

Key Features of Budget 2019-20

DIRECT TAX PROPOSALS

A. Rates of Income-tax

Rates of Income-Tax

Basic Rates

- The proposed income-tax rates in the case of every Individual or Hindu Undivided Family or every Association of Persons or Body of Individuals or Artificial Juridical Person during the financial year 2019-20 are as under -

Total Income	Tax Rates (AY 2020-21)
Upto INR 2,50,000	Nil
INR 2,50,001 to INR 5,00,000	5 percent
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

Rates of Income-Tax

Basic Rates

- The proposed income-tax rates for every individual, being resident in India who is of the age of 60 years or more but less than 80 years at any time during the financial year 2019-20 are as under -

Total Income	Tax Rates (AY 2020-21)
Upto INR 3,00,000	Nil
INR 3,00,001 to INR 5,00,000	5 percent
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

Rates of Income-Tax

Basic Rates

- The proposed income-tax rates for every individual, being resident in India who is of the age of 80 years or more at any time during the financial year 2019-20 are as under -

Total Income	Tax Rates (AY 2020-21)
Upto INR 5,00,000	Nil
INR 5,00,001 to INR 10,00,000	20 percent
Above INR 10,00,000	30 percent

Rates of Income-Tax

Corporate Tax Rates

- The proposed income-tax rate for the **domestic companies** whose total turnover or gross receipts for the Financial year 2017-18 **does not exceed INR 400 Crore** shall *be 25 percent* of the total income.
- In all other cases the income tax rate of domestic companies shall be **30 percent** of total income.
- In the case of **company other than domestic company**, the rates of tax are the **same** as those specified for the **financial year 2018-19**.

Rates of Income-Tax

Surcharge

Individuals, HUF, AOP, BOI and Artificial Juridical Persons

- In case of Individuals, Hindu Undivided Families, Association of Persons, Body of individuals and Artificial Juridical Persons, the amount of income-tax shall be increased by a surcharge at the rate of :
 - ✓ **10 percent** of such income-tax in case of a person having a total income exceeding **INR 50 Lakhs** but not exceeding **INR 1 Crore**, and
 - ✓ **15 per cent** of such income-tax in case of a person having a total income exceeding **INR 1 Crore rupees but not exceeding 2 crore rupees**.
 - ✓ **25 per cent** of such income-tax in case of a person having a total income exceeding **INR 2 Crore** rupees but not exceeding **5 Crore** rupees; and
 - ✓ **37 per cent** of such income-tax in case of a person having a total income exceeding **INR 5 Crore** rupees.

Rates of Income-Tax

Surcharge

Companies

- In the case of domestic company:-
 - ✓ having total income exceeding **INR 1 Crore** but does not exceed **INR 10 Crores**, surcharge at the rate of **7 percent** of such income tax.
 - ✓ having total income exceeding **INR 10 Crore**, surcharge at the rate of **12 percent** of such income tax.
- In case of companies other than domestic companies,
 - ✓ having total income exceeding **INR 1 Crore** but does not exceed **INR 10 Crore**, the existing surcharge of **2 percent** of such income tax shall continue to be levied.
 - ✓ having total income exceeding **INR 10 Crore**, the surcharge at the rate of **5 percent** of such income tax shall continue to be levied.

Rates of Income-Tax

Surcharge

Firms, Co-operative societies, Local authorities

- Amount of income-tax shall be increased by a surcharge at the rate of **12 percent** of such income-tax in case of firms, co-operative societies and local authorities having a total income exceeding **INR 1 Crore**.

In other cases (including sections 115-O, 115QA, 115R, 115TA or 115TD), the surcharge shall be levied at the rate of 12 percent.

Marginal Relief

- Marginal relief shall be allowed in all these cases to ensure that the additional amount of income tax payable, including surcharge, on the excess of income over INR 50 Lakhs/1 Crore /2 Crore/5 Crore/10 Crores is limited to the amount by which the income is more than INR INR 50 Lakhs/1 Crore /2 Crore/5 Crore/10 Crores.

Rates of Income-Tax

Education Cess

- For Financial Year 2019-20, additional surcharge called the “Health and Education Cess on income-tax” shall be levied at the rate of four per cent on the amount of tax computed, inclusive of surcharge (wherever applicable), ***in all cases***. No marginal relief shall be available in respect of such cess.

B. Widening and Deepening of Tax Base

TDS on payment by Individual/HUF to contractors and professionals

Insertion of new section – 194M

- As per current provisions of Section 194C and Section 194J, no tax is required to be deducted by an individual or HUF from payment made to contractor or professional in the following cases:
 - ✓ *Payment made for services received for personal use*
 - ✓ *Payment made for services received for business or profession if payer is not subjected to tax audit.*
- Due to this exemption, substantial amount by way of payments made by individuals or HUFs in respect of contractual work or for professional service were escaping the levy of TDS.
- Thus, a new Section 194M has been proposed to be inserted in the Act to provide for levy of TDS, **at the rate of 5%** on the sum paid or credited, **to a resident**, in a year **on account of contractual work or professional fees**, by an individual or a HUF, if aggregate of such **sums exceeds Rs. 50 lakhs in a year**.
- However, in order to reduce the compliance burden, it is proposed that such individuals or HUFs can deposit the tax deducted using their PAN and shall not be required to obtain TAN.
- **The proposed amendment will take effect from 01 September, 2019.**

TDS at the time of purchase of immovable property

Amendment to Explanation under section 194-IA

- Section 194-IA of the Act relates to payment on transfer of certain immovable property other than agricultural land and provides for levy of TDS at the rate of one per cent. on the **amount of consideration** paid or credited for transfer of such property.
- It is proposed to amend the Explanation to said section and provide that the term “consideration for immovable property” shall include all charges of the nature of **club membership fee, car parking fee, electricity and water facility fees, maintenance fee, advance fee or any other charges of similar nature, which are incidental to transfer of the immovable property**
- *This amendment will take effect from 1 September, 2019.*

Deemed accrual of gift made to a person outside India

Section 56(2)(x)

- Section 56(2)(x) of the Income-tax Act provides that where any sum of money or property (whether immovable or movable) received by a person without consideration or for inadequate consideration, it shall be taxable under the head 'Income from Other Sources' in the hands of such person. However, no tax shall be payable if money or property is received from specified person (say, relatives) or on specified occasions (say, on the occasion of marriage).
- Though Section 56(2)(x) applies in case of every person, but it has been reported that gifts by a resident person to a person outside India are claimed to be non-taxable in India as the income does not accrue or arise in India.
- To ensure that such gifts made by residents to persons outside India are subjected to tax in India, a new clause is inserted in Section 9 to provide that any income arising from payment of any sum of money, or transfer of any property situated in India, by a person resident in India to a person outside India shall be deemed to accrue or arise in India.
- However, the exemption provided under section 56 shall continue to apply even in such cases. In other words, no tax shall be levied if property is received by person outside India from a relative resident in India or on the occasion of his marriage.
- ***This amendment will take effect from 1st April, 2020 and will, accordingly, apply in relation to the assessment year 2020-21 and subsequent assessment years.***

Mandatory furnishing of return of income by certain persons

Amendments to 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 Rs. 1 crore 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 proposed to amend the sixth proviso to section 139 of the Act to provide that a person who is claiming such rollover benefits on investment in a house or a bond or other assets, under sections 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB of the Act, shall necessarily be required to furnish a return, if before claim of the rollover benefits, his total income is more than the maximum amount not chargeable to tax.
- ***These amendments will take effect from 1st April, 2020 and will, accordingly apply in relation to assessment year 2020-2021 and subsequent assessment years.***

Inter-changeability of PAN & Aadhaar and mandatory quoting in prescribed transactions.

Amendments to Section 139A

- It has been observed that in many cases persons entering into high value transactions, such as purchase of foreign currency or huge withdrawal from the banks, do not possess a PAN. It is proposed to insert a new clause in section 139A, so as to provide that every person, who intends to enter into certain prescribed transactions and has not been allotted a PAN, shall also apply for allotment of a PAN.
- To ensure ease of compliance, it is also proposed to provide for inter-changeability of PAN with the Aadhaar number. Accordingly the provisions of section 139A are proposed to be amended so as to provide that,-
 - ✓ every person who is required to furnish or intimate or quote his PAN under the Act, and who, has not been allotted a PAN but possesses the Aadhaar number, may furnish or intimate or quote his Aadhaar number in lieu of PAN, and such person shall be allotted a PAN in the prescribed manner;
 - ✓ every person who has been allotted a PAN, and who has linked his Aadhaar number under section 139AA, may furnish or intimate or quote his Aadhaar number in lieu of a PAN.
- ***These amendments will take effect from 1st September, 2019.***

Inter-changeability of PAN & Aadhaar and mandatory quoting in prescribed transactions.

Amendments to Section 139A

- A new ***sub-section (6A)*** is also proposed to be inserted to ensure quoting of PAN or Aadhaar number for entering into prescribed transactions and authentication thereof in the prescribed manner.
- Duty is also proposed to be cast upon the person receiving any document relating to such transactions, through newly proposed ***sub-section (6B)***, to ensure that PAN or Aadhaar number, as the case may be, is duly quoted, and authenticated.
- ***These amendments will take effect from 1st September, 2019.***

Consequence of not linking PAN with Aadhaar

Amendments proviso to the section 139AA(2),

- The existing proviso to the sub-section (2) of section 139AA, provides that the PAN allotted to a person shall be **deemed to be INVALID**, in case the person fails to intimate the Aadhaar number, on or before the notified date.
- In order to protect validity of transactions previously carried out through such PAN, it is proposed to amend the provisions of section 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.
- ***This amendment will take effect from 1st September, 2019.***

Widening the scope of Statement of Financial Transactions (SFT)

Amendments to Section 285BA of the Act

- In order to enable pre-filling of return of income, it is proposed to obtain information by widening the scope of furnishing of statement of financial transactions by mandating furnishing of statement by certain prescribed persons other than those who are currently furnishing the same.
- It is also proposed to remove the current threshold of INR 50,000 on aggregate value of transactions during a financial year, for furnishing of information, with a view to ensure pre-filling of information relating to small amount of transactions as well.
- In order to ensure proper compliance, it is also proposed to amend the provisions of said section so as provide that if the defect in the statement is not rectified within the time specified therein, the provisions of the Act shall apply as if such person had furnished inaccurate information in the statement.
- Consequently, 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.
- ***These amendments will take effect from 1st day of September, 2019.***

C. Measures For Promoting Less Cash Economy

Prescription of electronic mode of payments

Inclusion of Other Electronic mode as may be prescribed .

- In order to encourage other electronic modes of payment, it is proposed to amend the following sections so as to include ***such other electronic mode as may be prescribed***, in addition to the already existing permissible modes of payment in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account.
 - ✓ Section 13A
 - ✓ Section 35AD
 - ✓ Section 40A
 - ✓ Second proviso to Section 43(1)
 - ✓ Section 43CA
 - ✓ Second proviso to Section 50C(1)
 - ✓ Second proviso to Section 56(2)(x)(b)
 - ✓ Proviso to Section 44AD(1)
 - ✓ Explanation (i)(b) of Section 80JJAA
- ***These amendments will take effect from 1st day of September, 2019. These amendments will take effect from 1st April, 2020 and will, accordingly apply in relation to assessment year 2020-2021 and subsequent assessment years..***

Prescription of electronic mode of payments

Inclusion of Other Electronic mode as may be prescribed .

- In order to encourage other electronic modes of payment, it is proposed to amend the sections 269SS, 269ST, 269T so as to include ***such other electronic mode as may be prescribed***, in addition to the already existing permissible modes of payment in the form of an account payee cheque or an account payee bank draft or the electronic clearing system through a bank account.
- ***These amendments will take effect from 1st September, 2019.***

TDS on cash withdrawal

Insertion of new section 194N in the Act

- Section 194N is inserted in the Act to provide for levy of TDS at the rate of **two per cent** on **cash payments** in **excess of one crore rupees** in aggregate made during the year, by a banking company or cooperative bank or post office, to any person from an account maintained by the recipient.
- Payments made to certain recipients, such as the Government, banking company, cooperative society engaged in carrying on the business of banking, post office, banking correspondents and white label ATM operators, who are involved in the handling of substantial amounts of cash as a part of their business application, from the application of this provision.
- **The amendment will take effect from 01st September 2019.**

Acceptance of payments through prescribed electronic modes

Insertion of new sections 269SU and 271DB in the Act

- Section 269SU is inserted in the Act to provide that every person, carrying on business, shall provide facility for accepting payment through the prescribed electronic modes, in addition to the facility for other electronic modes of payment, if any, being provided by such person , if his total sales, turnover or gross receipts in business **exceeds fifty crore rupees** during the immediately preceding previous year.
- Section 271DB is inserted in the Act to provide that the failure to provide facility for electronic modes of payments prescribed under section 269SU shall attract penalty of a sum of five thousand rupees, for every day during which such failure continues. Any such penalty shall be imposed by the Joint Commissioner.
- **The amendment will take effect from 01st November 2019.**
- A consequential amendment is made in the Payment and Settlement Systems Act, 2007 so as to provide that no bank or system provider shall impose any charge upon anyone, either directly or indirectly, for using the modes of electronic payment prescribed under section 269SU of the Income Tax Act.
- **The amendment will take effect from 01st November 2019.**

D. TAX INCENTIVES

Incentives to International Financial Services Centre (“IFSC”)

Amendment of Section 47 of the Act

- **Existing Provision :**
 - ✓ Any transfer of a capital asset being bonds or Global Depository Receipts or rupee denominated bonds of an Indian company or derivative, made by a non-resident through a recognized stock exchange located in IFSC and where the consideration for such transaction is paid or payable in foreign currency shall not be regarded as transfer.
- **Amendment :**
 - ✓ Any transfer of a capital asset, specified in the said clause by Category III Alternative Investment Fund (AIF), of which all the unit holders are non-resident, are not regarded as transfer subject to fulfillment of specified conditions.
 - ✓ It is also proposed to widen the types of securities listed in said clause by empowering the Central Government to notify other securities for the purposes of this clause.
- **The amendments will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives to International Financial Services Centre (“IFSC”)

Amendment of Section 10 of the Act

- 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 01st September 2019 shall be exempt.
- This will facilitate external borrowings by the units located in IFSC
- **This amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives to International Financial Services Centre (“IFSC”)

Amendment of Section 115-O of the Act

- **Existing Provision :**
 - ✓ No tax on distributed profits shall be chargeable in respect of the total income of a company, being a unit of an IFSC, deriving income solely in convertible foreign exchange, for any assessment year on any amount declared, distributed or paid by such company, by way of dividends (whether interim or otherwise) on or after 01st April 2017, out of its **current income**, either in the hands of the company or the person receiving such dividend.
- **Amendment :**
 - ✓ Any dividend paid out of **accumulated income** derived from operations in IFSC after 01st April 2017 shall also not be liable to tax on distributed profits.
- **This amendment will take effect from 01st September 2019.**

Incentives to International Financial Services Centre (“IFSC”)

Amendment of Section 115R of the Act

- **Existing Provision :**
 - ✓ Any amount of income distributed by the specified company or a Mutual Fund to its unit holders shall be chargeable to tax and such specified company or Mutual Fund shall be liable to pay additional income-tax on such distributed income.
- **Amendment :**
 - ✓ No additional income-tax shall be chargeable in respect of any amount of income distributed, on or after 01st September 2019, by a Mutual Fund of which all the unit holders are non-residents and which fulfills certain other specified conditions.
- **This amendment will take effect from 01st September 2019.**

Incentives to International Financial Services Centre (“IFSC”)

Amendment of Section 80LA of the Act

- **Existing Provision :**
 - ✓ Provides profit linked deduction of an amount equal to one hundred percent 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.
- **Amendment :**
 - ✓ The profit linked 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.
- **This amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives to International Financial Services Centre (“IFSC”)

Amendment of Section 115A of the Act

- **Existing Provision :**
 - ✓ 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 IFSC.
 - ✓ Section 115(4) prohibits any deduction under Chapter VIA which includes section 80LA.
- **Amendment :**
 - ✓ The conditions contained in sub section (4) of section 115A shall not apply to a unit of an IFSC for under section 80LA is allowed.
- **This amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives to Non-Banking Finance Companies (“NBFCs”)

Amendment of Sections 43D and 43B of the Act

- **Existing Provisions :**
 - ✓ Section 43D provides that interest income in relation to certain categories of bad and doubtful debts received by certain institutions or banks or corporations or companies shall be chargeable to tax in the previous year in which it is credited to profit and loss account or in the year in which it is actually received, whichever is earlier.
- **Amendment :**
 - ✓ Deposit taking NBFCs and systemically important non-deposit taking NBFCs are included within the scope of Section 43D.
 - ✓ Section 43B has been amended to provide 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.
- **This amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Relaxation in conditions for offshore funds

Amendment of Section 9A of the Act

- **Existing Provisions :**
 - ✓ Section 9A provides that in the case of an eligible investment fund, the fund management activity carried out through and eligible fund manager located in India and acting on behalf of such fund shall by itself not constitute business connection in India of the said fund and an eligible fund shall not be said to be resident in India merely because the eligible fund manager undertaking fund management activities on its behalf is located in India.
 - ✓ The benefit is available subject to the conditions relating to residence of fund, corpus , size , investor broad basing , investment diversification and payment of remuneration to fund manager at arm's length.
- **Amendment :**
 - ✓ 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.
- **These amendments will take effect retrospectively from 01st April 2019** and will accordingly apply in relation to **AY 2019-20** and subsequent AY's.

Tax incentive for electric vehicles

Insertion of new section 80EEB in the Act

- Provide 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 conditions .
- **Conditions :**
 - ✓ The loan has been sanctioned by a financial institution including a non-banking financial company during the period beginning on the 01st April 2019 to 31st March 2023
 - ✓ The assessee does not own any other electric vehicle on the date of sanction of loan
 - ✓ 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.
- **This amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Exemption of interest income of a non-resident arising from borrowings by way of issue of Rupee Denominated Bonds

Amendment of Section 10 of the Act

- **Existing Provisions :**
 - ✓ Section 194LC provides that Interest income payable to a non-resident by a specified company on borrowings made by it in foreign currency from sources outside India under a loan agreement or by way of issue of any long-term bond including long-term infrastructure bond, or rupee denominated bond shall be eligible for TDS at a concessional rate of five per cent.
- **Amendment :**
 - ✓ Exemption under section 10 to income payable by way of interest to a non-resident by the specified company in respect of monies borrowed from a source outside India by way of issue of rupee denominated bond as referred to in section 194LC, during the period beginning from 17th September 2018 and ending on 31st March 2019.
- **The amendment will take effect from 01st April 2019** and will accordingly apply in relation to **AY 2019-20** and subsequent AY's.

Tax incentive for affordable housing

Insertion of new section 80EEA in the Act

- Provides a deduction of interest up to **one lakh fifty thousand rupees** on loan taken for residential house property from any financial institution subject to the conditions.
- **Conditions :**
 - ✓ Loan has been sanctioned by a financial institution during the period beginning on the 01st April 2019 to 31st 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.
- 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.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Tax incentive for affordable housing

Amendment of section 80-IBA of the Act

- **Existing Provisions :**
 - ✓ Provide that where the gross total income of an assessee includes any profits and gains derived from the business of developing and building housing projects, there shall be subject to certain conditions, be allowed, a deduction of an amount equal to hundred per cent of the profits and gains derived from such business.
- **Amendment :**
 - ✓ 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 and
 - ✓ The stamp duty value of such residential unit in the housing project shall not exceed forty five lakh rupees
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives to National Pension System (NPS) subscribers

Amendment of section 10 of the Act

- **Existing Provisions :**
 - ✓ 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 income payable to him at the time of such closure or on his opting out of the scheme, is exempt from tax.
- **Amendment :**
 - ✓ 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 **sixty per cent** of the total income payable to him at the time of such closure or on his opting out of the scheme, is exempt from tax.
 - ✓ The limit has been increased from forty per cent to sixty per cent of the total amount payable.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives to National Pension System (NPS) subscribers

Amendment of section 80CCD of the Act

- **Existing Provisions :**
 - ✓ 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.
- **Amendment :**
 - ✓ 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 **fourteen per cent** of his salary in the previous year.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives to National Pension System (NPS) subscribers

Amendment of section 80C of the Act

- **Amendment :**
 - ✓ Any amount paid or deposited by a Central Government employee as a contribution to his Tier-II account of the pension scheme shall be eligible for deduction under section 80C.
- This will enable the Central Government employees to have additional options under National Pension System.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives for start-ups

Amendment of section 79 of the Act

- The current provisions of Section 79 has imposed following certain conditions to carry forward the losses in case of closely held companies:
 - ✓ *In the year of set-off of losses, at least 51% of voting power should be beneficially held by the same persons who held them on the last day of the year in which loss was incurred.*
 - ✓ *In case of an eligible start-up, 100% of shareholders, on the last day of the previous year in which loss was incurred, should continue to hold the shares on the last day of the previous year in which loss is set-off. Further, losses should have been incurred during the period of 7 years from the year of incorporation.*
- To further facilitate ease of doing business in case of an eligible start-up, it is proposed to amend section 79 so as to provide that loss incurred, by the 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 specified above, **i.e. continuity of 51% shareholding or continuity of 100% of original shareholders.**
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Incentives for start-ups

Amendment of section 54GB of the Act

- **Existing Provisions :**
 - ✓ Provides for roll over benefit in respect of capital gain arising from the transfer of a long-term capital asset, being a residential property owned by the eligible assessee
 - ✓ The assessee is required to utilize the net consideration for subscription in the equity shares of an eligible company before the due date of filing of the return of income.
 - ✓ The assessee is required to have more than fifty per cent share capital or more than fifty per cent voting rights after the subscription of shares in the eligible company.
- **Amendment :**
 - ✓ Extend the sun set date of transfer of residential property for investment in eligible start ups from 31st March 2019 to 31st March 2021
 - ✓ Relax the condition of minimum shareholding of fifty per cent of share capital or voting rights to twenty five per cent.
 - ✓ Relax the condition restricting transfer of new asset being computer or computer software from the current five years to three years.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent

Incentives for Category II Alternative Investment Fund (AIF)

Amendment of section 56 of the Act

- **Existing Provisions :**
 - ✓ Section 56 provides that 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.
 - ✓ Exemption has been provided for the consideration for issue of shares received by a venture capital undertaking from a venture capital company or a venture capital fund or by a company from a class or classes of persons as notified by the Central Government in this behalf.
- Currently the benefit of exemption is available to Category I AIF
- **Amendment :**
 - ✓ The exemption is extended to fund received by venture capital undertaking from Category II AIF as well.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

E. FACILITATING RESOLUTION OF DISTRESSED COMPANIES

Measures for resolution of distressed companies

Newly substituted section 79 of the Act

- The provision of newly substituted section 79 shall not apply to those companies and their subsidiary and the subsidiary of such subsidiary, where
 - ✓ the National Company Law Tribunal (NCLT) on a petition moved by the Central Government 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 Central Government, under section 242 of the Companies Act 2013 and
 - ✓ A change in shareholding of such company, and its subsidiaries and the subsidiary of such subsidiary, has taken place in a previous year pursuant to a resolution plan approved by NCLT under section 242 of the Companies Act 2013, after affording a reasonable opportunity of being heard to the jurisdictional Principal Commissioner or Commissioner
- For calculating book profit under section 115JB, the aggregate amount of unabsorbed depreciation and loss (excluding depreciation) brought forward shall also be allowed to be reduced in cases of the above mentioned companies.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to **AY 2020-21** and subsequent AY's.

Prescription of exemption from deeming of fair market value of shares for certain transactions :

Amendment of sections 56(2)(x) and section 50CA of the Act

- **Existing Provisions :**
 - ✓ Sec 56(2)(x) provide for chargeability of income in case of receipt of money or specified property for no or inadequate consideration. For determining the amount of income for receipt of certain shares, the fair market value of the shares is taken into account.
 - ✓ Section 50CA provides for deeming of fair market value of unquoted shares for computing the capital gains from the transfer of such shares..
 - ✓ The fair market value is determined based on the prescribed method.
- **Amendment :**
 - ✓ The CBDT has been empowered to prescribe transactions undertaken by certain class of persons to which the provisions of section 56 (2)(x) and section 50CA shall not be applicable.
- **The amendment will take effect from 01st April 2020** and will accordingly apply in relation to AY 2020-21 and subsequent AY's.

F. Improving Effectiveness of Tax Administration

Online filing of Application for determination of TDS on payment to non-residents

Section 195(2) of the Income tax Act

- Section 195(2) and section 195(7) of the Act provides for facility to make an application to the Assessing Officer for determination of appropriate proportion of sum which is chargeable to tax in relation to the amount payable to non-resident and thereby obtaining a certificate/order from the Assessing Officer for lower or Nil withholding tax.
- The above procedure is currently manual. It is proposed to make the said procedure as an **online application** in order to streamline the process.
- **The proposed amendment will take effect from 01 November 2019.**

G. Strengthening Anti-Abuse Measures

Buyback tax of 20% extended to listed Companies

Section 115QA of the Income tax Act

- Currently, section 115QA of the Act provides for levy of additional tax at the rate of 20 percent on distributed income on buyback of shares (not being listed on a recognized stock exchange).
- The said provisions are not applicable to buyback of shares of listed Companies
- ***Amendment*** (w.e.f . 1st April, 2018 i.e. AY 2018-19 onwards)
- With a view to curb tax avoidance practice adopted by listed companies, it is proposed to amend section 115QA of the Act to include buyback tax of 20 percent on distributed income, on buyback of shares on all companies **including companies listed on recognized stock exchange**.

Cancellation of registration of the Trust or Institution

Section 12AA of the Act

- **Amendment**
- In order to ensure that the trust or institution registered under section 12AA of the Act does not deviate from their objects, it is proposed to amend the said section to provide as follows -
 - ✓ at the time of granting the registration to a trust or institution, the Principal Commissioner or the Commissioner shall, interalia, also satisfy himself about the compliance of the trust or institution to requirements **of any other law which is material for the purpose of achieving its objects;**
 - ✓ where a trust or an institution has been granted registration or has obtained registration at any time under section 12A and subsequently it is noticed that the trust or institution **has violated requirements of any other law which was material for the purpose of achieving its objects,** and the order, direction or decree, by whatever name called, holding that such violation has occurred, has either not been disputed or has attained finality, the Principal Commissioner or Commissioner may, by an order in writing, **cancel the registration of such trust or institution after affording a reasonable opportunity of being heard.**
- The proposed amendment will be effective from 01 September, 2019.

H. Removing difficulties faced by taxpayers

Facilitating demerger of Ind-AS compliant Companies

Amendment to Section 2(19AA)

- One of the existing conditions for tax-neutral demergers is that the resulting company should record the property and the liabilities of the undertaking at the value appearing in the books of accounts of the demerged company.
- It has been represented that Indian Accounting Standards (Ind-AS) compliant companies are required to record the property and the liabilities of the undertaking at a value different from the book value of the demerged company.
- In order to facilitate, it is proposed to amend section 2 of 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.
- This amendment will take effect from **01 April 2020** and will accordingly apply in relation to AY 2020-21 and subsequent AY's.

Relaxing the provisions of assessee in default in case of payment to non-residents

Section 201 of the Act

- The first proviso to sub-section (1) of section 201 specifies that the deductor of TDS who has failed to deduct tax on a payment made to a resident, shall not be deemed to be an assessee in default if he 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.
- In case of similar failure on payments made to a non-resident such relief is not available to the deductor.
- **Amendment**
- It is proposed to amend the proviso to sub-section (1) of section 201 to extend the benefit of this proviso to a deductor, **even in respect of failure to deduct tax on payment to non-residents.**
- It is also proposed to amend the proviso to sub-section (1A) of section 201 to provide for levy of interest till the date of filing of return by the non-resident payee (as is the case at present with resident payee).
- The above two amendments will take effect from **1 September 2019**.
- Consequent amendment is also made to section 40 of the Act to provide that no disallowance of expense shall be made under section 40 for non-deduction of TDS, in case of non-resident payment, if the assessee is not deemed to be in default in accordance with first proviso of section 201(1) of the Act. The said amendment will take effect from **01 April 2020** and will accordingly apply in relation to **AY 2020-21 and subsequent AY's**.

Concessional rate of Short-term Capital Gains (STCG) tax to certain equity-oriented fund of funds.

Section 111A

- In order to incentivize fund of funds set up for disinvestment of Central Public Sector Enterprises (CPSEs), Finance Act, 2018 has provided concessional rate of long-term capital gains tax under section 112A of the Act for the transfer of units of such fund of funds.
- In order to further incentivize these funds of funds, it is proposed to amend section 111A so as to extend the concessional rate of tax for short-term capital gains in respect of transfer of units of such fund of funds.
- This amendment will take effect from **01 April 2020** and will accordingly apply in relation to **AY 2020-21 and subsequent AY's**.

Provision of credit of relief provided under section 89

Section 89 – Relief when salary is paid in arrears

- Section 89 of the Income-tax Act contains provisions for providing tax relief where salary, etc. is paid in arrears or in advance.
- The existing provisions of section 140A, section 143, section 234A, section 234B and section 234C contain provisions relating to computation of tax liability after allowing credit for prepaid taxes and certain admissible reliefs, credits etc. **However, the relief under section 89 is not specifically mentioned in these sections, which is resulting into genuine hardship in the case of taxpayers who are eligible for this relief.**
- In view of the above, it is proposed to amend section 140A, section 143, section 234A, section 234B and section 234C so as to provide that computation of tax liability shall be made after allowing relief under section 89.
- This amendment will take effect retrospectively from **01 April 2007** and will accordingly apply in relation to **AY 2007-08 and subsequent AY's**.

TDS on life insurance pay-out to be on net basis

Section 194DA - Payment in respect of life insurance policy

- Currently under section 194DA, TDS is deducted at the rate of 1 percent on the payment under life insurance policy which is not exempt under section 10(10D) on the gross amount of pay-out.
- ***Amendment*** (w.e.f. 1st September 2019)
- It is proposed to amend section 194DA of the Act to provide that TDS at rate of **5 percent** to be deducted on the income component (Gross amount paid under Life insurance policy **as reduced by the amount of insurance premium paid**).

Clarification regarding definition of the “accounting year” in section 286 of the Act

Country-by-Country Report (CbCR)

- Section 286 provides that 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 prescribe time limit.
- In case of **Alternate Reporting Entity (ARE)** resident in India whose ultimate parent entity is not resident in India, there has always been differences of opinion with regard to accounting year, whether the accounting year is of the country where such ultimate parent entity is resident or the accounting year of the entity resident in India.
- ***Amendment*** (will take effect **retrospectively from 1 Apr 2017** and will accordingly apply in relation to AY 2017-18 and subsequent AY's)
- It is proposed to suitably amend section 286 so as to provide that the accounting year in case of the ARE of an international group, the parent entity of which is not resident in India, **the reporting accounting year shall be the one applicable to such parent entity.**
- This amendment is clarificatory in nature.

I. Rationalisation of Provisions

Compliance with the conditions for claiming exemption under section 56(2)(viib)

Section 56(2)(viib)

- Section 56(2)(viib) of the Act provides for charging of excess consideration received for issue of shares above the fair market value of shares.
- However in order to provide impetus to the growth of start up companies the Central Government vide Notification has exempted eligible start-ups from the applicability of section 56(2)(viib) subject to satisfaction of certain conditions
- ***Amendment (will take effect from 1 Apr 2020 and will accordingly apply in relation to AY 2020-21 and subsequent AY's)***
- With a view to ensure compliance to the conditions specified in the notification, it is proposed to provide that in case of failure to comply with the conditions, the consideration received for issue of shares which exceeds the face value of such shares shall be deemed to be the income of the company chargeable to income-tax ***for the previous year in which the failure to comply with any of the said conditions has taken place.***

Penalty provisions relating to under-reported income

Section 270A

- The existing provisions of section 270A of the Act, relating to penalty for under-reporting and misreporting of income does not contain the mechanism for determining under-reporting of income and quantum of penalty to be levied in the case where the person has under-reported income and furnished the return of income for the first time under section 148 of the Act.
- **Amendment** (will take effect **from 1 Apr 2017** and will accordingly apply in relation to AY 2017-18 and subsequent AY's)
- In order to provide for manner of computing the quantum of penalty in a case where the person has under-reported income and furnished his return for the first time under section 148, it is proposed to suitably amend the provisions of section 270A.

Rationalisation of the provisions of section 276CC

Section 276CC

- The existing provisions of section 276CC of the Act provide for prosecution proceedings for failure to furnish return of income if the tax payable by such person, not being a Company exceeds Rs. 3,000.
- ***Amendment*** (will take effect **from 1 Apr 2020** and will accordingly apply in relation to AY 2020-21 and subsequent AY's)
- In determining the tax payable, it is proposed to amend the said section so as to include the **self-assessment tax and tax collected at source for the purpose of determining tax liability**.
- It is further proposed to increase the threshold of tax payable from the existing **INR 3,000 to INR 10,000**

Rationalisation of the Income Declaration Scheme, 2016

Refund of the excess of the amount payable under the Scheme.

- The existing section 191 of the Finance Act, 2016 provides, inter alia, that any amount of tax, surcharge or penalty paid in pursuance of a declaration made under the Scheme shall not be refundable.
- ***Amendment*** (will take effect retrospectively **from 1 June 2016**)
- In order to address genuine concern of the declarants, it is proposed to amend the said section so as to provide that the Central Government may notify the class of persons to whom the amount of tax, surcharge and penalty, paid in excess of the amount payable under the Scheme shall be refundable.

Rationalisation of provisions relating to STT

Value of Taxable Securities Transaction in respect of sale of Options

- As per the existing provisions section 99 of the Finance (No.2) Act, 2004, the value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, shall be, **the settlement price**.
- ***Amendment*** *(will take effect retrospectively from 1 September 2019)*
- It is proposed to amend the said section so as to provide that value of taxable securities transaction in respect of sale of an option in securities, where option is exercised, **shall be the difference between the strike price and the settlement price**.



Thank You

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