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Key direct tax amendments to the
Finance Bill (No.2), 2019,
as passed by Lok Sabha on 18 July 2019

The Lok Sabha has passed the Finance Bill (No. 2), 2019 on 18 July 2019 with certain amendments. The key direct tax amendments are summarised as under:

SECTION	Amendments as introduced by Finance Bill (No. 2), 2019 on 5 July 2019	Amendments as passed by Lok Sabha on 18 July 2019
<p>Income deemed to accrue or arise in India [Introduction of Section 9(1)(viii)]</p>	<p>Any income as referred to in section 2(24)(xviiia), arising from any sum of money paid, or any property situated in India transferred, on or after 5 July 2019, by a person resident in India, <u>to a person outside India</u> shall be deemed to accrue or arise in India</p>	<p>Any sum of money referred to in section 2(24)(xviiia), paid on or after 5 July 2019, by a person resident in India, <u>to a non-resident, not being a company, or to a foreign company</u>, shall be deemed to accrue or arise in India</p>
<p>Transactions not regarded as transfer Incentive to IFSC [Section 47] Incomes not included in total income [Section 10(4D)]</p>	<p>With a view to provide tax-neutral transfer of certain securities, namely derivatives or such other securities as may be notified by the Central Government, <u>also by a specified fund established or incorporated by a Category III AIF in an IFSC, of which all the unit holders are non-resident</u>, which is deriving income solely in convertible foreign exchange, will not be regarded as a transfer</p>	<p>The Bill provides certain benefit to a specified fund, through an amendment in section 47(viiab) of the Act. <u>The said benefit is now provided, through an insertion of new clause (4D) in section 10 of the Act</u></p> <p>Further, the definition of specified fund is amended to allow benefits of section 10(4D), <u>even if the resident sponsor or a resident manager holds the units of such specified fund</u></p>

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<p>Exemption to Category I and II Alternative Investment Fund (AIF)</p> <p>[Section 56 (viib)]</p>	<p>Venture capital undertakings were exempt from section 56(2)(viib) only in respect of investments made by a venture capital company or a venture capital fund [section 10(23FB)], as included in Category I AIFs</p> <p>With a view to facilitate venture capital undertakings to receive funds from Category II AIFs as well, Section 56(2)(viib) is amended to exempt venture capital undertakings from its applicability in respect of investments made by Category II AIFs as well</p>	<p>Now, the exemption has been extended to all the funds covered under Category I AIFs, namely,</p> <ul style="list-style-type: none"> - Venture capital funds (Including angel funds) - SME funds - Social venture funds - Infrastructure funds <p>As a result, the exemption is now available in respect of investments made by both Category I AIF and Category II AIF</p>
<p>Income from other sources</p> <p>[Section 56(2)(viib)]</p>	<p>If the prescribed conditions as mentioned in clause (ii) of the first proviso to section 56(2)(viib) are not fulfilled, <u>then the consideration exceeding the face value of shares will be taxable as income</u> in the year in which those conditions are not fulfilled</p>	<p>The amendment provides that the <u>consideration exceeding the fair market value of shares will be taxable as income</u> in the year in which the conditions mentioned in clause (ii) of the first proviso to section 56(2)(viib) are not fulfilled</p> <p>Penalty provisions under section 270A(8) and section 270A(9) would now be deemed to be applicable on non-fulfilment of the specified conditions</p>

SECTION	Amendments as introduced by Finance Bill (No. 2), 2019 on 5 July 2019	Amendments as passed by Lok Sabha on 18 July 2019
<p>Payment of certain amounts in cash</p> <p>[Introduction of Section 194N]</p> <p>Tax deducted is income received</p> <p>[Section 198]</p>	<p>Banking company, cooperative societies engaged in the business of banking, or post office, would be required to deduct TDS at the rate of 2%; if the aggregate of the cash withdrawals <u>from an account</u>, maintained by the recipient with it, during the financial year exceed INR 1 crore</p>	<p>TDS at the rate of 2% would be deducted by banking company, cooperative societies engaged in the business of banking, or post office, <u>if the cumulative withdrawals from all accounts with one bank</u>, exceeds INR 1 crore</p> <p>Further, proviso is inserted to section 198 that the TDS deducted under section 194N shall be deemed to be income received by the assessee.</p> <p>Section 198 states that all sums deducted (TDS) <u>shall be deemed to be income received by the assessee</u>. The TDS deducted under section 194N already forms part of the section 198, and hence, insertion of such a proviso would not be the intention of the Legislature.</p> <p>The proviso is supposed to restrict the scope of section 198 and thus, a clarification is required that the TDS under section 194N <u>shall not be deemed to be income received by the assessee</u>.</p>

SECTION	Amendments as introduced by Finance Bill (No. 2), 2019 on 5 July 2019	Amendments as passed by Lok Sabha on 18 July 2019
<p>Payment of certain sums by certain individuals or HUF</p> <p>[Introduction of Section 194M]</p>	<p>Individuals as well as HUFs would now be required to deduct tax at source on payment of any sum to a resident for carrying out any work in pursuance of a contract (section 194C) or by way of fees for professional services (section 194J) exceeding amount of INR 50 lakhs</p> <p>The rate of TDS is proposed to be 5% of the sum paid at the time of credit or payment whichever is earlier</p>	<p>The provision is <u>now also applicable to a payment of any sum made to a resident by way of commission (not being commission as per section 194D) or brokerage as defined under section 194H</u></p>

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