



**Chartered Accountants** 

FOREV	VORD	2
DIREC	T TAXES	3
Α	Tax rates	3
В	Buy-back of shares by listed entities	5
C	Start-ups	6
D	Incentives for real estate	8
Ε	Taxation of alternative investment fund	9
F	Incentives for category-II AIF	10
G	Broadening the definition of demerger	10
Н	Income tax return	10
I	Tax deduction of source	12
J	Measures for promoting less cash economy	14
K	Incentives for resolution of distressed companies	
L	Incentives to certain Non-banking Financial Companies	
М	Tax Incentives for IFSC	
Ν	Incentives to encourage offshore funds	19
0	Transfer pricing	
Р	Widening the term assessee in Black Money Act	
Q	Miscellaneous	21
	S AND SERVICES TAX	
A	Composition Scheme for Service Providers and Mixed Suppliers	
В	Registration threshold for supplier of goods	
C	Aadhaar authentication for registration	
D	Return filing system	
E	Tax payment for composition dealer	
F	Powers given to Commissioner	
G	Transfer of balance in electronic cash ledger	
H	Interest liability	
!	National Appellate Authority for Advance Ruling (NAAAR)	
J	Imposition of penalty by national anti-profiteering authority	29
SERVIC		30
Α	Retrospective exemption	
ALLIED	D LAWS	31
Α	Foreign Direct Investment (FDI)	31
В	Securities Market	
С	Non-Banking Financial Institutions	
GLOSS	SARY	34

1



## **FOREWORD**

The first budget of the Modi 2.0 government presented by a first full-time woman Hon'ble Finance Minister Ms. Nirmala Sitharaman, is a brave effort in setting the ball rolling towards building a USD 5 trillion Indian economy by 2025. Staying away from radical measures, the budget focuses on rationalizing tax laws and improving their implementation

The Indian economy has been tackling headwinds of weak demand, lackluster private investments, tightening liquidity and subdued business confidence. With a view to assist liquidity strapped non-banking financial companies (NBFCs), the Government has offered partial guarantee to public sector banks for acquiring assets of NBFCs as well as reduced reserve requirements for NBFCs raising funds through public issues of debentures

On the direct tax front, the budget has extended the benefit of 25% corporate tax rate to companies with annual turnover of up to INR 400 crores. However, individuals face a mounting burden of tax on account of increase in surcharge rate to as high as 37%. Business owners, HNIs and persons transferring high-value assets are expected to face a sharp rise in their incidence of tax. The effective marginal tax rate for individuals with income of over INR 5 crores now stands at a punishing 42.7% and not to forget additional tax impact of 14.25% on dividend received in excess of INR 10 lacs

The Finance Minister has attempted to manage the fiscal deficit by proposing a dispute resolution scheme for collecting arrears of erstwhile indirect tax regime and grow direct tax revenues by widening the tax-net and reducing the cash economy. The budget envisages measures for tracking spending patterns such as annual electricity expense, travel to foreign countries and payments to contractors. Imposition of 2% TDS on annual cash withdrawals over INR 1 crore per annum underlines the government's agenda to minimize cash transactions in the economy. The direction to SEBI for increasing the minimum public shareholding to 35% in listed companies, may result in a direct tax windfall to the Government

Faced with reduction in domestic household savings, the budget has relied on encouraging foreign investment to revive growth. Steps have been proposed for easing know your customer (KYC) norms for foreign portfolio investors (FPIs) and increasing of foreign direct investment (FDI) limits in sectors such as single-brand retail, aviation, insurance and media

The Budget was expected to deliver a plethora of reforms aimed at fixing an ailing financial sector, creation of jobs, encouragement of entrepreneurship etc. However, in the backdrop of a frail economy and with limited room to maneuver, the Finance Minister opted for fiscal stability over aggressive growth

July 5, 2019

BUDGET 20 9

# **DIRECT TAXES**<sup>1</sup>

# **A** TAX RATES

# **PERSONAL TAX**

- No change in tax slab for individuals:

Tax Rate	Age below 60 Years	Age over 60 years but less than 80 years	Age over 80 years
5%	INR 2,50,000 to	INR 3,00,000 to	-
	INR 5,00,000*	INR 5,00,000*	
20%	INR 5,00,001 to	INR 5,00,001 to	INR 5,00,001 to
	INR 10,00,000	INR 10,00,000	INR 10,00,000
30%	Above INR	Above INR	Above INR
	10,00,000	10,00,000	10,00,000

<sup>\*</sup> No tax on individual having taxable income upto INR 5,00,000 as a result of rebate of INR 12,500

## **CORPORATE TAX**

- Basic tax rates for domestic companies is proposed as under:

Particulars	Proposed Tax Rates
For companies whose total turnover or gross receipts in the FY 2017-18 does not exceed INR 400 crores	25%
For other companies	30%

- Basic tax rate for foreign companies remains unchanged at 40%

# FIRMS & LLP

- Basic tax rate remains unchanged at 30%

<sup>&</sup>lt;sup>1</sup> Proposed amendments are effective from AY 2020-21 unless otherwise specified

# **SURCHARGE ON INCOME-TAX**

- Surcharge for domestic and foreign companies remains unchanged as follows:

Particulars	Domestic Company	Foreign Company
Income exceeding INR 1	7%	2%
crore but not exceeding INR		
10 crore		
Income exceeding INR 10	12%	5%
crore		

- Surcharge for Individuals, HUF, AOP, BOI and AJP is proposed as under:

Particulars Particulars Particulars Particulars	Surcharge
Income exceeding INR 50 Lakhs but not	10%
exceeding INR 1 crore	
Income exceeding INR 1 crore but not	15%
exceeding INR 2 crores	
Income exceeding INR 2 crores but not	25%
exceeding INR 5 crores	
Income exceeding INR 5 crores	37%
_	

- Surcharge for co-operative societies, firms & LLP remains unchanged at 12% on the total income exceeding INR 1 Crore

### **CESS**

- The Health & Education Cess in all cases remains unchanged at 4%



## **EFFECTIVE TAX RATES**

- Effective tax rates for Individuals, HUF, AOP, BOI and AJP having total income upto INR 2 crores remains unchanged.
- Effective tax rates for Individuals, HUF, AOP, BOI and AJP having total income of more than INR 2 crores is proposed as under:

Income	INR 2 crores to 5 crores		Above II	NR 5 crores
	Existing	Proposed	Existing	Proposed
	Rates	Rates	Rates	Rates
Normal Income	35.88%	39.00%	35.88%	42.74%
Dividend	11.96%	13.00%	11.96%	14.25%
Income / Long				
Term Capital				
Gains on Listed				
Securities				
Other Long	23.92%	26.00%	23.92%	28.50%
Term Capital				
Gains				
Short Term	17.94%	19.50%	17.94%	21.37%
Capital Gains				
on Listed				
Securities				

# **B** BUY-BACK OF SHARES BY LISTED ENTITIES

 Presently, on the buyback of shares by a listed company, shareholders are liable to tax and the company is not liable to pay any tax on such buy back



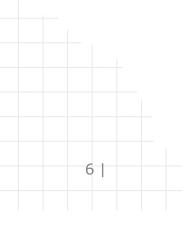
- Since on such buy-back STT is usually paid, shareholders are liable to long term capital gains tax at 10% (with benefit of grandfathering of cost as at 31<sup>st</sup> January 2018) and on short term capital gains at 15%
- It is now proposed that listed companies shall be liable to pay additional tax at 20% in case of buy back of shares. Such tax is payable on difference between the buy-back price and issue price of such shares. Consequently, shareholders would not be liable to pay any tax on the buy-back
- This amendment will take effect from 5<sup>th</sup> July, 2019. The rates mentioned above are exclusive of surcharge and cess

# C START-UPS

# **CARRY FORWARD AND SET OFF OF LOSSES**

- Presently, eligible start-ups are allowed to carry forward and set off of business loss incurred within period of 7 years from incorporation if:
  - All the shareholders who held shares carrying voting power on the last day of the year in which loss was incurred continue to be shareholders of the company in the year in which set off is claimed
- It is now proposed to relax the condition of continuity of shareholding if either of the following two conditions are fulfilled:
  - All the shareholders who held shares carrying voting power on the last day of the year in which loss was incurred continue to be the shareholders of the company in the year in which set off is claimed, or





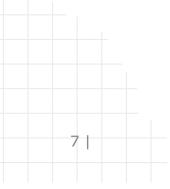
- Continuity of shareholders having at least 51% of the voting power on the last day of the previous year or years in which the loss was incurred and the year in which set off is claimed

#### **ANGEL TAX**

- Presently, government has provided exemption to start-ups from angel tax, upon fulfilment of certain conditions
- It is proposed that if the conditions specified are violated, the consideration received which exceeds the FMV, shall be chargeable to tax in the year in which failure to comply with conditions takes place

## **INVESTMENT OF CAPITAL GAINS IN START-UP**

- Presently, long term capital gain arising on sale of a residential property (house or plot of land) in the hands of individual or an HUF is exempt if certain specified conditions are satisfied including:
  - The net sale consideration is invested for subscription of equity shares of an eligible startup before 31<sup>st</sup> March, 2019
  - Transferor holds more than 50% of share capital or voting power of the company
  - The shares in the company and new asset acquired by the company are not transferred for a period of five years
- It is now proposed to relax the above conditions:



BUDGET 20 9

- The investment in equity shares of such an eligible startup can be done till 31st March, 2021
- Transferor is required to hold at least 25% of the share capital or voting power of the company
- Assets being computer or computer software shall not be transferred for period of three years and other assets for a period of five years

# **D** INCENTIVES FOR REAL ESTATE

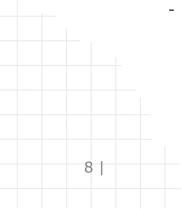
### **DEDUCTION OF INTEREST FOR AFFORDABLE HOUSING:**

- Presently, a person can claim interest deduction upto INR 2,00,000 for money borrowed for acquiring self-occupied property
- In order to incentivise purchase of affordable house, it is now proposed to provide an additional deduction upto INR 1,50,000 for interest paid on loan taken for purchase of 1<sup>st</sup> residential house having stamp duty value upto INR 45 lakh if loan is sanctioned by financial institution between 1<sup>st</sup> April, 2019 to 31<sup>st</sup> March, 2020

#### **AFFORDABLE HOUSING PROJECT:**

- Presently, section 80-IBA of the Act provides for 100% deduction of profit from housing project subject to specified conditions including:
  - Project is approved on or after 1<sup>st</sup> June, 2016, but on or before the 31<sup>st</sup> March, 2019
  - Carpet area of residential unit should not exceed 30 square meters in Metropolitan regions and 60 square meters in nonmetropolitan regions

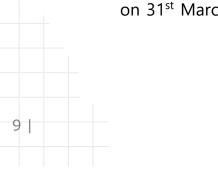




- It is now proposed that:
  - The project should be approved on or after 1st September, 2019
  - Residential unit should not exceed carpet area of 60 square meters in metropolitan regions and 90 square meters in nonmetropolitan regions. List of cities covered under metropolitan regions has been expanded
  - Stamp duty value of the residential unit shall not exceed INR 45 lakhs
  - Other condition remain unchanged

# **E** TAXATION OF ALTERNATIVE INVESTMENT FUND

- Income (other than business income) earned by Category I and Category II AIF is chargeable as pass through in the hands of the unit holder
- Presently where there is a loss in the fund, such loss is not allocated to the unit holder, but is retained at the fund level to be set off against future income of the fund
- It is proposed that
  - Such loss (other than business loss) will now be available to the unit holder provided such unit was held for more than one year
  - The unit holder will be allowed to set off such loss or carry forward as permissible under the Act
  - Any accumulated loss of the fund as at 31<sup>st</sup> March, 2019 shall be deemed to be the loss of the unit holder who is holding the unit on 31<sup>st</sup> March, 2019 and will be allowed be carried forward for



remaining period calculated from the year in which this loss was incurred by the Fund

# **INCENTIVES FOR CATEGORY-II AIF**

- Presently, where a company (other than a company in which the public are substantially interested), issues shares for a consideration which exceeds the fair market value then difference is taxed in hand of the issuing company
- However, the investment made by Category-I AIF is outside the scope of above provision
- It is now proposed to extend this exemption to Category-II AIF as well

# **G** Broadening the definition of demerger

- Presently for tax-neutral demergers, resulting company is required to record the assets and liabilities of the undertaking at book value
- It is proposed to allow the resulting company to record the assets and liabilities at fair value in order to comply with applicable Indian **Accounting Standards**

### H INCOME TAX RETURN

#### **FILING OF RETURN**

- Presently, person other than company and firm is required to furnish the return of income
- If his total income exceeds maximum amount not chargeable to tax.



- If he has foreign assets or has signing authority over foreign bank accounts etc.
- Additional conditions under which filling of income tax return is made mandatory if such person:
- has deposited more than INR 1 crore in one or more current account in a year;
- has spent more than INR 2 lakhs on foreign travel in a year either for himself or for any other person;
- has incurred electricity expenses of INR 1 lakh of more in a year;
- whose income before claiming deduction from capital gains for investment in new house property under section 54 or investment in bond under section 54EC exceeds maximum amount not chargeable to tax

# **QUOTING OF PAN/AADHAAR**

- Presently, persons are required to quote their PAN in specified high value transactions
- In order to ensure ease of compliance, it is proposed to provide for inter-changeability of PAN with Aadhaar number
- This amendment will take effect from 1st September, 2019
- In case PAN is not linked with Aadhaar then the PAN will become invalid from a date to be notified later



#### **PRE- FILLING OF INCOME TAX RETURNS**

- In order to reduce time taken in filling income tax return and also to ensure accuracy in reporting of income and taxes, pre-filled tax returns would be made available to the taxpayers which will contain details of salary income, capital gains from securities, bank interests, dividend and tax deduction etc. Information regarding such income and deductions will be collected from the concerned sources such as banks, stock exchanges, mutual funds, EPFO, state registration departments etc.
- In order to implement this, scope for reporting of the Specified Financial Transaction is being widened
- This amendment will take effect from 1<sup>st</sup> September, 2019

#### **E-ASSESSMENT**

Scheme to be launched for faceless scrutiny assessments in a phased manner. Central cell shall be the main point of contact for e-assessments. Notices shall be issued electronically by the central cell without disclosing the name, designation and location of assessing officers

## TAX DEDUCTION OF SOURCE

# **TDS** ON IMMOVABLE PROPERTY

- Presently, 1% TDS is deducted by the buyer at the time of purchase of Immovable Property from a resident seller, where the consideration is INR 50 lakhs or more
- It is now proposed that consideration shall include other charges in the nature of club membership fee, car parking fee, electricity and water facility fee, maintenance fee, advance fee or any other



charges of similar nature which are incidental to the purchase of immovable property

## **TDS** ON CERTAIN HIGH VALUE TRANSACTION

- Presently, there is no requirement for an individual or HUF to deduct tax at source on payments made to a resident contractor or professional when it is for personal use or such person are not subject to tax audit
- It is now proposed that if an individual or HUF makes annual payment to a contractor or professional in excess of INR 50 lakhs, is required to deduct TDS at the rate of 5%
- It is also proposed that a person deducting tax shall be able to deposit TDS on the basis of the PAN only and need not apply for TAN
- This amendment will take effect from 1st September, 2019

#### **RELIEF FROM DISALLOWANCE FOR NON-DEDUCTION OF TAX AT SOURCE**

- Presently, in case TDS is not deducted on payment made to a nonresident person, then, such expenses are liable to be disallowed
- It is proposed to provide that where there is a failure to deduct tax at source on payments made to a non-resident and such non-resident has filed its tax return, paid taxes on such income and has furnished a prescribed certificate from an accountant, the deductor shall not be held as assessee in default. It is also proposed to provide that in such cases, there would not be any corresponding disallowance of expenditure in the hand of deductor



These amendments will take effect from 1st September, 2019

## **TDS ON NON-EXEMPT PORTION OF LIFE INSURANCE PAY-OUT**

- Presently, life insurers are required to deduct TDS @ 1% on amount paid on maturity which are not exempt under the Act
- It is proposed to deduct TDS @ 5% on the incremental amount paid, instead of 1% on gross payment

### J MEASURES FOR PROMOTING LESS CASH ECONOMY

#### **PAYMENT BY OTHER ELECTRONIC MODES**

- Presently, there are various provisions in the Act which prohibit cash transactions and allow or encourage payment or receipt only through account payee cheque, account payee draft or electronic clearing system through a bank account
- In order to encourage other electronic modes of payment, it is proposed to amend these provisions to allow payment or receipt through other prescribed electronic modes

### **TDS** ON CASH WITHDRAWAL FROM BANKS

• In order to move towards less cash economy, it is proposed to provide for tax deduction at source at the rate of 2% on cash withdrawal by a person in excess of INR 1 crore in aggregate in a year from bank account. Some business models, where large cash withdrawal is a necessity, are proposed to be exempted



- It is also proposed that the Central Government may notify the persons to whom these provisions shall not be applicable in consultation with the Reserve Bank of India
- This amendment will take effect from 1st September, 2019

### **FACILITIES FOR LOW-COST ELECTRONIC PAYMENTS**

- For ensuring that business enterprises provide facility for making payment through low-cost electronic mode, it is proposed that a business enterprise whose annual turnover exceeds INR 50 crores shall provide facility for prescribed low cost electronic modes of payment
- It is proposed to amend Payment and Settlement Systems Act 2007 which will mandate that no bank or system provider shall impose any charge for using electronic mode of payment
- In case of non-compliance, penalty of INR 5,000 for each day of failure, may be levied
- This amendment will take effect from 1<sup>st</sup> November, 2019

# **K** INCENTIVES FOR RESOLUTION OF DISTRESSED COMPANIES

## **CARRY FORWARD AND SET OFF OF LOSSES**

 Presently, carry forward and set off of business loss in a company (other than company in which public are substantially interested) undergoing a resolution plan approved under the Insolvency and Bankruptcy Code, 2016 are allowed even if the shareholding (having voting power) changes by 51%



- In order to encourage resolution for companies (including subsidiaries & step down subsidiaries) through National Company law Tribunal (NCLT), it is now proposed that the conditions of continuity of shareholding shall not apply to companies whose:
- change in shareholding has taken place in a previous year pursuant to a resolution plan approved by NCLT and
- board of directors have been suspended by NCLT and new directors have been appointed by NCLT on the recommendation of the Central Government

# MINIMUM ALTERNATIVE TAX (MAT)

- Presently, a company which is undergoing corporate insolvency resolution process under IBC, 2016, can reduce the book profits by the aggregate of brought forward loss and unabsorbed depreciation, for the purposes of computation of MAT liability
- It is now proposed to provide that for the purposes of computation of MAT liability of companies (including subsidiaries and step down subsidiaries) whose board of directors have been suspended by NCLT and new directors have been appointed by NCLT on the recommendation of the Central Government, the aggregate of brought forward losses and unabsorbed depreciation shall also be allowed as deduction

### L INCENTIVES TO CERTAIN NON-BANKING FINANCIAL COMPANIES

### **RECOGNITION OF INCOME**

 Presently, interest income on bad or doubtful debts of bank and other specified institution is taxable on receipt basis. However, there is no similar provision for NBFCs



 It is now proposed to extend the same benefit to deposit-taking NBFC and systemically important non deposit-taking NBFC

### **ALLOWABILITY OF INTEREST EXPENSE TO PAYER**

- Presently, interest payable to NBFCs is allowable to the payer on accrual basis even if the payer has not made payment to the NBFC
- It is now proposed that the deduction of interest payable to NBFCs shall be allowed to the payer on actual payment only

## M TAX INCENTIVES FOR IFSC

#### **PROFIT LINKED DEDUCTION**

- Presently, a unit located in the IFSC is allowed 100% deduction of its profits for first five consecutive years and 50% for next five consecutive years from the year of commencement
- It is now proposed to provide for 100% deduction for any 10 consecutive years out of 15 years from the year of commencement

### **DEDUCTION UNDER CHAPTER VI-A FOR SPECIAL TAX RATE INCOMES**

- Presently, non-resident having certain income in the nature of interest, dividend etc. which are taxable at special rates, cannot avail the deduction under Chapter VI-A
- It is now proposed to relax the restriction and allow profit linked deduction to specified non-resident IFSC units

CAPITAL GAINS ON TRANSACTIONS DONE ON A RSE IN IFSC



- Presently, a non-resident is not required to pay capital gains tax on the transfer of specified securities made on a recognised stock exchange in the IFSC
- It is now proposed to extend this benefit to a Category-III AIF in IFSC of which all the unit holders are non-residents, subject to certain other conditions
- It is also proposed to notify other securities which shall be eligible for capital gains exemptions if traded on a recognised stock exchange in IFSC by a specified person

# **DIVIDEND DISTRIBUTION TAX (DDT)**

- Presently, DDT is not levied on the distribution of dividend by a company located in IFSC if the same is distributed out of current year's income
- It is now proposed to extend this benefit of exemption to distribution out of accumulated profit which has been accumulated by the unit after 1<sup>st</sup> April, 2017 from operations in IFSC
- This amendment will take effect from 1<sup>st</sup> September, 2019

## **TAX ON DISTRIBUTED INCOME**

- Presently, any income distributed by specified company or mutual fund to its unit holders, is subjected to additional income tax at specified rates
- In order to facilitate setting up of mutual funds in the IFSC, it is proposed that there would be no additional tax on distribution of any amount by a specified Mutual Fund out of its income derived



from transactions made on a recognised stock exchange located in any IFSC

This amendment will take effect from 1st September, 2019

## INTEREST INCOME FROM MONEY ADVANCED TO IFSC

• It is proposed to provide tax exemption for interest received by a non-resident in respect of monies lent to a unit located in IFSC on or after 1<sup>st</sup> September, 2019

# N INCENTIVES TO ENCOURAGE OFFSHORE FUNDS

- Presently, in case of an offshore investment fund, the fund management activity carried out through an 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, subject to fulfillment of specified conditions including:
  - The corpus of such fund established or incorporated in the previous year, shall be more than INR 1 crore, at the end of such previous year
  - The remuneration paid by such fund to the eligible fund manager should not be less than arm's length price
- It is now proposed to rationalise the above two conditions:
  - The corpus of such fund shall be more than INR 1 crore, 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



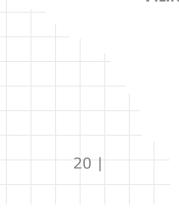
- The remuneration paid by such fund to the eligible fund manager should be more than the amount calculated as per rules to be prescribed
- This amendment will take retrospective effect from 1<sup>st</sup> April, 2019

## O TRANSFER PRICING

### **SECONDARY ADJUSTMENT**

- Presently the provisions of secondary adjustment is applicable if amount of primary adjustment is
  - more than INR 1 crore and
  - it is made for AY beginning on or after 1st April, 2016
- It is proposed that, the same shall now be applicable if either of the two conditions mentioned above is satisfied
- Presently the excess money (primary adjustment) has to be repatriated to India within 90 days failing which it will attract interest every year computed at the specified rate (one year SBI lending rate plus three hundred twenty five basis points)
- It is proposed that instead of making an adjustment of interest every year, the assessee shall have option of a one-time payment of income tax on such excess amount at 18 % plus applicable surcharge
- This amendment will be applicable with effect from 1st September,
   2019

FILING OF MASTER FILE FORM



BUDGET 20 9

- It case of multinational companies having global turnover of INR 500 crores or having prescribed international transaction are required to file master file in India
- It is now clarified that a person is required to file master file even if there are no international transactions

## P WIDENING THE TERM ASSESSEE IN BLACK MONEY ACT

- Presently, the Black Money Act, 2015 defines the term assessee as the person who is a resident in India (other than not ordinarily resident in India) as per the Income Tax Act
- It is now proposed that the term "assessee" would also include a person who was resident in India either in the previous year in which the undisclosed income relates or in the year in which the undisclosed asset located outside India was acquired
- This amendment will be effective retrospectively from 1st July, 2015

# **Q** MISCELLANEOUS

#### INCENTIVE TO PURCHASE ELECTRIC VEHICLE

- In order to incentivise purchase of electric vehicle by an individual, it is proposed to provide deduction of an amount upto INR 1,50,000 for interest paid on loan taken from bank and specified NBFC for first time purchase of an electric vehicle
- The loan is required to be taken on or before 31<sup>st</sup> March, 2023

## **CANCELLATION OF REGISTRATION OF TRUSTS**

 Presently, registration of trust can get cancelled if its activities are not genuine



- In order to ensure that a trust complies with local laws that are material for the purposes of achieving its objects, it is now proposed that registration may get cancelled if it does not comply with other law
- These amendments will take effect from 1<sup>st</sup> September, 2019

### **INCENTIVES TO NATIONAL PENSION SYSTEM SUBSCRIBERS**

- Presently
- 40% of payment on final withdrawal from NPS is exempt from tax
- In case of Central Government employee, the deduction for employer's contribution to NPS is restricted to 10% of salary
- Proposed
- 60% of payment on final withdrawal from NPS will be exempt from tax
- In case of Central Government employee, the deduction for employer's contribution to NPS will be to 14% of salary
- Deduction for contribution made to Tier II NPS account by Central Government employee will be allowed

### **GIFTS MADE TO NON-RESIDENTS**

 Presently, gifts made by a resident to another resident are liable for income tax subject to some exemptions. However, there was no clarity regarding taxability of gift of any sum of money or property situated in India, given by resident to a person outside India



- In order to increase the scope and provide clarity, it is now proposed that gift of any sum of money, or property situated in India, by a person resident in India to a person outside India (not being a gift otherwise exempt), will be taxable in India
- This amendment will take effect from 5<sup>th</sup> July, 2019

## **EXEMPTION FROM DEEMING INCOME OF FMV OF UNQUOTED SHARES**

- Presently, where consideration received for transfer of unquoted share is less than FMV, then the FMV shall be deemed to be full value of consideration for computing capital gains of the seller. Similarly, the difference is also taxable in the hands of the buyer
- It is now proposed to empower the CBDT to prescribe transactions (where the parties to the transactions do not have control over the determination of price) for which the provisions relating to deeming of FMV of shares shall not be applicable



# SABKA VISHWAS (LEGACY DISPUTE RESOLUTION) SCHEME, 2019 <sup>2</sup>

- A dispute resolution cum amnesty scheme called "Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019" is being introduced for resolution and settlement of legacy cases of Central Excise, Service Tax and Cess under Indirect Tax enactments
- All persons are eligible to avail the scheme except a few exclusions as specified in the scheme
- Proposed relief available to declarant:

Particulars	Relief (% of Tax dues)
Tax dues relating to SCN or appeals pending as on 30 <sup>th</sup> June, 2019 or Tax dues quantified on or before 30 <sup>th</sup> June, 2019 pursuant to enquiry, investigation and audit by department	- 70% if duty is INR 50 lakhs or less - 50% if duty is more than INR 50 lakhs
SCN issued only for late fee or penalty *	- Entire late fee / penalty is waived provided entire amount of duty is paid in full
Tax dues relatable to amount in arrears or Duty declared as payable in return but not paid	- 60% if duty is INR 50 lakhs or less - 40% if duty is more than INR 50 lakhs
Tax dues payable on account of voluntary disclosure	- No relief

<sup>&</sup>lt;sup>2</sup> Proposed amendments will be effective from date to be notified in Official Gazette

- \* No clarity as to eligibility of the scheme if tax dues have been paid and interest is outstanding
- Any deposit paid at appeal stage, during enquiry, investigation or audit proceedings shall be adjusted against amount payable under the scheme. Further, no refund shall be granted in case where deposit exceeds the amount payable under the scheme
- On issue of discharge certificate by designated committee, there is immunity from prosecution proceedings under indirect tax enactment



# **GOODS AND SERVICES TAX<sup>3</sup>**

# A COMPOSITION SCHEME FOR SERVICE PROVIDERS AND MIXED SUPPLIERS

- Supplier of services and mixed suppliers supplying goods and services (not covered under earlier composition scheme) whose aggregate turnover in preceding financial year did not exceed INR 50 lakhs are eligible to opt for composition scheme
- Tax rate under composition scheme shall not exceed 6% of the turnover in the respective state
- Composition scheme does not apply to suppliers engaged in:
  - Supply of goods or services not leviable to tax under GST legislation;
  - Inter-state supply of goods or services;
  - Supply of goods or services through e-commerce operator;
- Manufacturers and suppliers (as may be notified), casual taxable persons and non-resident taxable persons are not eligible to opt for composition scheme

This scheme is already operative w.e.f. 1st April, 2019

# **B** REGISTRATION THRESHOLD FOR SUPPLIER OF GOODS

 Government is empowered to provide higher threshold of INR 40 lakhs for registration in case of suppliers exclusively engaged in

BUDGET 20 9

<sup>&</sup>lt;sup>3</sup> Proposed amendments will be effective from date to be notified concurrently with corresponding amendments to Acts passed by States and Union Territories.

supply of goods. The threshold for service provider or service provider cum supplier of goods remains INR 20 lakhs

Higher threshold is already notified w.e.f. 1st April, 2019

# C AADHAAR AUTHENTICATION FOR REGISTRATION

- Existing registered person including new taxpayers will have to undergo Aadhaar authentication in the manner to be prescribed
- For non-individual tax payers, Aadhaar authentication in regards to owner / management will be specified
- In case Aadhaar number is not assigned to such tax payers, they will have to offer alternate and viable means of identification as recommended by GST council

## **D** RETURN FILING SYSTEM

- Every taxpayer shall furnish a monthly return electronically giving details of inward supplies of goods or services in addition to present requirement of outward supplies of goods or services, input tax credit availed, tax payable, tax paid and other details in the manner to be prescribed
- Government may notify certain classes of taxpayer who shall furnish the above return quarterly
- Composition dealers shall furnish electronically return for whole of financial year or part thereof giving details of turnover in the state, inward supplies of goods or services, tax payable, tax paid and other details as may be required



# **E** TAX PAYMENT FOR COMPOSITION DEALER

 Composition dealers will be required to pay tax quarterly on their outward and inward supplies as against the present requirement to pay tax on monthly basis

### F POWERS GIVEN TO COMMISSIONER

- Commissioner is empowered to extend due date for:
  - Furnishing annual return (Form GSTR 9) and reconciliation statement (Form GSTR 9C)
  - Furnishing of monthly return (Form GSTR 8) and annual statement (Form GSTR 9B) by person collecting tax at source

# **G** TRANSFER OF BALANCE IN ELECTRONIC CASH LEDGER

- Registered person will be entitled to transfer an amount from one head (major or minor) to another head (major) in the electronic cash ledger. Transfer from major head to minor head is not permitted
  - Major head: CGST, SGST, UTGST, IGST and CESS
  - Minor head: Interest, Penalty, Fee and Others

# **H** INTEREST LIABILITY

- Presently, Interest liability arising out of delay in payment of taxes / filing of return beyond due date is levied on gross GST liability (i.e. without set off of Input Tax Credit)
- It is now proposed that



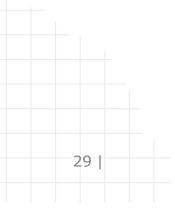
- interest on account of delay in payment of taxes or delayed filing of return will be computed only on the net cash tax liability (i.e. tax paid through Electronic Cash Ledger)
- In case of where returns are filed subsequent to initiation of recovery proceedings under GST Act, interest will continue to be computed on gross GST liability

# NATIONAL APPELLATE AUTHORITY FOR ADVANCE RULING (NAAAR)

- It has been proposed to constitute NAAAR for hearing appeals against conflicting advance rulings pronounced on the same question by the Appellate Authorities of two or more States or Union territories
- Following persons will be entitled to appeal to NAAAR:
  - Any officer authorised by commissioner in this regard;
  - Applicant, being a distinct person, aggrieved by orders of AAAR of two or more states
- Ruling pronounced by the NAAAR shall be binding, unless there is a change in law or facts, on the applicants and on the concerned officers or the jurisdictional officers

## J IMPOSITION OF PENALTY BY NATIONAL ANTI-PROFITEERING AUTHORITY

 NAPA will be empowered to impose penalty equivalent to 10% of the profiteered amount except when profiteered amount is deposited within 30 days from the date of order passed by NAPA



# **SERVICE TAX** <sup>4</sup>

# A RETROSPECTIVE EXEMPTION

- Services by way of granting liquor licence by State Government is exempted retrospectively for the period 1<sup>st</sup> April, 2016 to 30<sup>th</sup> June, 2017
- Services provided by IIM to their students in respect of specified educational programmes (except Executive Development Programme) are exempted for the period 1<sup>st</sup> July, 2003 to 31<sup>st</sup> March, 2016
- Upfront consideration (called as premium, salami, cost, price, development charges or by any other name) for granting long term lease of thirty years or more of plots for development of infrastructure for financial business by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50% or more ownership of CG, SG, UT to the developers in any industrial or financial business area, are exempted from service tax for the period 1<sup>st</sup> October, 2013 to 30<sup>th</sup> June, 2017
- Application for refund of service tax arising due to aforesaid retrospective exemption to be made within a period of six months from the date on which this Finance Bill receives the assent of the President

<sup>&</sup>lt;sup>4</sup> Proposed amendments will be effective from its date of enactment

## **ALLIED LAWS**

# A FOREIGN DIRECT INVESTMENT (FDI)

 Further liberalization of FDI Regulation is being examined in the following sectors. There could be enhancement in sectoral cap or FDI may be permitted under automatic route

Sectors	Sectoral Caps	Routes
	100%	Upto 49% - Automatic
Domestic Passenger Airline		Beyond 49% -
		Government
Print Media-Newspapers &	26%	Government
Indian edition of foreign		
magazines		
Insurance Companies	49%	Automatic

- FDI in insurance intermediaries like brokers, surveyors etc. shall be enhanced from 49% to 100%. Clarity is required as to whether enhanced limit is under automatic or government route
- Local sourcing norms are proposed to be relaxed for FDI in Single Brand Retail sector
- Presently, NRIs, OCIs and FPIs are permitted to invest in equity capital of listed entities subject to following limits:

Particulars	Individual Limit	Aggregate Limit	Max Permissible Aggregate Limit**
NRIs/OCIs	5%	10%	24%
FPIs	10%	24%	Sectoral Cap

<sup>\*\*</sup>through board resolution and special resolution of members

BUDGET 20 9

It is now proposed to merge the limits for NRIs/OCIs with FPIs. The aggregate limit for investment shall be the sectoral foreign investment limit with option given to the concerned corporates to limit it to a lower threshold

- Foreign Portfolio Investors (FPI) to be permitted to subscribe to listed debt securities issued by Real Estate Investment Trust (ReIT) and Infrastructure Investment Trust (InvIT)
- Presently, investment by FII/FPIs in debt securities of Infrastructure Debt Funds of NBFCs are locked in for a period of 3 years. However they were permitted to trade amongst themselves. It is now proposed that such investment can also be sold to domestic investors within the lock in period

# **B** SECURITIES MARKET

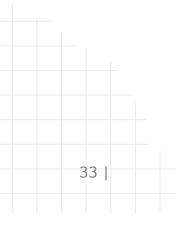
- SEBI to consider enhancing the minimum public shareholding in listed companies from the current threshold of 25% to 35%
- Introduction of an electronic fund raising platform for listing social enterprises and voluntary organizations working for the realization of a social welfare objective. It will be a social stock exchange governed by SEBI
- Streamlining KYC norms to provide hassle free investment experience to Foreign Portfolio Investors

### C Non-Banking Financial Institutions

• In order to strengthen the regulatory authority of RBI over NBFCs, the following powers are granted to RBI:



- Power to increase the requirement of net owned funds for NBFCs from INR 2 crores to INR 100 crores
- Power to remove any director, entire board or auditors of a NBFC and appoint an administrator
- Power to frame schemes for amalgamation, reconstruction, splitting of NBFC
- NBFC making public placement of debenture have to maintain a Debenture Redemption Reserve (DRR) as required by RBI. The requirement of creating a DRR, is being done away with as is the case with private placement of debenture.
- Presently NBFCs not registered as NBFC-Factor are ineligible to carry out factoring business. In order to boost the TReDs platform, it is proposed to permit all NBFCs to participate on the platform



# **GLOSSARY**

AAAR	Appellate Authority for Advance Ruling
AIF	Alternate Investment Fund
AJP	Artificial Judicial Person
AOP	Association of Person
AY	Assessment Year
BOI	Body Of Individuals
CG	Central Government
CGST	Central Goods and Services Tax
DDT	Dividend Distribution Tax
EPFO	Employee's Provident Fund Organisation
FMV	Fair Market Value
FY	Financial Year
GST	Goods and Services Tax
HUF	Hindu Undivided Family
IBC	Insolvency and Bankruptcy Code, 2016
IFSC	International Financial Services Centre
IGST	Integrated Goods and Services Tax
IIM	Indian Institute of Management
MAT	Minimum Alternate Tax
NAAAR	National Appellate Authority for Advance Ruling
NAPA	National Anti-Profiteering Authority
NBFC	Non - Banking Finance Companies
NCLT	National Company Law Tribunal
NPS	National Pension System
PAN	Permanent Account Number
RSC	Registered Stock Exchange



SCN	Show Cause Notice
SG	State Government
SGST	State Goods and Services Tax
STT	Securities Transaction Tax
TAN	Tax Deduction and Collection Account Number
TDS	Tax Deducted at Source
UT	Union Territory
UTGST	Union Territory Goods and Services Tax

# Disclaimer:

This document has been prepared as a service to the clients. We recommend you to seek professional advice before taking any action on the specific issues.



