

UNION BUDGET

2020-21

Direct Tax Proposals

KEY BUDGET PROPOSALS

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Note: The proposed amendments are generally effective from Financial Year 2020-21 (i.e. Assessment Year 2021-22), except as provided otherwise

HIGHLIGHTS OF ECONOMIC SURVEY

- The Indian economy slowed down with GDP growth dropping to 4.8 per cent in H1 of 2019-20 lower than 6.2 per cent in H2 of 2018-19.
- The Current Account Deficit (CAD) as percentage of GDP narrowed from 2.1 in 2018-19 to 1.5 in H1 of 2019-20 mainly due to the drop in crude oil prices.
- Headline inflation rose from 3.3 per cent in H1 of 2019-20 to 7.4 per cent in December 2019. Rise in CPI-core and WPI inflation in December 2019, suggests the building of demand pressure. During 2019-20 (April - December), food and beverages emerged as the main contributor to CPI-core inflation, with 54 per cent of the inflation during this period attributable to this group, probably as a consequences of natural conditions.
- Broad money (M3) growth has been on declining trend since 2009 and now stands at 10.4 percent, far below average growth of 14.9 per cent from 2000-01 to 2018-19. Between mid-1990's to 2016-17, the money multiplier was mostly increasing; however, it has been declining since 2017-18.
- In December 2019, MPC decided to keep the repo rate unchanged at 5.15 per cent, underlining the rising consumer price inflation as one of the reasons. The repo rate was reduced by 110 basis points (bps) from 6.25 per cent in April 2019 to 5.15 per cent in October 2019.
- The growth of bank credit started decelerating in H2 of 2018-19 and further in H1 of 2019-20. The deceleration was witnessed across all major segments. Decline in credit growth has been attributed to growing risk aversion of banks that continue to apprehend the build-up of Non-Performing Assets (NPAs).
- Public Sector Banks (PSBs) account for 70 per cent of the market share in Indian banking. In 2019, every rupee of taxpayer money invested in PSBs, on average, lost 23 paise. In contrast, every rupee of investor money invested New Private Banks on an average gained 9.6 paise.
- The fiscal deficit of the Central Government at end of November 2019 stood at 114.8 per cent of the budget estimates (overshoot), same as in the corresponding period of the last year. Revenue receipts have grown at a much higher pace during the current financial year (April to November 2019) over the corresponding period last year.
- Thus, India needs to focus on getting the economy up and running by structural changes in the agrarian economy and the small scale sectors, especially with the decline in real wages in rural India, since the past decade and more. Further, the Budget may not have done enough to spur spending and decrease the toll of taxation on the individual taxpayers.

KEY INCOME-TAX PROPOSALS

CORPORATES

Incomes which do not form part of total income Section [10(23FC(b))] Section [10(23FD)]	<ul style="list-style-type: none">- Earlier, the provision exempting the dividend income earned by the business trust gave reference to income referred to in section 115-O (7) of the Income-tax Act, 1961 (Act), which was dividend income distributed by a special purpose vehicle to a business trust. Since the provisions of section 115-O have been provided with a sunset clause of 31 March 2020, now the terminology used is 'dividend received or receivable from a special purpose vehicle'.- Section 10(23FD) is amended to exclude dividend income which was earlier exempt in the hands of a unit holder of the business trust.- This amendment is consequential to the changes brought about in the taxation of dividend income, which is now to be taxed in the hands of the shareholder, as the dividend distribution tax regime is abolished.- The above amendments are effective from AY 2021-2022.
Definition of Business trusts [Amendment to Section 2(13A)]	<ul style="list-style-type: none">- Section 2(13A) is amended to modify the definition of "business trust" so as to do away with the requirement of the units of business trust to be listed on a recognised stock exchange.- The above amendment is effective from AY 2021-2022.
VTPA Comments	<ul style="list-style-type: none">- The amendment is to incorporate the SEBI (Infrastructure investment Trusts)(InvITs) (Amendment) (Regulations), 2019 which provide for private unlisted InvITs as against the mandatory listing requirement provided in the original regime for InvITs.

<p>Incomes which do not form part of total income</p> <p>[Section 10(34)] and [Section 10(35)]</p>	<ul style="list-style-type: none"> - There is a change in the dividend taxation regime with the abolishment of dividend distribution tax in case of dividend paid/distributed by domestic companies after 1 April 2020, hence, Section 10(34) which provided exemption from dividend received (after payment of Dividend Distribution Tax) is provided with a sunset clause i.e., the exemption would not be applicable on income received by way of dividend on or after 1 April 2020. - Similar to section 10(34), section 10(35) (providing exemption with respect to income received in respect of funds) is also provided with a sunset clause i.e., the exemption would not be applicable on any income in respect of units on or after 1 April 2020. - The above amendments are effective from AY 2021-2022.
<p>Salary, perquisite and profits in lieu of salary defined</p> <p>[Section 17]</p>	<ul style="list-style-type: none"> - There is an amendment to section 17, whereby a limit of INR 7,50,000 is introduced in respect of employer's contribution to national pension scheme (NPS), superannuation fund and recognized provident fund and any excess contribution is taxable in the hands of the employee as income from salary. - Further, annual accretion by way of interest, dividend or any other amount of similar nature during the previous year to the balance at the credit of the fund or scheme shall be treated as perquisite to the extent of such excess contribution by the employer, which is taxable as stated above in the hands of the employee. - The above amendments are effective from AY 2021-2022.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - In the budget speech it was stated by the Hon'ble Finance Minister that wealth creators were to be appreciated by the government. However, taxation of such amount by way of perquisite may be a retrograde step, as in today's economy the employees also participate in the wealth creation of the nation.

CAPITAL GAINS

Profits and Gains from Business and Profession

[Section 43CA]

Special provision for full value of consideration in certain cases

[Section 50C]

Income from other sources

[Section 56(2)(x)(B)]

- Section 43CA is amended to provide that in case of transfer of land or building or both, which are not considered as capital asset, and the stamp duty value is more than the actual consideration by less than ten percent as against the prevailing five percent, then, the actual consideration would be considered as full value of consideration.
- Consequently, even section 50C and section 56(2)(x)(B), are amended on a similar basis, and provides for a ten percent tolerance limit.
- The above amendments are effective from AY 2021-2022.

Meaning of adjusted, cost of improvement and cost of acquisition

[Section 55]

- Provisions of section 55 provide for the cost of acquisition in certain specific cases.
- A new proviso is introduced after section 55(2) Explanation (b)(ii) which provides that in case of substitution of fair market value for land or building or both, as on 1 April 2001 as the cost of acquisition, the fair market value shall not exceed the stamp duty value, wherever available, of such asset as on 1 April 2001.
- The above amendments are effective from AY 2021-2022.

TRANSFER PRICING

Definitions of certain terms relevant to computation of arm's length price, etc. [Section 92F]	<ul style="list-style-type: none">- The term 'specified date' in section 92F(iv) is substituted to mean, one month prior to the due date for furnishing the return of income under section 139(1) for the relevant assessment year.- The above amendment is effective from 1 April 2020 i.e. AY 2020-2021.
VTPA Comments	<ul style="list-style-type: none">- The due date for filing of Form no. 3CEB has been preponed to 31 October. This may cause undue hardship to taxpayers as it may coincide with other regulatory compliances and also leaves less time for the taxpayers to comply with the law.

Limitation on interest deduction in certain cases [Section 94B]	<ul style="list-style-type: none">- Section 94B(1A) has been inserted so as to provide that the interest limitation would not apply to interest paid in respect of a debt issued by a lender which is a PE of a non-resident, being a person engaged in the business of banking, in India.- The amendment will take effect from AY 2021-22.
VTPA Comments	<ul style="list-style-type: none">- The amendment limits the applicability of section 94B, it now explicitly provides that a permanent establishment engaged in the business of banking, being the lender, any interest paid to such PE, would not be covered by section 94B.- However, if it was the intention of the legislature to exempt such interest payment, then the amendment should have been retrospective in nature, from inception.

<p>Power of Board to make Safe Harbour Rules</p> <p>[Section 92CB]</p> <p>Advance Pricing Agreement</p> <p>[Section 92CC]</p>	<ul style="list-style-type: none"> - Section 92CB(1)(a) and section 92CC(1)(b) of the Act are inserted to include the income attributable to a business connection, in respect of the operations carried out in India by or on behalf of the non-resident. Thus, the Safe Harbour Rules and the Advance Pricing Agreements (APA) will also be applicable to such transactions. - Section 92CC(2) is consequentially amended to include the application of the methods prescribed under section 92C read with Rule 10B, with such adjustments or variations, as may be necessary or expedient so to do. - Section 92CC(3) is also consequentially amended to state that the income attributable to a business connection, would be determined as per the APA. - The rollback provisions under the erstwhile Section 92CC(9A), are amended to be made applicable to the income attributable to a business connection, for four years preceding the first of the previous years of the APA. - The amendment to section 92CB will take effect from AY 2020-21. - The amendment to section 92CC will apply to an APA entered into on or after 1 April 2020.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The aim of the amendment is to bring certainty to a highly debatable issue, namely, attribution of profit to a business connection. It would need to be seen whether the quantification exercise envisaged by the amendment can achieve its goal, especially as attribution of profit to a business connection is an intricate factual exercise.

NON-RESIDENT

Residence in India [Section 6]	<ul style="list-style-type: none">- The exception provided in Explanation 1(b) to section 6(1), for individuals visiting India in that year has been decreased to 120 days from existing 182 days.- A new clause (1A) has been inserted to section 6. It provides that, irrespective of fulfilling the test of being a non-resident, an Indian citizen who is not liable to tax in any other country or territory shall be deemed to be resident in India.- The existing conditions under Section 6(6)(a) and (b) have been substituted, for treating an individual or an HUF to be 'not ordinarily resident' in India in a previous year. It is provided that if the individual or the manager of the HUF has been a non-resident in India in seven out of ten previous years preceding that year, then the individual or the HUF would be treated as 'not ordinarily resident'.- The above amendments will take effect from AY 2021-22.
VTPA Comments	<ul style="list-style-type: none">- The amendment in section 6 which deems a citizen of India to be resident of India in any previous year, is an onerous one, despite the clarification of the CBDT. Once the deeming fiction comes into play, unless the individual is 'not ordinary resident', under the new section, he would be liable under the Act on his global income, irrespective of its connection with India.- In these days of globalisation and the need for the Indian economy to grow, whether this amendment is in line with the ethos of the budget, is a question which will unravel itself in the coming days.- Further, the test of 'not ordinary resident' has been amended and would impact non-resident individuals / HUFs.- The provisions of section 6 have been widened, such that individuals who were treated as non-residents under the Act, and were thus liable to pay tax in India, only on sources of income from India and not on global income, may now be liable to pay tax on their worldwide income, if they fall within the net of the above proposed amendments.

VTPA Comments

- It seems that India now wants to apply the “*citizenship test*”, where the individual is *not liable to tax* in any other jurisdiction, for determining the residential status of individuals, which may become burdensome for global investors.
- The Hon’ble Supreme Court in the case of Union of India and Another V. Azadi Bachao Andolan and Another. (And Other Appeals), [2003 (263 ITR 706) (SC)] *has considered the phrase liable to taxation as not the same as paying tax.*
- This could lead to litigation and it may also be required to consider the respective Double Taxation Avoidance Agreements (DTAA) between India and the Other Contracting State.

Income deemed to accrue or arise in India

[Section 9(1)(i)]

- The source rules for 'significant economic presence' (SEP) of a non-resident in India which would constitute "business connection" in India, in respect of digital taxation, have been postponed to AY 2022-23. Therefore, current Explanation 2A to section 9(1)(i) would be omitted from AY 2021-22 and replaced to insert a new Explanation 2A from AY 2022-23.
 - A new Explanation 3A has been added to section 9(1)(i) so as to provide that the income attributable to operations carried out in India, as referred to in Explanation 1 to section 9(1)(i) shall include income from:
 - such advertisement which targets a customer who resides in India or a customer who accesses the advertisement through internet protocol address located in India;
 - sale of data collected from a person who resides in India or from a person who uses internet protocol address located in India; and
 - sale of goods and services using data collected from a person who resides in India or from a person who uses internet protocol address located in India.
- (The same shall be applicable from AY 2021-22)
- A proviso to Explanation 3A is also added to provide that the provisions of the Explanation 3A to section 9(1)(i) shall also apply to the income attributable to the transactions or activities referred to in Explanation 2A to section 9(1)(i), that is, digital taxation. The same shall be applicable from AY 2022-23.
 - The SEBI vide Gazette Notification No. SEBI/LAD-NRO/GN/2019/36, has notified Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2019 [SEBI (FPI) Regulations, 2019] and repealed the SEBI (FPI) Regulations, 2014. Second proviso of Explanation 5 to section 9(1)(i) is amended such that the exemption provided therein shall continue to apply to such investments prior to repeal of the Securities and Exchange Board of India (Foreign Portfolio Investors) Regulations, 2014. The same shall be applicable from AY 2020-21.

<p>Power to make rules</p> <p>[Section 295]</p>	<ul style="list-style-type: none"> - A third proviso to Explanation 5 to section 9(1)(i) is inserted so as to provide that provisions contained therein shall not apply to an asset or a capital asset, held by a non-resident by way of investment, directly or indirectly, in Category-I foreign portfolio investor under the SEBI (FPI) Regulations, 2019, made under the Securities and Exchange Board of India Act, 1992. The same shall be applicable from AY 2020-21. - Section 9(1)(vi) deals with royalty income deemed to accrue or arise in India, in case of a non-resident. The term ‘royalty’ is amended to include consideration for the sale, distribution or exhibition of cinematographic films from its meaning. The same shall be applicable from AY 2021-22. - Section 295 which empowers the Board for making rules, is proposed to be amended to include the power to make the below rules: <ul style="list-style-type: none"> ○ operations carried out in India by a non-resident. The same shall be applicable from AY 2021-22 [Section 295(2)(b)(iia)]; and ○ transaction or activities of a non-resident. The same shall be applicable from AY 2022-23 [Section 295(2)(b)(iib)]
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The new Explanation 3A expands the scope of the source rules in respect of digital taxation in India.

<p>Modification in conditions for offshore funds’ exemption from ‘business connection’</p> <p>[Section 9A]</p>	<ul style="list-style-type: none"> - Section 9A of the Act has been amended to relax two conditions so as to provide that the eligible fund is not resident in India: <ul style="list-style-type: none"> ○ for the purpose of calculation of the aggregate participation or investment in the fund, directly or indirectly, by the fund manager, resident in India, the limit is increased to INR 25 crores during first three years, from 5% of the corpus of the fund as provided earlier. ○ if the fund has been established or incorporated in the previous year, the condition of monthly average of the corpus of the fund to be at one hundred crore rupees shall be fulfilled within twelve months from the last day of the month of its establishment or incorporation. - The above amendments are effective from 1 April 2020 i.e. AY 2020-2021.
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<p>Tax on dividends, royalty and technical service fees in the case of foreign companies</p> <p>[Amendment to Section 115A]</p>	<ul style="list-style-type: none"> - Section 115A is amended for the purposes of now classifying dividend as taxable income and hence tax has to be deducted at source by the domestic company declaring and distributing dividends to non-residents. - The other amendment is that non-resident companies earning income by way of dividend and interest, which suffered deduction of tax at source under Chapter XVII-B were not required to file return of income. Now non-residents earning income by way of royalty and fees for technical services, whose income has suffered deduction of tax at source under Chapter XVII-B, will also not be required to file return of income. - However, the amendment uses the words: <p><i>“(b) the tax deductible at source under the provisions of Part B of Chapter XVII has been deducted from such income and the rate of such deduction is not less than the rate specified under clause (a) or, as the case may be, clause (b) of sub-section (1).”</i></p> - The above amendments are effective from 1 April 2020 i.e. AY 2020-2021.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The amendment, though beneficial to the taxpayer, comes with a rider which was absent in the earlier provision, whereby a non-resident company was not required to file its return of income if the income specified above suffered TDS under Chapter XVII-B of the Act; however, a further condition is added that the TDS should not be less than the rates stated in section 115A. - Thus, if the non-resident company was to claim benefit under the treaty, under section 90 of the Act, and the income specified above were to suffer lower TDS than as compared to the rates stated in section 115A, the exemption of not filing return of income, by such non-resident company would be lost. - This may lead to genuine hardship for the non-resident companies and may also lead to litigation.

**Incomes not
included in total
income.**

**[Section
10(23FE)]**

- Sovereign Wealth Funds as defined in the newly inserted section, are granted exemption from income in the nature of dividend, interest or long-term capital gains arising from an investment made by it in India, in infrastructure facilities as provided in the section.
- The investment can be in the form of debt or equity, and is required to be made on or before 31 March 2024 and should be held for at least three years.
- The above amendments are effective from AY 2021-2022.

ASSESSMENTS

Power of survey

[Amendment of section 133A]

- Section 133A provides for the power of survey to the income-tax authority, which can enter any place, subject to certain conditions, and carry out a survey on the premises and inspect such books of account or other documents, or check or verify the cash, stock or other valuable article or thing, or ask for any information which may be relevant for any proceedings under the Act.
- It is now proposed to permit the Income-tax authority for undertaking the survey in case information is received from such authority as may be prescribed, only after the approval of the Joint Director or the Joint Commissioner, as the case may be.
- It is further proposed to provide that any survey apart from the aforesaid category would require the approval of the Director or the Commissioner, as the case may be.
- This amendment will take effect from 1 April 2020.

Return of Income

[Section 139]

- The due date of filing return of income in case of company or person other than company whose accounts are required to be audited or a working and non working partner of a firm whose accounts are required to be audited, **the due date of filing return of income has been extended from 30 September to 31 October.**
- The amendment will take effect from AY 2020-21.

<p>Audit of accounts of certain persons carrying on business or profession</p> <p>[Section 44AB]</p> <p>Return of income</p> <p>[Section 139]</p>	<ul style="list-style-type: none"> - A new proviso to section 44AB(a) has been added, whereby the threshold limit for a person carrying on business who is required to get his accounts audited, has been increased from one crore rupees as provided in section 44AB(a) to five crore rupees, only in cases where both the below conditions are satisfied: <ul style="list-style-type: none"> ○ aggregate of all receipts including sales, turnover or gross receipts, in cash during the previous year does not exceed five per cent of such receipt; <i>and</i> ○ aggregate of all payments made including amount incurred for expenditure, in cash during the previous year does not exceed five per cent of such payment - Further, to enable pre-filing of returns in case of persons having income from business or profession, it is required that the tax audit report may be furnished by the said assesseees <i>at least one month prior to the due date of filing of return of income</i> <p>Consequently, the provisions of section 10, section 10A, section 12A, section 32AB, section 33AB, section 33ABA, section 35D, section 35E, section 44AB, section 44DA, section 50B, section 80-IA, section 80-IB, section 80JJAA, section 92F, section 115JB, section 115JC and section 115VW of the Act are proposed to be amended accordingly</p> <ul style="list-style-type: none"> - The due date for filing return of income under Explanation 2(a) of section 139(1) is amended <i>by providing 31 October of the assessment year (as against 30 September)</i> - <i>The distinction between a working and a non-working partner of a firm is removed</i> for the purposes for due date of filing return of income under Explanation 2(a)(iii) of section 139(1) - The above amendments will take effect from AY 2021-22
<p>VTPA Comments</p>	<p>The above limitation of cash receipt or expenditure may not be applicable to accounting entries passed on a net basis</p>

Return by whom to be verified [Section 140]	<ul style="list-style-type: none"> - In case of a company, now return of income can be verified by managing director or where there is no managing director by any director of the company and <i>besides the director, to include any other person as may be prescribed by the board.</i> - In case of limited liability partnership, now return of income can be verified by the designated partner or where there is no designated partner by any partner of the limited liability partnership and <i>besides the partner, to include any other person as may be prescribed by the board.</i> - This amendment will take effect from 1 April 2020.
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Modification of e-assessment [Section 143]	<ul style="list-style-type: none"> - Section 143(3A) is amended to expand the scope of e-assessment, so as to include assessment under section 144 of the Act relating to best judgement assessment. - The date of directions to be issued under section 143(3B) by the Central Government for e-assessment has been extended from 31 March 2020 to 31 March 2022. - This amendment will take effect from 1 April 2020.
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Reference to dispute resolution panel [Section 144C]	<ul style="list-style-type: none"> - Section 144C(1) of the Act is amended to provide that the assessing officer is required to forward a draft assessment order to the eligible assessee, if he proposes to make any variation which is prejudicial to the interest of such assessee. - The scope of the words ‘eligible assessee’ under section 144C (15) (b) (ii) has been expanded to include a non-resident not being a company, or any foreign company. - This amendment will take effect from 1 April 2020.
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**Procedure in
appeal**

[Section 250]

- The following sub-clauses have been inserted:

“(6B) The Central Government may make a scheme, by notification in the Official Gazette, for the purposes of disposal of appeal by Commissioner (Appeals), so as to impart greater efficiency, transparency and accountability by—

- (a) eliminating the interface between the Commissioner (Appeals) and the appellant in the course of appellate proceedings to the extent technologically feasible;*
- (b) optimising utilisation of the resources through economies of scale and functional specialisation;*
- (c) Introducing an appellate system with dynamic jurisdiction in which appeal shall be disposed of by one or more Commissioner (Appeals).*

(6C) The Central Government may, for the purposes of giving effect to the scheme made under sub-section (6B), by notification in the Official Gazette, direct that any of the provisions of this Act relating to jurisdiction and procedure for disposal of appeals by Commissioner (Appeals) shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification:

- This amendment will take effect from 1 April 2020.

**Orders of
Appellate
Tribunal.**

[Section 254]

- Section 254(2) first proviso, provides that the Income-tax Appellate Tribunal (ITAT) may pass an order of stay in any proceedings relating to an appeal filed under sub-section (1) of section 253 for a maximum period of 180 days from the date of such order and the Appellate Tribunal shall dispose of the appeal within the said period of stay specified in that order.
- This proviso has been amended and the words “*subject to the condition that the assessee deposits not less than twenty per cent of the amount of tax, interest, fee, penalty, or any other sum payable under the provisions of this Act, or furnishes security of equal amount in respect thereof*” to be inserted after the words “from the date of such order.”
- The second proviso has also been substituted as follows:

“Provided further that no extension of stay shall be granted by the Appellate Tribunal, where such appeal is not so disposed of within the said period of stay as specified in the order of stay, unless the assessee makes an application and has complied with the condition referred to in the first proviso and the Appellate Tribunal is satisfied that the delay in disposing of the appeal is not attributable to the assessee, so however, that the aggregate of the period of stay originally allowed and the period of stay so extended shall not exceed three hundred and sixty-five days and the Appellate Tribunal shall dispose of the appeal within the period or periods of stay so extended or allowed:”.
- These amendments will take effect from 1 April 2020.

VTPA Comments

- The legislation which tends to put fetters on the ITAT’s judicial power is a controversial one. The interference by the legislature is unwarranted, as this would lead to debate and litigation.
- The Hon’ble Supreme Court in ITO v. Mohd. Kunhi, [71 ITR 815 (SC)], and which have been reiterated in Puran Mal Kuntia v. ITO [98 ITR 39 (Patna)], has stated as below:

“The power of stay is not likely to be exercised in a routine way or a matter of course, in view of the special nature of taxation and revenue laws”.

VTPA Comments

- The power of the ITAT to grant stay is inherent in the ITAT's power to dispose of appeals, and the two go hand-in-hand. The power to grant stay is based on the judicial principle "*that the entire purpose of the appeal will be frustrated or rendered nugatory by allowing the recovery proceedings to continue during the pendency of the appeal before it*".
- The above provision would tend to interfere in the course of the ITAT's rendering of justice and could therefore lead to litigation, as the demand for payment of tax for granting of stay of demand, in any judicial proceedings, is the prerogative of the Tribunal/ Court. Thus, a legislation which restricts a Tribunal/ Court may be struck down.

TAX DEDUCTED AT SOURCE

Self assessment [Section 140A] / Notice of demand [Section 156] Direct payment [Section 191] TDS on Salary [Section 192] [Deferring of tax payment in respect of income pertaining to Employee Stock Option Plan (ESOP) of start- ups]	<ul style="list-style-type: none">- A new section 192(1C) is inserted to clarify that, for the purpose of deducting or paying tax under sections 192(1) or (1A), a person, being an eligible start-up referred to in section 80-IAC, responsible for paying any income to the assessee being perquisite of the nature specified in section 17(2)(vi), in any previous year relevant to the AY 2021-22 or subsequent assessment year, deduct or pay, as the case may be, tax on such income within fourteen days:<ul style="list-style-type: none">○ after the expiry of forty-eight months from the end of the relevant assessment year; or○ from the date of the sale of such specified security or sweat equity share by the assessee; or○ from the date of the assessee ceasing to be the employee of the employer who allotted or transferred him such specified security or sweat equity share,whichever is the earliest, on the basis of rates in force of the financial year in which the said specified security or sweat equity share is allotted or transferred.- Similar amendments have been carried out in section 191 (for assessee to pay the tax direct in case of no TDS) and in section 156 (for notice of demand) and in section 140A (for calculating self-assessment).- These amendments will take effect from 1 April 2020.
VTPA Comments	<ul style="list-style-type: none">- This will ease the taxability of various ESOP schemes for start-ups, which will help them to attract talent.

Interest other than “Interest on securities”

[Section 194A]

- Section 194A(3) is amended and a proviso is inserted to provide that a co-operative society referred to section 194A(3)(v) or (viia) shall be liable to deduct income-tax in accordance with the provisions of section 194A(1) if:
 - the total sales, gross receipts or turnover of the co-operative society exceeds fifty crore rupees during the financial year immediately preceding the financial year in which the interest referred to in section 194A(1) is credited or paid; and
 - the amount of interest, or the aggregate of the amount of such interest, credited or paid, or is likely to be credited or paid, during the financial year is more than fifty thousand rupees in case of payee being a senior citizen and forty thousand rupees, in any other case.
- These amendments will take effect from 1 April 2020.

Payments to contractors

[Section 194C]

- Explanation (iv)(e) to Section 194C is amended, to expand the definition of ‘work’ to include a manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer or its associate.
- An associate is defined to mean, a person who is related to the customer in like manner, as is the person related to the assessee under the provisions of section 40A(2)(b).
- These amendments will take effect from 1 April 2020.

Fees for professional or technical services

[Section 194J]

- Section 194J(1) is amended to reduce the rate for TDS in respect of fees for technical services (other than professional services) to two per cent from existing ten per cent.
- The TDS rate in other cases under section 194J would remain the same at 10 per cent.
- These amendments will take effect from 1 April 2020.

<p>Income in respect of units</p> <p>[Insertion of Section 194K]</p>	<ul style="list-style-type: none"> - A new section 194K has been inserted, to provide that any person responsible for paying to a resident any income in respect of: <ul style="list-style-type: none"> ○ units of a Mutual Fund specified under section 10(23D) or ○ units from the administrator of the specified undertaking or ○ units from the specified company <p>shall at the time of credit of such income exceeding INR 5000 to the account of the payee or at the time of payment thereof by any mode, whichever is earlier, deduct income-tax there on at the rate of ten per cent</p> - The term ‘Administrator’, ‘specified company’ and ‘specified undertaking’ have been defined in Explanation 1 to section 194K - These amendments will take effect from 1 April 2020.
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<p>Certain income from units of business trust</p> <p>[Section 194LBA]</p>	<ul style="list-style-type: none"> - Section 194LBA is amended to provide, for tax deduction by business trust on interest and dividend income paid to unit holders, at the rate of ten per cent, being residents. - In the case of non-residents, it would be 5 per cent for interest and ten per cent for dividend. - These amendments will take effect from 1 April 2020.
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**Income by way of
interest from
Indian company**

[Section 194LC]

- A proviso has been inserted to section 194LC(1) and new section 194LC(2)(ib) has been inserted, such that the rate of TDS shall be at the reduced rate of four per cent on the interest payable to a non-resident, in respect of monies borrowed in foreign currency from a source outside India, by way of issue of any long term bond or rupee denominated bond on or after 1 April 2020 but before 1 July 2023 *and* which is listed only on a recognised stock exchange located in any IFSC.
- The period for concessional rate of TDS of five per cent has been extended for borrowings, from 1 July 2020 to 1 July 2023, in respect of section 194LC(2)(i)(a) and 194LC(2)(i)(c) and 194LC(2)(ia).
- These amendments will take effect from 1 April 2020.

**Income by way of
Interest on certain
bonds and
government
securities**

[Section 194LD]

- Section 194LD(2) has been amended to include the income by way of interest referred under section 194LD(1) shall be the interest payable, on or after 1 June 2013 but before 1 July 2023, in respect of investment made by the payee in:
 - a rupee denominated bond of an Indian company; or
 - a Government security; or
 - municipal debt securities,

provided that the rate of interest in respect of bond shall not exceed the rate as the Central Government may, by notification in the Official Gazette, specify.
- ‘municipal debt securities’ shall have the meaning assigned to it in clause (m) of sub-regulation (1) of regulation 2 of the Securities and Exchange Board of India (Issue and Listing of Municipal Debt Securities) Regulations, made under the Securities and Exchange Board of India Act, 1992.
- These amendments will take effect from 1 April 2020

Payment of certain sums by e-commerce operator to e-commerce participant

[Section 194-O]

- A new section 194-O is inserted in respect of e-commerce transactions, so as to provide for a new levy of TDS at the rate of one per cent, in respect of the following:
 - The TDS is payable on the gross amount of the sale of goods or provision of service facilitated through the e-commerce operator's digital or electronic facility or platform.
 - E-commerce operator is required to deduct tax at the time of credit of or payment of the sale or service or both to the e-commerce participant's account, whichever is earlier.
 - Further, any amount paid by a purchaser of goods or recipient of services directly to an e-commerce participant, facilitated by the e-commerce operator, shall be deemed to be included in the gross amount of such sales or services for the purpose of deduction of income-tax.
 - However, if the e-commerce participant of such sale or service is an individual or a HUF, then the TDS liability would only arise if the sum credited or paid during the previous year to such person exceeds five lakh rupees and such e-commerce participant has furnished his Permanent Account Number (PAN) or Aadhaar number to the e-commerce operator.
 - Consequential amendments are made in section 197 (for lower TDS), in section 204 (to define person responsible for paying any sum) and in section 206AA (to provide for tax deduction at 5 per cent, in cases where PAN/ Aadhaar are not provided).
 - Section 204 has inserted clause (v) to state that the person responsible for deducting TDS:

“in the case of a person not resident in India, the person himself or any person authorised by such person or the agent of such person in India including any person treated as an agent under section 163”

- The terms 'electronic commerce', 'e-commerce operator', 'e-commerce participant', 'services' have been defined in the new section.
- These amendments will take effect from 1 April 2020.

<p>Any person responsible for paying to Non Resident</p> <p>[Section 195]</p>	<ul style="list-style-type: none"> - The provision with respect to deduction of tax, in respect of dividend referred to in section 115-O has been omitted. - This amendment will take effect from 1 April 2020.
<p>Income in respect of units of non residents</p> <p>[Section 196A]</p> <p>Income from foreign currency bonds or shares of Indian company</p> <p>[Section 196C]</p> <p>Income of Foreign Institutional Investors from securities.</p> <p>[Section 196D]</p>	<ul style="list-style-type: none"> - With respect to applicability of TDS on income from units of a Mutual Fund under section 196A, it is proposed to substitute ‘of the Unit Trust of India’ with ‘from the specified company’ defined in Explanation to clause (35) of section 10: - In case of section 196A/196C/196D: It is proposed to substitute ‘<i>in cash or by the issue of a cheque or draft or by any other mode</i>’ with by any mode. - Further proviso to dividend under section 115-O in all cases shall be omitted. - These amendments will take effect from 1 April 2020.

<p>Furnishing of statement of tax deducted.</p> <p>[Omission of Section 203AA]</p> <p>[Insertion of new Section 285BB]</p>	<ul style="list-style-type: none"> - Section 203AA is omitted with effect from 1 June 2020. 203AA deals with the statement to be issued in Form 26AS. - It is proposed to insert section 285BB, where it is intended to give details of not only tax deducted at source of the assessee, but an annual information statement, consisting of multiple information as may be prescribed. - These amendments will take effect from 1 June 2020.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The new system will allow the department to monitor all the transactions of the assessee, and such information will be provided by the department to the assessee. - The memorandum states that this information may be in respect of the transactions such as sale/purchase of immovable property, share transactions etc., of the assessee.

PENALTIES

Penalty for false entry, etc. in books of accounts

[Insertion of new Section 271AAD]

- A new section 271AAD has been inserted to impose penalty for false entry, etc. in books of accounts. Section 271AAD(1) states:

(1) Without prejudice to any other provisions of this Act, if during any proceeding under this Act, it is found that in the books of account maintained by any person there is—

(i) a false entry; or

(ii) an omission of any entry which is relevant for computation of total income of such person, to evade tax liability,

The Assessing Officer may direct that such person shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.

- Further, Section 271AAD(2) provides that the Assessing officer may also direct any other person, who causes the person referred to in sub-section (1) in any manner to make a false entry or omits or causes to omit any entry referred to in that sub-section, shall pay by way of penalty a sum equal to the aggregate amount of such false or omitted entry.
- The term ‘false entry’ has been defined in the section.
- These amendments will take effect from 1st June, 2020.

VTPA comments

- The budget intends to promote a harmonious relationship between the assessee and the tax department, however, stringent provisions have been introduced like the penalty provisions as regards false entry, which may lead to hardship for the assessee.

**Procedure for
penalty**

[Section 274]

- In line with the budget announcement to introduce e-appellate proceedings, e-penalty scheme is introduced vide 274(2A) and (2B), for the purposes of:
 - *eliminating the interface between the Assessing Officer and the assessee in the course of proceedings to the extent technologically feasible;*
 - *optimising utilisation of the resources through economies of scale and functional specialisation;*
 - *introducing a mechanism for imposing of penalty with dynamic jurisdiction in which penalty shall be imposed by one or more income-tax authorities.*
- Further, sub-section (2B) is also inserted to empower the Central Government to direct that any of the provisions of this Act relating to jurisdiction and procedure of imposing penalty shall not apply or shall apply with such exceptions, modifications and adaptations as may be specified in the notification.
- This amendment will take effect from 1 April 2020.

SPECIAL RATES OF TAX

Tax on incomes of individuals and Hindu Undivided Family

[Section 115BAC]

- A new alternative scheme of taxation is proposed for individual and HUFs.
- The new scheme is optional in nature and provides comparatively lower rate of taxes vis-à-vis the existing rates of taxes for individuals and HUF.
- This regime of lower rate of tax is available on fulfillment of certain conditions. The primary condition in this regard is non claiming of various exemptions and deductions.
- The benefit of rebate under section 87A is available in both the new as well as the old regime.
- The relevant rates of tax along with the applicable income slabs are provided as under:

New rate of tax		Existing Rate of Tax	
Income (Amt in Rs.)	Rate of tax (in %)	Income (Amt in Rs.)	Rate of tax (in %)
Upto 2,50,000	Nil	Upto 2,50,000	Nil
From 2,50,001 to 5,00,000	5*	From 2,50,001 to 5,00,000	5*
From 5,00,001 to 7,50,000	10		
From 7,50,001 to 10,00,000	15		
From 10,00,001 to 12,50,000	20	From 5,00,001 to 10,00,000	20
From 12,50,001 to 15,00,000	25		
Above 15,00,000	30		
		Above 10,00,000	30

* Rebate under section 87A is not considered.

<p>Tax on incomes of individuals and Hindu Undivided Family</p> <p>[Section 115BAC]</p>	<ul style="list-style-type: none"> - For availing the lower tax rate in the new regime, the following aspects need to be considered: <ul style="list-style-type: none"> ○ No setoff of losses ○ Loss under the head 'Income from house Property' not allowable ○ Depreciation to be computed as prescribed. Further, no additional depreciation is available ○ The WDV of the block of assets shall be determined as per prescribed manner ○ Without any exemption or deduction for any allowance or perquisite ○ Deduction under section 80LA for setting up a unit in IFSC shall still be available ○ In case a person having business income, the option is to be exercised on or before the due date specified under section 139(1) for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after the 1 April 2021 ○ For persons having business income, option once exercised will apply to subsequent assessment years. However, an option of withdrawing the choice is available only once, except in the year in which such option is exercised ○ In case there is no business income, then the option is to be exercised by the assessee alongwith the return of income to be furnished under section 139(1) ○ Detailed list of exclusions, etc., are provided in section 115BAC(2) - These amendment will take effect from 2021-22.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The manner of exercising the option is not expressly provided, only the period by which the option is to be exercised is provided. An option in the return of income should be provided for exercising such option. - The same is applicable to both resident and non-resident individuals.

<p>Amendments consequent to the insertion of section 115BAC and 115BAD</p> <p>[Amendment of sections 115JC and 115JD]</p>	<ul style="list-style-type: none"> - Sections 115JC and section 115JD provide for payment of alternate minimum tax (AMT) on the income earned by certain persons other than a company. - It is now proposed to provide that the provisions of AMT would not apply to the cooperative societies opting for the concessional tax rates under section 115BAC and 115BAD. - This amendment will take effect from AY 2021-22.
<p>Special Provisions Relating To Tax On Distributed Profits Of Domestic Companies</p> <p>[Amendment of section 115-O]</p> <p>Tax on distributed income to unit holders.</p> <p>[Amendment of section 115R]</p>	<ul style="list-style-type: none"> - Section 115-O provides for the payment of dividend distribution tax (DDT) by the company at the time of payment or declaration of dividend, whichever is earlier. - It has now been proposed to bring in a sunset clause on the dividend distribution tax (DDT) in respect of the dividends declared, distributed or paid by a domestic company post 31 March 2020. - The dividend would now be taxed in the hands of the shareholder and not in the hands of the domestic company declaring the dividend. - Corresponding amendments have also been made to the other sections of the Act, which refer to section 115-O. - Further, similar amendments have been made to section 115R to provide that the Mutual fund shall no longer be liable to pay tax on the dividends declared by it, but the unit holders themselves would be liable for the same. - These amendments will take effect from AY 2021-22
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The said amendment casts the onus of the payment of tax on dividend on the shareholder /unit holder and hence would have a significant positive impact on the cash flows of the domestic company / mutual fund, as now it need not pay DDT on the dividends declared by them.

Amendments consequent to the abolishment of section 115-O [Amendment of sections 115A, 115AC, 115ACA, 115AD and 115C]	<ul style="list-style-type: none"> - A consequential amendment as a result of the abolishment of section 115-O has been provided by removing the now irrelevant reference to section 115-O as the same no longer is part of the statute. - This amendment will take effect from AY 2021-22.
VTPA Comments	<ul style="list-style-type: none"> - The said amendments are a result of removing section 115-O from the statute.

Amendments consequent to the abolishment of section 115-O [Amendment of section 115BBDA]	<ul style="list-style-type: none"> - Section 115BBDA provides for specialised rates of tax in respect of the dividend received from domestic companies in excess of INR 10 lacs. - As a result of the abolishment of section 115-O, it has now been proposed to bring in a sunset clause in respect of the dividends declared, distributed or paid by a domestic company on or before the 31 March 2020. - This amendment will take effect from AY 2021-22.
VTPA Comments	<ul style="list-style-type: none"> - The benefit of section 115BBDA which taxes dividend income in excess of INR 10 lacs in the hands of shareholder at 10%, to only dividend declared, distributed or paid by a domestic company on or before the 31 March 2020. Thus, the said benefit would not be available post 31 March 2020. - The dividend in the hands of the shareholder, would be taxable, as per the normal rates of tax applicable to the shareholder.

TDS on Dividends [Section 194]	<ul style="list-style-type: none"> - The tax withholding on declaration and payment of dividend [(including dividends on preference shares / section 2(22)] has been amended to include by any mode of payment. - The rate of tax on such payment of dividend has been prescribed at ten per cent. - The limit for deduction of dividend has been increased to ‘five thousand rupees from ‘two thousand five hundred rupees’. - Consequently, the third proviso relating to the dividend distribution tax under section 115-O is omitted. - These amendments will take effect from AY 2021-22.
Deductions in respect of certain inter-corporate dividends. [Insertion of new section 80M]	<ul style="list-style-type: none"> - A consequential amendment as a result of the abolishment of section 115-O has been provided in respect of dividend income earned by domestic companies, as the dividend would now be taxable in the hands of the shareholder. - Section 80M has been introduced in the Act so as to prevent cascading effect of dividend on inter-corporate dividends received by the domestic company. - Section 80M provides for deduction in respect of the dividend income earned by the domestic company to the extent of the dividend further distributed by same domestic company - The deduction, or in other words, set-off would be allowed only for dividend distributed by the company one month prior to the due date of filing of return - These amendments will take effect from AY 2021-22.
VTPA Comments	<ul style="list-style-type: none"> - The said amendment has to be read with the abolishment of section 115-O and hence provides the necessary benefit of set-off of the dividend paid with the dividend received so as to prevent the cascading effect and the resulting double taxation.

<p>Amendments consequent to the insertion of section 80M</p> <p>[Amendment of sections 115BAA and 115BAB]</p>	<ul style="list-style-type: none"> - Section 80M has been introduced in the Act so as to prevent cascading effect of dividend on inter-corporate dividends received by the domestic company. - Section 80M provides for deduction in respect of the dividend income earned by the domestic company to the extent of the dividend further distributed by the same domestic company. - Further, the benefit of section 80M is allowed to the companies opting for the concessional tax schemes of section 115BAA and section 115BAB. Thus, the deduction under section 80M would be allowed to these assesseees. - These amendments will take effect from AY 2020-21.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The said amendments are due to the insertion of the new section 80M, consequent to the abolishment of dividend distribution tax under section 115-O. The benefit of the said deduction is extended to the sections 115BAA and 115BAB also.

CHARITABLE INSTITUTIONS

Incomes not included in total income

[Section 10(23C)]

&

Income from property held for charitable or religious purposes.

[Section 11]

- There has been a significant overhaul in the taxation of Charitable Institutions.

- The changes are in the form of :

- Creating a parity between entities 10(23C) and 10(46)
- Limiting the flexibility of claiming exemption under section 10(23C) and 10(46) along with exemption under section 11
- Registration of Charitable Institutions
- Donations to charitable institutions and credit of donations to charitable institutions

- The above are analysed as under:

Creation of parity and limitation of simultaneous exemption in different sections:

- Receipts by registered charitable institutions are exempt under section 11, provided certain conditions are fulfilled.
- If the pre-requisite conditions are not fulfilled, exemption under section 11 will not be available for charitable institutions.
- In such cases, Charitable Institutions claimed exemption under section 10. This view of claiming exemption under section 10, if exemption under section 11 was denied was accepted by the judiciary.
- In order to stop such practice, the provisions of section 11 were amended, to provide that if Charitable Institution has been granted registration and the same is in force, the Charitable Institution is not eligible to claim any exemption under section 10 other than exemption under section 10(1) and 10(23C).
- Thus, claiming of exemption under section 10(1), 10(23C) and section 11 was possible simultaneously.
- It has now been provided that similar to the exception of claiming exemption under section 10(23C), exemption under section 10(46) can also be claimed by Charitable Institutions.

Incomes not included in total income.

[Section 10(23C)]

Income from property held for charitable or religious purposes.

[Section 11]

Procedure for registration.

[Section 12AA]

**&
Procedure for fresh registration**

[Section 12AB]

- The first proviso to section 11(7) has been inserted which expressly provides that the registration under section 11 would become inoperative, on
 - approval under section 10(23C) or
 - Notification under section 10(46) or
 - Date of proviso coming into force; whichever is earlier
- The second proviso to section 11(7) states that due to the effect of first proviso, if the registration under section 11 has become inoperative, the charitable institution can apply under section 12AB to get its registration operative.
- However, on the registration under section 11 becoming operative after application under section 12AB, the approval or notification under section 10(23C) or 10(46), as the case may be, shall cease to have any effect and the Charitable institution shall not be entitled to exemption under these clauses.

Registration of Charitable Trusts:

- Earlier, there was no concept of provisional registration. Now the concept of provisional registration is incorporated in newly inserted section 12AB. The same is valid upto three assessment years.
- Further, earlier the registrations granted were for indefinite period. In fact, the jurisprudence had stated that once Charitable Institutions are granted registration and there is no change in objects or activities, the registration cannot be cancelled or revoked.
- However, now the maximum period for which a registration can be granted is ***five assessment years***. Thus, after the specified period, the Charitable Institutions would have to again seek registration.
- While seeking registration, the Principal Commissioner or Commissioner shall take into account the genuineness of the activities, compliance with other laws, etc.
- It is also provided that applications pending before the Principal Commissioner or Commissioner, on which no order has been passed in respect of the registration, provisional registration would be granted.

<p>Deduction in respect of donations to certain funds, charitable institutions, etc.</p> <p>[amendment to Section 80G and section 80GGA]</p>	<p><u>Donations to charitable institutions and credit of donations to charitable institutions:</u></p> <ul style="list-style-type: none"> - Section 80G / 80GGA of the Act provides for a deduction on the donation made to charitable institutions, etc., as also to certain institutions for carrying on scientific research or rural development subject to the certain conditions. The rate of deduction also varies according to the institution to which the donation is made. - At present, there is no reporting obligation by the exempt entity receiving donation/ any sum in respect of such donation/ sum. With the advancement in technology, the Government has now proposed to implement a process through which one-to-one matching between what is received by the exempt entity and what is claimed as deduction by the assessee, so as to weed out false claims made by the assessees in their computation of income. - It is further proposed that no deduction shall now be allowed under section 80GGA in respect of any sum exceeding two thousand rupees unless such sum is paid by any mode other than cash. - These amendments will take effect from 1 June 2020.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - There has been continuous and onerous changes in the scheme of taxation of Charitable Institutions. - Several frequent changes makes it difficult for Charitable Institutions to function. - It would be debatable whether Charitable Institutions can choose the option of claiming exemption under section 11 or 10(46)/ 10(23C) on year to year basis/need basis. However, on reading of the memorandum, it becomes clear that the option can be exercised only once. Hope the legislature can clarify the position in law - Approval under section 10(23C) or notification made under section 10(46) as well as registration under section 12AA, for claiming exemption under section 11 have a common objective – activities should not be commercial in nature. If the main purpose of all the three are similar, such constrains on inter-operability of availing exemptions need to be looked into.

VTPA further Comments on charitable institutions	<ul style="list-style-type: none"> - There has been resultant amendment in the exit tax regime under section 115TD, with respect to section 12AB. - With this amendment, the Government aims to bring in greater transparency and facilitate easier and faster compliance and verification of the deductions claimed under section 80G. - However, the compliance burden on the charitable institutions would also increase substantially. Further, there is nothing to provide a level of protection to the donor in case of non-compliance by the charitable institution, as the assessee may lose out on deduction even if he has made payment but the same is not reflected on the portal by the institution.
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Appeals to the Appellate Tribunal. [Section 253]	<ul style="list-style-type: none"> - Amendment has in Clause (c) of sub-section (1), which deals with appealable orders before Appellate Tribunal. - In Clause (c) of sub-section (1), along with order under section 12AA, an order passed by a Principal Commissioner or Commissioner under section 12AB shall also be included. - This amendment will take effect from 1 June 2020.
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OTHER AMENDMENTS

Deductions [Section 57]	<ul style="list-style-type: none">- Section 57(i) deals with deduction in case of dividends and interest on securities.- Thus, now under the new dividend taxation regime, dividend income would be taxable. Accordingly, section 57 now proposes to use the term “dividends”, as there is no distinction between any dividends (received either from domestic company or foreign company) and all dividends are taxable.- Further, a proviso is to be inserted which provides that only deduction of interest expenses shall be allowed in respect of dividend income or income in respect to mutual fund specified in 10(23D) or income in respect of specified company mentioned in 10(35).- The newly proposed proviso further restricts the deduction to a maximum of twenty percent of the dividend or income in respect of specified units.- These amendments will take effect from AY 2021-22.
VTPA Comments	<ul style="list-style-type: none">- The proposed limiting twenty percent threshold is for Income from Other Sources and should not apply to Profits and Gains from Business and Profession.- The proposed proviso provides the deduction only for interest expense, whereas the section itself provides deduction for reasonable sum paid by way of commission or remuneration to a banker or any other person for the purpose of realising such dividend or interest on behalf of the assessee. Thus there is an anomaly because the section itself does not provide for deduction for interest expense.- Further, section 57(iii) would allow all revenue expenditure incurred for earning such income, therefore it would be debatable whether such capping of expenditure genuinely incurred for earning the dividend income would not be allowable as a deductible expenditure. This could lead to litigation.

<p>Interest deduction taken on loan for affordable housing</p> <p>[Amendment of section 80EEA]</p> <p>AND</p> <p>Deductions in respect of profits and gains from housing projects</p> <p>[Amendment of section 80IBA]</p>	<ul style="list-style-type: none"> - Section 80EEA of the Act provides for an additional deduction of up to INR 1,50,000 for interest paid to any financial institution on loans taken for the purchase of an affordable house as defined under the Act. - The deduction was allowed on housing loans sanctioned on or before 31 March 2020, subject to certain other conditions. - The Government now proposes to extend the time limit for the sanction of the housing loans sanctioned to 31 March 2021. - A corresponding amendment has also been granted by extending the time limit for approval of the affordable housing projects by the competent authority to 31 March, 2021 for the developers engaged in the construction of the said affordable housing projects. - These amendments will take effect from 1 April 2021.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - This amendment would provide impetus to the real estate sector which is currently in turmoil by incentivising the purchase of affordable housing as well as realise the middle class dream of owning their own house.

<p>Special provision in respect of specified business. [Start-ups]</p> <p>[Amendment of section 80-IAC]</p>	<ul style="list-style-type: none"> - Section 80-IAC of the Act provides for a deduction to eligible start-ups of 100% of the profits and gains derived from an eligible business by an eligible start-up having turnover not exceeding INR 25 crores, for three consecutive assessment years out of seven years, at the option of the assessee, subject to certain conditions. - It is now proposed to raise the turnover limit to INR 100 Crores and the number of years for which the option is available has now been increased to ten years from seven years. - These amendments will take effect from AY 2021-22.
<p>VTPA Comments</p>	<ul style="list-style-type: none"> - The said amendment would provide impetus to the start-up ecosystem and further the Government policy initiatives of ‘Start-up India’, ‘Make In India’ and ‘Digital India’.

Profits and gains from the business of trading in alcoholic liquor, forest produce, scrap, etc.

Amendment of section 206C

[Insertion of clause (1G) and (1H)]

- This section provides for the collection of tax at source (TCS).
- It is proposed to amend section 206C to widen its scope and include TCS on foreign remittance through Liberalised Remittance Scheme (LRS) and on selling of overseas tour package as well as TCS on sale of goods over a limit.
- An authorised dealer receiving an amount or an aggregate of amounts of seven lakh rupees or more in a financial year for remittance out of India under the LRS of RBI, shall be liable to collect TCS, at the rate of five per cent. In case of no PAN/ Aadhaar, the rate shall be ten per cent.
- Similarly, a seller of an overseas tour program package who receives any amount from any buyer, being a person who purchases such package, shall be liable to collect TCS at the rate of five per cent. In case of no PAN/ Aadhaar, the rate shall be ten per cent.
- Further, a seller of goods is liable to collect TCS at the rate of 0.1 per cent on consideration received from a buyer in a previous year in excess of fifty lakh rupees. In case of no PAN/ Aadhaar, the rate shall be one per cent.
- Only those seller whose total sales, gross receipts or turnover from the business carried on by it exceed ten crore rupees during the financial year immediately preceding the financial year, shall be liable to collect such TCS.
- These amendments will take effect from 1 April 2020.

VTPA Comments

- The above provisions are extremely onerous and create difficulties for genuine taxpayers.
- In a fiscal environment, where there should be trust between the government and the tax payer, such provisions of law erode such trust.

**Appearance by
authorised
representative.**

[Section 288]

- Section 288 of the Act provides for the persons entitled to appear before any Income-tax Authority or the Appellate Tribunal, on behalf of an assessee, as its 'authorised representative', in connection with any proceedings under that Act.
- There was nothing in this section to explicitly provide that an Insolvency Professional under IBC, 2016 can act as an authorised representative of the corporate debtor. This resulted in certain practical difficulties.
- Therefore, sub-section (2) of this section is proposed to be amended to enable 'any other person as may be prescribed' to appear as an authorised representative.
- These amendments will take effect from 1 April 2020.

Other key provisions introduced by the Finance Bill

- It is proposed to insert a ***new section 119A*** in the Act to empower the Board to adopt and declare a Taxpayer's Charter and issue such orders, instructions, directions or guidelines to other income-tax authorities as it may deem fit for the administration of Charter. The details of the contents of the charter shall be notified soon.
- It would be required to be seen whether such Charter will have any binding effect on the tax department or whether it would only be a policy statement, having only persuasive value at best.
- This amendment will take effect from 1 April 2020.
- The budget speech mentions that the Government would introduce a dispute resolution scheme to reduce tax litigation, under the proposed ***Vivad Se Vishwas*** scheme.
- The scheme proposes that the taxpayer would have to pay only the disputed tax amount and will get complete waiver of interest and penalty, provided the payment of tax is made before 31st March, 2020.
- The taxpayers who avail this scheme post 31 March 2020 will have to pay some additional amount apart from the disputed tax amount.
- The scheme will remain open till 30 June 2020.
- The scheme is available to all those cases whose appeals are pending at any level.
- The speech by the Hon'ble Finance minister, does not talk about immunity from prosecution which would be a critical factor for the taxpayers when they decide to opt for the scheme.

RATES OF TAX

1.1. For Individuals, Hindu Undivided Families, Association of Persons, Body of Individuals and Artificial judicial person

Existing**		Proposed**	
Income (INR)	Rate (%) @	Income (INR)	Rate (%) @
0 – 2,50,000 [#]	Nil	0 – 2,50,000 [#]	Nil
2,50,001 - 5,00,000 [#]	5	2,50,001 - 5,00,000 [#]	5
5,00,001 - 10,00,000	20	5,00,001 - 10,00,000	20
10,00,001 and above	30	10,00,001 and above	30

@ Health and Education cess of 4% is leviable on the amount of income-tax and surcharge.

The basic exemption limit is INR 250,000 in case of every individual below the age of 60 years, INR 300,000 in case of resident individuals of the age of 60 years or more, and INR 500,000 for ‘very senior citizen’ in case of resident individuals of age 80 years and above.

** Where total income does not exceed INR 500,000, the assessee shall be entitled to a credit on the income-tax payable, not exceeding of an amount equal to hundred percent of the Income-tax payable or INR 12,500, whichever is less.

The **surcharge on income-tax**, for Individuals, Hindu Undivided Families, Association of Persons, Body of Individuals and Artificial judicial person, are as follows:

Existing/Proposed	
Total Income (INR)	Surcharge (%)
5 million – 10 million	10
10 million – 20 million	15
20 million – 50 million	25
Above 50 million	37

- Further, the individual / HUF should also consider the newly introduced concessional regime of taxation, as explained below.

Tax on incomes of individuals and Hindu Undivided Family under section 115BAC

- As per the new section 115BAC introduced by the Finance Bill, 2020, in the case of Individuals / HUFs, who do not claim exemptions and deductions as per the section, the below new concessional rates would be applicable as shown in the below table:

Income in INR	Tax Rate in %
0 to 2,50,000	Nil
From 2,50,001 to 5,00,000	5*
From 5,00,001 to 7,50,000	10
From 7,50,001 to 10,00,000	15
From 10,00,001 to 12,50,000	20
From 12,50,001 to 15,00,000	25
Above 15,00,000	30

- Section 115BAC has amended only the basic Slab rates, and other provisions applicable to Individuals / HUFs, namely, rebate under section 87A, and the applicable rates of education cess and surcharge would be computed on the same basis as above, that is, under normal rates of tax.

1.2. For Others

Description	Existing Rate (%)		Proposed Rate (%)	
	Having Income from INR 10 million to 100 million	Having Income more than INR 100 million	Having Income from INR 10 million to 100 million	Having Income more than INR 100 million
	(Including Health and Education Cess @ 4%)			
A) Domestic company				
Regular tax as per Para E of the 1st Schedule to the Finance Act (Turnover up to INR 4000 mn)	27.82*	29.12**	27.82*	29.12**
Regular tax as per Para E of the 1st Schedule to the Finance Act (Turnover > INR 4000 mn and not covered below)	33.38*	34.94**	33.38*	34.94**
115BA	27.82*	29.12**	27.82*	29.12**
115BAA	25.17***	25.17***	25.17***	25.17***
115BAB	17.16***	17.16***	17.16***	17.16***
MAT	16.69*	17.47**	16.69*	17.47**
	(of book profits)*	(of book profits)**	(of book profits)*	(of book profits)**
DDT	17.472**		NIL	
Dividend Received from Foreign subsidiary company (section 115BBD)	16.69*	17.47**	16.69*	17.47**
B) Foreign company				
Regular tax	42.43\$	43.68#	42.43\$	43.68#
C) Firm and LLP				
Regular tax	34.944**		34.944**	
Alternate Minimum Tax (AMT)	21.55**		21.55**	

* Inclusive of surcharge @ of 7 %

** Inclusive of surcharge @ of 12 %

*** Inclusive of surcharge @ of 10 %

\$ Inclusive of surcharge @ of 2 %

Inclusive of surcharge @ of 5 %

Disclaimer

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavor to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

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