



July 25, 2019

India Budget 2019 – Key Tax Proposals (as amended by Lok Sabha)

On July 5, 2019, the Hon'ble Finance Minister Smt. Nirmala Sitharaman laid the Budget 2019 before the Parliament. This, being the first Budget of the Union Government led by Prime Minister Narendra Modi in their second tenure, lays down roadmaps for development in several important sectors in the coming years. The Budget has been passed by the Lok Sabha on July 18, 2019 with some changes, and successively by Rajya Sabha on July 23, 2019. The key tax proposals of this Budget, as amended, by the Lok Sabha are summarised in this alert. Budget proposals are yet to get assent of the President of India.

Proposals regarding Direct Tax

Tax rates

There is no change in the basic tax rates, though there is increase in surcharge for high networth Individuals, Hindu Undivided Family (HUF), Association of Persons (AOP) or Body of Individuals (BOI). Tax rates for Individual, HUF, AOP, BOI and companies are as below:

In case of every Individual, HUF, AOP, BOI	
Upto 0.25 Million	Nil.
More than 0.25 Million to 0.5 Million	5 per cent.
More than 0.5 Million to 1 Million	20 per cent.
More than 1 Million	30 per cent.

In case of senior citizen (age of more than 60 years but less than 80 years)	
Upto 0.3 Million	Nil.
More than 0.3 Million to 0.5 Million	5 per cent.
More than 0.5 Million to 1 Million	20 per cent.
More than 1 Million	30 per cent.

In case of super senior citizen (age of 80 years or more)	
Upto 0.5 Million	Nil.
More than 0.5 Million to 1 Million	20 per cent.
More than 1 Million	30 per cent.

Surcharge¹ in case of Individual, HUF, AOP, BOI	
Upto 5 Million	Nil.
More than 5 Million to 10 Million	10 per cent.
More than 10 Million to 20 Million	15 per cent.
More than 20 Million to 50 Million	25 per cent.
More than 50 Million	37 per cent.

Health and Education Cess	
Health and Education cess @ 4% applies on tax and surcharge.	

The effective increment in tax liability due to increase in surcharge for individual, HUF, AOP and BOI is shown in below table.

Particulars	(FY 2019-20)				(FY 2018-19)				Effective Increment	
	Income	MMR ²	Surcharge	Cess	Effective Tax Rate	MMR	Surcharge	Cess		Effective Tax Rate
Upto 5 Million		30%	-	4%	31.20%	30%	-	4%	31.20%	-
5 Million to 10 Million		30%	10%	4%	34.32%	30%	10%	4%	34.32%	-
10 Million to 20 Million		30%	15%	4%	35.88%	30%	15%	4%	35.88%	-
20 Million to 50 Million		30%	25%	4%	39.00%	30%	15%	4%	35.88%	3.12%
More than 50 Million		30%	37%	4%	42.74%	30%	15%	4%	35.88%	6.86%

In case of Domestic companies	
If the turnover/gross receipts in the year 2017-18 upto INR 4,000 million	25 per cent.
In other cases	30 per cent.

The effect of reduction in tax liability due to change in turnover condition from INR 2,500 million to 4,000 million is shown in below table.

Particulars	(FY 2019-20)				(FY 2018-19)				Effective reduction	
	Turnover / Gross Receipts	Tax Rate	Surcharge	Cess	Effective Tax Rate	Tax Rate	Surcharge	Cess		Effective Tax Rate
Upto 2,500 Million		25%	12%	4%	29.12%	25%	12%	4%	29.12%	-
2,500 Million to 4,000 Million		25%	12%	4%	29.12%	30%	12%	4%	34.94%	5.85%
More than 4,000 Million		30%	12%	4%	34.94%	30%	12%	4%	34.94%	-

¹ Surcharge applies on the tax slab rates

² Maximum Marginal Rate

Surcharge in case of Domestic companies

Upto 10 Million	Nil.
More than 10 Million to 100 Million	7 per cent.
More than 100 Million	12 per cent.

In case of Foreign companies

Tax Rate	40 per cent.
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Surcharge in case of Foreign companies

Upto 10 Million	Nil.
More than 10 Million to 100 Million	2 per cent.
More than 100 Million	5 per cent.

Health and Education Cess

Health and Education cess @ 4% applies on tax and surcharge.

Incentives**1. National Pension Scheme**

- At present, 40% of the total amount received at the time on closure/exit of National Pension Scheme (NPS) account is exempt from tax. It is proposed to increase tax exemption limit from 40% to 60%.
- At present for the contribution made by Central Government (CG) to the employee's NPS account, the deduction only upto 10% of the salary is allowed to the employee. Now, it is proposed to increase the deduction limit from 10% to 14%.
- It is also proposed to provide deduction of the contribution to Tier-II account of pension scheme for a period of three years.

2. Electric Vehicle

- It is proposed to insert a new section 80EEB to provide tax deduction of interest upto INR 1,50,000 on loan taken for purchase of an electric vehicle subject to following conditions:
 - The loan has been sanctioned during the period April 1, 2019 to March 31, 2023.
 - Taxpayer does not own any other electric vehicle on the date of sanction of loan.

3. Affordable housing

- It is proposed to insert a new section 80EEA to provide deduction of interest upto INR 1,50,000 on loan taken for purchase of affordable residential house property subject to following conditions:
 - The loan has sanctioned during the period April 1, 2019 to March 31, 2020.
 - Stamp duty value of house property does not exceed INR 45,00,000.
 - Taxpayer does not own any residential house property on the date of sanction of loan.

- The total deduction of interest on loan taken for purchase of residential house property will become INR 350,000 as this deduction is in addition to deduction of INR 200,000 already available.

4. Start-ups

- At present roll over benefit in case of long-term capital gain arising from transfer of residential house property for investment in Start-up is available subject to fulfilment of the following conditions:
 - utilise the net consideration for subscription in the equity shares of eligible start-up or small or medium enterprise under the MSME Act;
 - assessee is required to have more than 50% of the share capital or voting rights in the company;
 - restriction on transfer of assets acquired by the company for 5 years; andThis benefit is available up to March 31, 2019.

- Now, it is proposed:
 - requirement of 50% of share capital or voting rights to be reduced to 25%.
 - restriction on transfer of new assets being computer or computer software reduced to 3 years from 5 years.

Last date for availing this benefit to be increased to March 31, 2021.

- Provisions regarding carry forward and set-off of business losses in case of start-ups are proposed to be relaxed. Now, they will be at equal footing with any other closely held company, i.e. loss can be carried forward and set-off if more than 51% shareholding remains same as in the year in which losses are incurred. Earlier, for start-ups 100% share holding should be same.
- Vide DPIIT Notification No. 127(E), dated February 19, 2019, start-ups are allowed to issue its shares to investors at a price higher than Fair Market Value (FMV), subject to certain prescribed conditions, inter-alia, start-up does not invest in specified assets such as share and securities, motor vehicle of value of more than INR 1 Million, etc. The difference between share issue price and FMV is treated as taxable income in all other cases.

With a view to ensure compliance to the conditions specified in the abovementioned notification, it is provided that in case of failure to comply with the conditions specified in the notification as referred to above, the consideration received from issue of shares which exceeds the FMV of such shares shall be deemed to be the income of the start-up chargeable to income-tax for the previous year in which failure to comply with any of the said conditions has taken place. Further, penalty of 200% shall apply.

5. Non-Banking Finance Companies (NBFCs)

- In a boost to NBFCs, it is proposed that borrowers will be allowed deduction of interest to NBFCs only if interest is actually paid. This benefit was earlier available to public financial institutions, scheduled banks etc.

Removing difficulties faced by taxpayers

1. Demerger of Ind-AS compliant companies

- At present for tax neutral demerger, the resulting company should record the property and the liabilities of the undertaking at the book value of the demerged company. Government is proposing to relax this condition. Where the property and liabilities of the undertakings are recorded at a value in compliance with the Indian Accounting Standards specified in Annexure to the Companies (Indian Accounting Standards) Rules, 2015, tax neutrality of the demerger will be preserved.

2. Payments to non-residents

- At present 100 per cent of the sums payable to non-residents are denied tax deduction if the payer fails to deduct tax at source (TDS) or after deduction fails to deposit TDS, even if the non-resident itself deposit tax on that income.
- Now, it is proposed to relax this condition to the effect that it shall be deemed that the payer has deducted and paid the TDS on such sum on the date of furnishing of return of income by the non-resident payee and fulfilment of certain other conditions like payment of tax etc.
- Further, it is proposed that only 30 per cent of the sum payable to non-resident will be denied deduction against 100 per cent earlier. Therefore, payment to non-residents will now be at par with payments to residents.

3. Inter changeability of PAN and Aadhaar

- It is proposed that wherever under the Income Tax Act, 1961 Permanent Account Number (PAN) is required to be quoted (including for filing of return), a person can use his Aadhaar in place of PAN. The Income Tax Department will allot PAN to such person on the basis of Aadhaar after obtaining demographic data from the Unique Identification Authority of India.
- Presently, if the PAN is not linked with Aadhaar, it becomes invalid from the prescribed date. In order to protect the past transaction carried out through such PAN, it is proposed to provide that in place of making PAN invalid, it will become inoperative.

Widening of tax base

1. Buy-back of shares of listed companies

- At present, buy-back of shares of an unlisted company are subject to tax in the hands of the company at 20 per cent (plus applicable surcharge and cess). This provision is proposed to be extended on buy-back of shares of a listed company also. This will be applicable w.e.f. July 5, 2019. Receipt in the hands of the shareholder will be tax free.

2. Filing of return

- Filing of return of income made compulsory for the following persons (if they are not otherwise required to file return):
 - Who have deposited more than INR 10 million in a current account during the previous year.
 - Who have expended more than INR 200,000 on foreign travel.
 - Who have expended more than INR 100,000 on electricity consumption in a year.
 - Person claiming exemption from capital gains tax by investing money in another residential house or specified bonds.

3. TDS liability for individual and HUF

- At present there is no liability on an individual or HUF to deduct TDS on payments made to a resident contractor or professional or for making payment of commission (other than insurance commission) or brokerage when it is for personal use. Further, if the individual or HUF is carrying on business or profession which is not subject to tax audit under the Act, there is no obligation to deduct TDS. Now, it is proposed –
 - To insert a new section 194M in the Act to require deduction of TDS at 5 per cent on the sums, paid or credited in a year exceeding INR 5 Million on account of contractual work or professional fees or for commission and brokerage by an individual or a HUF, not required to deduct TDS otherwise in the Act.
 - However, in order to reduce the compliance burden, it is proposed that such individual and HUF shall be able to deposit the tax deducted using their PAN and shall not be required to obtain Tax deduction Account Number (TAN).
- Currently, a TDS @ 1 percent applies if consideration for purchase of immovable property other than agricultural land paid to a resident exceeds INR 5 Million. It is proposed to define the term “consideration for immovable property” to 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.

Scheme of faceless electronic tax assessment

- A scheme of electronic assessment process involving no human interface to be launched this year in a phased manner.

Proposals regarding Transfer Pricing

1. Rationalisation of provisions relating to maintenance, keeping and furnishing of information and documents by certain persons

- It is proposed that section 92D will be substituted and the requirement of maintenance of information and documentation and filing of required form by the constituent entity of an international group shall be applicable even when there is no international transaction undertaken by such constituent entity.

2. Provisions of Secondary adjustment and giving an option to taxpayer to make one-time payment

- Section 92CE provides that a taxpayer shall be required to carry out secondary adjustment where the primary adjustment to transfer price, has been made suo motu, or made by the tax authorities and accepted by him; or is determined in an advance pricing agreement; or is made as per safe harbour rules or is arising as a result of resolution of an assessment through mutual agreement procedure.
- This provision provides exemption in cases where the amount of primary adjustment made in any previous year does not exceed INR 10 million; and the primary adjustment is made in respect of an assessment year commencing on or before April 1, 2016.

The following amendments are proposed in section 92CE:

Changes applicable w.e.f. April 1, 2018	Changes applicable w.e.f. September 1, 2019
Condition of threshold of INR 10 million and of the primary adjustment made upto A.Y. 2016-17 are alternate conditions.	In case where excess money or part thereof has not been repatriated in time, the taxpayer will have the option to pay additional income-tax at the rate of 18% on such excess money or part thereof in addition to calculation of interest till date of payment.
The taxpayer will be required to calculate the interest on the excess money or part thereof.	Surcharge @ 12% is proposed to be levied on such additional tax.
These provisions shall apply to the agreements signed on or after April 1, 2017 however, no refund would be allowed for the taxes already paid under the pre-amended provisions.	No deduction shall be allowed for the amount on which such tax has been paid.
The excess money may be repatriated from any of the associated enterprises of the taxpayer who is not resident in India.	If the taxpayer pays additional income tax, he will not be required to make secondary adjustment or compute interest from the date of payment of such tax.

3. Clarification regarding the definition of "accounting year" in section 286 of the Act

- Where an Alternate Reporting Entity, which is resident in India, is required to furnish a Country-by-Country Report for every reporting accounting year in respect of the international group of which it is a constituent; clarification has been made regarding the definition of accounting year.
- As per the clarification, w.e.f. April 1, 2017, the accounting year applicable to such Alternate Reporting entity shall be the one which is applicable to its parent entity.

4. Clarification with regard to power of the Assessing Officer in respect of modified return of income filed in pursuance to signing of the Advanced Pricing Agreement (APA)

- It is proposed that where the assessment or reassessment has already been completed and modified return of income has been filed by the taxpayer, the Assessing Officer shall pass an order modifying the total income having regard to the APA.

Proposals regarding Indirect Tax

The amendments proposed under Goods and Service Tax vide the Union Budget have been divided in 2 categories on the basis of applicability date. Below is a gist of the same:

1. Changes applicable w.e.f. date to be notified after enactment of Finance (No. 2) Bill, 2019

- Alternative composition scheme, inserted in the Central Goods and Service Tax Act, 2017 (CGST Act) which provides for supplier of services or mixed suppliers (not eligible for the earlier composition scheme) having an annual turnover in preceding financial year up to INR 5 million, now can pay GST @6% (CGST-3% and SGST-3%).
- Threshold exemption limit has been increased from INR 2 million to such amount not exceeding INR 4 million in case of supplier who is engaged exclusively in the supply of goods.
- New provision has been inserted for mandatory Aadhaar submission or authentication for persons who intend to take or have taken registration.
- A new section 31A is proposed to be inserted in the CGST Act, to provide that supplier of goods and services shall have to mandatorily offer facility for digital payments to his recipient through specified modes of electronic payment
- Relaxation is proposed in compliance requirement of filing of GST returns so as to provide for furnishing of annual returns and for quarterly payment of tax by taxpayer who opts for composition levy and to provide for certain other category of tax payers,

an option for quarterly and monthly payments under the proposed new return filing system.

- Commissioner is now authorized to extend due dates for furnishing Annual return (Form GSTR-9/9A) and reconciliation statement (Form GSTR-9C) and returns of tax collection at source.
- Facility to the taxpayer to transfer an amount within electronic cash ledger from one head to another (from CGST cash ledger to SGST cash Ledger or vice versa).
- Interest to be levied only on the net cash tax liability, except in those cases where tax is paid subsequent to initiation of any proceedings under section 73 or 74 of the Act.
- Central Government to disburse refund amount to the taxpayers in respect of refund of State taxes authorities and vice versa.

2. Changes applicable w.e.f. the date of enactment of Finance (No. 2) Bill, 2019

The National Appellate Authority for Advance Ruling:

- The National Appellate Authority is constituted to decide appeals against conflicting advance rulings pronounced on the same question by of two or more States or Union territories or both.
- The Authority shall have all powers of Civil Court, pass order within 90 days from the date of filing of the appeal and have powers to regulate its own procedure.
- Ruling of this authority shall be binding on the Applicant and concerned tax authorities.

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