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# UNION BUDGET

## 2019-20

### Direct Tax Proposals

# KEY BUDGET PROPOSALS

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**Note: The proposed amendments are generally effective from Financial Year 2019-20 (i.e. Assessment Year 2020-21), except as provided otherwise**

## HIGHLIGHTS OF ECONOMIC SURVEY

- To achieve the objective of becoming a \$5 trillion economy by 2024-25, India needs to sustain a real GDP growth rate of 8%
- Growth is being driven by an expansionary fiscal policy with rising deficits, fiscal deficit for the year 2019-20 is estimated at 3.4% of GDP. However, according to IMF figures the current budget deficit stands at 6.9% of GDP. Total public sector borrowing is at 9% of GDP
- There are indications in the economic survey of a more laissez-faire policy stance going forward with a focus on increasing Gross Capital Formation (GCF). This bodes well for private investment and productivity growth
- Average inflation of the five years (2014-2018) is less than half inflation level of the preceding five year period. High real interest rates, demonetization and introduction of GST seem to have contributed to the successful targeting of price levels
- The survey argues that demographics and wages are the key factors that drive savings, not the level of nominal interest rates, and that a mildly positive real rate is good enough. Though this may be debatable
- The survey points out that small firms accounted for only 23% of the total employment in organized manufacturing in 2016-17, while the large firms accounted for over 77% of total employment. Small firms remain small due to disincentives stemming from our stringent labor laws
- Delays in contract enforcement and disposal resolution are the single biggest hurdle to the ease of doing business in India and higher GDP growth. Around 87.5% of pending cases are in District and Subordinate courts
- Economic policy uncertainty (EPU index) peaked in India during late 2011 and early 2012 and has since been declining with intermittent increases in between (according to EPU index). Economic policy uncertainty in India moved closely in tandem with global uncertainty until 2014. However, it started diverging since early 2015 and seems to have completely decoupled in 2018. Studies show a significant relationship between economic policy uncertainty and real macroeconomic variables, most notably gross fixed capital formation (GCF) and foreign investments (FII and FDI)
- India continues to enjoy the “demographic dividend” which gives a strong tailwind to economic growth. Working age population (20-59 years) comprised 50.5% of the population in 2011, will increase to about 60% in 2041
- The survey calls for a national minimum wage. The present system in India is complex with 1,915 minimum wages defined for various job categories in various states. And one in every three wage workers is not protected by the minimum wage law

**5 July 2019**

## KEY INCOME-TAX PROPOSALS

### CORPORATES

<p><b>Removing difficulties and facilitating demerger of Ind-AS compliant companies</b></p> <p><b>Definition of ‘demerger’ [Section 2(19AA)]</b></p>	<ul style="list-style-type: none"><li>- A new proviso is inserted after section 2(19AA)(iii) of the Income-tax Act, 1961 (the Act) to provide that the requirement of recording property and liabilities at book value by the resulting company shall not be applicable in a case where the property and liabilities of the undertakings received by it are recorded at a value different from the value appearing in the books of account of the demerged company immediately before the demerger in compliance to the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015</li></ul>
<p><b>VTPA Comments</b></p>	<p>The amendment is prospective, however, no clarification is issued about the companies which are already demerged on or before 31 March 2019</p>

<p><b>Deemed accrual of gift made to a person outside India</b></p> <p><b>Income deemed to accrue or arise in India</b></p> <p><b>[Insertion of new clause (viii) in Section 9(1)]</b></p>	<ul style="list-style-type: none"><li>- <b>Section 9(1) read as:</b> <i>The following incomes shall be deemed to accrue or arise in India...</i></li><li>- Insertion of new clause (viii): <i>“(viii) income of the nature referred to in sub-clause (xvii) of clause (24) of section 2, arising from any sum of money paid, or any property situate in India transferred, on or after the 5th day of July, 2019 by a person resident in India to a person outside India.”.</i></li><li>- <i>Section 2(24)(xvii): "income" includes “any sum of money or value of property referred to in clause (x) of sub-section (2) of section 56;”</i></li></ul>
<p><b>VTPA Comments</b></p>	<p>The income will be chargeable in the hands of person outside India, irrespective of the fact that whether the recipient person is resident or not.</p> <p><i>However, it seems the word should be ‘non-resident’ instead of ‘person outside India’.</i></p>

**Incentives to Non-Banking Finance Companies (NBFCs)**

**Certain deductions to be only on actual payment**  
[Section 43B]

**Special provision in case of income of public financial institutions, public companies, etc.**  
[Section 43D]

- The benefit of section 43D and condition for section 43B is also proposed to be extended to NBFCs
- Section 43B of the Act provides that any sum payable by the assessee as interest on any loan or advances from a *deposit-taking NBFCs and systemically important non deposit-taking NBFCs*, 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 previous year. [Section 43B(da)]
- In the case of *a deposit taking non-banking financial company or a systemically important non-deposit taking non-banking financial company*, the income by way of interest in relation to certain categories of bad or doubtful debts as may be prescribed having regard to the guidelines issued by the Reserve Bank of India in relation to such debts, shall be chargeable to tax in the previous year in which it is credited to its profit and loss account actually received, whichever is earlier. [Section 43D]

**Incentives for  
Category II  
Alternative  
Investment Fund  
(AIF)**

**[Section 56 (viib)]**

- Where a company, not being a company in which the public are substantially interested, receives, in any previous year, from any person being a resident, any consideration for issue of shares that exceeds the face value of such shares, the aggregate consideration received for such shares as exceeds the fair market value of the shares shall be charged to tax
- The provision shall not apply where the consideration for issue of shares is received by a:
  - o venture capital undertaking from a venture capital company or a venture capital fund; or
  - o company from a class or classes of persons as may be notified by the Central Government in this behalf
- Currently the benefit of exemption is available to Category I Alternate Investment Fund (AIF). With a view to facilitate venture capital undertakings it is proposed to amend the said section, to extend this exemption, to funds received by venture capital undertakings from Category II AIF also

**Carry forward  
and set off of  
losses in case of  
certain  
companies.-**

**Incentive for start  
ups**

**[Section 79]**

- In order to facilitate ease of doing business in the case of an eligible start-up, it is proposed that the loss incurred in any year prior to the previous year, in the case of closely held eligible start-up, 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 stipulated currently at clause (a) or clause (b)
- For other closely held companies, there would be no change, and loss incurred in any year prior to the previous year shall be carried forward and set off only on satisfaction of condition currently provided at clause (a)

**Deductions in respect of profits and gains from housing projects**

**Section 80-IBA**

- With a view to align the definition of "affordable housing" under section 80-IBA with the definition under GST Act, it is proposed to amend the said section so as to modify certain conditions regarding the housing project approved on or after 1 September 2019
- The modified conditions are as under:
  - o the assessee shall be eligible for deduction under the section, in respect of a housing project if a residential unit in the housing project have carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities of Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan Region); and
  - o the stamp duty value of such residential unit in the housing project shall not exceed forty five lakh rupees

**Special provision for payment of tax by certain companies**

**[Section 115JB]**

- It is proposed that the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward shall also be allowed to be reduced from the book profit in case of a:
  - o company, and its subsidiary and the subsidiary of such subsidiary, where the National Company Law Tribunal, on an application moved by the Central Government (CG) under section 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 CG under section 242 of the said Act
  - o company against whom an application for corporate insolvency resolution process has been admitted by the Adjudicating Authority under section 7 or section 9 or section 10 of the Insolvency and Bankruptcy Code, 2016
- A company shall be a subsidiary of another company, if such other company holds more than half in nominal value of the equity share capital of the company

**Tax on distributed income to shareholders**

**[Section 115QA]**

**Tax on income distributed to shareholder in case of listed companies**

**[Section 10(34A)]**

- Section 115QA(1) provides that a domestic company shall be liable to pay additional income-tax at the rate of twenty per cent on the distributed income on buy-back of shares not being shares listed on a recognised stock exchange from a shareholder
- It is proposed that the provisions of section 115QA(1) shall also apply to the buyback of shares listed on a recognised stock exchange
- Further, Section 10(34A) extends the exemption under section 10(34A) of the Act, to shareholders of the listed company on account of buy-back of shares on which additional income-tax has been paid by the company
- This amendment will take effect from 5 July 2019

**Tax on income of investment fund [Category I and Category II Alternative Investment Fund (AIF)] and its unit holders**

**[Section 115UB]**

- The business loss arising to the investment fund, if any, shall be, allowed to be carried forward and set-off, in accordance with the provisions of Chapter-VI; and such loss shall not accrue, or arise or be passed on to the unit holder
- The loss other than the business loss, if any, shall not accrue, or arise or be passed on to the unit holder, if such loss has arisen in respect of a unit which has not been held by the unit holder for a period of atleast twelve months
- The loss other than the business loss, if any, accumulated at the level of investment fund as on the 31 March, 2019, shall be deemed to be:
  - o the loss of a unit holder who held the unit on that day, in respect of the investments made by him in the investment fund and
  - o allowed to be carried forward by him for the remaining period calculated from the year in which the loss had occurred for the first time taking that year as the first year and
  - o allowed to be set-off by him in accordance with the provisions of Chapter-VI
- The loss so deemed in the hands of unit holders shall not be available to the investment fund for the purposes of Chapter-VI



<p><b>Incomes not included in total income</b></p> <p><b>Exemption of interest income of a non-resident arising from borrowings by way of issue of Rupee Denominated Bonds referred to under section 194LC</b></p> <p><b>[Section 10(4C)]</b></p>	<ul style="list-style-type: none"><li>- In order to incentivise low cost foreign borrowings through Off-shore Rupee Denominated Bond, the press release dated 17 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 17 September 2018 to 31 March 2019 shall be exempt from tax. This press release is now incorporated in the law itself, by amending section 10 of the Act</li><li>- Section 10(4C) provides exemption to income payable by way of interest to a non-resident by the Indian company or a business trust, in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond, under section 194LC, during the period beginning from the 17 September 2018 to 31 March 2019</li></ul>
<p><b>Incomes not included in total income</b></p> <p><b>[Section 10(15)(ix)]</b></p>	<ul style="list-style-type: none"><li>- With a view to facilitate external borrowing by the units located in IFSC, Section 10(15) provides that 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 1 September 2019, shall be exempt</li></ul>
<p><b>VTPA Comments</b></p>	<p>The proposed amendment facilitates external borrowing by the units located in IFSC, as the interest payable to a non-resident by a unit located in IFSC, shall be exempt</p>

**Transactions not regarded as transfer  
Incentive to IFSC**

**[Section 47]**

- Under the existing provisions, any transfer of a capital asset, being bonds or Global Depository Receipts or rupee denominated bond of an Indian company or derivative, made by a non-resident through a recognised stock exchange located in any IFSC and where the consideration for such transaction is paid or payable in foreign currency was not regarded as a transfer
- 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, 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, which is deriving income solely in convertible foreign exchange, will not be regarded as a transfer
- The definitions of the expressions securities, specified fund, trust, unit and convertible foreign exchange are inserted in the Explanation to clause (viiab) of section 47 of the Act

**Deductions in respect of certain incomes of units of an International Financial Services Centre (IFSC)**

**[Section 80LA]**

- The existing provisions of the section 80LA of the Act, inter alia, provides that the profit linked deduction of an amount equal to one hundred per cent of income for the first five consecutive assessment years and fifty per cent of income for the next five consecutive assessment years, *to units of an IFSC*
- With a view to further incentivize operation of units in IFSC, it is proposed to amend the said section so as to provide that the deduction shall be increased to one hundred per cent for any ten consecutive years.
- The assessee, at his option, may claim the said deduction for any ten consecutive assessment years out of fifteen years beginning with the year in which the necessary permission was obtained

**VTPA Comments**

The benefit of extension of tax holiday as given to units of IFSC is not extended to Offshore Banking Units

**Tax on dividends, royalty and technical service fees in the case of foreign companies**

**[Section 115A]**

- Section 115A of the Act provides the method of calculation of income-tax payable by a non-resident (not being a company) or by a foreign company where the total income includes any income by way of dividend (other than referred in section 115-O), interest, royalty and fees for technical services; etc.
- Section 80LA provides for deduction in respect of certain incomes to a unit located in an IFSC. However, section 115A(4) prohibits any deduction under Chapter VI-A, which includes section 80LA
- A proviso is proposed to be inserted to section 115A(4), which provides that the conditions contained in section 115A(4) shall not apply to a unit of an IFSC, for which a deduction is allowed under section 80LA. Thus, such units can claim exemption of all business income under section 80LA

**Tax on distributed profits of domestic companies**

**[Section 115-O]**

- Section 115-O(8) is proposed to be amended such that any dividend paid out of its current income or income accumulated derived by a unit of International Financial Services Centre, after 1 April 2017 shall also not be liable for tax on distributed profits
- This amendment will take effect from 1 September 2019

**Tax on  
distributed  
income to unit  
holders**

**[Section 115R]**

- It is proposed to amend the section 115R(2) by inserting a third proviso which provides that no additional income-tax shall be chargeable, in respect of any amount of income distributed, on or after 1 September 2019, by a specified Mutual Fund out of its income derived from transactions made on a recognised stock exchange located in any International Financial Services Centre
- All the units of a specified Mutual Fund shall be held by non-residents
- The meaning of the terms ‘convertible foreign exchange’ ‘International Financial Services Centre’, ‘recognised stock exchange’, ‘specified Mutual Fund’ and ‘unit’, are inserted in the Explanation to the said sub-section
- This amendment will take effect from 1 September 2019

## CAPITAL GAINS

### Capital gain on transfer of residential property not to be charged in certain cases

#### Incentives for start ups

#### [Section 54GB]

- Where
  - the capital gain arises from the transfer of a long-term capital asset, being a residential property (a house or a plot of land), owned by the eligible assessee and
  - the assessee, before the due date of furnishing of return of income under section 139(1), utilises the net consideration for subscription in the equity shares of an eligible company and
  - the company has, within one year from the date of subscription in equity shares by the assessee, utilised this amount for purchase of new asset, then the capital gain will not be taxable subject to certain conditions.
- The conditions was that the equity shares of the company or the new asset acquired by the company should not be sold or transferred within period of five years. In the case of new asset, being purchase of computer or computer software, the period of five years is proposed to be replaced by three years
- The benefit of this section has been extended to any transfer of residential property made upto 31 March 2021 instead of March 2019
- Further, the provisions have been beneficially amended to include, even where the assessee has more than 25% share capital or more than 25% voting rights after the subscription in shares by the assessee, instead of 50%

### Tax on short-term capital gains in certain cases

#### [Section 111A]

- The meaning of the term 'equity oriented fund' as provided under clause (a) of the Explanation to the said section is amended. The term is proposed to have its meaning as assigned to in clause (a) of the Explanation to section 112A. This will give benefit of the concessional rate of tax for short-term capital gains, in respect of transfer of units of such fund of funds.

## **TRANSFER PRICING**

<p><b>Effect to advance pricing agreement (APA)</b></p> <p><b>[Section 92CD]</b></p> <p><b>Appealable orders before Commissioner (Appeals)</b></p> <p><b>[Sections 246A]</b></p>	<ul style="list-style-type: none"><li>- In cases where assessment or reassessment has already been completed and modified return of income has been filed by the taxpayer under section 92CD(1), it is proposed that the Assessing Officer (AO) shall pass an order modifying the total income of the relevant assessment year determined in such assessment or reassessment, having regard to and in accordance with the APA</li> <li>- Consequential amendments are proposed to be made in section 92CD(5)</li> <li>- It is proposed to amend the section 246A(1)(bb) so as to provide that the assessee may appeal to the Commissioner (Appeals) against an order made under section 92CD(3). This amendment is consequential in nature to the amendment of section 92CD</li> <li>- This amendment will take effect from 1 September 2019</li></ul>
<p><b>VTPA Comments</b></p>	<ul style="list-style-type: none"><li>- This amendment clarifies that the role of the AO is to only pass an order modifying the total income consequent to modification of return of income in pursuance to APA; and thus, the AO does not have the power to assess or reassess or re-compute the total income.</li> <li>- The amendment is clarificatory in nature</li></ul>

**Secondary Adjustment in certain cases**

**[Section 92CE(1)]**

- Section 92CE(1) provides that the assessee shall make secondary adjustment in case where primary adjustment to transfer price takes place as specified in certain cases.
- Clause (iii) of section 92CE(1) states that the assessee shall make secondary adjustment in case where the primary adjustment to transfer price **is determined by an advance pricing agreement entered into by the assessee under section 92CC**. It is proposed that the provision of this section shall apply to the agreements which have been signed on or after 1 April 2017
- The proviso to said sub-section is amended to provide exemption in cases:
  - o where the amount of primary adjustment made in any previous year does not exceed the threshold limit of INR one crore; **or**
  - o the primary adjustment is made in respect of an assessment year commencing on or before 1 April 2016
- A proviso is proposed to be inserted to section 92CE(1) so as to provide that no refund of any taxes already paid till date, under the pre-amended section shall be claimed and allowed

**[Section 92CE(2)]**

- Section 92CE(2) provides that the excess money available to the associated enterprise (AE) shall be repatriated to India from such AE within prescribed time and in case of non-repatriation, interest thereon is to be computed deeming the same as advance to such AE
- It is proposed that the interest shall be computed on the excess money or part thereof. The excess money can be repatriated from any of the AEs of the assessee, which is not resident in India, apart from the AE with which the excess money is available

- The amendments in section 92CE(1) and section 92CE(2) will take effect retrospectively from 1 April 2018

**[Insertion of new sub-sections in section 92CE]**

- New sub-sections 92CE(2A), 92CE(2B), 92CE(2C) and 92CE(2D) have been inserted
- Section 92CE(2A): The provisions of this section are applicable without prejudice to the provisions of section 92CE(2) of the Act
  - o In a case where the excess money or part thereof has not been repatriated in time, the assessee will have the option to pay additional income-tax at the rate of eighteen per cent on such excess money or part thereof in addition to the existing requirement of calculation of interest till the date of payment of this additional tax
  - o The additional tax is proposed to be increased by a surcharge of twelve per cent
- Section 92CE(2B): The tax so paid under section 92CE(2A) shall be the final payment of tax and no further credit shall be claimed by the assessee or any other person in respect of the amount of tax so paid
- Section 92CE(2C): No deduction under any other provisions of the Act shall be allowed to the assessee in respect of the amount on which such tax has been paid under section 92CE(2A)
- Section 92CE(2D): If the assessee pays the additional income-tax under section 92CE(2A), he shall not be required to make secondary adjustment under section 92CE(1) or compute interest under section 92CE(2), from the date of payment of such tax
- This amendment will take effect from 1 September 2019

**VTPA Comments**

The additional income-tax payable on such secondary adjustment is a one-time levy and enables the assessee to bring certainty to tax matters, in respect of such secondary adjustments



**Maintenance and keeping of information and document by persons entering into an international transaction or specified domestic transaction**

**[Substitution of Section 92D]**

- Section 92D(1) proposes that the prescribed information and document shall be kept and maintained by every person:
  - o entering into an international transaction or specified domestic transaction;
  - o being a constituent entity of an international group
- Section 92D(2) empowers the Board to prescribe the period for which the information and document shall be kept and maintained
- Section 92D(3) provides that the Assessing Officer or the Commissioner (Appeals) may in the course of any proceeding under the Act, require any person entering into an international transaction or specified domestic transaction, to furnish any information or document, within a period of thirty days from the date of receipt of a notice issued in this regard. The said period may be further extended upto thirty days on such person's application
- Section 92D(4) provides that the constituent entity under section 92D(1)(ii) shall furnish the information and document to the authority prescribed under section 286(1), in such manner, on or before such date as may be prescribed

**VTPA Comments**

The amendment will require all constituent entities of an international group to maintain and furnish prescribed information and document. Consequently, rule 10DA of the Income-tax Rules, 1962, will need to be amended

**Furnishing of report in respect of international group**

**[Section 286]**

- Section 286 contains provisions for furnishing of a Country-by-Country report in respect of an international group
- Every parent entity or the alternate reporting entity, 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 twelve months from the end of the said reporting accounting year, in the form and manner as may be prescribed
- Section 286(9)(a) defines the term “accounting year” as:  
*a previous year, in a case where the parent entity or alternate reporting entity is resident in India .....*
- This sub-clause has now been amended and the words “or alternate reporting entity” has been omitted with retrospective effect from 1 April 2017

**VTPA Comments**

This clarifies that the accounting year would always be the accounting year applicable in the country where such ultimate parent entity is resident and cannot be the previous year of the entity resident in India

## NON-RESIDENT

### Certain activities not to constitute business connection in India

#### [Section 9A(3)]

### Relaxation in conditions of special taxation regime for offshore funds

- Section 9A(3) of the Income-tax Act, 1961 (the Act) provides that the eligible investment fund under section 9A(1), means a fund established or incorporated or registered outside India, which collects funds from its members for investing it for their benefit and fulfils the following amended conditions, namely:-
  - the corpus of the fund shall not be less than one hundred crore rupees *at the end of a period 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*; and
  - the remuneration paid by the fund to an eligible fund manager in respect of fund management activity undertaken by him on its behalf is not less than *the amount calculated in such manner as may be prescribed*

### Payment of certain sums to a non-resident

#### [Section 195]

- It is proposed to amend section 195 whereby the words ***“in such form and manner to the Assessing Officer, to determine in such manner, as may be prescribed”*** shall be substituted instead of “to the Assessing Officer to determine, by general or special order”
- This amendment is proposed to be made in section 195(2) as well as section 195(7) of the Act
- It is proposed to streamline the current manual process of obtaining certificates and use technology which would help in reducing the processing time as well as lead to better monitoring
- This amendment is effective from 1 November 2019

**Amounts not deductible**

**[Section 40 and 201]**

- Section 201 specifies that the deductor shall not be deemed to be an assessee in default if he fails to deduct tax on a payment made to a resident, if such resident has furnished his return of income under section 139, disclosed such payment for computing his income in his return of income, paid the tax due on the income declared by him in his return of income and furnished an accountant's certificate to this effect
- The benefit of section 201 is now extended to deductor, even in respect of failure to deduct tax *on payment to non-residents*
- Consequential amendment is also made in Section 40(a), so that, there will be no disallowance under section 40 in respect of such payments
- Section 201 - The amendments will take effect from 1 September 2019

**VTPA Comments**

In the **Commissioner of Income-tax-II v. Mitusubishi Corporation India (P.) Ltd** [2017] 252 Taxman 31 (Delhi), the Delhi High Court, while placing reliance on **Herbalife International India (P.) Ltd.** [2016] 384 ITR 276, "*held that a non-resident would have to be subjected to the same conditions as a resident, and held that 'the lack of parity in allowing all the payment as deduction' brings about discrimination...*".

The proposed amendment intends to bring parity between payments made to residents and non-residents

**Recovery of tax in pursuance of agreements with foreign countries**

**[Section 228A]**

- It is proposed to amend section 228A to stipulate that for the recovery of tax charged by a foreign country, with whom India has an agreement for the same, the tax recovery officer in India may proceed to recover tax in any of the below two situations:
  - o the person has a property located in India, or
  - o He is a resident of India.
- Conversely, it is proposed to also amend section 228A to provide for recovery of Indian income-tax from the assessee even if he is a resident in a foreign country.
- This amendment is effective from 1 September 2019

## ASSESSMENTS

### **Mandatory furnishing of return of income by certain persons**

#### **[Section 139]**

- It is proposed to amend section 139 of the Act so as to provide that a person shall be mandatorily required to file his return of income, if during the previous year, he:
  - has deposited an amount or aggregate of the amounts exceeding one crore rupees in one or more current account maintained with a banking company or a co-operative bank; or
  - has incurred expenditure of an amount or aggregate of the amounts exceeding two lakh rupees for himself or any other person for travel to a foreign country; or
  - has incurred expenditure of an amount or aggregate of the amounts exceeding one lakh rupees towards consumption of electricity; or
  - fulfils such other prescribed conditions, as may be prescribed
- It is also proposed to amend the sixth proviso to section 139 to provide for furnishing of return by a person who is claiming rollover benefit of capital gains, for investment in a house or a bond or any other asset under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB

### **Permanent account number**

#### **[Sections 139A]**

### **penalty for failure to comply with the provisions of section 139A**

#### **[Section 272B]**

- Section 139A is amended to make quoting of PAN or Aadhar as interchangeable and amendments are proposed to quote the PAN or Aadhar in case of prescribed transactions
- In order to ensure proper compliance of the provisions relating to quoting and authentication of PAN or Aadhaar, the penalty provision contained in section 272B is proposed to be amended suitably
- This amendment is effective from 1 September 2019

**Quoting of  
Aadhaar number**  
[Sections 139AA]

- In order to protect validity of transactions previously carried out through PAN, it is proposed to amend the proviso to section 139AA(2) so as to provide that if a person fails to intimate the Aadhaar number, the PAN allotted to such person shall be made inoperative in the prescribed manner, instead of invalidating the PAN, as was stated earlier
- This amendment is effective from 1 September 2019

**Self-assessment**  
[Section 140A]

- It is proposed to amend the section 140A so as to allow the relief of arrears or advance salary computed as per section 89 of the Act, for computing the tax payable, while calculating the self-assessment tax
- This amendment is with retrospective effect from 1 April 2007

**Assessment**  
[Section 143]

- It is proposed to amend the section 143(1) so as to allow the relief of arrears or advance salary computed as per section 89 of the Act, for computing the tax payable, while processing the return of income filed
- This amendment is with retrospective effect from 1 April 2007

**Interest  
chargeable in  
certain cases**  
[Sections 234A,  
234B and 234C]

- It is proposed to amend the sections 234A, 234B and 234C so as to allow the relief of arrears or advance salary computed as per section 89 of the Act while calculating the interest in the aforesaid sections
- This amendment is with retrospective effect from 1 April 2007

## INDIVIDUAL

<p><b>Incomes not included in total income</b></p> <p><b>Incentives to National Pension System (NPS) subscribers</b></p> <p><b>[Section 10(12A)]</b></p>	<ul style="list-style-type: none"><li>- The existing section 10(12A) provides that any payment from the NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme, to the extent it does not exceed forty per cent of the total amount payable to him at the time of such closure or on his opting out of the scheme, is exempt from tax.</li><li>- The said section is amended so as to increase the said exemption from forty per cent to sixty per cent of the total amount payable to the person at the time of closure or his opting out of the scheme</li></ul>
<p><b>VTPA Comments</b></p>	<p>This proposed amendment is to enable the pensioner to have more disposable funds, the section <b>increases the exemption from forty per cent to sixty per cent</b> of the total amount payable to the person at the time of closure or his opting out of the scheme.</p>
<p><b>Deduction in respect of life insurance premia, deferred annuity, contributions to provident fund, subscription to certain equity shares or debentures, etc.</b></p> <p><b>[Section 80C and 80CCD]</b></p>	<ul style="list-style-type: none"><li>- Any amount paid or deposited by a Central Government employee as a contribution to his Tier-II account of the pension scheme for a fixed period of not less than three years and in accordance to scheme notified by central government, shall be proposed to be eligible for deduction under section 80C</li><li>- Under the existing provisions of section 80CCD of the Act, in respect of any contribution by the Central Government or any other employer to the account of the employee referred to in the section, the assessee shall be allowed a deduction in the computation of his total income, of the whole of the amount contributed by the Central Government or any other employer, as does not exceed ten per cent of his salary in the previous year</li><li>- It is proposed to increase the limit from ten to fourteen per cent of contribution made by the Central Government to the account of its employee</li></ul>

**Deduction in respect of interest on loan taken for residential house property**

**Tax incentive for affordable housing**

**[Section 80EEA]**

- New section provides a deduction in respect of interest up to one lakh fifty thousand rupees on loan taken for residential house property from any financial institution subject to the following conditions:
  - loan has to be sanctioned by a financial institution during the period beginning on the 1 April 2019 to 31 March 2020
  - the stamp duty value of house property does not exceed forty-five lakh rupees
  - assessee does not own any residential house property on the date of sanction of loan
- It is also proposed that where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year

**Interest deduction on purchase of Electric vehicle-reduce**

**Control Vehicular pollution/  
Encourage manufacture Electric Vehicle**

**[Section 80EEB]**

- New section provides for a deduction in respect of interest on loan taken for purchase of an electric vehicle from any financial institution up to one lakh fifty thousand rupees subject to the following conditions:
  - the loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 1 April 2019 to 31 March, 2023;
  - the assessee does not own any other electric vehicle on the date of sanction of loan
- Further, where a deduction under this section is allowed for any interest, deduction shall not be allowed in respect of such interest under any other provisions of the Act for the same or any other assessment year



<p><b>Payment in respect of life insurance policy</b></p> <p><b>[Sections 194DA]</b></p>	<ul style="list-style-type: none"> <li>- Section 194DA is amended so as to levy TDS only on the <i>income</i> portion of the amount received under a taxable life insurance policy which is not covered by the exemption under section 10(10D). The income would be calculated after deducting the total life insurance premiums paid from the gross amount received under the policy including bonus</li> <li>- It is also proposed to levy TDS on the income calculated as aforesaid, at 5% of the income</li> <li>- This amendment is effective from 1 September 2019</li> </ul>
<p><b>VTPA Comments</b></p>	<p>This is a welcome step to subject only the <i>net income</i> to TDS, as the earlier requirement to deduct TDS based on gross payment was onerous</p>

<p><b>Payment on transfer of certain immovable property</b></p> <p><b>[Sections 194-IA]</b></p>	<ul style="list-style-type: none"> <li>- It is proposed to insert explanation (<i>aa</i>) to section 194-IA so as to bring into the ambit of TDS all the charges incidental to the transfer of immovable property</li> <li>- The explanation defines the term <i>consideration for immovable property</i> so as to include all charges of the nature of club membership fee, car parking fee, electricity or water facility fee, maintenance fee, advance fee or any other charges of similar nature, connected to the transfer of immovable property</li> <li>- This amendment is effective from 1 September 2019</li> </ul>
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**Payment of certain sums by certain individuals or HUF.**

**[Section 194M and section 197]**

- It is proposed to insert section 194M by which individuals as well as HUFs would be required to deduct tax at source on payment of any sum to a resident in pursuance of a contract or by way of fees for professional services exceeding amount of INR 50 lakhs
- The rate of TDS is proposed to be 5% of the sum paid at the time of credit or payment whichever is earlier
- Further, section 197 has also been amended to include section 194M. As a result, a person can approach the AO for lower or nil deduction of tax at source
- Also, the requirements of obtaining *tax deduction and collection account number* need not be fulfilled while deducting tax at source under this section
- This amendment is effective from 1 September 2019

**Payment of certain amounts in cash**

**[Section 194N]**

- It is proposed to insert section 194N whereby certain persons, namely, banks, cooperative societies engaged in the business of banking, or post office, would be required to deduct TDS if the aggregate of the cash withdrawals during the financial year exceed INR 1 crores
- This provision has been introduced to give impetus to digital payments and move towards a cashless economy
- It is also proposed that the above provision would not be applicable in certain cases
- This amendment is effective from 1 September 2019

## **OTHER AMENDMENTS**

### **Procedure for registration**

### **Registration/Cancellation of the Trust or Institution – Enhanced Powers to PCIT/CIT**

#### **[Section 12AA]**

- Section 12AA is amended to allow the Principal Commissioner of Income-tax or the Commissioner of Income-tax (PCIT/ CIT) at the time of registration of the trust, to call for such documents or information as he thinks necessary, in order to satisfy himself that the trust is also in compliance of such requirements of any other law for the time being in force by the trust or institution as are material for the purpose of achieving its objects
- Similarly, during the continuance of the registration under section 12A/12AA, the PCIT/ CIT have the power to also cancel the registration, if: *the trust or institution has not complied with the requirement of any other law, as referred to in sub-clause (ii) of clause (a) of sub-section (1), and the order, direction or decree, by whatever name called, holding that such non-compliance has occurred, has either not been disputed or has attained finality*
- These amendments shall be effective from 1 September 2019

### **Form of claim for refund and limitation**

#### **[Sections 239]**

- It is proposed to amend the section 239 so as to consider the return of income filed under section 139 as the only requirement for claiming the refund.
- Further, section 239(2) which prescribed a time limit for filing of the refund claim is proposed to be omitted.
- This amendment is effective from 1 September 2019

**Penalty for failure to comply with provisions of section 269SU**

**[Section 271DB]**

- New Section 269SU provides that every person carrying on businesses and having total sales, turnover or gross receipts, of more than fifty crore rupees during the immediately preceding previous year, shall provide facility for accepting payment through prescribed electronic modes, in addition to the facility for other electronic modes, if any
- Section 271DB provides that if a person who is required to provide facility for accepting payment through the prescribed electronic modes of payment referred to in section 269SU, fails to provide such facility:
  - o he shall be liable to pay, by way of penalty, a sum of five thousand rupees, for every day during which such failure continues
- It is provided, however, that no such penalty shall be imposable if such person proves that there were good and sufficient reasons for such failure.
- This amendment will be effective from 1 November 2019

**Time Limit for sale of attached immovable property**

**[rule 68B of the Second Schedule]**

- Rule 68B of Part III of the Second Schedule to the Act provides for the time limit for sale of attached immovable property. Under this rule, no sale of any immovable property can be made after the expiry of three years from the end of the financial year in which the order giving rise to a demand of tax became final
- The words “three years, shall be substituted with the words “seven years”
- A proviso shall also be inserted to provide that that the Board may, for reasons to be recorded in writing, extend the aforesaid period for a further period not exceeding three years
- This amendment will take effect from 1 September 2019

**Penalty for under-reporting and misreporting of income**

**[Section 270A]**

- Section 270A(1) provides that any person who has under-reported his income shall be liable to pay a penalty in addition to tax for such unreported income
  - Section 270A(2) lists down the instances where a person shall be considered to have under-reported his income. The clauses that have been amended are reproduced below:
    - (b).The income assessed is greater than the maximum amount not chargeable to tax, *where no return of income has been furnished*
    - (c).the amount of deemed total income assessed as per the provisions of section 115JB or section 115JC is greater than the maximum amount not chargeable to tax, *where no return of income has been filed*
- For the words “no return of income has been furnished/filed”, wherever used in this section shall be substituted with the words “no return of income has been furnished or where return has been furnished for the first time under section 148”
- In Section 270A(3)(i)(b), for the words “no return has been furnished”, the words “no return of income has been furnished or where return has been furnished for the first time under section 148” are substituted
  - The amendments will take effect retrospectively from 1 April 2017

**Failure to furnish returns of income**

**[Section 276CC]**

- This section lays down the penalties for assessee defaulting in furnishing timely return of income, where such default is willful and deliberate.
- The section is amended to provide that a person will not be proceeded against, if the tax payable by such person, not being a company, on the total income determined on regular assessment, as reduced by the advance tax or self-assessment tax, if any, paid before the expiry of the assessment year, and any tax deducted or collected at source, does not exceed ten thousand rupees, instead of the existing limit of three thousand rupees

**Obligation to furnish statement of financial transaction or reportable account**

**[Section 285BA]**

**Penalty for furnishing inaccurate statement of financial transaction or reportable account**

**[Section 271FAA]**

- Section 285BA contains the provisions for furnishing of statement of financial transaction or reportable account by persons specified therein
- Section 285BA(1) provides the scope of specified persons who are required to file such statement of financial transaction. Following amendments are made to this sub-section :
  - (k) a prescribed reporting financial institution; or
  - (l) a person, other than those referred to in clauses (a) to (k), as may be prescribed
- Section 285BA(3) defines “specified transactions”. The second proviso to this sub-section states that the aggregate value of such transactions during a financial year so prescribed shall not be less than fifty thousand rupees. This proviso has now been omitted, which means that the aggregate value of such transactions for which filing of statement will be necessary, can now be below fifty thousand rupees
- Section 285BA(4) provides for rectification of statement furnished and contains the words “*such statement shall be treated as an invalid statement and the provisions of this Act shall apply as if such person had failed to furnish the statement*”. The words “*the provisions of this Act shall apply as if such person had furnished inaccurate information in the statement*” shall be substituted
- It is also proposed to amend the penalty provisions contained in section 271FAA so as to ensure correct furnishing of information in the SFT and widen the scope of penalty to cover all the reporting entities under section 285BA
- This amendment will take effect from 1 September 2019

## 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 (%) <sup>@</sup>	Income (INR)	Rate (%) <sup>@</sup>
0 – 2,50,000 <sup>#</sup>	Nil	0 – 2,50,000 <sup>#</sup>	Nil
2,50,001 - 5,00,000 <sup>#</sup>	5	2,50,001 - 5,00,000 <sup>#</sup>	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.**

**# 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 350,000, 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 2,500, whichever is less.

\*\* 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 amendments made to **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 (%)	Total Income (INR)	Surcharge (%)
5 million – 10 million	5	5 million – 10 million	10
		10 million – 20 million	15
Above 10 million	15	20 million – 50 million	25
		Above 50 million	37

## 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%)			
<b>A) Domestic company</b>				
Regular tax (Turnover < 2500 mn)	27.82*	29.12**	27.82*	29.12**
Regular tax (2500 mn < Turnover < 4000 mn)	33.384*	34.944**	27.82*	29.12**
Regular tax (Turnover > 4000 mn)	33.384*	34.944**	33.384*	34.944**
MAT	20.587 (of book profits)*	21.545 (of book profits)**	20.587 (of book profits)*	21.545 (of book profits)**
DDT	17.472**		17.472**	
Dividend Received from Foreign subsidiary company	17.472**		17.472**	
<b>B) Foreign company</b>				
Regular tax	42.432§	43.68#	42.432§	43.68#
<b>C) Firm and LLP</b>				
Regular tax	34.944		34.944	
Alternate Minimum Tax (AMT)	20.587		20.587	

\* Inclusive of surcharge @ of 7 %

\*\* Inclusive of surcharge @ of 12 %

§ 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.

5 July 2019



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