

BHUTA
SHAH
& CO
LLP

CHARTERED
ACCOUNTANTS

UNION BUDGET 2019

An Overview



FOR PRIVATE CIRCULATION ONLY



चतुर्थमाददानो ' पि क्षत्रियो भागमापदि ।
प्रजा रक्षन् परं शक्त्या किल्बिषात् प्रामुच्यते ।।

The ruler, during an emergency, may take even one fourth (of their income as tax) and protect his subjects with all his might. Doing so, he is freed from sin. (Manu Smriti - 118)

धर्म्यमाहारयेद् बलिम् ।

The ruler must take tax that is within dharma
(Justice or fairness) (Manu Smriti 119)

सांवत्सरिकमाप्तैश्च राष्ट्राद् आहारयेद् बलिम् ।
स्याच्चाम्नायपरो लोके वर्तेत पितृवन् नृषु ।।

The king should get the annual revenue collected by trustworthy officials and in matters of taxation, he should obey the sacred laws. He should behave like a father to his subjects. (Manu Smriti 80)

मधुदोहं दुहेद् राष्ट्रम् भ्रमरान् न विपातयेत् ।
वत्सापेक्षी दुहेच्चैव स्तनांश्च न विकृद्वयेत् ।।

A king should collect taxes without hurting the subjects. It is like collecting honey without destroying bees, or like, as a calf does, drawing milk from a cow without hurting her udder. (Mahabharata - Shanti Parva 12.89.4)

यथा फलेन युज्येत राजा कर्ता च कर्मणाम् ।
तथाऽवेक्ष्य नृपो राष्ट्रे कल्पयेत् सततं करान् ।।

After due investigation the King shall always levy taxes in his kingdom in such a way that he himself and the man who carries on the business shall both receive their reward. (Manu Smriti-129)



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FOREWORD

This is the budget no. 1 of the Modi Govt 2.0 by Smt. Nirmala Sitharaman creating history by presenting it as the first ever woman Finance Minister of India. She has tried to lay down a road map for jump in the Indian economy from the current 2.7 Trillion (US) Dollars to 3 Trillion Dollars by 2019 end and to 5 Trillion Dollars by 2025. It appears to be a pro development budget with the mindset to reform, perform and transform the key sectors, with special emphasis on housing sector, electric vehicles, infrastructure strengthening and relaxation of FDI in a few sectors. Since the direct tax code is already around the corner, this budget was not expected by tax experts to carry out any major changes, and therefore as a whole the tax rates in different slabs are more or less untouched. The budget has reflected its commitment to "Make in India" intention while following the "Carrot and stick" policy in the enforcement of tax laws. The fiscal deficit has been contained at 3.3% of the GDP.

On the direct tax front, the relief of charging the lower tax @ 25% only for domestic companies having annual turnover of earlier INR 250 crores, have been now extended to such companies with annual turnover upto INR 400 crores (if as such during FY 2017-18).

Section 80EEB has been introduced to allow deduction upto INR 1.5 lakhs for interest payment on loan taken for purchase of an electrical vehicle subject to certain conditions. The GST on purchase of such vehicles has been reduced from 12% to 5%. Under affordable housing scheme, section 80EEA has been introduced to allow deduction upto INR 1.5 lakhs for interest payment on loan taken from financial institutions, for the purchase of a residential house provided the stamp duty value of the same is less than INR 45 lakhs. For filing the return of income, the mandatory provision to

possess a PAN has been done away with and the same can be now filed by using Aadhaar number only.

Super rich have been compelled to fork out higher amounts of taxes since the surcharge rates have been revised upward for individuals, HUF, AOP, BOI and AJP to 25% on the tax for those having taxable income of above INR 2 crores to INR 5 crores and to 37% on the tax for those having income of more than INR 5 crores, making the effective tax rates at 39% and 42.744% respectively. This move came as a surprise, since a lower tax rate encourages better tax compliance; hopefully the move being a short term only.

Filing of return has been made compulsory if a person (other than company / firm) has made a deposit of more than INR 1 crore in current account or has incurred expenditure of more than INR 2 lakhs on foreign travels or more than INR 1 lakh on electricity bills in aggregate in a year.

Start-ups have been given favorable changes in the so called “Angel Tax” provisions as well as relaxation in carry forward and set off of losses since they will not be subjected to deep scrutiny relating to receipt of share premium, etc.

The government, in order to promote a cash less economy, has proposed to levy 2% TDS on cash withdrawals exceeding INR 1 crore in aggregate in a year. Further changes include to extend the scope of buy - back tax on shares of listed companies also.

The budget focuses on increased digitization of transactions. We find liberalization of FDI in areas of aviation, insurance and media sectors by increasing the FDI caps from 49% to 100%.

There is enhanced customs duty and excise on items on import of plastic materials, electronic items, paper and paper products, etc to discourage the import and encourage the domestic manufacturing and “Make in India” programs. There is a provision for creation of a social stock exchange in social enterprises. The infusion of further capital of INR 70,000 crores in to public sector banks has come as a welcome move. For settling the long pending disputes of pre GST regime, a dispute resolution scheme has been announced by the FM under Sabka Vikas (legacy dispute resolution) Scheme, 2019 for quick closure of service tax and excise related litigations.

A major positive reform in tax administration has been proposed to reduce corruption and a hassle free face less assessment where the scrutiny assessments shall be taken up without any direct face to face interactions with the Assessing Officer and without identity of each other.

While imposing cess on tobacco products, electronic items, gold etc may be a move considered wise by the Hon'ble FM, the move to impose cess on petroleum, diesel, imported books, etc appears to be a retrograde step affecting the common man, which might have been avoided.

In brief, although many term it as a lacklustre budget, we are of the opinion that it is a mixed budget with many positives but some concerns as well. However the expectations would now be on the execution of all the announcements, along with some corrections required if any, in order to achieve the goal of a sustained growth of the Indian Economy.

Shailesh Bhuta
Managing Partner
Bhuta Shah & Co LLP

Mumbai, 5th July 2019

BUDGET AT A GLANCE

2.1. Direct Tax:

- The tax rate has been reduced from 30% to 25% for domestic companies with turnover/gross receipts of INR 400 crores or less in the FY 2017-18. Earlier the threshold was INR 250 crores.
- No change in personal income tax slab rates. Surcharge for Individual/HUF is increased to 25% & 37% in case if the income is above INR 2 crores and INR 5 crores respectively. The effective tax rate for Individual/HUF accordingly is now 39% if income is between INR 2-5 crores and 42.744% if income exceeds INR 5 crores.
- Scope of Section 115QA widened to attract tax @ 20% on buy back of shares by a listed company as well. The income so arising in the hands of shareholders on buy back of share by a listed company is now exempt in the hands of shareholders as per section 10(34A).
- The term “consideration for immovable property” shall now include any type of payments made to seller viz. car parking charges, club membership etc. which are incidental to transfer of immovable property while deducting TDS u/s. 194-IA @1%.
- Bank shall now deduct TDS @ 2% u/s. 194N on cash withdrawals exceeding INR 1 crore in aggregate made during the year from an account maintained with the Bank.
- Electric vehicles purchase - deduction of interest upto INR 1.5 lakhs p.a u/s. 80EEB allowed on loan taken provided assessee does not possesses any other electric vehicle on the date of sanction of loan.
- Affordable Housing Benefit to buyers - Deduction of interest upto INR 1.5 lakhs p.a u/s. 80EEA allowed on loan taken for affordable residential house property, for a property with a stamp duty value not exceeding INR 45 lakhs and no other property is held by the buyer on the date of sanction of such loan.
- NPS Benefits enhanced - Amount received by the employee on closure or opting out of National Pension Scheme is exempt from tax

upto 60% of withdrawal vis. a vis. 40% earlier. Further, contribution of central government to the scheme is now upto 14% of the total salary of the employee vis. a vis. 10% earlier.

- Non corporates carrying out transactions such as cash deposits exceeding INR 1 crore, foreign travel exceeding INR 2 lakhs or electricity expenditure exceeding INR 1 lakh in a year are now required to compulsorily file their return of income.
- PAN and Aadhaar can now be used interchangeably. The person not having PAN can file his return of income by quoting Aadhaar number.
- Every person having total turnover exceeding INR 50 crores shall compulsorily accept payments through prescribed electronic modes failing which penalty of INR 5,000 per day shall be levied for the period of default. Such person cannot levy extra charges on customers for these transactions.
- Start-ups and investors who file requisite declarations and provide information in their returns will not be subjected to any kind of scrutiny in respect of valuations of share premiums.
- Government to start new scheme for faceless scrutiny e-assessments which shall be randomly allocated to assessing officers.
- Prefilled returns to be made available by widening the scope of furnishing statement of financial transactions to ease filing of income tax return.
- Individuals / HUFs not liable to Tax Audit are also now required to deduct TDS @5% u/s. 194M on payment made to a resident for contractual services / professional services, if a sum or aggregate of sum paid or credited in a year exceeds INR 50 lakhs. In order to ease compliance, such deductor can pay this TDS amount by using their PAN and are not required to obtained TAN.

2.2. Indirect Tax:

2.1.1 Goods & Service Tax:

- Increased threshold exemption limit for suppliers engaged in the exclusive supply of goods from INR 2 million to INR 4 million.

- Central Government may disburse refund amount to the taxpayers in respect of refund of State Taxes as well as Central taxes.
- Alternative composition scheme of 6% tax for suppliers of services or mixed suppliers having an annual turnover of up to INR 50 lakhs in the preceding year
- Interest in case of a delayed payment of tax to be payable only on the net cash liability except u/s. 73 and 74.
- Facility to transfer amount from one head of electronic cash ledger to another head will be available on the GSTN portal.
- National Appellate Authority for Advance Ruling constituted to hear appeals against conflicting advance rulings pronounced by Appellate Authorities of two or more states.
- Introduction of penalty equivalent to 10% of profiteered amount under the anti-profiteering measures.
- Every registered person to undergo authentication or furnish proof of possession of Aadhaar number, failure to which GST registration becomes invalid.

2.1.2 Dispute Resolution Scheme for Central Excise and Service Tax

- A special 'Sabka Vishwas Legacy Dispute Resolution Scheme' for resolution and settlement of legacy cases of Central Excise and Service Tax has been introduced (effective from the date to be notified by the government).

2.1.3 The Customs Act, 1962:

- Downward revision in custom duty rate of goods in the Electric Vehicles, Health and Defence Industry
- Increase in custom duty on gold/ precious metals from 10% to 12.5%.
- Fraudulently availing or attempting to avail drawback or any exemption, or obtaining scrip, license, etc. under the Foreign Trade Policy, where duty exceeds INR 50 lakhs, to be a cognizable and non-bailable offence.

DIRECT TAX RATES

3.1. INCOME TAX RATES:

3.1.1 Individuals (less than 60 years), HUFs, AOPs, BOIs, Artificial Juridical Person:

The Bill proposes no change in the tax rates for Individuals (less than 60 years), HUFs, AOPs, BOIs and artificial juridical persons for the F.Y. 2019-20.

The tax rates are as follows:

Income Slabs	F.Y. 2019-20 ¹
0 – 2,50,000	Nil
2,50,001 – 5,00,000	5%
5,00,001 - 10,00,000	20%
10,00,001 and above ²	30%

3.1.2 Individuals (60 years or more, but less than 80 years):

The Bill proposes no change in the tax rates for Senior Citizens for the F.Y. 2019-20.

The tax rates for Senior Citizens are as follows:

Income Slabs	F.Y. 2019-20 ¹
0 – 3,00,000	Nil
3,00,001 – 5,00,000	5%
5,00,001 - 10,00,000	20%
10,00,001 and above ²	30%

3.1.3 Individuals (80 years or more):

The Bill proposes no change in the tax rates for Very Senior Citizens for the F.Y. 2019-20.

The tax rates for very Senior Citizens are as follows:

Income Slabs	F.Y. 2019-20 ¹
0 – 5,00,000	Nil
5,00,001 - 10,00,000	20%
10,00,001 and above ²	30%

1 The above tax rates are further to be increased by health and education cess at 4% on tax (including surcharge, if any).

- 2 Surcharge in the case of every individual or HUF or AOP or BOI or artificial juridical person, shall be calculated as follows:

Income Slabs	Surcharge
10,00,000 – 50,00,000	Nil
50,00,001 – 1,00,00,000	10%
1,00,00,001 – 2,00,00,000	15%
2,00,00,001 – 5,00,00,000	25%
5,00,00,001 and above	37%

Effective Tax Rates:

- Effective Maximum Marginal Tax Rate for individual or HUF or AOP or BOI or artificial juridical person for F.Y. 2019-20, is as under:

Income Slabs	Effective Maximum Marginal Tax Rate (Tax + Surcharge + Cess)
10,00,000 – 50,00,000	31.20%
50,00,001 – 1,00,00,000	34.32%
1,00,00,001 – 2,00,00,000	35.88%
2,00,00,001 – 5,00,00,000	39.00% ^a
5,00,00,001 and above	42.744% ^b

- Comparative chart showing effective tax rate for F.Y. 2018-19 and F.Y. 19-20:

a. Case1: Income exceeding INR 2 crores but upto INR 5 crores

Financial Year 2018-19		Financial Year 2019-20	
Particulars	Rate	Particulars	Rate
Tax Rate	30.00%	Tax Rate	30%
Surcharge @ 15%	4.50%	Surcharge @ 25%	7.5%
Cess @ 4%	1.38%	Cess @ 4%	1.5%
Total	35.88%	Total	39.00%

b. Case 2: Income exceeding INR 5 crores:

Financial Year 2018-19		Financial Year 2019-20	
Particulars	Rate	Particulars	Rate
Tax Rate	30.00%	Tax Rate	30.000%
Surcharge @ 15%	4.50%	Surcharge @ 37%	11.100%
Cess @ 4%	1.38%	Cess @ 4%	1.644%
Total	35.88%	Total	42.744%

3.1.4 Co-operative Societies:

The Bill proposes no change in the tax rates for co-operative societies or local authorities for the FY 2019-20.

The tax rates for Co-operative societies are as follows:

Income Slabs	FY 2019-20 ³
Up to 10,000	10%
10,001 - 20,000	20%
20,001 and above ³	30%

- 3 *The amount of income-tax computed, shall in the case of Co-operative society, having a total income exceeding INR 1 crore be increased by a surcharge calculated at the rate of 12% of such income-tax. The above tax rates are further to be increased by health and education cess of 4% on tax (including surcharge, if any).*

3.1.5 Local Authorities:

The Bill proposes no change in the existing tax rate of 30% for local authorities. There is no change in the surcharge at the rate of 12% of such income-tax in case of a local authority having a total income exceeding INR 1 crore. The above tax rates are further to be increased by health and education cess of 4% on tax (including surcharge, if any).

3.1.6 Partnership Firms / LLPs:

The Bill proposes no change in the existing tax rate of 30% for Partnership Firms / LLP. There is no change in the surcharge at the rate of 12% of such income-tax in case of a Partnership Firms / LLPs having a total income exceeding INR 1 crore. The above tax rates are further to be increased by health and education cess of 4% on tax (including surcharge, if any).

3.1.7 Companies:

- Domestic companies:**

In case of a domestic company, the rate of income-tax shall be 25% of the total income, if the total turnover or gross receipts of the FY 2017-18 does not exceed INR 400 crores and in all other cases the rate of income-tax shall be 30% of the total income.

As such, the effective normal tax rates and MAT rates for domestic Companies for FY 2019-20 are as follows:

Income Slabs (INR)	FY 2019-20			
	Turnover or Gross Receipts ≥ INR 400 crore in FY 2017-18		Turnover or Gross Receipts < INR 400 crore in FY 2017-18	
	Effective Normal Tax ⁴	Effective MAT ⁴	Effective Normal Tax ⁴	Effective MAT ⁴
0 - 1,00,00,000	31.20%	19.24%	26.00%	19.24%
1,00,00,001 – 10,00,00,000 ⁵	33.384%	20.587%	27.82%	20.587%
10,00,00,001 and above ⁶	34.944%	21.549%	29.12%	21.549%

- 4 The above rates are inclusive of health and education cess at the rate of 4%.
- 5 Surcharge at the rate of 7% shall be levied in case of a domestic company if the total income of the domestic company exceeds 1 crore rupees but does not exceed 10 crore rupees. Subject to Marginal Relief.
- 6 Surcharge at the rate of 12% shall be levied if the total income of the domestic company exceeds 10 crore rupees. Subject to Marginal Relief.

Note: No marginal relief will be available on Health and Education cess.

- Foreign Companies:**

The Bill proposes no change in the existing tax rates of foreign companies for the FY 2019-20.

As such, the effective normal tax rates and MAT rates for foreign companies for FY 2019-20 are as follows:

Income Slabs (INR)	FY 2019–20	
	Effective Normal Tax ⁷	Effective MAT ⁷
0 - 1,00,00,000	41.60%	19.24 %
1,00,00,001 – 10,00,00,000 ⁸	42.432%	19.625%
10,00,00,001 and above ⁹	43.68%	20.202%

- 7 The above rates are inclusive of health and education cess at the rate of 4%.
- 8 Surcharge at the rate of 2% shall be levied in case of a foreign company if the total income of the foreign company exceeds 1 crore rupees but does not exceed 10 crore rupees. Subject to Marginal Relief.
- 9 Surcharge at the rate of 5% shall be levied if the total income of the foreign company exceeds 10 crore rupees. Subject to Marginal Relief.

3.2. TDS Rates:

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
1.	Salary	192	As per slab rates prescribed for individuals (including senior and very senior citizens)	
2.	Payment of accumulated balance due to an employee	192 A	Payment in excess of INR 50,000 p.a.	10%
3.	Interest on securities	193	Any Payment	10%
4.	Interest other than interest on securities [Notes 8 and 12]	194 A	Payment in excess of INR 5,000/ 40,000/ 50,000 p.a.	10%
5.	Winnings from lottery or crossword puzzle or card game or other game	194 B	Payment in excess of INR 10,000	30%
6.	Winnings from horse race	194 BB	Payment in excess of INR 10,000	30%
7.	Payments to contractors [Note 8]	194 C	Payment in excess of INR 30,000 per contract or INR 1,00,000 p.a. in aggregate	2% (1% for individual and HUFs)
8.	Insurance commission	194 D	Payment in excess of INR 15,000	5%

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
9.	Non Exempt payment under L.I.C, net of premium paid. [Note 13]	194 DA	Payment in excess of INR 1,00,000	5%
10.	Payment in respect of NSS Deposits	194 EE	Payment in excess of INR 2,500	10%
11.	Commission on Sale of Lottery tickets	194 G	Payment in excess of INR 15,000	5%
12.	Commission or brokerage [Note 8]	194 H	Payment in excess of INR 15,000 p.a.	5%
13. a)	Rent towards Land / Building / Furniture [Note 8 and 14]	194 I	Payment in excess of INR 2,40,000 p.a.	10%
13. b)	Rent towards Plant, Machinery or Equipment [Note 8 and 14]	194 I	Payment in excess of INR 2,40,000 p.a.	2%
14.	Consideration for transfer of immovable property (other than agricultural land) [Note 7]	194 IA	Payment in excess of INR 50,00,000	1%
15.	Individuals or HUF (other than those covered under 44AB of the Act), responsible for paying to a resident, any income by way of rent	194 IB	Payment in excess of INR 50,000 per month or part of month	5%

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
16.	Any monetary consideration payable under the specified agreement u/s. 45(5A)	194 IC	Any payment	10%
17.	Professional and technical services / royalty [Notes 8]	194 J	Payment in excess of INR 30,000 p.a.	10% (2% for call centre business)
18.	Payment of Compensation on acquisition of certain Immovable Property other than u/s. 96 of Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013	194 LA	Payment in excess of INR 2,50,000	10%
19.	Income by way of interest from infrastructure debt fund payable to a non-resident, not being a company, or to a foreign company	194LB	Any payment	5%
20.	Certain income from units of a specified business trust	194LBA	Any payment	Resident - 10% Non Resident – 5% or the rates in force as the case may be
21.	Income in respect of specified units of investment fund	194LBB	Any payment	10%

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
22.	Income payable to an investor, in respect of an investment in a specified securitisation trust.	194LBC	Any payment	i) For Resident, 25%(Individual and HUF) 30% (For other) ii) For non-resident – rates in force
23.	Income by way of interest from Indian Company payable to non-resident, not being a company or to a foreign company by a specified company i) in respect of monies borrowed by it in foreign currency from a source outside India subject to certain conditions ii) to the extent to which such interest does not exceed the amount of interest calculated at the rate approved by the Central Government	194LC	Any payment	5%
25.	Income by way of interest (as specified) on certain bonds and government securities for paying to a person being a Foreign Institutional Investor or a Qualified Foreign Investor	194LD	Any payment	5%

Sr. No.	Nature of Payment	Section	Proposed Threshold for Deduction	Proposed Rate at which Tax is to be Deducted
26.	New section: Payment by Individual/HUF (other than those covered under 44AB of the Act) to contractors and professionals [Refer 4.4.2]	194M	Payment in excess of INR 50,00,000 p.a.	5%
27.	New section: Cash payments by banks and post office. [Refer 4.4.3]	194N	Cash Payment in excess of INR 1 Crore p.a.	2%

Notes:

1. Time of deduction of tax:

Except in case of salary and LIC payments (wherein tax is to be deducted at the time of payment), tax is to be deducted at the time of payment or credit, whichever is earlier.

2. Time of deposit of tax:

All sums deducted shall be deposited with the government within 7 days from the end of the month in which the deduction is made. However, where the amount is credited or paid to the account of the payee in the month of March, the tax is required to be deposited with the government on or before 30 April.

3. Mode of making payment of tax:

For payment of tax, challan no. ITNS 281 is to be used. All companies and deductors who are liable to tax audit have to make payment of tax by electronic mode. Others can make payment of tax either physically or by electronic mode.

4. TDS Return:

Person deducting tax is required to file quarterly statements for the quarter ending on 30th June, 30th September, 31st December and 31st March in each financial year, in Form 26Q (Form 24Q for Salary) along with Form 27A, on or before 31st July, 31st October, 31st

January and 31st May respectively. Form 26Q and Form 24Q are to be filed electronically while Form 27A is to be filed in physical form.

5. Certificate for tax deduction in case of non-salary payments:

TDS Certificate in Form 16A is required to be issued on quarterly basis within 15 days from the due date of furnishing TDS Return i.e. on or before 15th August, 15th November, 15th February and 15th June.

6. Certificate for tax deduction in case of salary payments:

TDS Certificate in Form 16 is required to be issued on annual basis by 31st May of the financial year immediately following the financial year in which the income was paid and tax deducted.

7. TDS on purchase of Immovable Property:

Section 194-IA relates to payment on transfer of certain immovable property other than agricultural land and provide for levy of TDS at the rate of 1% on the amount of consideration paid in excess of INR 50 lakhs. The term "consideration for immovable property" under this section has now been defined to include 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. This amendment will take effect from 1st September, 2019.

8. Liability to deduct TDS:

An individual or HUF is not liable to deduct tax. However, an individual or HUF, who is liable to tax audit u/s. 44AB during the financial year immediately preceding the financial year in which sum is credited or paid, shall be liable to deduct tax u/s.s 194A, 194C, 194H, 194I and 194J as the case may be.

9. Payments made to non- residents:

Above rates are not applicable in case of payments made to foreign companies and non-residents except in case of sections 192, 194B, 194BB, which are also applicable to non-residents.

10. Remuneration paid to directors:

Tax is required to be deducted on remuneration paid to a director which is not in the nature of salary.

11. Higher TDS rate of 20% for not furnishing PAN:

In case the payee is not able to furnish his/her PAN to the payer, tax shall be deducted w.e.f. 1st April 2010 at higher of the rates specified in the relevant provision of the Income Tax Act or at the rates in force or 20%.

12. TDS on Bank Interest:

Presently, u/s. 194A, tax is to be deducted at source if the amount of interest exceeds INR 10,000 in case the payer is banking company or a co-operative society engaged in banking business or in case of deposits with post office under a scheme notified by Central Government.

The above limit has been increased to INR 40,000.

The present threshold of INR 50,000 for Senior Citizens continues.

In the cases not covered above, the threshold continues to be INR 5,000.

Further, tax is not to be deducted if the payee furnishes to the payer a declaration in writing in duplicate in Form No.15G or 15H, as the case may be.

13. TDS on non exempt portion of life insurance pay-out on net basis

TDS of 5% (earlier 1%) shall be deducted u/s. 194DA on payments made to residents under a life insurance policy which is not exempt from tax u/s. 10(10D). Further, TDS is to be deducted on Net receipts i.e. after deducting amount of premiums paid. (Earlier TDS was deducted on gross basis).

This amendment will take effect from 1st September, 2019.

14. TDS on Rents:

U/s. 194I, tax was initially to be deducted at source if the amount of rent exceeded INR 1.8 lakhs. This limit has been enhanced vide interim budget 2019 to INR 2.4 lakhs.

DIRECT TAX PROPOSALS

4.1. Digital Economy: Measures for promoting cashless economy:

4.1.1 Electronic payment definition widened:

- Presently several sections permit transaction through account payee cheque, account payee bank draft or use of electronic clearing system through bank account.
- It is now proposed to widen the scope of these sections to include transactions made through such other electronic mode as may be prescribed.
- Accordingly, section 13A, 35AD, 40A, 43, 43CA, 44AD, 50C, 56(2)(x), 80JJA, 269SS, 269ST and 269T are amended.

4.1.2 Compulsory acceptance of electronic payments for persons having total turnover exceeding INR 50 crores:

- New section 269SU is introduced which requires that every person carrying on business whose total sales, turnover or gross receipts exceeds INR 50 crores during immediately preceding previous year shall provide facility for accepting payments through the prescribed electronic modes in addition to the facility already provided by such person.
- Where such person fails to provide such facility he shall be liable to pay by way of penalty a sum of INR 5,000 for every day during which such failure continues as per newly inserted section 271DB.
- These sections are introduced to encourage a cashless economy and to reduce generation of black money. These amendments are applicable with effect from 1st September, 2019.

4.2. Incentives for start-ups:

4.2.1. Exemption in case of investment in eligible start-ups:

- Presently, the provision of section 54GB provides for roll over benefit in respect of capital gain arising from the transfer of a long term capital asset, being residential property.
- To be able to get the benefit of this provision, the assessee is required to utilize the said net consideration for subscription in the equity shares of eligible start-ups upto 31st March 2019, which exceed 50% of share capital or 50% of voting power.
- The said start-up is also required to acquire the plant and machinery from such amount within 1 year of subscription with a lock-in period of 5 years.
- It has been proposed to extend the sun set date by 2 years. Thus the benefit shall be available for sale of residential property on or before 31st March, 2021.
- Further, the condition of minimum holding of 50% of share capital or voting rights in the start-up has been proposed to be relaxed to 25%.
- Furthermore, the condition restricting transfer of new asset being computer or computer software has also been proposed to be relaxed from the current 5 years to 3 years.

4.2.2. Set off and carry forward benefit for eligible start-ups:

- Presently, section 79 provides conditions for carry forward and set off of losses in case of a company, not being a company in which the public are substantially interested. The first clause of this section applies to all such companies, except a start-up as referred to in section 80-IAC, while the second clause applied only to such eligible start-ups.
- Under Clause (a), no loss incurred in any prior year shall be carried forward and set off against the income of the previous year, unless on the last day of the previous year, the shares with atleast fifty-one per cent of the voting power were beneficially held by the same persons in the prior year in which the loss is incurred.

- Under Clause (b), the loss incurred in any prior year shall be allowed to be carried forward and set off against the income of the previous year, if, all the shareholders who held shares on the last day of the previous year, in which the loss was incurred, continue to hold those shares on the last day of previous year, and such loss has been incurred during the period of seven years since such company is incorporated.
- It has been proposed to amend section 79 so as to provide that loss incurred in any year prior to the previous year for eligible start-ups, shall be allowed to be carried forward and set off against the income of the previous year on satisfaction of either of the two conditions (i.e. Clause (a) or (b) stipulated above.

4.2.3. Relief from Angel Tax:

- Presently, if a company, in which public are not substantially interested, receives any amount exceeding the fair market value of the shares issued by them, than such excess amount is taxed under the head "Income from other Sources".
- The Board vide notification no. G.S.R. 127(E) has notified classes of person defined in proviso to section 56(2)(viib). Further, in the said notification, the board notified eligible start-up, which would be exempted from the said provision, some of the conditions are as under:
 - It has been recognized by DPIIT under para 2(iii)(a) or as per any earlier notification on the subject;
 - Aggregate amount of paid up share capital and share premium of the startup after issue or proposed issue of share, if any, does not exceed, INR 25 crore
- It has been proposed, if the conditions mentioned in the said notification are not complied with, then tax would be levied on the amount exceeding the face value of such shares.
- Further, it has been proposed to exclude the Category II Alternate Investment Fund and the Trusts as established under the Indian Trusts Act, 1882 from the applicability of this provision.

4.3. Tax incentives facilitating affordable housing scheme:

4.3.1. Deductions for developers:

- Presently, benefit of Section 80IBA can be availed if the housing project is located within the cities of Chennai, Delhi, Kolkata or Mumbai (Plot of land 1,000 Sq Mt. + Carpet Area of residential unit 30 Sq Mt) & any other place (Plot of land 2000Sq Mt. + Carpet Area of residential unit 60 Sq Mt).
- It is proposed to include the cities of Bengaluru, Delhi National Capital Region and Hyderabad along with Mumbai, Kolkata & Chennai (1000Sq Mt.). In such notified cities the carpet area of residential unit has been increased to 60Sq. Mt while for other locations the carpet area will be 90 Sq. Mt.
- It is also proposed that the SDV of the housing unit shall not exceed INR 45 lakhs.

4.3.2. Tax incentive for affordable housing buyers:

- A new section 80EEA has been proposed to be introduced to provide a deduction in respect of interest up to INR 1.5 lakhs per annum on loan taken for residential house property subject to the following conditions:
 - Loan sanctioned by a financial institution between 1st April, 2019 to 31st March, 2020;
 - Stamp duty value of house property < INR 45 lakhs;
 - Assessee does not own any other residential house property on that date.
- This deduction is in addition to the deduction allowed Section 24(b) of interest upto INR 2 lakhs per annum and no deduction of the same amount shall be allowed in any other section;
- We have compared the provisions of Section 80EE introduced in Finance Act 2016 and 80EEA.

- Comparative chart:

Sr. No.	Provisions	Section 80EE	Section 80EEA
1	Applicability	Individual	Individual
2	Deduction in respect	Interest on loan from any financial institution for acquisition of a residential property.	Interest on loan from any financial institution for acquisition of a residential property.
3	Quantum of deduction	INR 50,000	INR 1.5 lakhs
4	Conditions	Loan sanctioned between 1 st April, 2016 & 31 st March, 2017	Loan sanctioned between 1 st April, 2019 & 31 st March, 2020
		Value of residential house property < INR 50 lakhs	Stamp duty value of house property < INR 45 lakhs
		Amount of loan sanctioned < INR 35 lakhs;	No amount has been specified

4.4. Measures curbing tax abuse and widening tax base:

4.4.1. Tax on buy back of shares extended to listed companies:

- Presently, section 115QA provides for a tax of 20% of the distributed income on account of buy-back of shares of an unlisted company is levied in the hands of the company. Consequently, gain arising in case of buy-back of shares of unlisted company is exempt in the hands of the shareholders u/s. 10(34A).
- It has been proposed to extend the tax to all companies including companies listed on recognized stock exchange. Accordingly, gain arising in case of buy-back of shares of such company will be exempt in the hands of the shareholders u/s. 10(34A). This provision is applicable for all buy back transactions taking place after 5th July, 2019.

4.4.2. TDS on payment by Individual/HUF to contractors and professionals:

- A new section 194M is inserted to provide for levy of TDS at the rate of 5% on the sum, or the aggregate of sums, paid in a year on account of contractual work or professional fees by an individual or a HUF, if such sum, or aggregate of such sums, exceeds INR 50 lakhs in a year.
- However, in order to reduce the compliance burden, such individuals or HUFs will be able to deposit the tax deducted using their PAN and shall not be required to obtain TAN.
- This section will be applicable with effect from 1st September, 2019.

4.4.3. TDS on cash withdrawals from bank account:

- In order to discourage cash transactions and move towards less cash economy, TDS on cash withdrawals from bank has been introduced. A new section 194N is inserted to provide for levy of TDS at the rate of 2% on cash payments in excess of INR 1 crore in aggregate made during the year, by banks or post office, to any person (except government and banking institutions) from his account.
- This amendment will be applicable with effect from 1st September, 2019.

4.5. General tax incentives:

4.5.1. Relief relating to NBFC's:

- The existing provisions of section 43D of the Act, provides that the interest income in relation to certain categories of bad or doubtful debts received by certain institutions or banks or corporations or companies, shall be chargeable to tax in the year in which it is credited to its profit and loss account or actually received, whichever is earlier.
- The benefit of this provision is presently available to public financial institutions, scheduled banks, cooperative banks, State financial corporations, State industrial investment corporations and public companies like housing finance companies.
- It has been proposed to extend these benefits to certain categories of NBFCs. The section has been amended to include deposit-taking NBFCs ('DT-NBFC') and systemically important non deposit-taking NBFCs ('SI-NDT-NBFC') within its scope.
- Consequentially, section 43B of the Act has been amended to provide that any sum payable by the assessee as interest on any loan or advances from a DT-NBFC and SI-NDT-NBFC shall be allowed as deduction if it is actually paid on or before the due date of furnishing the return of income of the relevant year.
- New clarificatory explanations are now inserted u/s. 43B which provides the following:
 - No deduction u/s. 43B of interest paid in current year to NBFC stated above, which has already been claimed as expense under accrual system in A.Y. 2019-20 or earlier years.
 - Conversion of outstanding interest payable into loan shall not constitute payment for the purpose of section 43B.

4.5.2. Extension of benefit for claiming unabsorbed depreciation and brought forward losses u/s. 115JB:

- Presently, benefit for claiming unabsorbed depreciation and brought forward losses for the purpose of computing book profit u/s. 115JB is available to companies against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating

Authority u/s. 7 or u/s. 9 or u/s. 10 of the Insolvency and Bankruptcy Code, 2016.

- It has been proposed that the benefit for claiming unabsorbed depreciation and brought forward losses for the purpose of computing book profit u/s. 115JB shall now be extended to such company, and its subsidiary and the subsidiary of such subsidiary, where, the Tribunal, on an application moved by the Central Government u/s. 241 of the Companies Act, 2013 has suspended the Board of Directors of such company and has appointed new directors who are nominated by the Central Government u/s. 242 of the Companies Act.

4.5.3. Change in definition of equity oriented fund to include funds of funds:

- Presently, Equity Oriented Fund (EOF) has been defined to have the meaning as given u/s. 10(38) according to which, where a fund invests minimum of 65% of total proceeds in equity shares of listed domestic companies is an EOF.
- It is proposed that for the purpose of 111A, EOF shall now have the meaning as assigned u/s. 112A(a) according to which
 - where a fund invests in units of another fund (recognized under stock exchange) a minimum of 90% of the total proceeds shall be invested in such other funds and such other fund shall also invest minimum of 90% of its proceeds in equity shares of listed domestic companies and
 - in other cases, where a fund invests minimum of 65% of total proceeds in equity shares of listed domestic companies shall be an EOF.

4.5.4. Exemption in case of withdrawal from National Pension System (NPS) Trust:

Under the existing provisions, any payment from the NPS Trust to an assessee on closure of his account or his opting out of the scheme is exempt upto 40% of total amount payable to him at the time of such closure or his opting out of the scheme. The said exemption of 40% has been increased to 60%.

4.5.5. Incentives to NPS subscribers:

Section 80CCD	
Present	Proposed
The deduction in case of any amount contributed by the employer to the pension scheme of the government the following deduction shall be available to: <u>All Employees:</u> 10% of the salary of previous year	The deduction in case of any amount contributed by the employer to the pension scheme of the government the following deduction shall be available to: <u>Central Government Employees:</u> 14% of the salary of previous year. <u>Other Employees:</u> 10% of the Salary of previous year.
These Deductions are available only in case of Tier I Pension Scheme of the Government	

4.5.6. Widening scope for NPS Investment:

Section 80C	
Present	Proposed
The deduction in case of any amount contributed by the employee to the pension scheme of the government is deductible u/s. 80C	The deduction in case of any amount contributed by the employee to the pension scheme of the government the following deduction shall be available:
Tier I : Deduction is Allowed	Tier I : Deduction is Allowed
Tier II : No Deduction	Tier II: Deduction benefit is extended to the employees of Central Government only.

4.5.7. Tax incentive on purchase of electric vehicle:

- A new section 80EEB has been proposed to be introduced to provide a deduction in respect of interest up to INR 1.5 lakhs per annum on loan taken for purchase of electric vehicle subject to the following conditions:

- Loan sanctioned by a financial institution including NBFC between 1st April, 2019 to 31st March, 2023;
 - No other electric vehicle is owned by the assessee on that date of sanction of loan.
- No deduction of the same amount shall be allowed in any other section.

4.5.8. Immunity from prosecution for non furnishing of return of income:

- Presently, section 276CC provides that a person who has willfully failed to furnish the return of income is liable for prescribed imprisonment. An immunity from the same is available if tax payable after excluding advance tax and TDS does not exceed INR 10,000.
- It is proposed to further allow exclusion of self-assessment tax paid before the end of assessment year and TCS along with advance tax and TDS from the amount of tax payable to arrive at the said limit of INR 10,000.

4.5.9. Facilitating demerger of Ind-AS compliant companies:

- Presently u/s. 2(19AA), in case of a transfer by a demerged company of one of more undertakings to any resulting company, the property and the liabilities of the undertaking or undertakings will have to be transferred at values appearing in the books of the demerging company immediately before the demerger.
- It has been proposed to allow the resulting company to record the value of the property and the liabilities at a value other than the value appearing in the books of the demerging company, immediately before the demerger when this is in compliance with the Indian Accounting Standards Rules, 2015.

4.5.10. Rationalisation of section 50CA and section 56(2)(x) for exclusion of applicability to prescribed class of persons:

- Presently, section 50CA provides for deeming of fair market value of unquoted shares for computing the capital gains from the transfer of such shares. The fair market value is determined based on the prescribed rules.

- Further, section 56(2)(x) provides for chargeability of income in case of receipt of money or property for no or inadequate consideration.
- Determination of fair market value based on the prescribed rules may result into genuine hardship in certain cases where the consideration for transfer of shares is approved by certain authorities and the person transferring the share has no control over such determination.
- In order to provide relief to such types of transactions from the applicability of 50CA and 56(2)(x), it has been proposed to insert proviso to section 50CA and clause (xi) to the proviso to Section 56(2)(x) to empower the Board to prescribe transactions undertaken by certain class of persons to which the provisions of section 50CA and section 56(2)(x) shall not be applicable.

4.5.11. Clarificatory provisions relating to relief for arrears of salaries:

- Previously, while computing tax liability or Interest for default u/s. 234A, 234B and 234C, only credit in respect of prepaid taxes (i.e. advance tax, TDS and TCS), relief u/s. 90 & 90A and MAT credit was considered.
- It is proposed to amend Section 140A, 143, 234A, 234B and 234C to provide that relief u/s. 89 in respect of arrears of salary shall be considered while determining tax and interest liability. This would be applicable retrospectively with effect from 01-04-2007, i.e. from A.Y. 2007-08 and onwards.

4.5.12. Provide for pass through of losses in cases of Category I and Category II Alternative Investment Fund (AIF):

- Presently, section 115UB of the Act, provides for pass through of income earned by the Category I and II AIF, except for business income which is taxed at AIF level. Pass through of profits (other than profit & gains from business) has been allowed to individual investors. Pass through of losses are not provided under the existing regime and are retained at AIF level to be carried forward and set off in accordance with Chapter VI.
- Now, it has been proposed as under:
 - The business loss of the investment fund, be allowed to be carried forward and be set-off by it in accordance with the

provisions of Chapter VI and it shall not be passed onto the unit holder;

- The losses other than business loss, shall be passed through to its unit holders, provided they hold the unit for a period of at least twelve months;
- The losses other than business loss, accumulated at the AIF level as on 31st March, 2019, shall be deemed to be the loss of a unit holder who held the unit on 31st March, 2019 in respect of the investments made by him in the investment fund and allowed to be carried forward by him for the remaining period calculated from the year in which the loss had actually occurred to the AIF.

4.6. Measures relating to international taxation and transfer pricing:

4.6.1. Transfer of sum of money or any property situated in India to a person outside India to be deemed to arise in India u/s. 9(1)(viii):

It has been proposed that when income is earned by a person outside India by way of transfer of any sum of money or any immovable property or movable property situated in India, from a person resident in India, then such income shall be deemed to accrue or arise in India and hence the same would attract tax implications in India. This has been made applicable for transactions on or after 5th July, 2019.

4.6.2. Relaxation in conditions of off-shore investment fund:

- Currently, section 9A of the Act provides for a safe harbour in respect of offshore funds. It provides that in the case of an eligible investment fund, the fund management activity carried out through an eligible fund manager located in India and acting on behalf of such fund shall by itself not constitute business connection in India of the said fund.
- There are certain conditions to be fulfilled by an Investment fund to be eligible for not being considered as a resident in India. These conditions, inter-alia, include residence of fund, corpus, size, investor broad basing, investment diversification and payment of remuneration to fund manager at arm's length.
- It has been proposed to amend following conditions with effect from 1st April, 2019 to give an impetus to fund management activities in India.
- Presently, the monthly average of the corpus of the fund shall not be less than INR 100 crore at the end of such year.
- It has been proposed to consider the monthly average corpus of the fund at the end of six months from the end of the month of its establishment or incorporation or at the end of such previous year, whichever is later.
- Presently, remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him is to be calculated as per arm's length price. Now, it has been proposed to calculate such amount in the manner as may be prescribed.

4.6.3. New benefit introduced for interest income payable by a specified company to non-residents:

- Presently, interest income payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond, or rupee denominated bond is taxed in India.
- In order to incentivise low cost foreign borrowings through Off-shore Rupee Denominated Bond, the press release dated 17th September, 2018, inter alia, announced that interest payable by an Indian company or a business trust to a non-resident, including a foreign company, in respect of rupee denominated bond issued outside India during the period from 17th September, 2018 to March 31, 2019 shall be exempt from tax by inserting new section 10(4C).
- It has been now proposed to exempt the same with effect from 1st April, 2019.

4.6.4. Extension of relief of proviso u/s. 201(1) for non-deduction of TDS on payments made to non-residents:

- Presently, where TDS is not deducted on payments made to non-residents, the same is disallowed u/s. 40(a)(i) and the payer is considered as an assessee in default u/s. 201(1).
- It has been proposed to extend the benefit of proviso to section 201(1) to above payments and the deductor shall not be deemed to be an assessee in default when he fails to deduct tax on a payment made to a non-resident, if such non-resident has furnished his return of income u/s. 139, disclosed such payment for computing his income in his ROI, paid the tax due on the income declared by him in his ROI and furnished an accountant's certificate to this effect.
- However, interest shall be levied on the amount of TDS not deducted till the date of filing of return by the non-resident payee

4.6.5. Limiting the scope of assessing officer while giving effect to Advance Pricing Agreement (APA):

- Presently, where an assessee has entered into an APA for an AY for which assessment is already completed and modified return has been

filed by the assessee, the Assessing Officer (AO) shall proceed to assess or reassess or recompute the total income of the said year.

- After the amendment, the AO only needs to modify the total income of such year in accordance with the APA.
- Consequential amendment u/s. 246A has also been made whereby assessee may appeal against an order of assessment or reassessment or modified order as the case may be.

4.6.6. Clarification with regard to provisions of secondary adjustment and giving an option to assessee to make one-time payment:

- Presently, section 92CE requires the assessee to carry out secondary adjustment where the primary adjustment to transfer price, has been made suo motu, or made by the Assessing Officer and accepted by him; or is determined by an advance pricing agreement entered into by him u/s. 92CC of the Act; or is made as per safe harbour rules u/s. 92CB of the Act; or is arising as a result of resolution of an assessment through mutual agreement procedure under an agreement entered into u/s. 90 or 90A of the Act.
- The provision of Secondary Adjustment is not applicable if amount of Primary adjustment is less than INR 1 crore AND it is made for AY beginning on or before 1st April, 2016.
- It is proposed that, for the non- applicability of secondary adjustment the requirement of fulfillment of cumulative condition laid above is not necessary now i.e. even if either of the two conditions is satisfied, secondary adjustment will be applicable.
- Further, presently the excess money (primary adjustment) has to be repatriated to India within 90 days failing which delay will attract interest.
- It is proposed to simplify the provisions of secondary adjustment by providing that instead of making an adjustment of Interest every year, the assessee shall have option of a one-time payment of income tax on such excess amount at the rate of 18%.

- This amendment will be applicable with effect from 1st September, 2019.

4.6.7. Maintenance of documents & information by constituent entity of international group:

- Presently only a person who has entered into an International Transaction shall keep & maintain information & documents w.r.t. to the transaction undertaken.
- It is proposed that a constituent entity of the international group shall also maintain information and documents of the international group i.e. Master File and file it with the authorities inspite of having no international transaction.

4.6.8. Clarification regarding definition of the “accounting year”:

- Presently, section 286 of the Act contains provisions relating to specific reporting regime in the form of Country-by-Country Report (CbCR) in respect of an international group. It provides that every parent entity or the alternate reporting entity (ARE), resident in India, shall, for every reporting accounting year, in respect of the international group of which it is a constituent, furnish a report, to the prescribed authority within a period of 12 months from the end of the said reporting accounting year, in the form and manner as may be prescribed.
- Accounting year under the section is defined to be a previous year, in a case where the parent entity or ARE is resident in India prepares its Financial Statements.
- To align the difference between the accounting years of the parent entity (resident outside India) with the ARE (resident in India) it has been proposed that the Accounting year for an ARE of an International group shall be the one applicable to the parent entity resident outside India.

4.7. Measures for Tax Compliance:

4.7.1. Mandatory furnishing of return by specified categories of persons:

- Presently, u/s. 139, a person other than a company or a firm is required to furnish the return of income only if his total income exceeds the maximum amount not chargeable to tax, subject to certain exceptions.
- It is proposed that a person shall be required to file his return of income mandatorily, if during the previous year, the person:
 - has deposited an amount or aggregate of the amounts exceeding INR 1 crore rupees in one or more current account held with a banking company or a co-operative bank; or
 - has incurred expenditure of an amount or aggregate of the amounts exceeding INR 2 lakhs on himself or any other person for foreign travel; or
 - has incurred expenditure of an amount or in aggregate of the amounts towards consumption of electricity exceeding INR 1 lakh; or
 - fulfils such other prescribed conditions, as may be prescribed.

4.7.2. Furnishing of return by person claiming exemption benefit from capital gain:

- Presently, u/s. 139, a person is not required to furnish return of income, if his total income is below basic exemption limit after claiming exemption u/s. 54 to 54GB in respect of capital gains.
- It is proposed that any person claiming exemption u/s. 54 to 54GB in respect of capital gains, shall be mandatorily required to furnish return of income, if his total income is above basic exemption limit before claiming the exemption.

4.7.3. Interchangeability of PAN and Aadhaar Number:

- Sub-section 5E to section 139A has been introduced to use Aadhaar Number as an alternative to PAN for all Income Tax Act related compliances, including for furnishing return of income. Aadhaar Number can now be quoted in lieu of PAN under the following situations:

- If PAN is not allotted and such person has an Aadhaar Number, then the Aadhaar number can be quoted and subsequently, such person shall be allotted a PAN in due course.
- If PAN has been allotted and has been linked to such person's Aadhaar Number, then the Aadhaar Number can be quoted in lieu of PAN.
- Presently, as per section 139AA a person who fails to link Aadhaar number to PAN then PAN shall be deemed to be invalid. However, it is now proposed that failure to do so shall make the PAN inoperative.
- Presently, a penalty of INR 10,000 u/s. 272B is applicable for failure to quote PAN or furnishing inaccurate PAN. It is now proposed to extend the said penalty for failure to quote Aadhaar number as well.
- These amendments are applicable with effect from 1st September, 2019.

4.7.4. Additional compliances for trust or institution to ensure non deviation from their object clause:

- Section 12AA of the Act prescribes for manner of granting registration in case of trust or institution for the purpose of availing exemption in respect of its income u/s. 11 of the Act, subject to conditions contained u/s. 11, 12, 12AA and 13. Section 12AA also provides for manner of cancellation of said registration. This section already provides that cancellation can be done on two grounds.
- In order to ensure that the trust or institution does not deviate from their objects, it has been proposed to ensure the following:
 - at the time of granting the registration to a trust or institution, the PCIT or the CIT shall satisfy himself about the compliance of the requirements of any other law which is material for the purpose of achieving its objects;
 - where a trust or an institution has been granted registration and subsequently it is noticed that the trust or institution has violated requirements of any other law which was material for the purpose of achieving its objects, and the order holding such violation has either not been disputed or has attained finality, the PCIT or CIT may, by an order in writing, cancel the registration of

such trust or institution after affording a reasonable opportunity of being heard.

4.7.5. Widening the scope of statement of financial transactions (SFT):

- Presently, existing provisions of section 285BA, provide for furnishing of Statement of Financial Transaction (SFT) or reportable account by person specified therein.
- Now, in order to enable pre-filling of return of income, it is proposed to bring into its ambit persons other than those referred to in clauses (a) to (k) as prescribed.
- Further it is proposed to remove the current threshold of rupees fifty thousand on aggregate value of transactions during a financial year to ensure pre-filling of information relating to small amount of transactions as well.
- Sub-section (4) has been amended to provide that if the defect in the statement is not rectified within the time specified therein, the provisions of the act shall apply as if such person had furnished inaccurate information in the statement.

4.8. Penalties, prosecution and tax recovery measures:

4.8.1. Penalty for under-reporting and misreporting of income:

- Presently, u/s. 270A, when no return of income has been furnished, a person shall be considered to have under-reported his income if the income or deemed income as per 115JB/JC assessed is greater than the maximum amount not chargeable to tax.
- It is proposed to widen the scope of section to include the case where return is filed for the first time u/s. 148.
- The amount of under reported income in both the cases shall be:-

Assessee	Under reported income
Company, firm, or local authority	Income assessed.
Any other case	Difference between the amount of income assessed and the maximum amount not chargeable to tax.

4.8.2. Penalty for default in furnishing Statement of Financial Transaction or Reportable Account:

- Presently, section 271FAA provides for penalty of INR 50,000 is levied for furnishing inaccurate statement of financial transaction or reportable account only to prescribed reporting financial institution.
- It is proposed to make this provision applicable to all the entities u/s. 285BA(1) which are liable to furnish statement of financial transaction or reportable account.

4.8.3. Enhancing time limitation for sale of attached property:

- Presently, the existing provisions of rule 68B of the Second Schedule of the Act provide that no sale of immovable property attached towards the recovery of tax, penalty etc. shall be made after the expiry of 3 years from the end of the financial year in which the order in consequence of which any tax, penalty etc. becomes final.
- It is proposed to extend the period of limitation from 3 years to 7 years. This amendment will be effective from 1st September, 2019.

4.9. Tax incentives to International Financial Service Centre (IFSC)

4.9.1. Benefit to category III AIF:

- Presently, transfer of specified securities by a non-resident is not regarded as transfer u/s. 47(viiab) subject to following conditions:
 - specified securities are traded on a recognized stock exchange located in any IFSC; and
 - the consideration for the such transaction is paid or payable in foreign currency.
- It has been proposed to extend the benefit of section 47(viiab) to Category-III Alternative Investment Fund (AIF) in IFSC of which all the unit holders are non-residents, and which is deriving income solely in convertible foreign exchange.
- Further, it has been proposed to notify other securities under the said provision eligible for exemptions if traded on a recognized stock exchange in IFSC by a specified person.

4.9.2. Benefit to companies:

- Presently, u/s. 115-O, profits derived solely in convertible foreign exchange, out of its current income, are not chargeable to tax on their distribution either in the hands of the company, being a unit of an IFSC or recipient of such dividend.
- It is now proposed to extend the benefit of section 115O to any dividend paid out of accumulated income derived from operations in IFSC, after 1st April 2017.
- This amendment will take effect from 1st September, 2019.

4.9.3. Benefit to specified mutual fund:

- Presently, section 115R provides that any amount of income distributed by the specified company or a Mutual Fund to its unit holders is chargeable to tax.
- In order to facilitate setting up of mutual funds in IFSC, it has been proposed that no additional tax shall be levied on distribution of any amount by the fund, out of its income derived from transactions made on a recognised stock exchange located in any IFSC.

- Specified mutual funds means mutual fund set up in IFSC of which all the unit holders are non-residents, and which is deriving income solely in convertible foreign exchange.
- This amendment will take effect from 1st September, 2019.

4.9.4. Profit Linked Deduction:

- Presently, deduction u/s. 80LA can be availed @ 100% for the 1st five consecutive years and @ 50% for next five consecutive years.
- It is proposed, in case of IFSC, to relax the provisions of deduction u/s. 80LA whereby deduction can be taken for any of the 10 consecutive years out of 15 years beginning from the year in which permission was granted.

4.9.5. Exemption to the non-residents for interest received from units located in IFSC:

Section 10(15)(ix) has been inserted to facilitate external borrowing by the units located in IFSC. It provides exemption to any income by way of interest payable to a non-resident by a unit located in IFSC in respect of monies borrowed by it on or after 1st day of September, 2019.

INDIRECT TAX PROPOSALS

5.1. The Goods and Service Tax act 2017:

The Finance bill 2019 has brought in many changes in current GST regime and proposed amendment in GST act will come into effect from the date when the same will be notified.

5.1.1. Composition Scheme scope widened to include residual category:

Section 10 has been amended to expand scope of composition scheme to supplier of services or mixed suppliers having an annual turnover in preceding financial year upto INR 50 lakhs. Rate applicable is 6%.

5.1.2. Increase in Monetary Limit for GST Registration:

Sections 22 allow state to increase threshold exemption limit from INR 20 lakh to INR 40 lakh, in case of supplier who is exclusively engaged in supply of goods.

5.1.3. Introduction of Authentication Process:

Section 25 has been amended to make it mandatory for every registered person to undergo authentication or furnish proof of possession of Aadhaar number. In case of failure to undergo authentication then registration allotted to such person shall be deemed to be invalid.

5.1.4. Relaxation in compliance for composition tax payers:

Section 39 has been amended to allow the composition taxpayers to furnish annual return along with quarterly payment of taxes under the proposed new return system.

5.1.5. Unutilized GST payments available for appropriation against Tax:

Section 49 has been amended to provide facility on the common portal to transfer unutilized amount of tax, interest, penalty, fee or any other amount available in the electronic cash ledger under the Act to the electronic cash ledger for integrated tax, central tax, State tax or Union territory tax or cess in FORM GST PMT-09.

5.1.6. Interest only on net unpaid liability:

Section 50 has been amended to provide for charge of interest on delayed payment only on the net cash tax liability except u/s. 73 and u/s. 74.

5.1.7. Ease of Refund Facility:

Section 54 has been amended to provide that the Central Government may disburse refund amount to the taxpayers in respect of refund of State taxes also. Earlier the Central Government could only disburse refund of Central taxes.

5.1.8. Empowering National Anti-Profiteering Authority:

Section 171 of the CGST Act empowers the National Anti- profiteering Authority to impose penalty equivalent to 10% of the profiteered amount.

5.1.9. Transitional plan for new GST returns:

The GST Council has decided that a new GST return system will be introduced to facilitate taxpayer In order to ease transition to the new return system; a transition plan has been worked out. The details of the indicative transition plan are as follows: -

- **May, 2019:** a prototype of the offline tool has already been shared on the common portal for user reference. There are three main components to the new return:
 - One main return (FORM GST RET-1)
 - Annexure 1 (FORM GST ANX-1)
 - Annexure 2 (FORM GST ANX-2).
- **July 2019 to September, 2019** (for three months), taxpayer would be able to upload invoices using the FORM GST ANX1 offline tool on trial basis for familiarization. This trial would have no impact at the back end on the tax liability or input tax credit of the taxpayer. In this period, taxpayers shall continue to fulfil their compliances by filing FORM GSTR-1 and FORM GSTR-3B i.e. taxpayers would continue to file their outward supply details in FORM GSTR-1 on monthly / quarterly basis and return in FORM GSTR-3B on monthly basis.
- **October, 2019 onwards for large taxpayers:** (aggregate annual turnover in the previous financial year was more than INR 5 crore):

FORM GST ANX-1 shall be made compulsory and FORM GSTR-1 would be replaced by FORM GST ANX-1.

- **January 2020 onwards:** However, the first quarterly FORM GST ANX-1 to be uploaded by small taxpayers (with aggregate annual turnover in the previous financial year upto INR 5 Crore) would be due only in January, 2020 for the quarter ended October to December, 2019. It may be noted that invoices can be uploaded in FORM GST ANX-1 on a continuous basis both by large and small taxpayers from October, 2019 onwards. FORM GST ANX2 may be viewed simultaneously during this period but no action shall be allowed on such FORM GST ANX-2.
- For October and November, 2019, large taxpayers would continue to file FORM GSTR-3B on monthly basis. They would file their first FORM GST RET-01 for the month of December, 2019 by 20th January, 2020.
- The small taxpayers would stop filing FORM GSTR-3B and would start filing FORM GST PMT-08 from October, 2019 onwards. They would file their first FORM GST-RET-01 for the quarter October, 2019 to December, 2019 by 20th January, 2020.
- From January, 2020 onwards, all taxpayers shall be filing FORM GST RET-01 and FORM GSTR-3B shall be completely phased out.

5.2. Service Tax:

The Finance bill 2019 has brought in a dispute resolution cum amnesty scheme called “Sabka Vishwas Legacy Dispute Resolution Scheme” for resolution and settlement of legacy cases of Central Excise and Service Tax.

5.3. The Customs Act 1962:

- The bill has proposed changes in the rates of Customs Duty:

Sr. No.	Particular	Existing Rates	Proposed Rate
	Construction Materials		
1	Floor covering of plastics, Wall or ceiling coverings of plastics	10%	15%
2	Ceramic roofing tiles and ceramic flags and pavings, hearth or wall tiles	10%	15%
3	Base metal fittings, mountings and similar articles suitable for furniture, doors, staircases, windows, hinge for auto mobiles	10%	15%
	Precious Metals		
4	Silver (including silver plated with gold or platinum)	10%	12.50%
5	Base metals clad with silver, not further worked than semi-manufactured	10%	12.50%
6	Gold (including gold plated with platinum).	10%	12.50%
7	Base metals or silver, clad with gold, not further worked than semi-manufactured	10%	12.50%
8	Platinum, unwrought or in semi-manufactured form, or in powder form	10%	12.50%
9	Base metals, silver or gold, clad with platinum, not further worked than semi-manufactured	10%	12.50%
10	Waste and scrap of precious metals or of metal clad with precious metals.	10%	12.50%
	Automobile parts		
11	Friction material and articles thereof.	10%	15%
12	Glass mirrors, whether or not framed, including rear-view mirrors	10%	15%
13	Locks of a kind used in motor vehicles	10%	15%
14	Oil or petrol filters for internal combustion engines	7.50%	10%

Sr. No.	Particular	Existing Rates	Proposed Rate
15	Intake air-filters for internal combustion engines	7.50%	10%
16	Air purifiers or cleaners and other filtering or purifying machinery and apparatus for gases	7.50%	10%
17	Lighting or visual signaling equipment of a kind used in bicycles or motor vehicles	10%	15%
18	Other visual or sound signaling equipment for bicycles or motor vehicles	7.50%	15%
19	Horns for vehicles	10%	15%
20	Parts of visual or sound signaling equipment for bicycles or motor vehicles	7.50%	10%
21	Windscreen wipers, defrosters and demisters, Sealed beam lamp units and other lamps for automobiles	10%	15%
22	Chassis fitted with engines, for the motor vehicles of headings 8701 to 8705.	10%	15%
23	Bodies (including cabs), for the motor vehicles of headings 8701 to 8705	10%	15%
	Electronics and Electrical equipment's		
24	Indoor and outdoor unit of split –system air conditioner	10%	20%
25	Loudspeaker	10%	15%
26	Digital Video Recorder (DVR) and Network Video Recorder (NVR)	15%	20%
27	CCTV camera and IP camera	15%	20%
28	Optical Fibres, optical fibre bundles and cables	10%	15%
	Defence		
29	Specified Defence equipment and their parts imported by the Ministry of Defence or the Armed Forces	Applicable rate	Nil

Sr. No.	Particular	Existing Rates	Proposed Rate
	Medical Devices		
30	Raw material, parts or accessories for use manufacture of artificial kidneys.	Applicable rate	Nil
	Food processing		
31	Cashew kernel broken	INR 60 Kg or 45%, whichever is higher	70%
32	Cashew kernel whole, Cashew nuts shelled, others	INR 75 Kg or 45%, whichever is higher	70%
	Nuclear Fuels and Nuclear Energy projects		
33	All forms of Uranium ores and Concentrates for generation of nuclear power.	2.50%	Nil
34	All goods for use in generation of Nuclear power.	7.50%	Nil
35	All goods required for setting up of the following power projects under project imports: -	Applicable rate	Nil
	a) Mahi Banswara Atomic Power project.		
	b) Kaiga Atomic Power project.		
	c) Gorakhpur Atomic Power project.		
	d) Chutka Atomic Power project.		
	Oils and associated chemicals		
36	Palm stearin and other oils, having 20% or more free fatty acid.	Nil	7.50%
	Petroleum and Petrochemicals		
37	Petroleum Crude	Nil	INR 1 per tonne
38	Naphtha	5%	4%
39	Ethylene dichloride (EDC)	2%	Nil
40	Methyloxirane (Propylene Oxide)	7.50%	5%

Sr. No.	Particular	Existing Rates	Proposed Rate
	Plastic and Rubber		
41	Poly Vinyl Chloride	7.50%	10%
42	Articles of plastics	10%	15%
43	All goods i.e. Butyl Rubber	5%	10%
44	Chlorobutyl rubber or bromobutyl rubber	5%	10%
	Paper and Paper products		
45	Newsprint, Uncoated paper , Lightweight coated paper	Nil	10%
46	Printed books (including covers for printed books) and printed manuals.	Nil	5%
	Textiles		
47	Wool Fibre	5%	2.50%
48	Wool Tops	5%	2.50%
	Flooring materials		
49	Marble Slabs	20%	40%
	Inputs for Optical Fibres		
50	Raw materials used in manufacture of Preform of Silica.	Applicable Rate	Nil
51	Water blocking tapes for manufacture of optical fiber cable	Nil	20%
	Precious Metals		
52	Silver dore bar, having silver content not exceeding 95%	8.50%	11%
53	Gold dore bar, having gold content not exceeding 95%	9.35%	11.85%
54	a) Gold (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage	10%	12.50%
	b) Silver (excluding ornaments studded with stones or pearls) imported by an eligible passenger as baggage		
	Iron and Steel, Other base metals		
55	Stainless steel in ingots or other primary forms; semi-finished products of stainless less	5%	7.50%

Sr. No.	Particular	Existing Rates	Proposed Rate
56	Other alloy steel in ingots or other primary forms; semi-finished products of other alloy steel	5%	7.50%
57	Inputs for the manufacture of CRGO steel.	5%	2.50%
58	Amorphous alloy ribbon	10%	5%
59	Wire of other alloy steel (other than INVAR)	5%	7.50%
60	Cobalt mattes and other intermediate products of cobalt metallurgy	5%	2.50%
	Capital goods		
61	Stone crushing (cone type) plants for the construction of roads	Nil	7.50%
62	Capital goods used for manufacturing of electronic items.	Applicable rate	Nil
63	Capital goods used for manufacturing of specified electronic items.	Nil	Applicable rate
	Electronics		
64	Charger/Power adapter for CCTV camera/IP camera/DVR/NVR	Nil	15%
65	Specified electronic items like plugs, sockets, switches, connectors, relays.	Nil	Applicable rate
	Automobile and automobile parts		
66	Catalytic convertor (All goods under these tariff items other than catalytic converters will continue at 7.5%)	5%	10%
67	Completely Built Unit (CBU) of vehicles falling under heading 8702, 8704	25%	30%
68	Following parts of electric vehicles: - E-Drive assembly, On board charger, E-compressor and Charging Gun	Applicable rate	Nil
69	Oil rigs and other goods used for oil exploration.	Applicable rate on depreciated value	7.5% on transaction value
70	Export Promotion for Sports goods.	Applicable rate	Nil

Sr. No.	Particular	Existing Rates	Proposed Rate
71	El tanned Leather	15%	Nil
72	Hides, skins and leathers, tanned and untanned, all sorts	60%	40%

- Amendment in Scheduled rate of Road & Infrastructure cess levied as additional duty of customs on Petrol & Diesel.

Sr. No.	Particular	Existing Rates	Propose Rate
1	Motor spirit commonly known as petrol	INR 8 per litre	INR 9 per litre
2	High speed diesel oil	INR 8 per litre	INR 9 per litre

5.4. **The Central Excise Act, 1944:**

The bill has proposed changes in the excise Duty.

Sr. No.	Particular	Existing Rates	Propose Rate
1	Petroleum Crude	Nil	INR 1 per tonne
2	Other than filter cigarettes, of length not exceeding 65 millimeters	Nil	INR 5 per thousand
3	Other than filter cigarettes, of length exceeding 65 millimeters but not exceeding 70 millimeters	Nil	INR 5 per thousand
4	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) not exceeding 65 millimeters	Nil	INR 5 per thousand
5	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 65 millimeters but not exceeding 70 millimeters	Nil	INR 5 per thousand
6	Filter cigarettes of length (including the length of the filter, the length of filter being 11 millimeters or its actual length, whichever is more) exceeding 70 millimeters but not exceeding 75 millimeters	Nil	INR 5 per thousand
7	Other (<i>Cigarettes containing tobacco</i>)	Nil	INR 10 per thousand
8	Cigarettes of tobacco substitutes	Nil	INR 5 per thousand
9	Hookah or gudaku tobacco	Nil	0.50%
10	Smoking mixtures for pipes and cigarettes	Nil	1%

Sr. No.	Particular	Existing Rates	Propose Rate
11	Other than paper rolled biris, manufactured without the aid of machine	Nil	5 paisa per thousand
12	Other (<i>Biris</i>)	Nil	10 paisa per thousand
13	Other smoking tobacco	Nil	0.50%
14	"Homogenised" or "reconstituted" tobacco	Nil	0.50%
15	Chewing tobacco	Nil	0.50%
16	Preparations containing chewing tobacco	Nil	0.50%
17	Jarda scented tobacco	Nil	0.50%
18	Snuff	Nil	0.50%
19	Preparations containing snuff	Nil	0.50%
20	Tobacco extracts and essence	Nil	0.50%
21	Other (manufactured tobacco and substitutes)	Nil	0.50%
22	Crude Petroleum oil produced in specified oil fields under production sharing contracts or in the exploration blocks.	INR 1 per Tonne	Nil

INCOME TAX COMPLIANCE CALENDAR

In this chapter we have provided an overview of the various direct tax compliances from the perspective of a Company, Partnership Firm (including LLP), Individual and HUF.

Sr. No.	Nature of Compliances	Person		
		Company	Partnership Firm / LLP	Individual and HUF
1.	Due dates for filing of Return of Income ('ROI') and obtaining Tax Audit Report (Note 1)			
1.1	Person covered under tax audit (other than those to whom transfer pricing is applicable)	30 September (Note 2)		
1.2	Person covered under transfer pricing (For furnishing of Transfer Pricing Report in Form 3CEB same due date is applicable)	30 November		
1.3	Other persons	30 September	31 July	31 July
2.	Advance Tax Payments for Income Tax (Note 3)			
a.	1 st Installment – on or before 15 June	15%	15%	15%
b.	2 nd Installment – on or before 15 September	45%	45%	45%
c.	3 rd Installment - on or before 15 December	75%	75%	75%
d.	4 th Installment – on or before 15 March	100%	100%	100%
3.	TDS			
a.	Tax must be deducted at the time of payment, in case of salary	Applicable	Applicable	Applicable, only if person is covered under tax
b.	In case of payments other than salary, at	Applicable	Applicable	

Sr. No.	Nature of Compliances	Person		
		Company	Partnership Firm / LLP	Individual and HUF
	the time of making payment or credit, whichever is earlier			audit in the preceding previous year (Note 2)
c.	Tax deducted must be deposited in the bank by 7 th day of following month except tax deducted for payment or credit made in March must be deposited by 30 th April	Applicable	Applicable	
4.	TCS			
	Tax collected must be deposited within one week from the end of month of tax collection	Applicable		
5.	Due dates for filing of TDS Returns			
a.	TDS Quarterly Statement for quarter ended June	31 st July		
b.	TDS Quarterly Statement for quarter ended September	31 st October		
c.	TDS Quarterly Statement for quarter ended December	31 st January		
d.	TDS Quarterly Statement for quarter ended March	31 st May		
6.	Due dates for issue of Form 16 (for Salaries) / Form 16A (for other than Salaries) and Form 27D (For TCS) (Note 4)			
a.	Issue of Form 16A / 27D for quarter ended June	15 th August		

Sr. No.	Nature of Compliances	Person		
		Company	Partnership Firm / LLP	Individual and HUF
b.	Issue of Form 16A / 27D for quarter ended September	15 th November		
c.	Issue of Form 16A / 27D for quarter ended December	15 th February		
d.	Issue of Form 16A / 27D for quarter ended March	15 th June		
e.	Issue of Form 16 annually	15 th June		

Notes:

1. In case of working partner of a partnership firm, whose accounts are required to be audited u/s. 44AB, the date of filing of ROI is 30th September.
2. The threshold limit for presumptive taxation for business remains unchanged at INR 2 crores while presumptive taxation for profession where gross receipts does not exceeds INR 50 lakhs is at the rate 50% of gross receipts.
3. Advance tax payment for income-tax is applicable to every person where the amount of income-tax payable is INR 10,000 or more.
4. Every person, being a non-resident having Liaison Office in India shall, in respect of its activities in a financial year, file a statement in Form No. 49C within 60 days from the end of the financial year i.e. 30th May to the Assessing Officer.

ABBREVIATIONS

AIF	Alternative Investment Funds
AOP	Association of Persons
AO	Assessing Officer
APA	Advance Pricing Agreement
ARE	Alternate reporting entity
AY	Assessment Year
BCD	Basic Customs Duty
BOI	Body of Individuals
CbCR	Country by Country Reporting
CIT	Commissioner of Income Tax
CRGO	Cold-rolled grain-oriented steel
EOF	Equity oriented fund
FDI	Foreign Direct Investment
FM	Finance Minister
FY	Financial Year
GDP	Gross Domestic Product
GST	Goods and Service Tax

HUF	Hindu Undivided Family
IND AS	Indian Accounting Standards
INR	Indian Rupees
IFSC	International Financial Service Centre
LIC	Life Insurance Corporation
LLP	Limited Liability Partnership
NPS	National Pension Scheme
MAT	Minimum Alternate Tax
NBFC	Non-banking financial corporation
PAN	Permanent Account Number
PCIT	Principal Commissioner of Income Tax
ROI	Return of Income
SDV	Stamp duty value
SFT	Statement of Financial Transactions
SPV	Special Purpose Vehicle
TCS	Tax Collected at Source
TDS	Tax Deducted at Source



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UNION BUDGET 2019



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