
**TAX ALERT – KEY AMENDMENTS TO FINANCE BILL, 2020**

# N. A. SHAH BULLETIN

N. A. SHAH ASSOCIATES LLP
Chartered Accountants

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## “KEY AMENDMENTS TO THE FINANCE BILL, 2020"

### BACKGROUND

The Finance Minister introduced the Finance Bill, 2020 on 1st February 2020 proposing certain key amendment in the Income Tax Act, 1961. The Bill has been passed by the Parliament after amending certain proposals basis suggestions made by various stakeholders.

This bulletin covers the key changes made to the Bill (as passed by Parliament).

**March 25th, 2020**

**Mumbai**

The key changes made in the Bill is summarized in the table below

| Existing Provision | Proposed in the Finance Bill | As passed by the Parliament |
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| **(A) Residential Status of Individuals –** | | |
| **Residential status of Indian Citizen or Person of Indian Origin** | | |
| Presently, an assessee is considered as resident in India if:<br><br>▪ his period of stay in India during the year is 182 days or more<br><br>▪ Having been in India in preceding 4 years for 365 days is in India for a period of 60 days. In respect of Indian citizen or POI who has come to India on visit, the period of 60 days is replaced by 182 days | It was proposed that an assessee is considered as resident in India if:<br><br>▪ his period of stay in India during the year is 182 days or more<br><br>▪ Having been in India in preceding 4 years for 365 days is in India for a period of 60 days. In respect of Indian citizen or POI who has come to India on visit, the period of 60 days is replaced by 120 days | An assessee is considered as resident in India if:<br><br>▪ his period of stay in India during the year is 182 days or more<br><br>▪ Having been in India in preceding 4 years for 365 days is in India for a period of 60 days. In respect of Indian citizen or POI who has come to India on visit, the period of 60 days is replaced by 182 days and in case of Indian citizen or POI having total income, other than the income from foreign sources, exceeding INR 15 lakh during the previous year, the period of 60 days is replaced by 120 days. |
| **Resident But Not Ordinarily Resident** | | |
| ▪ Presently, an individual is considered as "not ordinarily resident" if such individual:<br><br>o is a non-resident in India in 9 out of the | ▪ It was proposed to substitute the two conditions with the sole criteria of being a non-resident in 7 out of 10 preceding years, to be considered as "not ordinarily resident" | ▪ An individual is considered as "not ordinarily resident" if such individual:<br><br>o is a non-resident in India in 9 out of the 10 preceding years; or |

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| 10 preceding years; or<br>o Period of stay in India during the 7 preceding years is 729 days or less | | o Period of stay in India during the 7 preceding years is 729 days or less; or<br>o a Citizen of India or POI who comes to India on visit, having total income, other than the income from foreign source, exceeding INR 15 lakh during the previous year, who has been in India for a period or periods of 120 days or more but less than 182 days; or<br>o a citizen of India who is not liable to tax in any country (deemed to be resident in India) |
| **xDeemed Resident In India –** | | |
| ▪ Presently, an individual being a citizen of India could arrange his affairs in a manner that he is not liable to tax in any country or jurisdiction during a previous year | ▪ It was proposed that an individual, being a citizen of India, who is not liable to tax in any country shall be deemed to be resident of India in such previous year, irrespective of his period of stay in India | ▪ An Individual, being a citizen of India, having total income, other than the income from foreign sources, exceeding INR 15 lakh during the previous year shall be deemed to be resident in India in that previous year, if he is not liable to tax in any other country. |
| | | |
| (B) **<u>Tax on Dividend</u>** | | |
| - Presently, Dividend Distribution Tax ('DDT') is payable by the company on dividend | - The company or mutual find would not pay DDT/IDT on dividend declared/ paid/ distributed after 31st March 2020; | - The company or mutual fund would not pay DDT on dividend declared/ paid/ distributed after 31st March 2020; |

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| distributed/ paid to the shareholders<br><br>- Similarly, Income Distribution Tax ('IDT') is payable by the mutual funds on income distributed to unitholders<br><br>- Resident shareholders (other than domestic companies and specified trusts/ institutions) receiving dividend exceeding INR 10 Lakhs in a year, are subject to tax at10 %<br><br>- Income distributed by mutual fund on units are exempt in the hand of the unit holder | - Any dividend/income received after 31.03.2020 is chargeable in the hands of the shareholders/ unitholders;<br><br>- Shareholders/ unitholder shall be allowed deduction of interest expense subject to maximum of 20% of such income. No other expenses shall be allowed; and<br><br>- Dividend/ income would be taxable at normal rates (No restriction on higher surcharge)<br><br>- Such dividend/ income would not be taxed in the hands of pass through entities<br><br>- Company receiving dividend from domestic company shall be permitted to claim deduction u/s 80M to the extent of dividend declared till one month prior to the due date of return of income | - Any dividend/income received after 31.03.2020 is chargeable in the hands of the shareholders/ unitholders if the same is not liable to DDT or taxable u/s 115BBDA;<br><br>- Shareholders/unitholder shall be allowed deduction of interest expense subject to maximum of 20% of such income. No other expenses shall be allowed; and<br><br>- Dividend/ income would be taxable at normal rates and in case total income exceeds INR 2 crore surcharge on dividend shall be restricted to 15%.<br><br>- Dividend/ income would not be taxed in the hands of pass through entities<br><br>- Company receiving dividend from domestic company/Foreign Company / business trust shall be permitted to claim deduction u/s 80M to the extent of dividend declared till one month prior to the due date of return of income<br><br>- Domestic Company while making any payment of dividend to a non-resident |

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| | | shareholder, to deduct tax at 20% under the provision of the Act (subject to relief if any under DTAA) |
| | | |
| (C) **Equalization levy to E-commerce operator** | | |
| - Presently, equalisation levy of 6% is attracted on payment to non-resident for digital advertisement, provision for digital advertising space or other services for the purpose of online advertisement. | - No proposal | - It is now proposed to provide for Equalisation levy at the rate of 2% on consideration received on or after 1.4.2020 by a non-resident e-commerce operator from e-commerce supply or services made or provided, by it to<br>• a person resident in India<br>• a person why buys goods or services using internet protocol located in India; or<br>• a non-resident under specified circumstances for example (i) sale of data, collected from a person who is resident in India or from a person who uses IP address located in India or (ii) sale of advertisement which targets Indian customer or a customer who access advertisement through IP address in India.<br><br>- Consequently, the above income shall be exempt in the hands of e-commerce |

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| | | operator u/s 10(50) of the Act<br><br>- The provisions shall not be applicable if:<br><br>a) e-commerce operator has PE in India and supply or services is effectively connected with PE in India<br><br>b) Where sales/turnover/gross receipt of e-commerce operator is less than 2 crores during the previous year<br><br>- Payment of above equalisation levy shall be made by seventh day of month succeeding each quarter ends, except for March quarter where payment is to be made by 31st March. |

**Other Changes:**

(1) Section 194-O which was proposed to mandate deduction of tax at source by an e-commerce operator on the amount paid to a resident e-commerce participant, shall come into effect from 1.10.2020.

(2) Presently, TDS at the rate of 2% is applicable on cash withdrawal by a person in excess of INR 1 crore in aggregate in a year from bank account. It is now proposed with effect from 1.7.2020 that in case of recipient who

has not filed his return of income for three consecutive preceding years, the deduction shall be made at the following rates:

- 2% when cash withdrawal by such person is in excess of INR 20 lakhs but less than INR 1 crore
- 5% when cash withdrawal by such is in excess of INR 1 crore

(3) Applicability of TCS provisions on remittances under LRS, overseas tour package and sale of goods deferred from 1 April 2020 to 1 October 2020 and also export of goods is excluded from applicability of TCS.

(4) Reduced rate of TDS @ 2% is also proposed in the case where the royalty paid to residents in consideration for sale, distribution or exhibition of cenematographim films.

(5) It is now proposed that that no tax is required to be deducted on capital gains derived by a resident from units of a mutual fund.

*In case of any clarifications, you may reach us at*

**N. A. Shah Associates LLP**

**Chartered Accountants**

Address: B 21-25 / 41-45, Paragon Centre,

Pandurang Budhkar Marg, Mumbai – 400013.

Tel: 91-022-4073 3000, Fax: 91-022-4073 3090

E-mail Id: info@nashah.com Website : www.nashah.com