li> <li>b) Interest of the nature and extent as referred to in section 194LC or section 194LD;</li> <li>c) Interest paid by a business trust under section 194LBA(2).</li> </ul> <p>The Fin Act excludes the income mentioned in point (b) and (c) above from the purview of 5% taxation. Interest income as referred to in section 194LC, Section 194LD and 194LBA(2) shall now be taxable at the rate provided in the respective sections.</p>



Sr. no	Finance Bill, 2020	Finance Act, 2020
12.	<b>Section 115BAC: Inclusion of profession income into the new regime</b>	
	The Fin Bill has introduced a new section 115BAC, which allows an individual or a HUF, to opt for the new taxation regime, subject to fulfillment of certain conditions. In the said new regime, only business income was covered.	<p>The Fin Act amended to include profession income into the new regime and accordingly, once the new regime is exercised, the person shall never be eligible to exercise the old regime, except where such person ceases to have any profession income, in which case, the option to switch shall be available.</p> <p>Further, the person has to furnish a declaration while filing the ROI stating that there is no business or profession income.</p>
13.	<b>Section 194A : TDS on Interest other than Interest on Securities</b>	
	<p><b>Existing Law:</b> Sec 194A(3)(iii)(f) specifies that TDS on interest under than 'interest on securities' shall not apply to income credited <i>inter alia</i> to such other institution, association or body or class of institutions, associations or bodies which the Central Government may, for reasons to be recorded in writing, notify in this behalf in the Official Gazette.</p>	The Fin Act now added a proviso to clarify that no notification under this sub-clause shall be issued on/after 1 <sup>st</sup> April, 2020. Instead, inserted a new sub-section 194A(5) to provide that "The Central Government may, by notification in the Official Gazette, provide that the deduction of tax shall not be made or shall be made at such lower rate, from such payment to such person or class of persons, as may be specified in the said notification".
14.	<b>Section 194J : TDS on Fee for Professional or technical services</b>	
	Major rationalization in rate of TDS in section 194J in case of Fees for technical services ('FTS') to 2% from existing 10%;	The Fin Act has now extended lower TDS rate of 2% u/s 194J to royalty [where such royalty is in the nature of consideration for sale, distribution or exhibition of cinematographic films]
15.	<b>Section 194K: Non-applicability of withholding on redemption/ repurchase made by mutual funds to unit holders</b>	
	It was proposed to insert a new section 194K to provide that any person responsible for paying to a resident <b><u>any income</u></b> in respect of units of a Mutual Fund specified under clause (23D) of section 10 of the Act or units from the administrator of the specified undertaking or units from the specified company shall at the time of credit of such income to the account of the payee or at the time of payment thereof by any mode, whichever is earlier, deduct income-tax there on at the rate of 10%. It may also be provided for threshold limit of Rs. 5,000 so that income below this amount does not suffer tax deduction.	It has been amended in The Fin Act that TDS u/s 194K of the Act shall <i>inter alia</i> not apply if the income is in the nature of capital gains.

Sr. no	Finance Bill, 2020	Finance Act, 2020
16.	<b>Section 194LBA : TDS on income from units of business trust</b>	
		Section 194LBA provides for deduction of tax at source by a business trust from income distributed to unit-holders. As dividend received by a unit-holder from a business trust will be exempt from tax if an SPV does not opt for section 115BAA, the consequential amendment has also been made to section 194LBA to provide that no tax shall be deducted in such cases.
17.	<b>Section 194N: Withholding on Cash withdrawals w.e.f. 01-07-2020</b>	
	<p><b>The existing law:</b> Section 194N of the Act was inserted vide Finance Act, 2019 for withholding of tax at the rate of 2% on cash payments in excess of Rs. 1 Crore made during the year by a banking company / co-operative bank / post office to a person from one or more accounts maintained with it by the recipient.</p> <p><b>The proposed law:</b> There was no law proposed by the Fin Act.</p>	<p>If a recipient has not filed the return of income for three AY relevant to 3 PY immediately preceding the previous year in which the payment of the sum is made to him, then the provision of said section 194N would apply so that TDS would be:</p> <ul style="list-style-type: none"> <li>i) At 2% when the cash withdrawal in a year is more than Rs 20 lakh but does not exceed 1 crore (on amount exceeding Rs 20 lakh) and</li> <li>ii) At 5% when the cash withdrawal exceed 1 crore.</li> </ul> <p>The Central Government shall be empowered to notify, in consultation with RBI, the recipient in whose case the above provision shall not apply or apply with reduced rate on satisfaction of conditions specified in the notification.</p>
18.	<b>Section 194-O : TDS on E-commerce transactions</b>	
	The newly inserted section requires withholding at the rate of 1 per cent on ecommerce transactions, by e-commerce operator on value of sale of goods or provision of service facilitated by it through its digital or electronic facility or platform at the time of credit of amount of sale or service or both to the account of e-commerce participant or at the time of payment thereof to such participant by any mode, whichever is earlier.	<p>The applicability of the proposed law under section 194-O of the Act has been deferred from 1<sup>st</sup> April, 2020 to 1<sup>st</sup> October, 2020.</p> <p>The definition of 'e-commerce operator' has been amended to remove the words "and is responsible to paying e-commerce participant" and to limit the definition to "a person who owns, operates or manages digital or electronic facility or platform for electronic commerce."</p> <p>The amendment has inserted sub-section 6 to clarify that "e-commerce operator shall be deemed to be person responsible for paying to e-commerce participant".</p> <p>The Central Government has been empowered to issue guidelines for the purpose for the purpose of removing any difficulties in the implementation of the section.</p>

Sr. no	Finance Bill, 2020	Finance Act, 2020
19.	<b>Section 197A : Lower rate of TDS in certain cases</b>	
		It is now amended that the Central Government by way of notification may provide for <b>non-deduction of TDS</b> or <b>deduction at a lower rate</b> from such payment to such person or class of persons, including institution, association or body or class of institutions, associations or bodies, as may be notified by the Central Government in official Gazette.
20.	<b>Section 206C : Tax collection at Source regarding LRS, Tour Package and Sale of goods</b>	
	It was proposed to insert sub-section (1G) to section 206C of the Act to provide for collection of tax from a person purchasing overseas tour package or making foreign remittance exceeding Rs. 7,00,000 during a financial year. Further, sub-section (1H) was also proposed to be inserted in section 206C to provide for TCS on sale of goods exceeding Rs. 50,00,000 to a buyer in a financial year by seller having turnover of more than Rs. 10 crores in the preceding financial year.	<p>It is now amended that the insertion of sub-sections (1G) and (1H) in said section 206C shall be effective from 1<sup>st</sup> October, 2020 as against 1<sup>st</sup> April, 2020.</p> <p>It is provided that Board may be authorised to issue guidelines for the purpose of removing difficulty arising regarding interpretation or implementation of these provisions and such guidelines shall be laid before Parliament and shall be binding on income tax authorities and person liable to collect sum.</p> <p>It is also provided that in case the amount remitted is for the purpose of pursuing education through a loan obtained from any financial institution, as defined in section 80E of the Act, for the purpose of pursuing any education, the rate of TCS shall be 0.5% of amount exceeding Rs. 7,00,000 in a financial year.</p> <p>The threshold limit for non-collection of TCS of Rs. 7,00,000 on LRS would apply only for remittance other than for purchase of overseas tour package so as to have a level playing field between domestic and overseas tour operators. Further in cases where the threshold of 7,00,000 applies, the TCS would be on the amount exceeding 7,00,000 in a financial year.</p> <p>There would be no double collection of TCS under the two provisions (LRS and overseas tour package).</p> <p>The import of goods and export of goods shall be excluded from levy of TCS under said provisions. The provision of TCS on sale of goods would not be applicable if the buyer of goods is liable for deduction of TDS on purchase of goods from seller and he has deducted such amount.</p>



Sr. no	Finance Bill, 2020	Finance Act, 2020
21.	<b>Amendment in Finance Act 2016 by Enlarging scope of Equalisation levy to e-commerce supply or services</b>	
		<p>The scope of equalisation levy which till now was applicable only on advertisement services provided by non-resident is enlarged by The Fin Act. The scope of this levy is now extended to consideration received or receivable by a non-resident e-commerce operator from e-commerce supply or services.</p> <p>“e-commerce operator” means a non-resident who owns, operates or manages digital or electronic facility or platform for online sale of goods or online provisions of services or both.</p> <p>“e-commerce supply or services” means-</p> <ul style="list-style-type: none"> <li>(i) Online sale of goods owned by the e-commerce operator; or</li> <li>(ii) Online provision of services provided by e-commerce operator; or</li> <li>(iii) Online sale of goods or provision of services or both, facilitated by the e-commerce operator; or</li> <li>(iv) Any combination of activities listed in (i), (ii), or (iii)</li> </ul> <p>Amendment is also brought in the definition of equalisation levy mentioned in clause (d) to include the word, “or e-commerce supply or services”</p> <p>From 1<sup>st</sup> April, 2020, an equalisation levy will be charged @ 2% of the amount of consideration received or receivable by a non-resident e-commerce operator from e-commerce supply or services made or facilitated by it to:</p> <ul style="list-style-type: none"> <li>i) a person resident in India; or</li> <li>ii) a person using IP address in India; or</li> <li>iii) a non-resident in certain specified circumstances.</li> </ul> <p>The equalisation levy shall not be charged in the following cases:</p> <ul style="list-style-type: none"> <li>i) where the e-commerce operator has a permanent establishment in India and e-commerce supply or services is effectively connected with such permanent establishment;</li> <li>ii) where the equalisation levy is leviable under section 165; or</li> </ul>

Sr. no	Finance Bill, 2020	Finance Act, 2020
		<p>iii) Sales, turnover or gross receipts of the e-commerce operator from the e-commerce supply or services made or provided or facilitated is less than Rs. 2 crore during the previous year.</p> <p>Every e-commerce operator will be required to make Equalization levy payments quarterly as mentioned below:</p> <p>i) For quarter ending 30<sup>th</sup> June - on or before 7<sup>th</sup> July</p> <p>ii) For quarter ending 30<sup>th</sup> September - on or before 7<sup>th</sup> October</p> <p>iii) For quarter ending 31<sup>st</sup> December - on or before 7<sup>th</sup> January</p> <p>iv) For quarter ending 31<sup>st</sup> March - on or before 31<sup>st</sup> March</p>
<b>22.</b>	<b>Second and Third Schedule to the Act:</b>	
	<p>The Fin Bill proposed to remove DDT and make dividends taxable in the hands of the shareholder/unit holder.</p> <p>However, on account of no rate being provided in the First Schedule to the Fin Bill it would be implied that the rate of withholding would be at the residual higher rate of 30% or 40% (plus applicable surcharge and cess) as applicable to any other income payable to such non-residents.</p>	<p>The amendment clarifies that, the rate of TDS on dividend income, in respect of non-resident Indian or any other person or a company other than a domestic company, shall be 20%.</p> <p>For the purposes of the rate of surcharge of 10% and 15% mentioned under the said Parts, the dividend income shall be included whereas for the purposes of surcharge at 25% and 37%, the dividend income shall be excluded. It means that higher rate of surcharge of 25% and 37% shall not apply to dividend income.</p> <p>In case where the total income includes dividend income, the rate of surcharge on the amount of Income-tax deducted in respect of that part of income shall not exceed 15%.</p>

**For a deeper discussion on this topic, please feel free to contact**

**Harsh S. Bhuta**

Partner

Tel: +91 9820871671

[harsh@bhutashah.com](mailto:harsh@bhutashah.com)

**Karthik Natarajan**

Partner

Tel: +91 7045742003

[karthik.natarajan@bhutashah.com](mailto:karthik.natarajan@bhutashah.com)

## About Bhuta Shah & Co. LLP

Bhuta Shah & Co. LLP (BSC) is a Firm of dynamic, professional Chartered Accountants with a distinctive blend of skill sets, experience and expertise. Established in the year 1986, BSC has rapidly built a significant competitive presence in the profession. BSC presently operates from its office at Nariman Point, Mumbai and is in the process of rapidly expanding its footprints in other cities across India. BSC offers its clients a wide range of services including taxation, auditing, advisory and corporate finance, beside cross-border, startup services and outsourcing.

**You can also join us on:**



*For private circulation only*

*This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, Bhuta Shah & Co. LLP ('BSC'), its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it. Without prior permission of BSC, this publication may not be quoted in whole or in part or otherwise referred to in any documents.*