

HIGHWAY TO UNION BUDGET 2019

Incentives
to IFSC

Cash Less
Economy and
Faceless
Scrutiny

Incentives
for Startups
&
affordable
housing

DRIVEN BY -

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HIGHLIGHTS OF UNION BUDGET 2019

- No change in personal Income Tax Rates;
- A resident individual is entitled to rebate u/s 87A if his total income does not exceed Rs. 5 lakhs;
- Surcharge for individual having taxable income from Rs. 2 crores to Rs. 5 crores increased to 25% from 15%;
- Surcharge for individual having taxable income more than Rs.5 crores increased to 37% from 15%;
- Reduction in corporate tax for companies having turnover upto Rs. 400 to 25% from a current rate of 30%;
- Relief for owners of more than one house, so second self-occupied house not to be subject to tax on deeming/ notional basis;
- Assessee failing to withhold taxes on payments to non-residents shall not be treated as assessee in default, if non-resident has filed its tax return, paid taxes on such income, and furnished a prescribed certificate from an accountant;
- Extension of the period of exemption of capital gains arising from the sale of residential house for investment in start-ups up to 31 March 2021 and relaxation of certain conditions related to this exemption;
- Gift by resident to non-residents will be income deemed to accrue or arise in India;
- Interest income earned by non-residents in relation to loan given to a unit located in IFSC will be exempt;
- Additional deduction of up to Rs. 1.5 lakhs for interest paid on loans borrowed between the period 1st April, 2019 to 31st March, 2020 for purchase of house valued up to Rs. 45 lakhs;



- Additional deduction of up to Rs. 1.5 lakhs on the Interest paid on loans taken to purchase Electric Vehicles;
- Increase in Standard Deduction from Rs. 40,000/- to Rs. 50,000/- for salaried employees;
- Threshold limit for deduction of Tax at source on rent @ 10% u/s 194I increased from Rs. 1.80 lakhs to Rs. 2.40 lakhs;
- 100% profit linked tax holiday now available to developer only for '**affordable houses**' having stamp duty value upto Rs. 45 lakhs;
- 100% profit linked tax holiday allowed to a unit in IFSC in a block of 10 consecutive years out of 15 years;
- Levying of TDS of 2% on cash withdrawal exceeding Rs. 1 crore in a year from a bank account;
- Individual taxpayers not covered under tax audit will now be required to deduct tax at sources @ 5% from payments made to resident contractors and professional, if the aggregate payment exceeds Rs. 50 lakhs in a financial year;
- Tax to be withheld at the rate of 5% on **income component** (after deducting insurance premium) at the time of life insurance payouts as against withholding tax at the rate of 1% on gross amount of payouts;
- Levy of securities transaction tax (STT) will be restricted only to the difference between settlement and strike price in case of exercise of options;
- Exemption from levy of Dividend Distribution Tax ('DDT') extended to distribution made out of accumulated profits earned after 1st April 2017 by a unit in IFSC;
- Faceless Income Tax assessment in electronic mode involving no human interface to be launched this year in a phased manner;



- Business establishments with annual turnover of more than Rs. 50 crores may offer low cost digital payments. No charges or merchant discount rates to be imposed on customers or merchants for these;
- Pre-filled tax returns will be made available to tax payers that will contain details of salary income, capital gains from securities, bank interests, dividends, etc., and tax deductions;
- Start-ups and their investors who file requisite declarations and provide information in their returns will not be subject to any kind of scrutiny in respect of valuations of share premiums;
- With e-verification for establishing identity of investors and source of funds, funds raised by start-ups will not require any kind of scrutiny from the Income Tax Department;
- PAN and Aadhaar to be made interchangeable for convenience of Taxpayers;
- Issuance of Aadhaar Cards to NRIs with Indian passports after their arrival in India, without mandatory waiting period;
- Simplified single monthly return is being rolled out; taxpayers with annual turnover of less than Rs. 5 crores need to file only quarterly returns.
- Composition taxpayers to be allowed to furnish return on an annual basis along with quarterly payment of taxes;
- Prescribed class of suppliers shall be mandatorily required to give an option to their recipients to make payments through specified electronic modes;
- Enhancement of threshold limit up to Rs.40 lakhs for supplier who is engaged in exclusive supply of goods;
- In case of late payment of tax, interest shall be computed only on the net GST liability;
- Creation of payment platform for MSMEs to enable filing of bills and payment thereof, to eliminate delay in payment;



- National Appellate Authority for Advance Ruling proposed for deciding conflicting decisions of the Advance Ruling Authorities;
- National Anti-profiteering Authority has been empowered to impose penalty equivalent to 10% of the profiteered amount;
- 2% interest subvention for GST-registered MSME on fresh or incremental loans;
- GST Council has been advised to reduce Tax Rate on Electric vehicles from 12% to 5%;
- A dispute resolution cum amnesty scheme, "Sabka Vishwas Legacy Dispute Resolution Scheme, 2019", has been introduced for resolution and settlement of legacy cases of central excise, service tax, and certain other central levies/duties/taxes/cesses;
- Custom duty has been increased on gold and other precious metals, tiles, PVC, cashew kernels, auto parts, some synthetic rubber, imported books stainless steel, petrol and diesel, digital and video recorder and CCTV Camera;
- The Securities and Exchange Board of India ('SEBI') to consider increasing minimum public shareholding in the listed companies from 25% to 35%;
- Existing KYC norms for FPIs to be rationalized and simplified to make it more investor-friendly.



Rates of Income Tax: -

The table below shows the Income slabs and the corresponding Income Tax rates for Individual/ Hindu Undivided Family, applicable for Assessment Year 2020-21:-

All Resident Assessee and All Non –Resident Assessee (Less than 60 years): -

Income	Existing Slab of Income Tax Rate (AY 2019-20)	Proposed Slab of Income Tax Rate (AY 2020-21)
Upto ₹ 2,50,000	NIL	NIL
₹ 2,50,001 - ₹ 5,00,000	5%	5%
₹ 5,00,001 - ₹ 10,00,000	20%	20%
Above ₹ 10,00,000	30%	30%

Resident Senior Citizen (60 years or more but less than 80 years): -

Income	Existing Slab of Income Tax Rate(AY 2019-20)	Proposed Slab of Income Tax Rate (AY 2020-21)
Upto ₹ 3,00,000	NIL	NIL
₹ 3,00,001 - ₹ 5,00,000	5%	5%
₹ 5,00,001 - ₹ 10,00,000	20%	20%
Above ₹ 10,00,000	30%	30%



Resident Very Senior Citizen (80 years or more): -

Income	Existing Slab of Income Tax Rate (AY 2019-20)	Proposed Slab of Income Tax Rate (AY 2020-21)
Upto ₹ 5,00,000	NIL	NIL
₹ 5,00,001 - ₹ 10,00,000	20%	20%
Above ₹ 10,00,000	30%	30%

The table below shows the **Surcharge rate** for Individual/ Hindu Undivided Family applicable for Assessment Year 2020-21: -

Income Limit	Existing Slab of Income Tax Rate (AY 2019-20)	Proposed Slab of Income Tax Rate (AY 2020-21)
Upto ₹50,00,000	NIL	NIL
₹50,00,001 - ₹1,00,00,000	10%	10%
₹1,00,00,001 - ₹2,00,00,000	15%	15%
₹2,00,00,001 - ₹5,00,00,000	15%	25%
₹5,00,00,001 and above	15%	37%

Health and Education Cess for all types of assessees: -

Types of Cess	For AY 2019-20	For AY 2020-21
Health and Education Cess	4%	4%
TOTAL	4%	4%

Note: A resident individual is entitled to rebate u/s 87A if his total income does not exceed ₹ 5 lakhs. The amount of rebate shall be 100% of Income Tax or ₹ 12,500, whichever is less.

Above amendments shall come into force from AY 2020-21 onwards.



For Domestic Company: -

- I. The table below shows the Income Tax rates for Assessment Year 2020-21 for Domestic Company:

Turnover Limit	Existing Slab of Income Tax Rate (%) (AY 2019-20)				Proposed Slab of Income Tax Rate (%) (AY 2020-21)			
	Tax	Sur.	H and E Cess	Eff. Rate	Tax	Sur.	H and E Cess	Eff. Rate
A.	INCOME UP TO ₹1 CR.							
Up to ₹50 cr.	25.00	NIL	4.00	26.00	25.00	NIL	4.00	26.00
₹ 50 cr. to ₹ 250 cr.	25.00	NIL	4.00	26.00	25.00	NIL	4.00	26.00
₹250 cr. to ₹ 400 cr.*	30.00	NIL	4.00	31.20	25.00	NIL	4.00	26.00
Above ₹ 400 cr.*	30.00	NIL	4.00	31.20	30.00	NIL	4.00	31.20
B.	INCOME ABOVE ₹ 1 CR. BUT LESS THAN ₹ 10 CR.							
Up to ₹50 cr.	25.00	7.00	4.00	27.82	25.00	7.00	4.00	27.82
₹ 50 cr. to ₹250 cr.	25.00	7.00	4.00	27.82	25.00	7.00	4.00	27.82
₹250 cr. to ₹ 400 cr.*	30.00	7.00	4.00	33.38	25.00	7.00	4.00	27.82
Above ₹ 400 cr.*	30.00	7.00	4.00	33.38	30.00	7.00	4.00	33.38
C.	INCOME ABOVE ₹ 10 CR.							
Up to ₹ 50 cr.	25.00	12.00	4.00	29.12	25.00	12.00	4.00	29.12
₹ 50 cr. to ₹250 cr.	25.00	12.00	4.00	29.12	25.00	12.00	4.00	29.12
₹ 250 cr. to ₹ 400 cr.*	30.00	12.00	4.00	34.94	25.00	12.00	4.00	29.12
Above ₹ 400 cr.*	30.00	12.00	4.00	34.94	30.00	12.00	4.00	34.94

*Turnover to be checked that of Financial Year 2017-18.

➤ **How to Calculate Turnover?**

Calculation of Turnover is not defined in the Statute and hence in our opinion, for the purpose of calculation of turnover of ₹ 400 crores in Financial Year 2017-18, it will be calculated in the same manner as specified in Guidance note on Tax Audit under Section 44AB of the Income Tax Act, 1961.



- II. The table below shows the Regular and MAT Income Tax rates for Assessment Year 2020-21 (Other than those covered in option I): -

Type of Assessee	Existing Slab of Income Tax Rate (%) (AY 2019-20)				Proposed Slab of Income Tax Rate (%) (AY 2020-21)			
	Tax	Sur.	H and E Cess	Eff. Rate	Tax	Sur.	H and E Cess	Eff. Rate
A.	INCOME UP TO ₹ 1 CR.							
MAT for Company [#]	18.50	NIL	4.00	19.24	18.50	NIL	4.00	19.24
MAT for Company ^{\$}	9.00	NIL	4.00	9.36	9.00	NIL	4.00	9.36
B.	INCOME ABOVE ₹ 1 CR. BUT LESS THAN ₹ 10 CR.							
MAT for Company [#]	18.5	7.00	4.00	20.59	18.5	7.00	4.00	20.59
MAT for Company ^{\$}	9.00	7.00	4.00	10.02	9.00	7.00	4.00	10.02
C.	INCOME ABOVE ₹ 10 CR.							
MAT for Company [#]	18.5	12.00	4.00	21.55	18.5	12.00	4.00	21.55
MAT for Company ^{\$}	9.00	12.00	4.00	10.48	9.00	12.00	4.00	10.48

[#] Domestic Company other than Company being a Unit located in IFSC deriving its income wholly in convertible forex;

^{\$} Domestic Company being a Unit located in IFSC deriving its income wholly in convertible forex.



III. For Other Assessee (other than Domestic Company)

The table below shows the Income Tax rates for Assessment Year 2020-21 for Other Assessee (other than Domestic Company): -

Type of Assessee	Existing Slab of Income Tax Rate (%) (AY 2019-20)				Proposed Slab of Income Tax Rate (%) (AY 2020-21)			
	Tax	Sur.	H and E Cess	Eff. Rate	Tax	Sur.	H and E Cess	Eff. Rate
A.	INCOME UP TO ₹ 1 CR.							
a) Firm/LLP								
-Regular Tax	30.00	NIL	4.00	31.20	30.00	NIL	4.00	31.20
-AMT	18.5	NIL	4.00	19.24	18.5	NIL	4.00	19.24
b) Foreign Co.								
-Regular Tax	40.00	NIL	4.00	41.60	40.00	NIL	4.00	41.60
B.	INCOME ABOVE ₹1 CR. BUT LESS THAN ₹ 10 CR.							
a) Firm/LLP								
-Regular Tax	30.00	12.00	4.00	34.94	30.00	12.00	4.00	34.94
-AMT	18.5	12.00	4.00	21.55	18.5	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	2.00	4.00	42.43	40.00	2.00	4.00	42.43
C.	INCOME ABOVE TO ₹10 CR.							
a) Firm/LLP								
-Regular Tax	30.00	12.00	4.00	34.94	30.00	12.00	4.00	34.94
-AMT	18.5	12.00	4.00	21.55	18.5	12.00	4.00	21.55
b) Foreign Co.								
-Regular Tax	40.00	5.00	4.00	43.68	40.00	5.00	4.00	43.68



Transfer of Property and liabilities by a demerged Company at value other than the book value of the Demerged Company [Insertion of proviso to sub-clause (iii) of Section 2(19AA) of the Act]:-

Section 2(19AA) provides the definition of "demerger" wherein the sub-clause (iii) states that the Property and the liabilities of the undertaking(s) should be transferred by the demerged Company to the resulting Company at **values appearing in its books of account** of Demerged Company immediately before the demerger.

It was brought to the notice of Government that there is a conflict between Provisions of Section 2(19AA) of the Act and Ind AS applicable to certain Companies. The same is explained below:

Particulars	As per IND AS 103 - Business Combinations	Existing Provisions of Section 2(19AA) of the Act	Proposed Provisions of Section 2(19AA) of the Act
Value at Which transfer of property and liabilities from demerged Company to resulting Company	At Fair Value	At Book Value of demerged Company	At Fair Value

The amendment by way of insertion of PROVISIO in Section 2(19AA) is Proposed so as to remove the above conflict; so that IND AS and Section 2(19AA) are at parity.

With this amendment, all the Companies to which Ind AS is applicable can go ahead with the plans of demerger so that benefits of 'No Capital Gain' [47(vicc) and 47(vid)] and carry forward and set off of loss (Section 72A) are available.

Above amendment shall come into force from AY 2020-21 onwards.



Additional condition for granting registration to charitable trusts and cancellation of Registration of Charitable Trusts/ Institutions [Amendment in clause (a) and (b) of sub-section (1) of Section 12AA and Insertion of clause (b) to sub-section (4) Section 12AA of the Act]

Section 12AA deals with granting of registration or cancellation of an existing registration of a charitable institution by The Principal Commissioner or Commissioner.

There are certain **Other Laws** in force (For e.g.-: Maharashtra Public Trust Act, Societies Registration Act etc.) which have laid down various **compliances and requirements that have to be fulfilled by the Trust/Institution** in order to obtain Registration under such Act. If the Trust/ Institution does not comply with these requirements and compliances of the said other laws then their Registration may be cancelled under such Other Laws.

However, presently, there is **no nexus** of Compliances under any other law with the Provisions of the Income Tax Act, 1961. Hence as per the existing Provisions, it is possible to continue the Registration under u/s 12AA of the Act even though the compliance requirements **of any Other Law** are not fulfilled by the concerned Trust/ Institution.

In order to **bring Parity and harmony between other laws and the Income Tax Act, 1961**, it is now Proposed that the Principal Commissioner/Commissioner shall also look into the compliance of requirements of any other law by Trust/Institution in order to satisfy himself about the genuineness of activities of the Trust/Institution before granting registration under Section 12AA.

Also, it is further Proposed that if any Trust/ Institution has **already been granted registration** under section 12AA but it is now found by the Principal Commissioner/Commissioner that there is **non-compliance** with the requirements mentioned under the other laws then he can order for the **cancellation of such registration based on such non-compliances under other laws**.



Amendments in Section 12AA of the Act are tabulated as under: -

Under Section 12AA	Upto AY 2019-20	AY 2020-21 Onwards
Requirements for granting Registration	a) Commissioner may call for such documents or information necessary for satisfying the genuineness of the activities of the Trust/ Institution.	a) Commissioner may call for such documents or information necessary for satisfying the genuineness of the activities of the Trust/ Institution. b) Check for the compliances with the requirements under any other law for the time being in force.
Cancellation of existing Registration	a) The Trust/ Institution is carrying out activities in such a manner that are not in accordance with the Provisions applicable to Charitable Trusts under Income Tax Act, 1961.	a) The Trust/ Institution is carrying out activities in such a manner that are not in accordance with the Provisions applicable to charitable trusts. b) Non-compliance with the requirements as mentioned under any other law in force.

Above amendment shall come into force from 1st day of September 2019.



Change in conditions of Eligibility of Investment Fund [Amendment to Section 9A of the Act]

At Present, Section 9A of the Act Provides that fund management activity carried out through an eligible fund manager by an eligible investment fund (EIF) are not Considered as constituting business connection in India and accordingly not liable to tax in India.

Existing Provisions of section 9A (3) of the Act provides for the conditions to be fulfilled for being an eligible investment fund. Certain stringent conditions contained in existing Section 9A (3) of the Act, proposed to be relaxed, are tabulated below: -

Particulars	Upto AY 2019-20	AY 2020-21 Onwards
Monthly Average of Corpus	Not less than Rs. 100 crores	Not less than Rs. 100 crores
Monthly Average Corpus To be checked at	In case of Newly Formed Funds or Existing Funds in any Previous year As on last day of such previous year	In case of Newly Formed Funds or Existing Funds in any previous year A. At the end of six months from last day of the month in which fund is established or incorporated OR B. As on last day of previous year Whichever is Later.
Computation of Remuneration of Fund manager	At Arm's Length Price	Amount calculated in such manner as may be Prescribed

With Above Proposed Amendment in Section 9A of the Act such newly formed EIF will get minimum 6 months to raise required 100 Crores.

Above amendment shall come into force from AY 2019-20 onwards.



**Deemed accrual of Income out of gifts made to a person outside India
[Insertion of clause (viii) to Section 9(1) of the Act]**

Section 9 of the Act relates to Incomes deemed to accrue or arise in India. Even Non-Residents are liable to pay tax on such incomes which are deemed to accrue or arise in India.

Under the existing Provisions of the Act, any sum of money is received or property situated in India, is received by a person without consideration or with inadequate consideration will be taxed in the hands of the recipient as an income except for certain exemptions provided in section 56(2)(x) of the Act.

It has been found that gifts are given by residents to persons who are outside India and are claimed to be non-taxable in India as **the acceptance of gift takes place outside India due to which no income can be said to have accrued or arisen in India.**

In order to ensure that such gifts made to person outside India are also liable to tax in India, it is Proposed to insert section 9(1)(viii) of the Act wherein it is provided that any sum of money is received or Property situated in India is received **on or after 5th day of July, 2019** by a person outside India without consideration or with inadequate consideration shall be deemed to accrue or arise in India and hence shall be taxed u/s 56(2)(x) of the Act.

As regards recovery of Tax from a Person outside India on the transaction of Gift u/s 9(1)(viii) as referred above, one has to examine existing Provisions of Section 195 of the Act.

Existing Provisions of section 195(1) of the Act Provides that tax is to be deducted by a person who makes a payment to a Non-Resident, of Income which is taxable in India, at the rates in force which is liable to tax in India.

However, in case of a transfer of property no payment is being made. Hence it can be argued that no tax is to be deducted in case of transfer of property. On the other hand, there could be another interpretation that transfer of property is deemed payment and hence tax should be deducted. The matter is not free from doubt.



Consequential amendment in section 195 of the Act is necessary to provide mechanism to recover tax arising out of above transaction from person outside India thereby clarifying the above doubt.

Above amendment shall come into force from AY 2020-21 onwards.

Exemption of interest income in the hands of Non-Resident arising from borrowings by way of issue of Rupee Denominated Bonds by Specified COMPANY [Insertion of clause 4C in Section 10]

Section 10 of the Act deals with incomes which are not taxable in the hands of the assessee.

In Existing Provisions of section 194LC of the Act provides that the interest 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 liable to TDS at a concessional rate of 5%.

In order to **incentivise low cost foreign borrowings through Off-shore Rupee Denominated Bond**, the Press Release dated 17th September, 2018, inter alia, announced that interest payable by an Indian Company or a business trust to a Non-Resident, including a Foreign Company, in respect of Rupee Denominated Bond issued outside India during the period from September 17, 2018 to March 31, 2019 shall be exempt from tax. Consequently, **no tax is required to be deducted on the payment of interest by Specified Company on the said bond.**

The exemption announced through the said Press Release is Proposed to be incorporated in the law by inserting new Section 10 of the Act so as to provide exemption to interest payable 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, during the period beginning from 17th day of September, 2018 and ending on 31st day of March, 2019.



Salient features of the Proposed amendment are tabulated below: -

Eligible Period of borrowing money	From 17 th September, 2018 to 31 st March, 2019
Eligible borrowing from	Any source outside India
Eligible Issue of	Rupee Denominated Bond
Eligible borrowing by	Indian Company or a business trust
Income to be excluded from Total Income	Interest payable to Non-Resident not being a Company, or to a Foreign Company)

There should have been a corresponding amendment in section 194LC of the Act for exclusion of the above-mentioned income being liable for TDS as it is conflicting with the insertion of the above section 10(4C) of the Act.

It is expected that such amendment may be incorporated before Finance Bill, 2019 is passed in the Parliament.

Above amendment shall come into force from AY 2020-21 onwards.

Incentives to National Pension System (NPS) subscribers [Amendment in clause 12A of section 10 of the Act]

Under the existing Provisions of section 10 of the Act, any payment from the NPS Trust to an assessee on closure of his account or on his opting out of the pension scheme, to the extent it does not exceed forty per cent of the total amount payable to him at the time of such closure or on his opting out of the scheme, is exempt from tax.

With a view to enable the pensioner to have more disposable funds, it is Proposed to amend the said section so as to **increase the said exemption from 40% to 60%** of the total amount payable to the person at the time of closure or his opting out of the scheme.



Particulars	Upto AY 2019-20	AY 2020-21 onwards
Payment received from	National Pension System	National Pension System
Payment received on	a) closure b) opting out of the scheme	a) closure b) opting out of the scheme
Exemption	40% of Total amount payable	60% of Total amount payable

Above amendment shall come into force from AY 2020-21 onwards.

Incentives to International Financial Services Centre (IFSC) [Insertion of sub-clause (ix) to clause 15 of Section 10]

Section 10 deals with incomes which are not taxable under the Act.

In order to encourage Units to set up their businesses in International Finance Service Centre (IFSC), it was necessary to encourage foreign Investment into such units located in IFSC.

Accordingly, now it is Proposed to provide Exemption to 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 1st day of September, 2019.

This is made with a view to facilitate external borrowing by units located in IFSC.

Above amendment shall come into force from AY 2020-21 onwards.

Provisions Relating to Business expenditure not deductible if the TDS applicable therein is not deducted or paid [Amendment in the provisions of Section 40(a)(i) and 40(a)(ia) of the Act]

At Present, 40(a)(i) governs disallowance of 100% of expenditure which is payable outside India or to a Non-Resident or to a Foreign Company in case there is failure to deduct tax at source or after deduction the tax has not been paid before due date of filing income tax return.

Similarly, provisions of Section 40(a)(ia) of the Act governs disallowance of 30% of expenditure which is payable to a Resident Payee in case there is failure to



deduct tax at source or after deduction the tax has not been paid before due date of filing income tax return.

In the Existing Provisions of 40(a)(ia) of the Act applicable for payments to Resident Payee. There is a provision that no disallowance of expenditure will be applicable as assessee shall be deemed to be not in default if such assessee furnishes following: -

- Return of Income of Resident payee wherein the amount paid by the assessee is taken into account while computing his income.
- Such Resident Payee has paid tax due on income declared in such return of income.
- A certificate from the Chartered Accountant of the Resident Payee confirming the above facts.

In the Existing Section 40(a)(i) of the Act applicable to payments outside India or to a Non-Resident or to a Foreign Company no such provision exists of no disallowance of expenditure will apply if assessee furnishes documents in the same manner as that of Section 40(a)(ia) of the Act as explained above.

Accordingly, it is now proposed to introduce similar provision in 40(a)(i) of no disallowance of expenditure on the same line as that contained in Section 40(a)(ia) of the Act as explained above.

Consequential amendments are Proposed to be made in Section 201 of the Act by providing that if assessee furnishes documents as mentioned above than the assessee shall be deemed to be not in default irrespective whether payments are made to Resident payee or to Non-Resident Payee or Foreign Company.

Above amendment shall come into force from AY 2020-21 onwards.



Eligibility of Electronic Modes of payments [Amendment in section 13A, 35AD, 40A, 43, 43CA, 44AD, 50C, 56(2) (x), 80JJAA, 269SS, 269T, 269ST of the Act]: -

At present, Income tax act discourages cash as a mode of payment via various Provisions. This is achieved by **disallowing** the expenditure incurred by way of cash payments. Following methods are permissible mode of payments in order to claim expenditure or to avoid penal permission under the law: -

- Account Payee Cheque
- Account Payee bank draft
- ECS Through Bank Account

However, at present there is no legal Provision to allow digital payments as permissible mode of payment.

Now, the Legislature proposes to allow digital payments as a mode of payment for various Provisions of the Act by adding the words "bank account or through such other electronic mode as may be prescribed". In all now following modes of payments are allowed. It is now proposed to allow "other Electronic mode which will be notified soon" alongwith to above permissible mode.

*Other electronic modes of payment could be Various Digital Wallets Like paytm, BHIM, amazon pay, google pay, UPI payments etc.

Transactions where such other electronic mode are Proposed to be allowed in the statute are as follows: -

Sr. No.	Section	Nature of Payment/ Receipt
1	13A	Receipt of donations exceeding Rs. 2,000/- by political parties.
2	35AD	Payment for any expenditure exceeding Rs. 10,000/- made to single person by assessee's carrying on Specified Businesses.
3	40A	Payment to a single person in a day for any expenditure exceeding Rs. 10,000/- by any assessee.



Sr. No.	Section	Nature of Payment/ Receipt
4	43	Payment for acquiring asset to a person in a single day exceeding Rs. 10,000/- by any Assessee.
5	43CA	Asset held as stock in trade = Land and Building Full Value of consideration = Stamp duty value as on the date of agreement if the consideration is paid via above modes of payments before registration of agreement.
6	44AD	Presumptive rate of Business Income to be 6% if all the receipts of business are via above eligible modes.
7	50C	Capital Asset = Land and Building Full Value of consideration = Stamp duty value as on the date of agreement if the consideration is paid via above modes of payments before registration of agreement.
8	56(2)(x)	Capital Asset = Any Immovable property Full Value of consideration = Stamp duty value as on the date of agreement if the consideration is paid via above modes of payments before registration of agreement.
9	80JJAA	Payment of wages to employee shall be via above modes of payments for eligibility of deduction
10	269SS	Receipt of loan or deposit or any specified sum of Rs. 20,000 or more.
11	269T	Repayment of loans or deposit made with banking company or co-operative bank or other company or co-operative society or firm or other person for amount of Rs.20,000 or more.
12	269ST	Receipt of amount of Rs. 2,00,000/- or more in aggregate from a person in a day or in respect of single transaction or in respect of transactions relating to one event or occasion from a person.

Above amendment shall come into force from AY 2020-21 onwards.



Allowing Interest paid to NBFCs as expenditure only on payment [Insertion of Clause (da) to section 43B of the Act]: -

Nowadays, there is growing rate of default in repayment of loans including interest to banks and NBFCs. At present, there is no disallowance of outstanding interest to NBFCs u/s 43B of the Act in respect of loan taken From NBFC by business entity whereas interest on loan taken from banks is allowed only on payment basis.

The Government seeks to protect the interest of NBFCs in the larger public interest. In order to penalize defaulters in payments to NBFCs, it is now Proposed to amend section 43B of the Act so as to allow interest paid to NBFC as a business expenditure only on payment basis. In other words, Interest to Banks and Financial institutions together with NBFC are both brought on parity for the purpose of claiming interest expenditure in the hands of borrower.

The interest expenditure considered in earlier years on accrual basis but was NOT paid in year in which it was claimed will NOT be allowed again on payment basis.

Above Amendment shall come into force from AY 2020-21 onwards.

Taxability of Interest income of NBFCs [Amendment to section 43D of the Act]: -

In Recent times, there is huge liquidity problem faced by NBFC(s) as banks have slowed down credit facilities to NBFC(s). So, it is necessary to provide some tax relief to NBFC(s) in parity with other banks and financial institutions.



The Salient features of amendment Proposed in Section 43D of the act are tabulated as below: -

Particulars	Existing Provisions upto AY 2019-20	AY 2020-21 Onwards
Eligible Assessee	Public financial institutions, scheduled banks, cooperative banks, State financial corporations, State industrial investment corporations and public companies like housing finance companies	Public financial institutions, scheduled banks, cooperative banks, State financial corporations, State industrial investment corporations, public companies like housing finance companies and specified NBFCs
Type of Income	Interest income	Interest income
Year of Taxation	A. Financial Institutions and Banks in the year of credit to Profit and Loss account OR in the year of receipt of interest whichever is earlier B. Specified NBFCs On Accrual Basis	For All In the year of credit to Profit and Loss account OR In the year of receipt of interest whichever is earlier

Above Amendment shall come into force from AY 2020-21 onwards.



Relaxation in proportion of investment and lock in period for holding Capital Asset [Amendment to section 54GB of the Act]: -

At Present, Section 54GB of the Act provides exemption from Capital Gain on Sale of Residential Property in case assessee has invested net consideration on sale of residential property in equity share capital of an eligible Start-up Company (minimum 51% of equity to be held by assessee) and said Startup Company has invested said proceeds of shares for purchase of new Plant and Machinery. There is a lock in of 5 years for sale of equity shares by assessee and sale of Plant and Machinery by eligible Start-up Company.

Part C of Schedule II of Companies Act, 2013 provides useful life of Computers and Computer software as 3 years for the purpose of charging depreciation in the books of accounts as per Companies Act, 2013. In other words, it recognizes the fact that Information Technology changes rapidly and hence Computers become obsolete after 3 years.

However, in case of Investment by Start-up Companies, in Computers and Computers Software, the Startup Company cannot sell the same for 5 years as otherwise exemption u/s 54GB shall be withdrawn in the hands of investor assessee. In other words, Start-up Companies will have to continue to use said Computer and Computer software even after they become obsolete for approximately 2 years, as lock in period provided u/s 54GB is 5 years.

Thus, there was a conflict in the Provisions of Section 54GB when compared with Companies Act, 2013.

It is therefore Proposed that Section 54GB be amended so as to reduce the lock in period for holding Computer and Computer Software by Startup Company from 5 years to 3 years which is in line with Schedule II of Companies Act, 2013.



Amendments in Section 54GB are tabulated as under: -

Particulars	Existing Provisions upto AY 2019-20	Proposed Amendments from AY 2020-21 onwards
Sunset Clause	The gain from Residential Property are eligible for deduction only upto 31 st March, 2019	The gain from Residential Property are eligible for deduction upto 31 st March, 2021
Minimum Equity Investment Required by Assessee in eligible Start-up Company	More than 50%	More than 25%
Lock in period for acquired asset by Startup Company being Computer or Computer software	5 Years	3 Years

Above Amendment shall come into force from AY 2020-21 onwards.

Exclusion of Certain class of persons from applying Method of computing FMV of Unquoted Shares [Amendment to section 50CA and Section 56(2)(x) of the Act]: -

The existing Provision of Section 50CA provides that in case actual consideration on the transfer of equity shares of a Private Limited Company is less than FMV, then FMV shall be deemed to be full value of consideration received for the purpose of computing Capital Gain in the hands of seller.

At present, there is no exemption for any class of assessee or transactions from rigor of Section 50CA of the Act.

It is now Proposed to notify certain class of persons or transactions to whom Section 50CA will not apply. Board will come out with the circular in this regard at a later date.



At Present, Section 56(2)(x) deals with Receipt of money or Property for no consideration or for inadequate consideration shall be taxed in the hands of recipient to the extent such benefits obtained.

Similar, amendment is Proposed to be made in section 56(2)(x) of the Act in line with Section 50CA of the Act to carve out certain class of persons or transactions from applicability of section 56(2)(x) of the Act.

Above Amendment shall come into force from AY 2020-21 onwards.

Amendments in 56(2) of the Act relating to Income from Other Sources: -

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

- At present, Section 56(2)(viib) of the Act provides for taxability of the excess consideration received for issue of shares by certain Companies (other than Public Limited Companies), over fair market value of such shares.
- Promoters of Start-up Companies raising capital from registered Alternative Investment Fund (AIF) were unable to match the price at which share capital is issued to such financing partners (AIF) in their JV Start-up Companies as Promoter's Contribution to the Start-up Companies is in the form of technology. Hence it was necessary to exempt capital raised from such AIFs from the rigour of taxability of such excess consideration over and above fair valuation in the hands of Start-up Companies together with following existing categories of financing Partners.
 - Venture Capital undertaking from a Venture Capital Company or a venture Capital Fund;
 - Company as may be notified by the Central Government.
- It is accordingly now Proposed to add following categories in the list of exemption, from taxability of Excess Consideration as mentioned above, on the condition that these entities are regulated under SEBI (Alternative Investment Fund) Regulations, 2012 and which has been granted a certificate of Registration as Category II Alternative Investment Fund (AIF).



- A Trust established under the Indian Trusts Act, 1882 or under any other law in force
- A Company
- A Limited Liability partnership
- A Body Corporate

Above amendment shall come into force from AY 2020-21 onwards.

Treatment of interest received on compensation or on enhanced compensation

With a view to provide parliamentary accent and constitutional validity to the ICDS, in the wake of judgment of High Court of Delhi on the issue of applicability of ICDS, various sections of the Act were amended and inserted in Finance Act, 2018 to give effects of various Provisions of ICDS at par with Provisions of Income Tax Act only.

One such amendment in Finance Act, 2018 pertained to the treatment of interest received on compensation or on enhanced compensation, which was moved from Section 145A(b) to Section 145B(i) in the Finance Act, 2018. However, consequential amendment in section 56(2)(viii), treating such income as income from other sources to be taxed in the year of receipt, was not carried out through oversight.

Accordingly, it is Proposed to substitute the correct Section 145B(i) in place of Section 145A(b) for such income in the Proposed amendment to Section 56(2)(viii) of the Act.

Above amendment shall come into force from AY 2017-18 onwards.



Carry forward and set off of losses in case of certain Companies [Substitution of section 79 of the Act]

Section 79 of the Act provides conditions for carry forward and set off of losses in case of Companies **other than Listed Companies**.

To further facilitate ease of doing business in the case of an eligible Start-up Companies, it is Proposed to amend section 79 so as to allow eligible Start-up Companies to carry forward and set off the loss on satisfaction of either of the 2 conditions stipulated herein below.

The Proposed Amendment is tabulated below: -

Type of Companies	Conditions as per Existing Provisions	Conditions as per Proposed Amendments
Other than eligible Start-up Companies	At least 51% of shares of the Company held by Promoters on the last day of previous year in which loss is incurred is continued on the last day of the year in which loss is Proposed to be setoff	No Change
Eligible Start-up Companies as referred to in Section 80-IAC	Shareholding of the Promoters as on the last day of previous year in which loss is incurred remains unchanged when compared with their shareholding as on the last day of the year in which loss is Proposed to be set off. (only one condition had to be fulfilled)	At least 51% of shares of the Company held by Promoters on the last day of previous year in which loss is incurred is continued on the last day of the year in which loss is Proposed to be setoff OR Shareholding of the Promoters as on the last day of previous year in which loss is incurred remains unchanged when compared with their shareholding as on the last day of the year in which loss is Proposed to be set off (any one Condition to be fulfilled)



This can also be explained through the following illustration: -

Particulars	As on 31-03-2017 [Year of Loss]		As on 31-03-2020 [Year of Set off of Loss]	
	No. of Shares held	% of Shareholding	No. of Shares held	% of Shareholding
PROMOTERS				
Technology Partner	5,000	50%	5,000	25%
Finance Partner	5,000	50%	5,000	25%
Total share of Promoters	10,000	100%	10,000	50%
NEW PARTNERS				
New Finance Partners	-	-	10,000	50%
Total	10,000	100%	20,000	100%

In above case, in the year of set off of losses (i.e. in AY 2020-21), the Start-up Company is not fulfilling condition of minimum shareholding of 51% of original shareholding as on 31-03-2017. (1st condition not fulfilled)

However, since shareholding of the Promoters as on 31-03-2017 (year of Loss) is same as that of holding as on 31-03-2020 (year of Setoff), Startup Company will still be eligible to set off the loss in AY 2020-21. (2nd condition fulfilled)

Tax Incentive for affordable housing [Insertion of Section 80EEA-Deduction in respect of interest on loan taken for certain property]: -

Presently Provisions of Section 80EE of the Act, provides for deduction on interest on housing loan sanctioned during the period 1st April 2016 to 31st March 2017.

A new section 80EEA is Proposed to be introduced for first home buyers who are not eligible to claim deduction under section 80EE of the Act.



Salient features of Proposed Section 80EEA together with its comparison with existing section 80EE and Deduction u/s 24(b) is tabulated as follows:

Particulars	Section 24(b)	Section 80EE	Section 80EEA
Qualifying Assessee	Any Assessee	1st House Buyer	1st House Buyer
Qualifying House	Residential or Commercial HP	Any Residential House	Any Residential House
No. of House	2 Residential Houses w.e.f. AY 2020-21 or 1 Commercial Property	1 Residential House	1 Residential House
Assessment Year	Any AY 2000-01 onwards	Any AY 2017-18 onwards	Any AY 2020-21 onwards
Deduction of Interest on loan taken for the period for which Property is under Construction	Deduction of such interest allowed in 5 equal instalment commencing from the year in which possession is received	Deduction of such interest is allowed in the same year even if property is under construction	Deduction of such interest is allowed in the same year even if property is under construction
Amount of Deduction	Interest paid subject to max. of Rs. 2,00,000/- in respect of Self Occupied Property.	Interest paid subject to max. Rs.50,000/- for the relevant AY	Interest paid subject to max. Rs.1,50,000/- for the relevant AY
Construction should be completed	within 5 years	No such condition	No such condition
Restriction of purchase price of property to qualify for deduction	No Restriction	Not Exceeding Rs. 50 lacs	Not Exceeding Rs. 45 lacs
Restriction on Amount of Loan	No Restriction	Not Exceeding Rs. 35 Lacs	No Restriction



Particulars	Section 24(b)	Section 80EE	Section 80EEA
Restriction of year of Sanction of Loan	No Restriction	1st April 2016 to 31 st March 2017	1st April 2019 to 31 st March 2020
For same interest paid, whether deduction can be claimed u/s 24, u/s 80EE and 80EEA	No	No	No
Eligible Lenders	Any Lender including private parties	Any Bank or Housing Financial Companies	Any Bank or Housing Financial Companies

Illustration explaining the benefits of combined effect of 80EEA with 24(b) as per the Proposed amendment is as under:

FACTS

1. The cost of the Residential flat purchased by an Individual Assessee is Rs. 40 Lakhs.
2. Loan taken by for purchase of above Property is Rs. 35 Lakhs.
3. Interest paid on the above loan in a year is Rs. 3,50,000/-

Said individual assessee can claim deduction u/s 24(b) of Rs. 2,00,000/- and Deduction u/s 80EEA of Rs. 1,50,000/-. Thus, total deduction eligible shall be Rs. 3,50,000/- as against Rs. 2,00,000/- as per the existing Provisions.

Above amendment shall come into force from AY 2020-21 onwards.



Tax incentive for electric vehicles [Insertion of Section 80EEB- Deduction in respect of purchase of electric vehicle]: -

As per existing Provisions in the Act, no benefits were given in respect of purchase of electric vehicle by Individual Assessee.

Recently, Delhi and other States are facing serious problem of Air Pollution due to influx of Petrol and Diesel vehicles on the road. Such vehicles emit high degree of chemicals thereby leading to unacceptable level of air pollution.

In order to encourage Individuals to buy electric vehicles instead of petrol or diesel vehicles, it is now Proposed to allow deduction of interest payable on loan taken to buy electric vehicles. The details of such deduction are tabulated below:

Particulars	Eligibility and details of Deduction
Qualifying Assessee	Individual
Qualifying Asset Purchased	Electric Vehicle (powered exclusively by an Electric Motor)
Quantum of Deduction of Interest	Maximum Rs.1,50,000/-
Period of Sanction of Loan	1 st April,2019 to 31 st March 2023
Eligible Lender	Financial Institution: <ul style="list-style-type: none">➤ Any Bank➤ Deposit taking NBFC➤ Systemically important non-deposit taking NBFC.

Above amendment shall come into force from AY 2020-21 onwards.

Amendment of Section 80-IBA [Deductions in respect of profits and gains from housing projects]

With a view to align the definition of “affordable housing” under section 80-IBA with the definition under GST Act, it is Proposed to amend the said section so as to modify certain conditions regarding the housing project approved **on or after 1st day of September, 2019.**

Comparison vis-à-vis certain existing conditions and Proposed amendments with regard to said conditions is as follows:



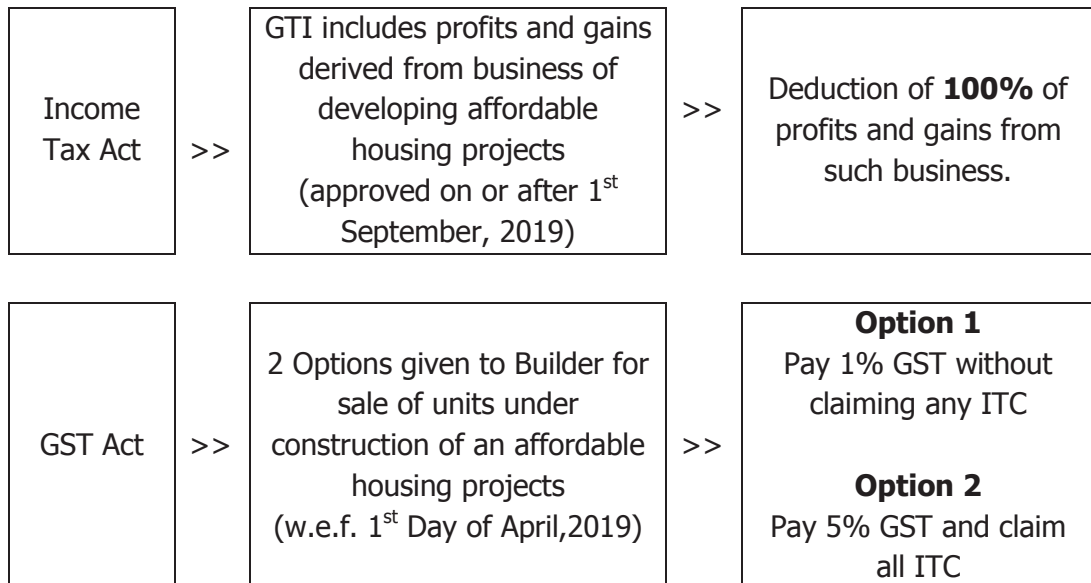
Conditions	Existing Provisions	Proposed Amendment
Period of project approval	01-06-2016 to 31-03-2019	01-06-2016 to 31-03-2020 [amended through Interim Budget]
Completion of Project	5 years from date of approval by competent authority	Not Changed
Carpet Area of Shop and other Commercial Establishment	Upto 3% of Aggregate carpet area	Not Changed
Measure of Plot of Land	<ul style="list-style-type: none"> ➤ Metropolitan Cities- 1000 Sq. Mtr. ➤ Any other Place- 2000 Sq. Mtr. 	Not Changed
No. of Housing Project on the Plot of Land	One	One
Carpet area of residential units	<ul style="list-style-type: none"> ➤ Metropolitan Cities- 30 Sq. Mtr. ➤ Any other Place- 60 Sq. Mtr. 	<ul style="list-style-type: none"> ➤ Metropolitan Cities- 60 Sq. Mtr. ➤ Any other Place- 90 Sq. Mtr.
Stamp Duty Value of Residential Unit	No Restriction	Maximum Rs.45 Lacs
Restriction on no. of units that can be purchased by a buyer in the same project	If allotted a unit to an individual then no allotment to spouse or minor children of individual in the same project	Not Changed
GTI Floor area ratio in respect of plot of land	<ul style="list-style-type: none"> ➤ Metropolitan Cities- Minimum 90% ➤ Any other Cities- Minimum 80% 	Not Changed



Conditions	Existing Provisions	Proposed Amendment
Maintenance of Books of Accounts	Separate in respect of housing projects	Not Changed
Metropolitan Cities	Chennai, Delhi, Kolkata, Mumbai.	Bengaluru, Chennai, Delhi National Capital Region (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of Mumbai Metropolitan region)

Above amendment shall come into force from AY 2020-21 onwards.

A bird's eye view on dual benefit under Income Tax Act and GST on affordable housing projects:





MAT Applicability to Companies [Amendment in Section 115JB of the Act]

Existing Provision u/s 115JB, states the following with regard to allowability of b/f depreciation and unabsorbed losses in the hands of Companies: -

A) For Normal Companies-

Amount of loss brought forward

OR

Amount of unabsorbed depreciation

whichever is less is deducted while calculating "Book Profit" under Section 115JB.

B) For Companies whose application for Corporate Insolvency Resolution has been admitted-

Aggregate amount of unabsorbed depreciation and loss brought forward is deducted while calculating "Book Profit" under Section 115JB.

It is now Proposed, to extend the above benefit of **deduction of aggregate amount** of unabsorbed depreciation and loss brought forward from Book Profit, also to **Companies, its downstream Subsidiaries where Central Govt. has made an Application to NCLT for replacing existing Board of Directors with the new Board.**

The above amendment shall come into force from AY 2020-21 onwards.



Compulsory filing of Income Tax Return in case of Capital Gains [Amendment to Section 139 of the Act]

- As per the existing Provisions contained in 6th Proviso to Section 139(1) of the Act, an Assessee not being a Firm or a Company shall have to mandatorily furnish Return of Income if his total Income before giving effect of following Deduction/ Exemption exceeds Minimum Taxable Amount: -
 - Exemption u/s 10(38)
 - Deduction u/s 10A
 - Deduction u/s 10B
 - Deduction under Chapter VIA
- It is Proposed that to include Section 54, 54B, 54D, 54EC, 54F, 54G, 54GA and 54GB in the above list of Deduction/ Exemptions.

The effect of the above Amendment is an Assessee will have to file Return of Income if his total Income exceeds minimum Taxable amount before claiming any exemptions from Capital Gains, so that Department gets an opportunity to verify claim of the said Exemptions from Capital Gains.

The above amendment shall come into force from AY 2020-21 onwards.

Mandatory furnishing of Return of Income by certain persons [Amendment to section 139 of the Act]

- At present, Section 139(1) provides for mandatory filing of Return of Income by the following Assessee: -
 - Company
 - Firm
 - Any other Assessee having Taxable Income



- It is now Proposed to widen the class of person mandatorily required to file Return of Income by the including following class of Assesses who has: -
- Deposited Rs. 1 crore or more in Cash* in one or more Current accounts in Bank or Co-operative Bank.
 - Incurred foreign travel expenses of Rs. 2 lakh or more.
 - Incurred Rs 1 Lakh or more towards Electricity Consumption.
- However, a limit of Rs 1 lakh for electricity expense is too low and it may require mass population to file Return of Income which may lead to Portal getting hanged in last few days of statutory deadlines.

*Present Provision has omitted the word "in cash" through oversight which may be brought in the final draft.

Above amendment shall come into force from AY 2020-21 onwards.

Inter-changeability of PAN and Aadhaar [Amendment to Section 139A and 272B of the Act]

- At present, section 139A of the Act required person of certain categories to obtain PAN.
- It is now Proposed that, a person who has Aadhaar number need not have PAN but not vice versa.
- A person who has not yet applied for/ applied but not received a PAN but has an Aadhaar number can provide his Aadhaar Number when he enters into transactions where providing PAN is compulsory.
- However, if a person has provided his Aadhaar number even if he has PAN number, he is still required to provide his PAN as well.
- It is Proposed to extend the requirement of PAN for a person who intends to enter into such transactions that require quoting of PAN.



Consequential amendment in Section 272B in line with the Amendment in Section 139A is also made as under: -

To ensure proper compliance of the Provisions relating to quoting and authentication of PAN or Aadhaar, the penalty Provision contained in section 272B is Proposed to be amended.

- At present, Section 272B prescribes penalty to a person for failure to comply with the Provision of section 139A of the Act.
- It is now Proposed to Amend section 272B in line with amendment made in 139A
- Also, penalty Provisions are Proposed to be modified for following defaults as well: -
 - a. For not **obtaining** PAN or Aadhaar number as against only PAN as per existing Provisions and the quantum of penalty of Rs. 10,000 is Proposed to be applied for each default in obtaining PAN or Aadhaar card
 - b. If a person, who is required to **quote or ensure**, his PAN or Aadhaar in any of the documents and also authenticate such PAN or Aadhaar as per law, fails to do so, then he may be liable for a penalty of a sum of Rs. 10,000 for each default.

Above amendment shall come into force from AY 2020-21 onwards.



Maintaining and Furnishing Information and Documents by Constituent Entity of International Group (Amendment in Section 92D of the Act).

Upto AY 2019-20	AY 2020-21 onwards
Only person entering into International transaction was required to maintain Information (Master file) with regards to such International Transaction or specified Domestic Transactions.	A constituent Entity of International Group is also , required to maintain all Information (Master file) with regards to international transaction or specified domestic Transaction entered by its International Group.

Above amendment shall come into force from AY 2020-21 onwards.

Power of Assessing Officer, in respect of modified Return of Income filed in pursuance to signing of the Advance Pricing Agreement (APA). [Amendment in Section 92CD and Section 246A of the Act]

- At present, Advance Pricing Agreement (APA) is made for the purpose of determining Arm Length Price, or specifying the manner in which Arm Length Price to be determined in relation to International transaction.
- This agreement is valid for period of not exceeding five years. This APA also provides rollback of APA for four years.
- Where any person has entered into any agreement and prior to the date of agreement, if the person has already filed Return of Income, then, within 3months from end of the month in which agreement was entered into the person should file a modified Returns for past years.

Existing Provision	Proposed Amendment
Where Assessment, Reassessment in respect of Years to which APA applies have been completed then AO has power to assess, reassess and recompute Total Income of that past year(s) taking APA into Consideration.	AO power to assess, reassess or re compute the Total Income has been restricted , now AO has only authority to pass the Order, modifying the Total Income of the relevant year based on APA.



Purpose of Amendment
To restrict AO, from initiating fresh assessment , reassessment in respect of completed Assessment or reassessment of the assessee for the relevant year. No Other issue can be touched by AO. However, AO has to modify the total income consequent to modification of Return of Income in pursuance to APA.

Consequential Amendment in Section 246A of the Act.

It is now Proposed that, if any assessee is aggrieved by this Order passed, by AO modifying Total Income, he may prefer an appeal before Commissioner (Appeal) against such order. As against existing Provision of order of assessment or reassessment.

Above amendment shall come into force from 1st day of September, 2019.

Clarification with regard to Provisions of Secondary Adjustment. [Amendment in Section 92CE of the Act]

What are Secondary Adjustments as per Existing Provisions in Section 92CE of the Act?

In case where additions are made to the total income of the Assessee by way of Primary Adjustments in transfer Price in any of the following situations: -

- such Adjustments are made suo-motu by the assessee in his Return of Income.
- made by Assessing Officer which are accepted by assessee
- are determined by APA entered into by Assesse
- is made as per Safe Harbour Rules.

It was felt that it is not enough for Indian Entity to pay Income Tax on above Primary Adjustments to Total Income. The said Indian Entity must also bring in such Income into India, pending which the said differential amount shall be considered as 'Advanced to Associated Enterprise' on which notional interest will be charged to tax every year. Such additions to Total Income by way of notional interest are called 'Secondary Adjustments'.



Following amendments are Proposed in Section 92CE with regard to 'Secondary Adjustments'

Particulars	Existing Provision	Proposed Provision
Requirement to carry out secondary adjustment (SA)	If ALP is determined by an APA, signed any time by assessee, then SA can be carried out for any year. [Please see clause (c) above]	If ALP is determined by an APA, signed on or after 1st day of April, 2017 by assessee only, then SA can be carried out. *
No Requirement to carry out Secondary Adjustment	a) If Amount of Primary Adjustment does not exceed One Crore "AND" b) Where, Primary Adjustment made on or before 1st April 2016	a) Amount of Primary Adjustment does not exceed One Crore "OR" b) Where, Primary Adjustment made on or before 1st April 2016
Due to Primary Adjustment there has been increase in Total Income or Reduction in loss	The Excess money , not repatriated to India shall be deemed as Advance to Associated Enterprise (AE) .	The Excess money or part thereof , not repatriated to India shall be deemed as Advance to Associated Party. This means that, if part money is repatriated into India then, only Balance Excess money shall be deemed to be Advance to AE. (Note: - Money can be Repatriated by any of the Associated Enterprise not resident in India)

***No Refund to be given for taxes paid under pre amended section.**

Above amendment shall come into force from AY 2018-2019.



Giving an option to assessee to make one-time payment. [Amendment in Section 92CE of the Act]

At present, Excess money is treated as '**Advance with Associated Enterprise**' which is to be realized and repatriated to India by Assessee. On account of failure to repatriate such additional consideration notional interest is imputed which will be taxed every year as Secondary Adjustment (SA).

So, it is Proposed to make following amendments in the above Provisions: -

1) OPTIONS TO ASSESSEE:

- a) Either to make Secondary adjustment of notional Interest and pay tax thereon every year.

OR

- b) Pay additional Income Tax at the rate of 18% on such excess money or part thereof plus surcharge of 12% making effective rate of 20.16%.

- 2) The tax so paid shall be one-time final payment of tax.
- 3) Deduction in respect of the amount on which such tax has been paid, shall not be allowed under any other Provision of this Act;
- 4) If the assessee pays the additional Income-tax, then there is no requirement to make secondary adjustment of notional interest.
- 5) If the assessee pays the additional Income tax, there is no need to bring said Excess money which is considered as 'Advance to AE' into India in foreign currency.

Above amendment shall come into force from 1st September, 2019.



**Listed Company also Liable to Pay Tax on Buy Back of Shares
[Amendment in Section 115QA and section 10(34A) of the Act]**

Particulars	Existing Provision	Proposed Amendment
Buyback of shares by Unlisted Companies		
A) Taxability in hands of Company	Taxable @ 20% + Surcharge	Taxable @ 20% + Surcharge
B) Taxability in the hands of Shareholder	Exempted	Exempted
Buyback of shares by Listed Companies		
A) Taxability in the hands of Company	Not Taxable	Taxable @ of 20% + Surcharge
B) Taxability in the hands of Shareholder	Capital Gain Taxable LTCG @ 10% STCG @ 15%	Exempted

Above amendment shall come into force from 5th day of July 2019.

Benefits to International Financial Services Centre (IFSC).

In order to promote the development of world class financial infrastructure in India, some tax concessions have already been provided in respect of business carried on from an IFSC.

Following further additional benefits are sought to be provided (**Amendment in Section 115-O of the Act**): -

Existing Provision	Proposed Amendment
Dividend paid by an IFSC out of its Current Income on or after 1 st April 2017 is not chargeable to Dividend Distribution tax.	Dividend paid by an IFSC out of its Current Income as well as Accumulated profits derived from operations in IFSC on or after 1st September 2019 is not chargeable to Dividend Distribution Tax.
No Tax to be paid by person receiving such Dividend	



- The above amendment is applicable only if the IFSC derives income solely in convertible foreign exchange.

Above amendment shall come into force from 1st day of September 2019.

A) Amendment in Section 115-R of the Act

At present,

- Additional income tax on distributed income is payable by Mutual Funds on Income distributed to its unit holders
- Different tax rates are applicable for different types of Mutual Funds

It is now Proposed,

- No additional income tax shall be payable by a specified mutual fund, if it has distributed income to its unit holders out of income arising from transactions made on a recognised stock exchange **located in any IFSC.**

Above amendment shall come into force from 1st day of September 2019.

Losses of Investment Funds [Amendment in Section 115UB of the Act]

At Present, Provisions containing taxation of Investment funds (I.F.) and its Unit holders out of business income and other than business income are governed in Section 115UB and Section 10 (23FBA) of the Act. The Provisions are briefly summarized as below: -

Income of I.F. other than business income are exempt in the hands of I.F. u/s 10 (23FBA) and taxable in the hands of Unit holders in the same manner as if it were income earned out of the investment made by unit holder directly. Business income was taxable in the hands of I.F. and not in the hands of unit holders.

All types of Losses suffered by I.F. in any year upto A.Y. 2019-20 under any head by the I.F. which could not be set off against any head are allowed to be carried forward and set off in future in accordance with Chapter VI. It is also provided that such losses are not to be transferred to unit holders.



Following Amendments are Proposed in the Section 115UB of the Act: -

Particulars	Upto AY 2019-20	AY 2020-21 Onwards
Unabsorbed Losses under the head Business or Profession	Carried forward and set off by I.F. itself and not to be allocated to unit holders	Carried forward and set off by I.F. itself and not to be allocated to unit holders
Unabsorbed Losses From any other head	Carried forward and set off by I.F. itself and not to be allocated to Unit holders	<p>Such loss (other than business loss) will now be available to the Unit holder provided such unit was held for more than one year.</p> <p>The Unit holder will be allowed to set off such loss or carry forward as permissible under the Act</p>
Unabsorbed Losses accumulated as on 31 st March, 2019	No Provision	Such accumulated loss of the fund as at 31 st March, 2019 shall be deemed to be the loss of the Unit holder who is holding the unit on 31 st 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.

B) Amendment in Section 115-A of the Act

Upto AY 2019-20	AY 2020-21 Onwards
Section 115A presently restricts Non-Resident having Income in nature of Interest, Dividend, etc. which are taxable at special rates to claim deduction under Chapter VIA	Units located at IFSC shall be eligible to claim deduction of Section 80LA . Except this deduction, no other deductions under chapter VI shall be allowable.

Above amendment shall come into force from AY 2020-21 onwards.



C) Amendment in Section 80LA of the Act

The following amendment has taken place to enhance Profit Linked Deduction to Unit of an IFSC.

Amount of deduction at Present Allowed	Proposed deduction to be Allowed
A) For first 5 consecutive AY • 100% of Income.	For any 10 consecutive years out of 15 years beginning with the year in which permission to setup unit in IFSC is obtained. • 100 % of Income
B) For Next 5 consecutive AY • 50% of Income	

Above amendment shall come into force from AY 2020-21 onwards.

D) Insertion of Sub Clause (ix) to Section 10 (15).

- Section 10 deals with incomes which are not taxable in the hands of the assessee.
- It is Proposed to make 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 1st day of September, 2019.
- This is made with a view to facilitate external borrowing by units located in IFSC.

Above amendment shall come into force from AY 2020-21 onwards.



E) Amendment in Section 47 clause (viiab) of the Act

Particulars	Existing Provisions upto AY 2019-20	Proposed Amendments from AY 2020-21 onwards
I. Section 47(viiab)		
Nature of Asset transferred	Bonds or Global Depository receipts (GDRs), Rupee denominated bonds of an Indian Company and derivatives*	Bonds or Global Depository receipts (GDRs), Rupee denominated bonds of an Indian Company, derivatives* and other notified securities** .
Type of transfer	Non-Resident to any person transfer to be done on a recognized stock exchange located in any International Financial Services Center AND where the consideration is paid or payable in foreign currency	Non-Resident OR Specified fund to any person transfer to be done on a recognized stock exchange located in any International Financial Services Center AND where the consideration is paid or payable in foreign currency
Whether regarded as transfer	No	No

* Derivatives includes derivatives of stocks/ shares, commodities

** The Securities are yet to be notified by government

Specified fund means a fund incorporated as trust or Company or LLP or a body corporate. The fund has to fulfill following conditions to be eligible:-

- Certificate of registration as category III Alternative Investment Fund
- Regulated by SEBI
- Located in IFSC
- Derive income solely in Foreign exchange
- All the unites of fund is held by Non residents

Above amendment shall come into force from AY 2020-21 onwards.



Relaxation of Threshold limit for TDS on payment of interest other than interest on Securities [Amendment to Section 194A to the Act]: -

With a view to benefit small depositors and non-working spouses, the Threshold limit for deduction of tax at source on interest payment by banks (including co-operative banks)/ post offices is amended from existing Rs. 10,000/- to Rs. 40,000/- vide Interim Budget 2019-20.

Above amendment has come into force from AY 2019-20.

Relaxation of Threshold limit for TDS on Rent paid [Amendment to Section 194-I to the Act]: -

With a view to benefit small tax payers, the Threshold limit for deduction of tax at source on rent payment is amended from existing Rs. 1,80,000/- to Rs. 2,40,000/- vide Interim Budget 2019-20.

Above amendment has come into force from AY 2019-20.

TDS @ 5% on income portion of maturity proceeds of a Life Insurance Policy [Amendment to Section 194DA to the Act]:-

At Present, Life Insurance Companies are deducting tax @ 1% on entire maturity amount paid by them to any resident when the said proceeds are not exempt under Income Tax Act.

It is now Proposed to deduct tax @ 5% only on **income portion**, i.e. maturity amount less premiums paid, out of Maturity Proceeds.

An example for better understanding is tabulated hereunder:



Particulars	Under Existing Provisions	Under Proposed Amendments
Sum assured	10,00,000	10,00,000
Premium paid per year (> 10% of sum assured)	1,05,000	1,05,000
Tenure of policy	12 years	12 years
Total Premium paid in 12 years	12,60,000	12,60,000
Maturity Proceeds after 12 years	15,00,000	15,00,000
Tax deduction on (Income as per Form 26AS)	15,00,000	2,40,000
TDS Rate u/s 194DA	1% of Maturity Proceeds	5% of income element in Maturity Proceeds computed above
TDS amount	15,000	12,000

It is seen that under the existing Provisions, the amount being reflected in Form 26AS of the Insured was higher than that offered to tax by him in his Return of Income. Rs. 15,00,000 in Form 26AS as compared to 2,40,000 declared as income taxable in Return of Income as per example above

Hence, with a view to prevent such mismatch, it is now Proposed that tax @ 5% to be deducted only on income portion which is maturity proceeds less premium paid.

It is to be noted that income proceeds in maturity proceeds are taxable only in cases where premium amount is higher than 10% of sum assured.

Above amendment also resolves the controversy of 'Quantum of Income to be taxed out of Maturity Proceeds of non-exempt [Section 10(10D)] Insurance Policies in as much as it now recognizes the fact that entire Maturity Proceeds are not taxable but only income embedded in Maturity Proceeds are taxable.

Above amendment shall come into force from 1st day of September 2019.



'Consideration for Immovable Property' for the purpose of TDS u/s 194-IA now defined [Amendment to explanation to Section 194-IA to the Act]: -

At Present, TDS @ 1% is to be deducted on payment of consideration for purchase of Immovable Property other than agricultural land. What is to be included in '**Consideration for Immovable Property**' was not defined till now.

It is now Proposed to define 'Consideration for Immovable Property' which will also include:

- all charges of the nature of club membership fee,
- Car Parking fee,
- Electricity or water facility fee,
- Maintenance fee,
- Advance fee
- or any other charges of similar nature, which are incidental to transfer of the immovable property.

Consequences of above amendment:

1. Nature of charges recovered

a. Charges recovered which are not in the nature of Reimbursements

All such charges recovered from transferee will have to be reflected as Income in the year depending on method of accounting employed except Society Maintenance and other charges which are in the nature of reimbursements only.



b. Charges recovered which are in the nature of Reimbursements

The charges which are in the nature of reimbursements (such as Society maintenance which are subsequently paid to the Society or advocate fees) shall have to be declared as income in order to claim TDS deducted on it as otherwise he will not get credit of the TDS in view of Rule 37BA(3) of the Income Tax Rules, 1962 which provides that TDS credit shall be allowed in the year in which Income is assessable.

2. Income Tax rate for Domestic Companies is @ 25% for those with turnover below 400 crores for FY 2017-18. Now by including these receipts in income, their Threshold may cross the limit of Rs. 400 crores and higher rate of Income Tax @ 30% may become applicable.
3. There will be timing difference of the year in which credit will be reflected in Form 26AS and corresponding income declared and TDS claimed by transferee (including Builders) which he will have to capture by carrying forward TDS credit in Return of Income from the year in which it is reflected in Form 26AS to the year in which income is declared.
4. For the purpose of Computing Turnover liable to Tax Audit u/s 44AB and for Presumptive tax u/s 44AD all such receipts will have to be included in the value of turnover.
5. Also, there could be GST related issue on reimbursement of expenses and other charges recovered.

Above amendment shall come into force from 1st day of September 2019.



Tax Deduction at Source for payment of Contract Charges or Professional Fees in excess of ₹ 50,00,000/- in a financial year (Insertion of Section 194M to the Act and consequential amendment in section 197 of the Act):-

As per existing Provisions of section 194C and 194J, only certain categories of Individuals and HUFs (those liable to Tax Audit in earlier year) making payment of contract charges and professional fees beyond Threshold limit were liable to deduct tax at source. Individuals and HUFs, being payers (other than those liable for tax audit in earlier year) are out of the scope of these sections.

In order to expand the coverage of such Individuals and HUFs liable to deduct tax, section 194M is Proposed to be inserted.

Particulars	194C and 194J	194M
Applicability	Continues to apply	Proposed to be applied
Payment of contract charges and Professional fees by	Individuals and HUFs liable for Tax Audit in preceding financial year apart from others	Individuals and HUFs other than those required to deduct TDS u/s 194C and 194J
Payee	Resident Indian	
Threshold limit upto which no TDS is applicable	194C <ul style="list-style-type: none">Rs. 30,000/- w. r. t. one contract orRs. 1,00,000/- w. r. t aggregate of contracts entered during the year 194J <ul style="list-style-type: none">Rs. 30,000/- p.a. for professional fees	₹ 50,00,000 w. r. t. single payment or aggregate of payments made during the year for contracts as well as professional fees to a resident



Particulars	194C and 194J	194M
Rate of TDS	194C <ul style="list-style-type: none">• 1% of contract charges if PAN furnished by deductee being an individual/ HUF• 2% for other than individual/ HUF• 20% for all deductees not furnishing PAN 194J <ul style="list-style-type: none">• 10% of professional fees paid• 2% on payments made to those engaged in the business of call centres• 20% for all deductees not furnishing PAN	<ul style="list-style-type: none">• 5% on payment made for contract charges/ professional fees• 20% for all deductees not furnishing PAN
When TDS is to be deducted	1. When crediting contract charges to the account of payee 2. Actual payment whichever is earlier	1. When crediting contract charges to the account of payee 2. Actual payment whichever is earlier
TAN	Required	Not required. PAN of deductor and deductee are sufficient.
Can deductee obtain and give certificate of deduction at a lower rate under section 197	Yes	Yes



The above Provision is proposed to be introduced to cover a situation where in High Net Worth Individuals (HNIs) spend substantial amount of money for renovation of their houses, the cost of which may exceed even Rs. 50 lacs.

So, in order to monitor the amount spent on the renovation by such HNIs, it is now Proposed to introduce the Provisions of TDS on such payments so that the cost of renovation is captured by Income Tax Department.

Consequential amendment is expected in Form 13 which will be in line with section 194M and section 197 of the Act.

Above amendment shall come into force from 1st day of September 2019.

TDS on cash withdrawals by tax payers in excess of Rs. 1 crore in a Financial Year (Insertion of Section 194N to the Act): -

With a view to discourage cash transactions and move towards less cash economy, a new section 194N is Proposed to be inserted which will provide for tax deduction at source at the rate of 2% on cash withdrawals in excess of Rs. 1 crore in aggregate made during the year, from a bank account or cooperative bank account or post office account.

Salient features of the said section are as under:

Particulars	Particulars
Payer	<ul style="list-style-type: none">➤ Banking Company➤ Co-operative Banks➤ Post Offices
Recipient Assessee	Any person other than: <ul style="list-style-type: none">➤ Government,➤ banking Company, Co-operative banks and their business correspondents engaged in the business of banking➤ Post Office➤ ATM operator of a banking Company or co-operative society engaged in banking business
Triggered when	Cash withdrawals exceeds Rs. 1 crore (in aggregate) in one bank account maintained by recipient assessee with one bank
TDS Rate	2% on amount exceeding Rs. 1 crore



It is noteworthy that as there is no income declared by the account holder in respect of cash withdrawal in the Return of Income, the credit for the TDS may not be allowed in view of Provisions of section 199 r.w.r 37BA of Income Tax Rules, 1962.

Rule 37BA requires amendment in light of introduction of section 194N of the Act for the first time, providing for mechanism for granting credit to account holder for the TDS deducted u/s 194N of the Act.

Also it is noteworthy to see that Proposed Amendment uses following language:

“..... from an account maintained by the recipient with it”.

Legislature uses the word “an” and “it” in the proposed Amendment. This will mean 'that the limit of One Crore applies to “each Individual Bank A/c” amongst various Bank Accounts held by assessee whether with Same Bank or different Banks. In other Words, in our opinion if an assessee has 3 Bank accounts he can withdraw cash upto 1 Crore from each Bank account every year aggregating to 3 Crores every year without attracting rigor of TDS Provisions Contained in Proposed Section 194N of the Act.

Another question which arises is that whether Cash Withdrawal prior to Amendment during 1st April 2019 to 31st August 2019 will be included in computing aggregate cash withdrawal for FY 2019-20 or cash withdrawals from 1st September 2019 to 31st March 2020 only will be considered for that purpose.

Above amendment shall come into force from 1st day of September 2019.

Online filing of application seeking determination of TDS on payment to Non-Residents (Amendment to Section 195 of the Act): -

Section 195 deals with TDS Provisions for deductors when making payments to Non-Residents.

It also provides for application to be made by deductor to Assessing Officer for deduction of tax on amount lesser than that paid when he considers that whole



of payment made will not be income chargeable in the hands of recipient.

Until now, this application was a manual process and now, with a view to use more technology and streamline the process so as to reduce the time taken for processing such applications, Provisions of section 195 are suitably amended to allow the following:

- prescribing the form and manner of application to Assessing Officer
- determination of appropriate portion of amount chargeable to tax in the hands of recipient

It appears that legislature intends to introduce the procedure of obtaining Lower Deduction Certificate as applicable to Resident Assessee u/s 197 of the Act also apply to payments made to Non-Residents u/s 195(2) of the Act. A new form similar to Form 13 shall be introduced for such application u/s 195(2) of the Act.

Above amendment shall come into force from 1st day of November 2019.

Time Barring Period for defaults in deduction or payment of TDS in Section 201

Existing Provisions and proposed amendment with regard to time barring period for passing order u/s 201(3) of the Act are tabulated as under: -

Particulars	Existing Provision	Proposed Amendment
Time Limit for Passing an Order deeming a person to be an assessee in default for failure to deduct tax or pay the tax deducted	7 Years from the end of the Financial Year in which payment is made or credit is given	7 Years from the end of the Financial Year in which payment is made or credit is given OR 2 Years from the end of the Financial year in which the TDS correction statement is delivered whichever is Later



Electronic filing of statement of transactions on which tax has not been deducted (Amendment to Section 206A of the Act): -

Section 206A of the Act relates to furnishing of statement in respect of payment of certain income by way of interest to residents where no tax has been deducted at source.

At present, the section provides for filing of such statements on a floppy, diskette, magnetic tape, CD-ROM, or any other computer readable media. To enable online filing of such statements, it is Proposed to substitute this section so as to provide for filing of statement (where tax has not been deducted on payment of interest to residents) in prescribed form in the prescribed manner.

It is also Proposed to provide for correction of such statements for rectification of any mistake or to add, delete or update the information furnished.

Above amendment shall come into force from 1st day of September 2019.

Rationalization of Provision relating to Recovery of tax in pursuance of agreements with foreign countries (Amendment to Section 228A of the Act): -

The existing Provisions of section 228A of the Act provide that where an agreement is entered into by the Central Government with the Government of any foreign country for recovery of income-tax under the Income-tax Act and the corresponding law in force in that country and where such foreign country sends a certificate for the recovery of any tax due under such corresponding law from a person having any property in India, the Board, on receipt of such certificate may, forward it to the Tax Recovery Officer within whose jurisdiction such property is situated for the recovery of tax in pursuance of agreement with such foreign country.

In order to provide assistance in recovery of tax as per treaty obligation with the other country, it is Proposed to amend the said section so as to provide for tax recovery where details of property of the persons are not available but the said person is a resident in India.



It is also Proposed to amend the said section so as to provide for tax recovery, where details of property of an assessee in default under the Act are not available but the said assessee is a resident in a foreign country.

Above amendment shall come into force from 1st day of September 2019.

Provision of credit of relief computed under section 89 [Amendment in sections 234A, 234B, 234C, 140A and 143 of the Act]: -

Existing Provisions of section 234A, 234B, 234C, 140A and 143(1)(c) of the Act contain Provisions relating to computation of interest and tax payable after allowing credit for prepaid taxes and certain admissible reliefs, credits etc.

Section 89 of the Income Tax Act contain Provisions for providing tax relief where salary, etc. is paid in arrears or in advance.

However, the relief under section 89 is not specifically mentioned as a deduction from tax payable, in abovementioned sections in the existing Provisions governing quantum of interest and tax payable resulting in unintended hardship in the case of taxpayers who are eligible for this relief.

With a view to overcome this unintended hardship, amendments are Proposed to be done in the said sections.

It is now Proposed to amend Section 234A, 234B, 234C, 140A and 143(1)(c) of the Act so as to provide that computation of interest and tax payable shall be made after allowing relief under section 89.

Above amendment is applicable retrospectively from AY 2007-08 onwards.

Return u/s 139 of the Act shall be Form of Claim for Refund and Limitation [Amendment in Section 239]

At present, section 239(1) provides that every claim for refund shall be made in the prescribed form and verified in the prescribed manner.



It is now Proposed that every claim for refund shall be made by furnishing Return of Income under section 139 of the Act.

At present, the existing section 239(2) of the Act required an Assessee to claim refund within the period specified therein in the manner specified in existing section 239(1) of the Act.

However, as explained above, filing of Return of Income u/s 139 of the Act is Proposed to be considered as an application for claim of refund and hence separate time limit for claim of Refund is not required as the time limit to file Return of Income u/s 139 of the Act shall apply in this regard.

It is accordingly Proposed to **omit** section 239(2) of the Act.

Where the claim is for Fringe benefits from AY 2006-07 onwards, then such claim shall be allowed only if it is made within one year from the last date of such assessment year.

Above amendment shall come into force from 1st day of September, 2019.

Mandating acceptance of payments through prescribed electronic modes [Insertion of new Sections 269SU and 271DB in the Act]: -

It is **Proposed to** insert a new section 269SU in the Act which require certain Assesses to provide facility to its customers and others to make payment by electronic means in order to achieve the mission of the Government to move towards a **cash less** economy to reduce generation and circulation of black money and to promote digital economy.

Penal Provisions for contravention of above Provisions u/s 269SU are Proposed to be introduced in newly inserted section 271DB of the Act. The said Penalty Order u/s 271DB of the Act shall be passed only by Joint Commissioner of Income Tax.

However, it is also Proposed that no Penalty shall be imposed if Assessee Proves good and sufficient reasons for such contravention.



Salient features of the Proposed section 269SU and 271DB of the Act are as under:

Particulars	Particulars
Applicable to	all persons carrying on business if his total sales/ turnover/ gross receipts exceed Rs. 50 crores during the immediately preceding Financial Year
Nature of facility to be provided	accepting payment through prescribed electronic modes
Facility to be provided to whom	all persons including customers
Penalty for failure to provide above facility	Rs. 5,000/- for every day during which such failure continues

From the above, an important question that arises, say a Company having 50 Retail outlets, fails to provide such facility of digital Payments in say 25 outlets, whether penalty will be Rs. 5,000/- per day or Rs. 1,25,000/- (i.e. 25 outlets x 5,000) per day?

It may be noted that it is not mandatory for person to pay through this facility even though it is mandatory for certain Business entities to provide digital Payment facility to its Customers and others.

It is surprising to note that while new penalty Provisions u/s 271DB of the Act are Proposed to be introduced for the first time, no consequential amendment is made in section 246A of the Act to provide an appeal against penalty order passed u/s 271DB of the Act.

It is expected that the above mistake shall be rectified before the Finance bill becomes Finance Act.

Above amendments shall come into force from 1st day of November, 2019 onwards.



Rationalization of penalty Provisions relating to under-reported income [Amendment in Section 270A]: -

Section 270A replaced Section 271(1)(c) of the Act governing law of Concealment of income w.e.f. AY 2017-18.

Section 270A contains Provisions relating to penalty for under-reporting and misreporting of income.

The existing Provisions provide for various situations for the purposes of levy of penalty under this section.

However, these Provisions do 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.

It is now Proposed 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 which is tabulated as under:

Particulars	Case 1		Case 2	
	Existing Provisions	Proposed Provisions	Existing Provisions	Proposed Provisions
Type of person	Company		Company	
Whether Return of Income filed u/s 139	Yes		No	
Returned Income	25,00,000	25,00,000	NA	NA
Return filed u/s 148	25,00,000	25,00,000	25,00,000	25,00,000
Assessed Income	30,00,000	30,00,000	30,00,000	30,00,000
Income under-reported	5,00,000	5,00,000	5,00,000*	30,00,000

*Not free from doubt.

Above amendment is applicable retrospectively from AY 2017-18.



Scope of Statement of Financial Transactions (SFT) Widened [Amendment in Section 285BA and consequential amendment in Section 271FAA of the Act]: -

At present, Provisions of section 285BA of the Act provides that certain persons specified in Section 285BA(1) of the Act are required to furnish a statement of Specified Financial Transaction or reportable segment.

It is Proposed to enhance the scope of filing such statement by making it mandatory for some person(s) other than person referred in clause (a) to (k) in the existing Provisions. The said person(s) shall be notified in due course.

At present, Second Proviso to section 285BA(2) of the Act provides that SFT requirements are not applicable if aggregate value of such transactions during a financial year is less Rs. 50,000/-.

It is now Proposed to omit the above proviso, thereby making it mandatory to furnish SFT irrespective of value of such transaction.

Currently, Section 285BA(4) provides that

- if Income Tax authority considers SFT as defective then
- he may intimate defect to the person who furnished the SFT
- asking him to rectify the defect within prescribed period; and
- if such defect is not rectified within prescribed period then
- such statement shall be treated as invalid and the Provisions of this Act shall apply as if such person had failed to furnish the statement.

In order to ensure proper compliance, **it is also Proposed** to amend the Provisions of section 285BA(4) so as provide that if the defect in the statement is not rectified within the time specified in the intimation of defect sent, the Provisions of the Act shall apply as if such person had furnished **inaccurate** information in the statement as against existing Provision treating the said statement as an invalid Statement.

At present, Section 271FAA provides that

- if person **covered in clause (k)** u/s 285BA(1), i.e. a prescribed reporting



financial institution,

- furnishes inaccurate information then,
- the prescribed income-tax authority may direct that such person shall pay, by way of penalty, a sum of fifty thousand rupees.

Current Provisions of Section 271FAA covers only prescribed reporting financial institution u/s 285BA(1) for the purpose of levying penalty.

It is now Proposed to amend Section 271FAA to widen the scope of penalty to cover all the reporting entities under section 285BA(1) of the Act.

Above amendments is applicable from 1st day of September, 2019.

Rationalization of the Provisions of section 276CC of the Act: -

Provisions of Section 276CC provides for Prosecution proceedings for failure to furnish Return of income.

Proviso to said section provides that prosecution proceedings for failure to furnish Return of Income shall not be initiated in case tax payable does not exceed Rs. 3,000/-.

The existing Provisions do not provide for taking into account tax credits in the form of tax collected at source and self-assessment tax for the purposes of determining the balance tax liability for applicability of 276CC of the Act.

So, **it is now Proposed** to amend the said section to include tax credits in the form of tax collected at source and self-assessment tax together with TDS and Advance tax for the purpose of determining the tax liability to apply Provisions of Prosecution u/s 276CC of the Act.

It is also Proposed to amend the said section to increase the Threshold from Rs. 3,000/- to Rs. 10,000/- from applicability of Prosecution Proceeding u/s 276CC of the Act.

Above amendments shall be applicable from AY 2020-21 onwards.



GOODS AND SERVICE TAX

CENTRAL GOODS AND SERVICES TAX ACT, 2017

Definition of Adjudicating Authority [Amendment in Section 2(4) of the Act]: -

Existing	At present, Adjudicating Authority means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Excise and Customs, the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority and the Appellate Tribunal;
Proposed	It is now Proposed to include " the National Appellate Authority for Advance Ruling " under the definition of Adjudicating Authority.

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.

Composition Scheme [Amendment in Section 10(2) and consequential Insertion of Section 10 (2A) of the Act]: -

At present, only Manufacturers or Dealers of goods, and Restaurants (not serving alcohol) having annual turnover up to Rs. 1.5 crores can opt for composition scheme. **Registered Person who is engaged in Supply of Services (except Restaurants) are not eligible to opt for Composition Scheme.**



Provisions of Composition Scheme is tabulated as under: -

Particulars	Section 10(2) of the Act	Section 10(2A) of the Act
Person eligible to opts for Composition Scheme	Manufacturers or Traders of goods, and Restaurants (not serving alcohol)	Supplier of services or mixed suppliers of goods or services
Threshold aggregate Turnover limit to opt for Composition Scheme	Rs.1.5 crores in preceeding financial year	Rs.50 lakhs in preceeding financial year
Turnover limit up to which Composition Scheme is applicable	Up to Rs. 1.5 crores	Rs.50 lakhs
Tax Rate		
a) For Manufactures and Traders	1% (i.e. 0.5% CGST + 0.5 % SGST/ UTGST)	NA
b) For Restaurants (not serving alcohol)	5% (i.e. 2.5% CGST + 2.5% SGST/ UTGST)	NA
c) For Supplier of services or mixed suppliers of goods or services	NA	6% (i.e. 3% CGST + 3% SGST/ UTGST)
Aggregate Turnover includes (Note 1)	Value of taxable supplies + Exempt supplies (Note 2) + exports + Inter-State suppliers on all India basis having same PAN	Value of taxable supplies + Exempt supplies (Note 2) + exports + Inter-State suppliers on all India basis having same PAN



Particulars	Section 10(2) of the Act	Section 10(2A) of the Act
Person not eligible to opt Composition Scheme	a) engaged in making non-taxable supply; b) engaged in making any inter-State outward supplies of goods or services; c) engaged in making any supply of goods or services through an electronic commerce operator; d) engaged in manufacturer of notified goods; e) a casual taxable person or a Non-Resident taxable person f) if all registered persons having same PAN opt for payment for Composition levy.	a) engaged in making non-taxable supply; b) engaged in making any inter-State outward supplies of goods or services; c) engaged in making any supply of goods or services through an electronic commerce operator; d) engaged in manufacturer of notified goods; e) a casual taxable person or a Non-Resident taxable person f) if all registered persons having same PAN opt for payment for Composition levy.

Notes: -

1. For the purpose of applying composition scheme to any registered taxable person, the aggregate turnover **shall include** the value of supplies made by a person **from 1 April of a financial year upto the date he becomes liable for registration under GST;**
2. Exempt supply shall not include supply of services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Above amendment shall come into force w.e.f. 1st April 2019 vide Notification No. 02/2019-Central Tax (Rate), dated 7th March 2019.



Increase in the Threshold limit for obtaining registration for exclusive supplier of goods Amendment in Section 22 (1) of the Act]: -

Comparison of Threshold exemption limit for obtaining registration by supplier of goods or services (other than special category States) in the State or Union territory is tabulated as under: -

Person Engaged in the Business of	Existing Provisions	Proposed Amendment
Supply of Goods only	Rs. 20 Lakhs	Up to Rs. 40 Lakhs
Supply of Service Only	Rs. 20 Lakhs	Rs. 20 Lakhs
Supply of Goods and Services (i.e. mixed supply)	Rs. 20 Lakhs	Rs. 20 Lakhs

Note: - Person shall be considered to be engaged exclusively in the supply of goods even if he is engaged in exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Above amendment shall come into force w.e.f. 1st April 2019 vide Notification No.10/2019 - Central Tax, dated 7th March 2019.



Amendment to Registration Procedure [Amendment in section 25 of the Act]: -

Existing	At Present, for obtaining Registration under GST Act, it is a pre requisite for the Applicant to hold PAN Card issued under Income Tax Act.
Proposed	<p>It is now Proposed to make Aadhar authentication mandatory for specified class of new taxpayers and to prescribe the manner in which certain class of registered taxpayers are required to undergo Aadhar authentication.</p> <p>It is also Proposed that in case where Aadhar number is not assigned, the Government would offer alternate and viable means of identification.</p> <p>It is also Proposed that failure to undergo authorization will render the allotted registration invalid.</p>

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.

Facility of digital payment by the recipient [Insertion of Section 31A of the Act]: -

Existing	At present there is no specific mode of payment prescribed in the Act in case of payment by recipient of goods or services to supplier of goods or services.
Proposed	It is now Proposed to provide that specified class of suppliers shall make available prescribed specified electronic mode of payment to recipient of supply of goods or services for making payment .

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.



Amendment in Provisions related to furnishing of Returns, payment of tax to align with new return filing system [Amendment in Section 39 of the Act]: -

- Composition Taxpayer (i.e. Registered person paying tax under Composition scheme under section 10 of the Act)

Particulars	Existing	Proposed
Periodicity of filing of Return of Outwards Supplies and Inwards supplies attracting Reverse Charges	Quarterly	Annually
Periodicity of Payment of Taxes	Quarterly	

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.

Commissioner empowered to issue Extension Notification for Annual Return and Reconciliation Statement [Amendment in Section 44 of the Act]: -

Existing	At present, every registered person other than specified person shall be required to file Annual Return (i.e. GSTR9/9A) and Reconciliation Statement (i.e. GSTR 9-C) within due date as may be prescribed. However, Commissioner has no power to extend due date of furnishing of Annual Return (i.e. GSTR 9/9A) and Reconciliation Statement (i.e. GSTR9-C) by registered taxpayer.
Proposed	It is now Proposed that to empower Commissioner to extend due date of furnishing of Annual Return (i.e. GSTR 9/9A) and Reconciliation Statement (i.e. GSTR9-C) by registered taxpayer.

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019



Transfer of amount within head lying in Electronic Cash ledger [Amendment in section 49 and consequential insertion of section 53A of the Act and section 17A of the IGST Act]: -

Existing	At present, Registered person is not allowed to transfer of amount of tax, interest, penalty or any other amount lying in one head (i.e. CGST or SGST or IGST) to other head internally, even if there is sufficient cash balance lying in one head and liability in other head at the same time.		
Proposed	It is now Proposed to provide that registered person shall be allowed to transfer any amount of tax, interest, penalty, fee or any other amount lying in Electronic Cash ledger from one head to other head subject to prescribed condition.		
	For example: -		
	Particulars	Existing Provision	Proposed Amendment
	Net CGST Tax Liability	Rs. 1,000/-	Rs. 1,000/-
	Net SGST Tax Liability	Rs. 1,000/-	Rs. 1,000/-
	IGST Balance as per Electronic Cash Ledger	Rs. 2,500/-	Rs. 2,500/-
	Amount Transferred from IGST Electronic Cash Ledger to CGST Electronic Cash Ledger	NIL	Rs. 1,000/-
	Amount Transferred from IGST Electronic Cash Ledger to SGST Electronic Cash Ledger	NIL	Rs. 1,000/-
	Final CGST and SGST Liability needs to be paid by depositing amount in Electronic Cash Ledger	Rs. 2,000/-	NIL



	<p>It is also Proposed that transfer of any amount lying in electronic cash Ledger from one head to other head shall be deemed to be a refund from electronic cash ledger.</p> <p>It is also Proposed that any amount lying in electronic cash ledger transferred from one head to another head shall be deemed to be deposited in the said electronic cash ledger.</p> <p>It is also Proposed that due to amendment in section 49 of the Act by allowing transfer of any amount from one head to another head in the electronic cash ledger, Government shall transfer amount, equal to any amount transferred from one head to another head from electronic cash ledger between Centre and State.</p>
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It is also Proposed that due to amendment in section 49 of the CGST Act by allowing transfer of any amount from one head to another head in the electronic cash ledger to provide similar amendment under IGST Act and Government **shall transfer amount, equal to any amount transferred from one head to another head from electronic cash ledger, to State tax account or Union Territory tax account**

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.



Interest on delayed payment of tax [Amendment in section 50 of the Act]: -

Existing	<p>At present, interest is being charged on gross tax liability without deducting any input tax credit.</p> <p>Many taxpayers are getting notices from the GST Department regarding late filing of return. The GST Department is charging interest on gross tax liability and charging heavy penalty on the same.</p> <p>The GST Council in its 31st meeting on December 22, 2018 recommended changing the law to provide that interest should be charged only on the net liability of a taxpayer, after taking into account the admissible input tax credit. However, The Telangana High Court in the case of "M/s. Megha Engineering and Infrastructure Ltd." declined to take into account the council's decision because the law hasn't been amended accordingly.</p> <p>The Telangana High Court held that until a return is filed (self-assessed), the taxpayer is not entitled to an input tax credit. The tax becomes an input tax credit only when a claim is made in the returns. Because of the taxpayer's delay in filing the return in this instance, the payment of the tax liability—partly in cash and partly in the form of a claimed input tax credit—was made beyond the period prescribed, and thus the taxpayer was liable for interest on the gross GST liability.</p>
Proposed*	<p>To overcome litigation with respect to charging interest on gross tax liability it is now Proposed to amend Section 50 of the Act. It provides that charging of interest only on the net cash tax liability, except in those case where returns are filed subsequent to initiation of any proceeding under the Act.</p>

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.

*In our Opinion, the Proposed Amendment is clarificatory in nature and hence should apply retrospectively from 1st July 2017.



Commissioner empowered to issue extension notification for monthly and statement by Electronic Commerce Operator [Amendment in Section 52 of the Act]: -

Existing	<p>At present, Every Electronic Commerce Operator who is required to collect tax at source shall furnish monthly statement in Form GSTR 8 and Annual statement in Form GSTR- 9B electronically within due dates as may be prescribed.</p> <p>However, Commissioner has no power to extend due date of furnishing of monthly statement in Form GSTR 8 or Annual statement in Form GSTR-9B by Electronic Commerce operator.</p>
Proposed	<p>It is now Proposed that the Commissioner is empowered to extend due date of furnishing of monthly statement in Form GSTR 8 or annual statement in Form GSTR-9B by Electronic Commerce operator.</p>

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.

Disbursal of refund of SGST [Amendment in Section 54 of the Act]: -

Existing	<p>At present, if Registered person claim any refund of tax then refund of state tax shall be disbursed by State Government only.</p>
Proposed	<p>It is now Proposed that Central Government may disburse the refund of state tax in such manner as may be prescribed.</p>

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.



Constitution of National Appellate Authority for Advance Rulings (NAAAR) [Insertion of Section 101A, 101B and 101 and Consequential Amendment in section 95, 102, 103, 104, 105 and 106 of the Act]: -

- It is Proposed to insert new section to constitute NAAAR for hearing appeals against conflicting advance ruling pronounced on the same questions by the Appellate Authorities of two or more States or Union territories in respect of matters pertaining to distinct persons.
- Followings persons will be entitled to appeal to NAAAR: -
 - applicant, being a distinct person, aggrieved by orders by Appellate Authority for Advance Ruling (AAAR) of two or more states
 - Any officer authorised by commissioner in this regard.
- Salient features of NAAAR are tabulated as under: -

Particulars	Time Limit
Time limit for filing of appeal by registered person, concern officer	Within 30 days from the date of Communication of conflicting advance ruling order, subject to further 30 days extension if there is sufficient cause for delay in filing of appeal.
Time limit of filing of appeal by Officer authorised by Commissioner	Within 90 days from the date of Communication of conflicts advance ruling order, subject to further 30 days extension if there is sufficient cause for delay in filing of appeal.
Time limit for pronouncement of Advance Ruling by National Appellate Authority	Within 90 days from the date of filing of appeal.
Time limit for passing Rectification order by National Appellate Authority to rectify error apparent on the face of the record	Within 6 months from the date of order.

- Advance ruling pronounced by National Appellate Authority shall be binding on: -



- applicant, being a distinct person
 - and all registered persons having the **same PAN**
 - all concern officer in respect of the applicant and all registered person having **same PAN**
- The National Appellate Authority shall consist of: -
- The President
 - Technical Member (Centre)
 - Technical Member (State)
- Advance ruling pronounced by the National Appellate Authority shall be **void** if ruling has been obtained by fraud, suppression of material facts or misrepresentation of facts;
- The National Appellate Authority shall have all the powers of **a civil court** under Code of Civil Procedure, 1908;
- The National Appellate Authority shall have power to regulate its own procedure;

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.

Anti-profiteering measure [Amendment in Section 171 of the Act]: -

As per existing Provision, the suppliers of goods and services should pass on the benefit of any reduction in the rate of tax or the benefit of input tax credit to the recipients by way of commensurate reduction in prices. The wilful action of not passing on the above benefits to the recipients in the manner prescribed is known as "**profiteering**".

The National Anti-Profiteering Authority (NAA) has the power to identify the



registered person who has not passed on the benefit of reduction in tax rate or input tax credit by way of commensurate reduction in prices and it may order reduction in prices and return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest and also have power of cancellation of registration of the supplier and imposition of penalty on them.

It is now Proposed to empower the NAA to impose **penalty equivalent to 10% of the profiteered amount.**

It is also Proposed that **No penalty shall be leviable if the profiteered amount is deposited within 30days of the date of passing of order by the NAA.**

Above amendment shall come into force w.e.f. date of enactment of Finance Bill, 2019.

Retrospective Amendment to Rate Notification: -

Existing	Supply of Uranium Ore Concentrate was exempted from GST w.e.f. 14th November 2017 through Notification No. 42/2017-Central Tax (Rate) dated 14th November, 2017.
Proposed	<p>It is now Proposed to retrospectively exempt Supply of Uranium Ore Concentrate from 01st July 2017 to 13th November 2017 by making amendment in Notification No. 2/2017-Central Tax (Rate) dated the 28th June, 2017.</p> <p>It is also Proposed to provide similar retrospective amendment was made to Exempt Uranium Ore Concentrate from levy of GST under IGST Act, 2017 and UTGST Act, 2017.</p>

It is proposed to amend Section 22, section 25, Section 31A, Section 39, section 44 section 49, section 50, Section 54, Section 52, 95, 102, 103, 104, 105 and 106 of CGST Act.

On account of Section 20 of IGST ACT, 2017, all the above-mentioned sections of CGST Act,2017 which are proposed to be amended by Finance Bill (no.2), 2019 shall mutatis mutandis apply to IGST Act, 2017.



SERVICE TAX

Retrospective Exemptions: -

Sr. No.	Services
1	Exemption from levy of service tax shall be provided to services by way of grant of liquor licence by the State Governments against consideration in the form of licence fee or application fee during the period 1 April 2016 to 30 June 2017;
2	Services provided by IIM to their students in respect of specified educational programmes (except Executive Development Programme) are exempted for the period 1st July, 2003 to 31st March, 2016
3	<p>Exemption granted to levy service tax on service provided by way of granting of long-term lease of plots for development of infrastructure for financial business during the period 1 October 2013 to 30 June 2017, subject to certain conditions.</p> <p>The conditions for availing exemption are as under: -</p> <ul style="list-style-type: none">➤ Period of the lease should be 30 years or more;➤ Service should be provided by the State Government Industrial Development Corporations or Undertakings or any other entity having 50 per cent or more ownership by Central Government, State Government, Union Territory;➤ Service should be provided to developers in any industrial or financial business area.

It is also Proposed that application for refund of service tax arising due to aforesaid retrospective exemption to be made within a period of 6 months from the date on which this Finance Bill receives assent of the President.



Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 ('LDRS')

A dispute resolution mechanism called Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 is to be introduced. The Scheme has been introduced with an objective of faster Resolution of pre-GST Regime Litigation.

The Amnesty Scheme covers in its scope matters pertaining to central excise duty and service tax along with (26) other enactments which have been subsumed into GST.

Silent features of Sabka Vishwas (Legacy Dispute Resolution) Scheme 2019 are as under: -

➤ **Various definitions define under this scheme are as under: -**

Particulars	Definition
Amount Declared	the amount declared by the declarant
Amount Estimated	amount estimated by the designated committee
Amount in arrears	amount of duty which is recoverable as arrears of duty under the indirect tax enactment, on account of: - <ul style="list-style-type: none">➤ no appeal having been filed by the declarant against an order or an order in appeal before expiry of the period of time for filing appeal; or➤ an order in appeal relating to the declarant attaining finality; or➤ The declarant having filed a return under the indirect tax enactment on or before the 30th day of June, 2019, wherein he has admitted a tax liability but not paid it.
Amount of Duty	amount of central excise duty, the service tax and the cess payable under the indirect tax enactment



➤ **Who can avail the benefit?**

All persons shall be eligible to make a declaration under this scheme **except: -**

- Where appeal filed before the appellate forum and final hearing has taken place on or before 30.06.2019;
- Where SCN has been issued AND final hearing has taken place on or before 30.06.2019 and who have been convicted for any offence under any Provision for the matter for which he intends to file a declaration;
- Who have been subjected to any enquiry or investigation or audit AND amount of duty involved has not been quantified on or before 30.06.2019;
- Who have been issued a show cause notice for an erroneous refund or refund;
- A person making a voluntary disclosure: -
 - after being subjected to any enquiry or investigation or audit;
 - having filed a return wherein he has indicated an amount of duty as payable, but has not paid it.
- who have filed an application in the Settlement Commission
- seeking to make declarations with respect to excisable goods set forth in the Fourth Schedule to the Central Excise Act, 1944



➤ **What is meaning of Tax due under this scheme?**

Sr. No.	Particulars	Meaning of Tax Dues
1	Where a single appeal arising out of order is pending as on 30.06.2019	Total amount of duty which is disputed
2	Where more than one appeal arising out of an order, one by the decedent and other a departmental appeal where such an appeal has not been heard finally on or before 30.06.2019	Sum total of amount disputed by both decedent and department
3	Where SCN has received on or before 30.06.2019	Amount of duty payable as per SCN
4	Where enquiry or investigation or audit is pending	Amount of duty payable which has been quantified on or before 30.06.2019

➤ **What is quantum of Tax Relief available under this scheme?**

Description	Relief Available	
	Amount of Duty ≤ Rs. 50 Lakhs	Amount of Duty > Rs. 50 Lakhs
Show Cause Notice issued and case is pending for hearing as on 30th June 2019	70%	50%
Appeal is filed and case is pending for hearing as on 30th June 2019	70%	50%
Enquiry/investigation/audit conducted with tax demand quantified upto 30 th June, 2019	70%	50%
Tax dues are related to 'amount in arrears'	60%	40%
Tax dues are on account of voluntary disclosure	NIL (Note i)	NIL (Note i)
Show Cause Notice issued for late fee or penalty only, and the amount of duty in the said notice has been paid or is nil	100% (of penalty and late and Late Fee)	100% (of penalty and late and Late Fee)



Notes:

- i. Relief is only from payment of interest and penalty. (i.e. no relief shall be available with respect to tax dues, that means, only interest and penalty will be waived off).
- ii. Any amount paid as pre-deposit at any stage of appellate proceedings or as deposit during enquiry, investigation or audit will be deducted in computing the amount payable.
- iii. No further duty, interest or penalty with respect to matter and time period covered in declaration.
- iv. No prosecution with respect to matter and time period covered in declaration.
- v. No re-opening of matter and time period covered in declaration.

➤ **What is procedure of making declaration under scheme and role of Designated Committee?**

- Declarant may make a declaration in such electronic form as may be prescribed. The Designated Committee will verify the correctness of the declaration made by the declarant
- It may be noted that no verification shall be made in case of voluntary disclosure made by declarant.
- If matter is pending before Supreme Court (SC) or High Court (HC) then declarant shall file an application to SC or HC for withdrawal of the same;
- If matter is pending before any appellate forum (other than SC or HC) then same shall be deemed to have been withdrawn;
- Time limit of making application under scheme and issue of statement by Designated Committee is tabulated as under: -



Particulars	In case of amount estimated by designated committee = amount declared	In case of amount estimated by designated committee > amount declared
Time limit of issue of Issue of statement by Designated Committee	Within 60 days from the date of receipt of declaration	Within 30 days from the date of receipt of declaration
Time limit of payment of tax by Declarant	Within 30 days from the date of issue of statement by Designated Committee	Within 30 days from the date of issue of statement by Designated Committee

- After payment of tax by declarant, Designated Committee shall issue discharge certificate.

➤ **Whether amount payable under LDRS can be rectified?**

Order once issued can be modified by the designated committee to correct an arithmetical error or clerical **within 30 days of the date of issue of a statement** indicating the amount payable by the Declarant which is apparent on the face of record or Error being pointed out by the declarant or Suo-moto, by the designated committee

➤ **How to pay liability under LDRS?**

- Any amount payable under this scheme shall not be paid through the input **tax credit Thus, it appears that the liability is to be discharged in cash only.**
- It is also provided that amount paid under LDRS shall not be refundable under any circumstances.
- Amount paid shall not be taken as input tax credit or shall not entitle any person to take input tax credit as recipient of goods or services;
- Amount shall not be refundable under any circumstances;
- No refund if pre-deposit/ deposit exceeds amount payable

Above Scheme is to be effective from a date to be notified.



CUSTOMS

- Enhanced penalty and stringent prosecution Provisions introduced under the Customs Act for specified offences, such as fraudulent availment of undue concessions and export incentives
- Provisions introduced for the verification of identity or compliance through Aadhar to prevent smuggling and protect interests of revenue
- Increase in Road and Infrastructure Cess on petrol and diesel
- Basic customs duty (BCD) rates revised for the following products to give a push to the Make in India initiative or provide a level playing field to domestic manufacturing:

BCD Rates reduced/exempted for	BCD Rates increased for
Inputs and raw materials in the nature of select chemicals, textile, steel, other base metals, etc.	Various chemical, plastic and rubber products, optical fiber cables, electronic goods, automobile parts, completely built units of vehicles, and steel products.
Capital goods used in manufacturing electronic items, such as populated PCBA, parts of mobile phones, and set top boxes	Precious metals
Select parts of electric vehicles	Select military equipment and their parts imported by the Ministry of Defense or armed forces
Raw material, parts and accessories used in manufacturing artificial kidneys	Specified electronic goods, such as switches, sockets, plugs, connectors, and relays
	Petroleum crude



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