Analysis of INCOME TAX Provisions in

BUDGET 2020

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PREFACE

The Finance Bill embarks on restructuring of tax slabs and reduces rates, leaving more income in the hands of the tax payers after payment of taxes.

Amidst unprecedented expectations of measures to boost economic growth, the Budget 2020 has been presented.

Consistent with the much talked about need of putting greater disposable funds in the hands of the public for boosting the demand, the Finance Bill embarks on restructuring of tax slabs and reduces rates, leaving more income in the hands of the tax payers after payment of taxes. The impact has however, been reduced by simultaneous withdrawal of exemptions /deductions. An option however, has been given to be governed by the old structure, in case it is beneficial.

Another significant change is in the tax regime of dividend where the system of liability on shareholders/unit holders has been restored and consequently, Dividend Distribution Tax has been abolished. Though, ideologically sound, to what extent it will result in additional revenue is a matter to be seen.

A most controversial amendment giving deemed residential status to persons not liable to tax in any other country, has been proposed which subsequently has been followed up by a press release.

There are several provisions modifying the existing ones or creating new ones, many of which could have been avoided, in the interest of stability of tax regime.

Procedurally, there are enough indications of moving towards electronic processing in matters of assessments and appeals. The promise of pre-filled returns will indeed be a remarkable improvement easing the life of the tax payers.

The introduction of *Vivad se Vishwas* Scheme giving amnesty to reduce tax litigations is a welcome step which, besides easing the tax payer's life, will unblock the tax demand locked up in appeals.

We present an analysis of certain provisions which we think of interest to the public in general.

BUDGET 2020 - 2021

IMPORTANT AMENDMENTS IN FINANCE BILL 2020

1. Rate of Taxes

The finance Bill proposes to rejig the rate structure of individuals/HUF and cooperative Societies as under:-

Individual / HUF –

The comparative rate structure before and after the amendment –

	Existing Rates		Proposed Rates w.e.f. AY 2021-22	
i.	Upto Rs.2,50,000	Nil	i. Rs.2,50,000	Nil
ii.	Rs.2,50,001 to Rs.5,00,000	5%	ii. Rs.2,50,001 to Rs.5,00,000	5%
iii.	iii. Rs.5,00,001 to Rs.10,00,000	20%	iii. Rs.5,00,001 to Rs,7,50,000	10%
iv.	iv. Above Rs.10,00,000	30%	iv. Rs.7,50,001 to Rs.10,00,000	15 %
			v. Rs.10,00,001 to Rs.12,50,000	20 %
			vi. Rs.12,50,001 to Rs.15,00,000	25%
			vii. Above Rs.15,00,000	30%

- The relief consequent to the proposed amendment can be seen by the following table:

Income	Existing	Proposed tax	Relief
Rs. 7,50,000	65000	39000	26000
Rs. 10,00,000	1,17,000	78000	39000
Rs. 12,50,000	1,95,000	130000	65000
Rs. 15,00,000	2,73000	195000	78000

- The relief appears to be illusory for certain assesses and, to some extent when considered with the fact that the proposed reduction is accompanied with withdrawal of certain exemptions and deductions which are presently allowed in the computation of income. These are:

(i) Leave travel concession as contained in clause (5) of section 10;

(ii) House rent allowance as contained in clause (13A) of section 10;

(iii) Some of the allowance as contained in clause (14) of section 10;

(iv) Allowances to MPs/MLAs as contained in clause (17) of section 10;

(v) Allowance for income of minor as contained in clause (32) of section 10;

(vi) Exemption for SEZ unit contained in section 10AA;

(vii) Standard deduction, deduction for entertainment allowance and employment/professional tax as contained in section 16;

(viii) Interest under section 24 in respect of self-occupied or vacant property referred to in sub-section (2) of section 23. (Loss under the head income from house property for rented house shall not be allowed to be set off under any other head and would be allowed to be carried forward as per extant law);

(ix) Additional deprecation under clause (iia) of sub-section (1) of section 32;

(x) Deductions under section 32AD, 33AB, 33ABA;

(xi) Various deduction for donation for or expenditure on scientific research contained in sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35;

(xii) Deduction under section 35AD or section 35CCC;

(xiii) Deduction from family pension under clause (iia) of section 57;

(xiv) Any deduction under chapter VIA (like section 80C, 80CCC, 80CCD, 80D, 80DD, 80DDB, 80E, 80EE, 80EEA, 80EEB, 80G, 80GG, 80GGA, 80GGC, 80IA, 80-IAB, 80-IAC, 80-IB, 80-IBA, etc). However, deduction under sub-section (2) of section 80CCD (employer contribution on account of employee in notified pension scheme) and section 80JJAA (for new employment) can be claimed.

- The allowances permissible under section 10 (14) are also to be withdrawn except the following :

(a) Transport Allowance granted to a divyang employee to meet expenditure for the purpose of commuting between place of residence and place of duty.

(b) Conveyance Allowance granted to meet the expenditure on conveyance in performance of duties of an office;

(c) Any Allowance granted to meet the cost of travel on tour or on transfer;

(d) Daily Allowance to meet the ordinary daily charges incurred by an employee on account of absence from his normal place of duty.

- The Assessee will also not be able to claim benefit of carry forward of loss or depreciation if such loss or depreciation is attributable to deductions listed in (2) above. He will also not be entitled to set off property loss against any other head of income.

- Rule 3 is also to be amended to withdraw exemption in respect of free food and beverage.

- The provisions relating to MAT will not be applicable in such cases.

- It will be seen that the individuals/HUF, particularly salaried employees, particularly salaried employees will be deprived of several exemptions and deductions which may result in even higher tax liability. The Bill, accordingly gives an option to the assesses by inserting section 115BAC in the Act, to be governed either by the present rate structure or the proposed one.

-The option is to be exercised in the manner as may be prescribed. In case of the individual / HUF having no business income, it should be exercised along with the return of income under Section 139(1). In other cases, it should be before the due date specified under 139(1). The option once exercised can be withdrawn only once by the Assessee having business income in respect of any subsequent year.

COOPERATIVE SOCIETIES

Vide Taxation Law (Amendment) Act, 2019 corporate assessees were given the option to be assessed at the rate of 22% subject to the condition that they were not entitled to claim certain deductions. The Finance Bill, by inserting section 115BAD, proposes to introduce similar provision in respect of cooperative society which shall have the option to pay tax at 22% for Assessment year 2021-2022 onwards subject to the condition that the income is computed in the following manner:

(a) without any deduction under the provisions of section 10AA or clause (iia) of sub-section (1) of section 32 or section 32AD or section 33AB or section 33ABA or sub-clause (ii) or sub-clause (iia) or sub-clause (iii) of sub-section (1) or sub-section (2AA) of section 35 or section 35AD or section 35CCC or under any provisions of Chapter VI-A;

(b) without set off of any loss carried forward or depreciation from any earlier assessment year, if such loss or depreciation is attributable to any of the deductions referred to in (a) above; and

(c) by claiming the depreciation, if any, under section 32, except clause (iia) of sub-section (1) thereof, determined in such manner as may be prescribed;

(d) the loss and depreciation referred to in (ii) (b) above shall be deemed to have been given full effect to and no further deduction for such loss or depreciation shall be allowed for any subsequent year. However, where there is a depreciation allowance in respect of a block of asset which has not been given full effect to prior to the assessment year beginning on 1st April, 2021, corresponding adjustment shall be made to the written down value of such block of assets as on 1st April, 2020 in the prescribed manner, if the option is exercised for a previous year relevant to the assessment year beginning on 1st April, 2021;

(e) the concessional rate shall not apply unless option is exercised by the co-operative society in the prescribed manner on or before the due date specified under sub-section (1) of section 139 of the Act for furnishing the returns of income for any previous year relevant to the assessment year commencing on or after 1st April, 2021 and such option once exercised shall apply to subsequent assessment year. The option exercised cannot be withdrawn.

(f) The Bill also proposes to reduce the surcharge from 12% to 10%.

(g) The provisions relating to AMT shall not be applicable to such societies.

The amendment will be applicable in relation to assessment year 2021-2022 and subsequent years.

DOMESTIC COMPANIES

Vide Taxation Law (Amendment) Act, 2019, an option was given to the Domestic Companies to be assessed at 22% subject to the provision that the income shall be computed without deductions specified under certain provisions. The prohibited deductions included deductions under Chapter VI A which are contained in part "C-. Deduction in respect of certain incomes" only. The Finance Bill proposes to bar other deductions also mentioned in Chapter VI-A, except deduction under Section 80JJAA relating to deduction in respect of employment of new employees and section 80M (proposed to be inserted). Consequently, deductions relatable to payments also, will also be denied. Most significant of these will be deduction under Section 80G relating to donations to specified funds, charitable institutions etc.

DEDUCTION IN RESPECT OF PROFIT OF HOUSING PROJECTS:

100% deductions of profit and gains from certain housing projects is permissible under Section **80IBA** subject to the condition that the project is approved by competent authority after the 1st day of June, 2016 but on or before 31st day of March, 2019. By the Finance Act, 2019 the same was extended to 31st day of March, 2020. The Finance Bill proposes a further extension for approval to be taken before the 1st day of April, 2021.

- Section **80EEA** provide for a deduction in respect of interest on loan taken from any financial institution for acquisition of an affordable residential house property. One of the conditions for availing such deduction is that loan is to be sanctioned during the period from 1st April, 2019 to 31st March, 2020. The Finance Bill proposes to extend this benefit in respect of loans sanctioned upto 31st March, 2021 in place of the existing 31st March, 2020. The amendment will be applicable in relation to assessment year 2021-22 and subsequent years.

EXEMPTION TO NON-RESIDENTS FROM FILING TAX RETURN:

Sub-section (5) of Section 115A exempts a non-resident, including a foreign company, from filing the return of Income if its total income consists only of certain dividend or interest income and the TDS on such income has been deducted according to the provisions of the Act. The existing provision restricts the exemption only to those whose income is from dividend or interest. It does not cover those who derive income from royalty or fees for technical services in respect of which also Section 115A is applicable.

-The Finance Bill proposes to amend Section 115A(5) exempting those also from filing the return of income who derives income from royalty or FTS of the nature specified in Section 115A(1)(b) of the Act and in respect of which TDS has been deducted at the rates which are not lower than the prescribed rate under Section 115A.

-The amendment will be applicable from the assessment year 2021-22 and the subsequent years.

PROVISIONS RELATING TO TDS/TCS

SECTION 194J - obligates a person (not individual or HUF) paying to be resident any sum by way of fees for professional services or fees for technical services or any remuneration or fees or commission or royalty, to deduct tax at source at the rate of 10%.

-Section 194C provides deduction of tax in respect of payment to a resident for carrying out any work in pursuance of a contract at the rate of 1% or 2% depending upon whether the recipient is individual / HUF or any other. The two provisions as they are, leads to confusion as to whether a particular payment should be subjected to TDS under Section 194J or under Section 194C. This is particularly so when payment is made for some work of technical nature in which case the question arises whether TDS should be treating it as 'contract for work' or FTS. In order to remove the possibility of such confusion and consequent alleged short payment, resulting in litigation, the Finance Bill proposes to reduce the rate under Section 194J in respect of payment for fees for technical services (other than professional services) to 2% from the existing 10%. For payments of other nature the rate of 10% continues.

-Another amendment proposed is in regard to the deduction to be made by individuals/HUF under this section. Under the existing provisions only those individuals/HUF are liable to deduct tax whose total sales, gross receipts or turnover from the business or profession exceeds the monetary limits specified in section 44AB. The Bill proposes to make this limit as rupees one crore in case of business or, Rupees fifty lakh , in case of profession .

-The amendment takes effect from the assessment 2021-22 and succeeding years.

SECTION 194A – Section 194A provides for deduction of tax from interest other than interest on securities. Under the existing provisions, individuals and HUFs are exempted from the obligation to deduct tax if their turnover, gross receipt is below the limits set out in section 44AB. The Bill proposes to lay down that the individuals/ HUF will be subject to the provision only if their gross receipt or turnover exceeds one crore rupees in case of business or rupees fifty lakh in case of profession.

-Sub- section (3) of the section mentions the situations where the provisions of section 194A will not be applicable. One of the situation is when income is credited or paid by a cooperative society to a member or any other cooperative society. Also, when income is paid or credited in respect of deposits with a primary agricultural credit society or a primary credit society or a cooperative land mortgage bank or a cooperative land development bank. No tax is also to be deducted in respect of interest on deposits with other cooperative societies engaged in carrying on business of banking.

-The Bill seeks to provide that in the above cases, tax will be deductible if-

(a) The total sale, gross receipt, or turnover of the society exceeds fifty crore rupees during the financial year immediately preceding the financial year, and

(b) The amount of interest, or the aggregate amount of such interest during the financial year is more than Rs. 50000 in case of payee being a senior citizen and Rs. 40000 in other cases

C. SECTION 194C

The section provides for tax deduction on payment to contractors for carrying out any work (including supply of labour for carrying out any work). The term ‘Work’ includes manufacturing or supplying a product according to the requirement or specification of a customer by using material purchased from such customer. It excludes manufacturing or supplying a product if the material is purchased from a person other than the customer.

-In order to take care of circumvention of the provision by arranging the supply of the material through the related parties, the amendment is proposed to provide that in contract manufacturing, the raw material provided by the assessee or its associate shall fall within the purview of ‘Work’ under this section.

- Associate’ is defined to mean a person who is placed similarly in relation to the customer as the person placed in relation to the assessee under the provisions contained in clause (b) of sub-section (2) of section 40A.

- Another amendment proposed is regarding the individuals and the HUFs who will be liable to make the deduction. Under the existing provisions, individuals and HUFs are exempted from the obligation to deduct tax if their turnover, gross receipt is below the limits set out in section 44AB. The Bill proposes to lay down that the individuals/ HUF will be subject to the provision only if their gross receipt or turnover exceeds one crore rupees in case of business or rupees fifty lakh in case of profession.

D. SECTIONS 194 K

A new provision is proposed to be inserted providing for tax deduction out of payment by a resident in respect of-

(a) Units of a Mutual Fund specified under clause (23D) of section 10; or

(b) Units from the Administrator of the specified undertaking; or

(c) Units from the specified company.

-The deduction is not to be made if the amount or the aggregate thereof credited or paid does not exceed Rs. 5000.

E. SECTIONS 194H, 194I, AND 206C

As in sections 194A, 194C and 194J discussed above, sections 194H, 194I and 206C also exempt individuals and HUFs are from the obligation to deduct tax if their turnover, gross receipt is below the limits set out in section 44AB. The Bill proposes to lay down that for all these sections, the individuals/ HUF will be subject to the provision only if their gross receipt or turnover exceeds one crore rupees in case of business or rupees fifty lakh in case of profession.

SURVEY ACTIONS

Section 133A dealing with survey actions provides a safeguard against its abuse by providing that no action will be taken by an Assistant Director or a Deputy director or an assessing Officer or a TRO or an Inspector of Income Tax without obtaining the approval of the Joint Director or the Joint Commissioner, as the case may be.

-The Bill proposes to restrict the above provision for approval in cases where survey action is to be taken based on the information received from such authorities as may be prescribed. In other cases, no action can be taken by Joint Director or a Joint Commissioner or the assistant Director or a Deputy Director or an Assessing officer or a Tax Recovery Officer or an inspector of Income Tax without obtaining the approval of the Director or the Commissioner, as the case may be.

INCOME FROM SALARY

Under the existing provisions, contribution by the employer to the Recognised Provident Fund in excess of 12% of the salary is taxable. In case of contribution to approved superannuation fund amount exceeding Rs. 1,50,000 is treated as perquisite. Employers contribution under the National Pension Scheme is tax exempt to the extent of 14% of the salary if it is by the Central Government and 10% by any other employer. While separate limits are specified for these deductions, there is no combined limit for deduction in respect of employer's contribution as a result the employees with high salary income are able to design their salary package in a manner so as to get large part of their salary by way of contribution to these funds.

-The bill proposes to provide a combined upper limit of Rs. 7,50,000 in respect of employer's contribution in a year to NPS, Superannuation Fund and recognized provident fund. Any excess is proposed to be made taxable.

-It is also proposed that any annual accretion to the balance at the credit of these funds/schemes by way of interest, dividend or any other amount of similar nature will be treated as perquisite to the extent it relates to the employer's contribution which is included in the total income.

-The amendment will take effect in relation to the AY 2021-2022.

DIVIDEND DISTRIBUTION TAX/ EXEMPTION OF DIVIDEND

-Taxation of dividend has been a subject of different views and has seen different tax regime in respect of the same. Under the present tax regime, incidence of tax on dividend distributed or paid is on companies distributing the same by way of liability u/s 115-O which is a tax in addition to the Income Tax known as Dividend Distribution Tax. The same is chargeable at 15% of the dividend distributed by the company. Similarly, section 115 R places liability on the specified companies and Mutual Funds to pay additional tax on amount of income distributed by them to its unit holders.

-Consequently, to avoid double taxation of the same income, the dividend or the income received by the shareholders and unit holders is exempted from tax u/s 10(34) and 10(35).

-As a matter of principle, tax on distributed dividend on the company is not in consonance with the scheme of Income Tax according to which tax is payable by the income earner and not by the payer. In appreciation of the existing anomaly, the Finance bill proposes to abolish the Dividend Distribution tax and reimpose tax on dividend on the shareholders/ unitholders.

-Consequently, a sunset clause is proposed to be put in section 115O by providing that only the dividend declared, distributed or paid after 1st. April,2003 but on or before 31st. March,2020 will be subject to DDT. Similarly, section 115R(2) is proposed to provide that the income distributed by the specified company or a mutual fund to its unit holders on or before the 31st day of March, 2020 only will be subject to additional tax on such specified companies/mutual funds The provision will not apply to the dividend declared, distributed or paid or income distributed after this date.

-Simultaneously, Sections 10(34) and 10(35) are proposed to provide that the exceptions provided in these sections will not apply to dividend/income from units received on or after 1st. April,2020.

-A new section 80M more or less on the line of the erstwhile section has been introduced to provide that in case the dividend is received by the domestic company being the shareholder of some other domestic company, it will be entitled to reduce therefrom the dividend distributed by it on or before the due date which will be the date one month prior to the date of furnishing the return of income under section 139(1). The provision removes the cascading effect.

-It is also provided that where any deduction in respect of dividend declared is allowed in any previous year the same will not be allowed in any other previous year.

-Related to the change in the scheme of dividend taxation, an amendment is proposed in **section 57** making dividend taxable under this section as income from other sources. The amendment also lays down that the only deduction permissible under this section will be in respect of interest and that too will not exceed 20% of the dividend income or income in respect of the units included in the total income.

RULES TO DETERMINE RESIDENCE

(a) Section 6 of the Act contains rules for determination of the residential status of an assessee for the purpose of taxation under the Act. Broadly speaking an individual is catagorised as 'Resident 'if he:

(a)Is in India in that year for periods aggregating to 182 days or more; or

(b) Having been in India for a period aggregating to 365 days or more in the four years preceding that year, he was in India for a period aggregating to 60 days or more.

There are exceptions to rule (b) above. One of the exception is in the case of a citizen of India or a Person of Indian Origin (PIO) who being outside India comes on a visit to India in any previous year. For such a person rule (a) only is applicable, meaning thereby that he acquires the status of resident only when his stay in India as a visitor is 182 days or more. So long his stay is less than 182 days, he retains his status as non-resident.

- The provision which is in vogue for several years has been found to be abused by certain persons, particularly by High Net Worth Individuals, who carry out substantial economic activities in India and spend long time in India but continue to retain the status of non-resident and thereby avoid taxation of total world income. Taking benefit of the rule (b) they are able to remain in India for as long as 181 days and still avoid being resident thus, enjoying the non-resident status in perpetuity.

- In order to put some check on such practices, the Bill proposes to reduce this period of stay presently '182 days or more' to '120 days or more' As a result if the citizen of India comes to India for a visit and remains in India for a period exceeding 120 days, he will become a resident liable to tax on his global income.

(b) Another amendment of great significance is in regard to those persons who are citizen of India, having income from foreign countries in which they are not liable to tax. For such persons, a clause (1A) has been inserted in section 6 laying down that such a person shall be deemed to be resident in India in any previous year, if he is not liable to tax, in any other country or territory by reason of his domicile or residence or any other criteria of similar nature. The idea, as made out from the official memorandum appears to be to not allow a situation where an Indian citizen is not liable to tax anywhere in the world.

- The provision, apart from being inconsistent with the concept of residence under the Indian law, raises certain issues. It is not certain whether any other country in which a person is not liable to tax can be a tax heaven in which there is no Income Tax. Or it should be a country where Income Tax is in vogue but the person is not liable to tax by reason of his domicile or residence or any other similar criteria. The way the provision is drafted indicates that the person should have income in a country the domestic laws of which does not require him to pay tax by reason of his domicile etc. The expression " by reason of his domicile or residence or any other criteria of similar nature" are important which suggest that absence of liability in any other country should be by reason of these facts. In case it is so, a person having income in Bahama, or say Dubai, will not be covered by the provision whereas person having income from a country where persons of his domicile are not taxable will be covered and will be catagorised as residents.

- Another issue that arises is about the person having income from more than one country, in one of which he is not liable to tax by reason of his domicile. Whether "not liable to tax in any other country" means that he should not be liable anywhere in the world or absence in any one country will bring him within the purview of the Act. The issue will be a subject matter of controversy. A literal reading of the provision suggests that not being liable in any of the countries should be enough to make him resident. If such an interpretation is taken, the person will be liable to tax on the total world income and will become taxable even in respect of the income where he might already have paid tax. This does not appear to be the intention of the legislature. In view of possible contradictory interpretations, suitable clarifications will be required.

The provision has created considerable commotion and demand for clarification. The FM categorically stated that the intention is not to make the deemed resident subject to tax on global income. A press release has also been issued clarifying that the provision is not intended to include in tax net those Indian citizens who are bonafide workers in other countries. It is mean to tax income in the hands of NRI which is derived from Indian business or profession. The press release issued on 2nd February, 2020 in this regard is enclosed herewith for ready reference.

(c)Under the existing law, a resident is "Not ordinarily resident" if he was a non-resident in India in nine out of the ten previous years preceding that year, or has during the seven previous years preceding that year been in India for a period aggregating seven hundred and twenty nine days or less.

- In order to provide larger cooling period for a non-resident to become a resident, the Bill seeks to modify the provision so as to provide that in order to get the status of 'Not Ordinarily Resident 'a person should have been a non-resident in seven out of the ten previous years preceding that year. The other condition of being in India for atleast 729 days in the preceding seven years remains unchanged.

TAXATION OF CAPITAL GAINS

(a) Capital Gains are computed after deduction of indexed cost of acquisition and cost of improvement. In case of assets acquired before 1st April, 2001, it is permissible to adopt the fair market value as on 1st. April, 2001 as its actual cost to be indexed from that day.

- Stamp Duty Value is not the prescribed method for determining the fair market value of land and building or both as on 1st. April,2001 which is to be determined by accepted methods of valuation. The Bill, however, proposes to prescribe that the market value as determined by any other method shall not be exceed the stamp duty value on that date where stamp duty value is available.

In other words the stamp duty value will be the maximum amount that can be taken as the fair market value on that day.

- The amendment will be effective from the AY 2021-22.

(b)Under the existing provisions of section 50C capital gains arising from the transfer of land or building or both are computed on the basis of stamp duty value as the full value of consideration. By the Finance (No.2) Act 2019 a proviso was added under which in case of difference between the actual consideration and the stamp duty value not exceeding 5% of the actual consideration, the stamp duty value was to be ignored and the capital gains was to be computed on the basis of actual consideration.

- As a measure of giving boost to the real estate sector and taking into account genuine cases of difference, the Bill seeks to ignore the difference upto 10% (earlier 5%) between the actual consideration and the stamp duty value. As a result if the stamp duty value does not exceed one hundred and ten percent of the consideration, the actual consideration will be taken to be the full value of consideration.

VIVAD SE VISHWAS SCHEME

Heavy pendency of litigation at various levels in tax matters, has been a matter of serious concern for the administration which is responsible for blocking large amount of tax involved in these cases. In direct taxes alone, as informed by the Hon'ble FM, more than 4,83,000 cases are pending in appeal before various appellate authorities viz the Commissioner, the ITAT, the High Courts and the Supreme Court. An effort was made in this direction last year by introducing the 'Sabka Viswas' scheme in respect of indirect taxes where under amnesty was granted to the litigating assesses from the penalty and interest on payment of disputed tax within the specified time.

- Encouraged by the success of the scheme for reducing litigation in indirect tax matters, the FM announced a similar scheme referred to as 'Vivad se Vishwas scheme' for Direct Taxes, the salient features of which are-

(i) The scheme applies to appeals at any level in the appellate channel i.e. before the Commissioner (Appeals), the Income Tax Appellate Tribunal, the High Court or the Supreme Court.

(ii) The assessee is required to make payment of disputed tax before the 31st March, 2020.

(iii) On payment of the disputed tax, all the penalties and interest will be completely waived.

(iv) In case the appeal is in respect of the levy of penalty, interest and fine not connected with the disputed tax, the matter will be settled by full waiver on payment of 25% of the amount by 31st. March, 2020.

(v) In case the disputed tax is not paid by 31st March 2020, complete waiver of penalty and interest will be granted on payment of 110% of the tax dues out of which amount limited to 10% will be towards related penalty and interest.

(vi) In respect of appeal against the order levying penalty, interest and fine, 30% of the amount will be payable if the payment is made after 31st. March, 2020.

(vii) The scheme closes on 31st. June, 2020.

- The scheme which aims at moving from dispute (Vivad) to Trust (Vishwas) is golden opportunity for the assessee to get rid of the pain and suffering involved in dilatory and expensive litigations saving in the process the heavy amount of penalty and interest which should come as a great relief to them.

GOODS AND SERVICES TAX

At present, Dealers of goods, who have opted for composition scheme, can provide services (whether within or outside the state) not exceeding 10% of turnover in State or INR 5 lakhs, whichever is higher. In the Budget 2020 it is proposed that such dealer of goods will not be entitled to composition scheme, if they undertakes the following supplies:

Inter- state supply of services not chargeable to GST.

Supply of services through e-commerce operator

2. At present, time limit for taking ITC on debit note counted from the date of invoice pertaining to such debit note. However, now it is proposed to be counted from date of Debit note.

3. Under the GST law, as it is applicable now, a voluntarily registered person cannot apply for cancellation of registration. However, in the budget it is proposed that to such person shall be allowed to apply for cancellation of registration.

4. Under Section 31, the tax invoice for supply of services can be raised upto 30 days from supply of service. Under Budget proposals the Government is given power to specify time limit within which the invoice can be issued in respect of certain category of services supply

5. In the Budget it is proposed to levy penalty also from Beneficiary (i.e. counter-party) of fraudulent Input Tax Credit at whose instance such transactions are conducted. Under new proposals proposed the person who causes to commit such offence and retains benefits thereof will be liable for imprisonment and fine and offence of availing ITC without invoice will be cognizable and non-bailable offence

6. Aadhaar based verification of taxpayers for weeding out dummy and non-existent units.

7. Implementation of e-invoicing system in phased manner, starting optionally from February, 2020.

8. Cash rewards to incentivise customers who seek invoice for supplies.

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Disclaimer

The above Analysis of Budget 2020 records is our interpretation of the Finance Bill. The readers are advised to consult their Lawyer or Chartered Accountant before taking any further action on the provisions which have undergone changes in the Budget.

Government of India
Ministry of Finance
Department of Revenue
Central Board of Direct Taxes

New Delhi, 2nd February, 2020

PRESS RELEASE

CBDT issues clarification on the new provision pertaining to residence in India

The Finance Bill, 2020 has proposed that an Indian citizen shall be deemed to be resident in India, if he is not liable to be taxed in any country or jurisdiction. This is an anti-abuse provision since it is noticed that some Indian citizens shift their stay in low or no tax jurisdiction to avoid payment of tax in India.

The new provision is not intended to include in tax net those Indian citizens who are bonafide workers in other countries. In some section of the media the new provision is being interpreted to create an impression that those Indians who are bonafide workers in other countries, including in Middle East, and who are not liable to tax in these countries will be taxed in India on the income that they have earned there. This interpretation is not correct.

In order to avoid any misinterpretation, it is clarified that in case of an Indian citizen who becomes deemed resident of India under this proposed provision, income earned outside India by him shall not be taxed in India unless it is derived from an Indian business or profession. Necessary clarification, if required, shall be incorporated in the relevant provision of the law.

(Surabhi Ahluwalia)
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Official Spokesperson, CBDT.

Source :-
https://www.incometaxindia.gov.in/Lists/Press%20Releases/Attachments/822/PressRelease_CBDT_issues_clarification_on_the_new_provision_pertaining_to_residence_in_India_03022020.pdf