



India Taxflix

Analysis of Tax Proposals in Union Budget 20-21 | February 2020

Residential Status

Citizenship to prevail over domicile

- With a target to cover stateless person, it is proposed that an Indian Citizen, shall be deemed to be a resident of India for tax purposes, if he is not liable to tax in any other country or territory by reason of his domicile or residence.

Indian Citizens/ PIO stay in India restricted to 120 days instead of 182 days

- One of the condition, to check the residential status of an individual in India, is that his period of stay in India should be more than 60 days. However, in case of an Indian Citizen or a person of Indian origin, the Income-tax Act provides relaxation of up to 182 days for residency check.
- To curb the misuse of the said relaxation, the exception provided for Indian Citizen or a person of Indian origin, in clause (b) of Explanation 1 of section 6(1) is proposed to be decreased to 120 days from existing 182 days.

Non-Ordinarily Resident redefined

- A person is said to be “not ordinarily resident” in India in any previous year, if such person is:
 - a) an individual who has been a non-resident in India in 7 out of the 10 previous years preceding that year;
 - or b) a HUF whose manager has been a non-resident in India in seven out of the ten previous years preceding that year.

Key Tax Proposals

New tax scheme for Individual and HUF

- A new Section 115BAC has been proposed to be inserted to provide an alternative to Individuals and HUFs to pay tax at lower rates.
- Option under this scheme can be exercised by every individual or the HUF.
- However, an individual and HUF having business income, the option once exercised for a previous year shall be valid for that previous year and for all subsequent years.
- The income under this scheme shall be computed without claiming any deduction under Chapter VI-A (except Sections 80CCD or 80JJAA) or Section 24 or exemptions.

Income range	Rate of tax
Upto 5 Lakhs	-
5 Lakhs to 7.5 Lakhs	10%
7.5 Lakhs to 10 Lakhs	15%
10 Lakhs to 12.5 Lakhs	20%
12.5 Lakhs to 15 Lakhs	25%
More than 15 Lakhs	30%

Key Tax Proposals

- **Concessional tax rates for co-operative societies** - A new section 115BAD has been proposed to be inserted to provide an option to the co-operative societies to pay tax at the rate of 22% plus 10% surcharge and 4% cess. Provisions of Alternate Minimum Tax (AMT) shall not apply to such co-operative societies.
- **Amendment in Section 115BAA and 115BAB** relating to recently proposed concessional tax rate. Further, Section 115BAB shall include within its ambit the companies engaged in the business of generation of electricity.
- **Abolition of Dividend Distribution Tax (DDT)** - Dividend from the domestic company or income from units of a mutual fund shall be taxable in the hands of shareholders or unit holders at the applicable rate and the domestic company or mutual funds shall not be required to pay any distribution tax. However, taxes shall be deducted from the payment of dividend or income of units, as the case may be.
- **Cross-checking of donation** - Section 80G is proposed to be amended to provide that entities receiving donation shall be required to file a statement of the donation received and shall issue a certificate to donor. The mechanism shall be similar to TDS/TCS.

Key Tax Proposals

- **Extension under section 80-IBA** - Finance Bill has proposed to extend the time limit for approval of affordable housing project for availing deduction under section 80-IBA. The period of approval of the project by the competent authority is proposed to be extended to 31-03-2021.
- **Extension of time limit for sanctioning of loan under Section 80EEA** - Section 80EEA was introduced vide Finance (No. 2) Act 2019 to provide a deduction for the interest on loan taken to buy an affordable residential house property. One of the conditions to claim this deduction is that loan should be sanctioned by the financial institution during the period from 01-04-2019 to 31-03-2020. The period of sanctioning of loan by the financial institution is proposed to be extended to 31-03-2021.
- **Rationalization of taxation of start-ups** - Section 80-IAC has been proposed to be amended to provide that deduction to an eligible start-up shall be available for a period of 3 consecutive assessment years out of 10 years. Earlier, this deduction was available for 3 consecutive financial years out of first 7 years. Further, the turnover limit for claiming such exemption has been proposed to raised to Rs. 100 crore which was earlier Rs. 25 crore.

Business Income, ROI, Capital Gains

- **Increase threshold limit for Tax Audit** - The threshold limit for getting the accounts audited is proposed to be increased from Rs. 1 crore to Rs. 5 crores provided cash receipt or payment does not exceed 5% of total receipt or payment, as the case may be.
- **Rationalization of provisions of Section 35AD** - An assessee, who is engaged in the specified business, is allowed to claim deduction of capital expenditure under section 35AD. At present, an assessee does not have any option of not availing the incentive under the said section. The Finance Bill has proposed to make deduction under section 35AD optional.
- **Non-residents not to File ITR in respect of income from Royalty and FTS**
Exemption to file a return of income has been proposed to be extended to the non-residents earning income from Royalty and FTS provided taxes have been withheld from payment of such income.
- **FMV of property purchased before 01-4-2001 shall not exceed stamp duty value**
If the land or building is purchased before 01-4-2001, the fair market value as on that date can be taken as cost of acquisition of such property as per existing provisions of the Act. It has been proposed that such fair market value can't exceed the stamp duty value of the property as on 01-04-2001.
- **Safe harbour of 5% increased to 10%** - Safe harbour limit of 5% under Section 43CA, 50C and 56 has been extended to 10%.

International Taxation

- **SEP Deferral** - It is proposed to defer the applicability of SEP to AY 2022-23 “since discussion on this issue is still going on in G20-OECD BEPS project”, thus proposes to omit current SEP provisions w.e.f April 1, 2021.
- **Source Rule amendment** - It is proposed to amend Sec. 9 [source rule] by way of inserting new Explanation 3A to clarify that "income from advertisement that targets Indian customers or income from sale of data collected from India or income from sale of goods and services using such data collected from India” shall form part of income attributable to the operations carried out in India. In this regard, reference is given to ongoing discussion at international level.
- **Amendments in Sec. 90/90A for alignment with MLI**
- **Exclusion of interest paid/payable to PE of a non-resident Bank for the purpose of interest disallowance u/s. 94B.**
- **Scope of advance pricing agreement and Safe Harbor Rule widened**
It has been proposed that assesseees can seek advance pricing agreement (APA) or SHR in respect of the determination of attribution of profits to PE.
- **Due date for filing transfer pricing report-** Advanced by one month – due date now is 31 October.

TDS / TCS

Section	Description	Revised Tax Rate	Old tax rate
194J	Fee for Technical service	2%	10%
	Fee for Services other than technical services	10%	10%
194K	TDS on payments to resident in respect of Income of Mutual fund	10%	-
194LC	TDS on certain Interest Payment	5% (4 % in the case of IFSC)	5%
194-O	E- commerce operator making payment to E-commerce participant	1%	NA

No withholding of tax at the time of ESOP's are allotted to the employee

- Deduction of tax from perquisite arising on the allotment of shares, under ESOP to an employee of a Start-up, shall be proposed to be made at the time of happening of any of the following events:
 - a) On expiry of 4 year from the end of the Assessment year in which ESOP are exercised;
 - b) At the time the employee leaves the organization;
 - c) At the time of sale of shares allotted under ESOP.

Scope of TCS widened

- The scope of TCS is proposed to be extended to overseas remittance, sale of overseas tour package and sale of goods.
- Amendment in the definition of 'work' under section 194C – now includes, any product is supplied or manufactured according to requirements of the customer, it shall fall under the category of 'work' even if raw material is supplied by the associated enterprise of such customer.

Assessment & Appeals

Expansion of e-assessment scheme

- The scope of e-Assessment is proposed to be extended, so as to include the proceedings under Section 144 of the Act relating to best judgment assessment;

Reference to Dispute Resolution Panel (DRP)

- Eligible assessee for making a reference to DRP shall include a Non-resident as well. It is proposed that any variation done by the AO which is prejudicial to the interest of the assessee (even if there is no impact on profits/losses) can be referred to DRP.

Faceless appeal is proposed up to CIT(A)

- In order to achieve the motto of faceless assessment at CIT(A) level, an appellate system with dynamic jurisdiction, in which appeal shall be disposed of by one or more Commissioner (Appeals), has been proposed. The Central Govt. may notify the scheme in this regard by 31-03-2022.

- **Approval of CIT/Director is required to conduct Survey**

- **No stay by ITAT unless 20% of the disputed tax is deposited** -It is proposed to provide that stay under the first proviso to section 254(2A) shouldn't be provided by ITAT unless assessee deposits or furnish security for atleast 20% of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act.

Assessment & Appeals

- **Insolvency Professionals can act as “authorised representative”** - Section 288 is proposed to be amended to provide that Insolvency Professional can appear before any Income-tax Authority or the Appellate Tribunal on behalf of an assessee as its “authorised representative”.
- **Penalty for fake invoices** - To curb the practice of obtaining fake GST invoices so as to claim the input tax credit, a new section 271AAD has been proposed to be inserted to levy a penalty of an amount equal to the aggregate amount of such fake invoices.

Others

- **Scope of provision to carry forward the losses and depreciation in case of amalgamations has been widened**

The scope of the provision which allows carrying forward of losses or depreciation in certain amalgamations of banks and the insurance company has been proposed to be extended in order to facilitate recent government bank and insurance companies mergers /amalgamations.
- **Listing requirement of business trust on stock exchange has been relaxed**

The Finance Bill 2020 has proposed that Business Trusts will not be required to get listed on a recognised stock exchange for availing the benefit of pass-through allowed under section 115UA.

Thank You

VCMV & ASSOCIATES LLP
CHARTERED ACCOUNTANTS

VCMV | Team of CA, CS & CMA
Suite 303, Kaveri Complex, #104, Nugambakkam High Road, Nungambakkam, Chennai – 600 034